



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

27 March 2001

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**MR SPEAKER** (Mr Cornwell) took the chair at 10.32 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

### **Visitors**

**MR SPEAKER:** I recognise the presence in the gallery of pupils from Curtin Primary School. Welcome to your Assembly.

### **Vote of confidence in Speaker—motion by government Suspension of standing and temporary orders**

**MR BERRY:** Mr Speaker, I seek leave to suspend so much of standing and temporary orders as would prevent the government moving a motion of confidence in the Speaker.

Leave granted.

### **Motion—leave not granted**

**MR MOORE** (Minister for Health, Housing and Community Services): Mr Speaker, I seek leave to move a motion to amend certain standing orders and to insert a new standing order.

**Mr Stanhope:** Leave was granted.

**MR MOORE:** I understand that leave was granted. I heard that.

**Mr Wood:** To Wayne Berry.

**Mr Berry:** Standing orders have been suspended for the government to move a motion of confidence in the Speaker.

**MR SPEAKER:** Leave was granted for the government to move that motion.

**MR MOORE:** That is right, Mr Speaker.

**Mr Berry:** Are you going to move the motion of confidence?

**MR MOORE:** Mr Speaker, I see no need whatsoever to move that motion. Thank you for your kind offer, Mr Berry. It is a stunt, Mr Speaker. Mr Berry has not even spoken to us about this matter. The first I knew about it was about half a minute ago when Mr Osborne indicated to me that it had been raised. Mr Speaker, we are quite happy to do that. I see no need to, but we have something on the daily program about standing orders that will give members the opportunity to speak to that motion.

**MR SPEAKER:** Mr Moore, are you directing your comments to Mr Berry's motion?

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**MR MOORE:** Mr Speaker, as I understand it, the Assembly has given leave for the government, should it wish, to move a motion of confidence in the Speaker.

**Mr Berry:** Do it.

**MR MOORE:** Mr Speaker, the government sees no reason to do that. We have every confidence in the Speaker. There is absolutely no reason for us to do that. Thank you for the opportunity. I will now proceed. I seek leave to move a motion to amend certain standing orders and to insert a new standing order.

Leave not granted.

### **Motion to amend standing orders Suspension of standing and temporary orders**

**MR MOORE** (Minister for Health, Housing and Community Services) (10.36): Mr Speaker, I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Moore moving a motion to amend standing orders 202, 202A and 203.

Mr Speaker, we need to suspend standing and temporary orders following the way this Assembly closed down the last day of sitting. There are two ways of dealing with this issue. Mr Berry's way, in his earlier attempt without any notice whatsoever, was to say, "Will you move a motion of confidence?" Mr Berry, we have confidence in the Speaker. We do not feel the need to do that. But we do recognise that the circumstances that arose in the our last few minutes of our last sitting were unacceptable and inappropriate and that action does need to be taken to reinforce the power of the Speaker, in whom we have confidence. For that reason, I have moved for the suspension of standing orders to allow us to consider the appropriate standing orders.

I would point out, Mr Speaker, that we have been through quite a long process with the standing orders. As members would well know because we circulated possible changes to standing orders to all members and discussed them at length, there was a range of approaches. The approach that I will be putting shortly, if the Assembly agrees to suspend standing orders, will be for a sin bin power that protects the rights of members to vote. I extend my thanks to the Clerk, as always, for his involvement in coming up with this protection of members

**Mr Stanhope:** And your staff.

**MR MOORE:** And my staff. Perhaps I should not take them for granted. Thank you for reminding me, Mr Stanhope. It is appropriate that I move for the suspension of standing and temporary orders at the beginning of this sitting of the Assembly to deal with an issue that was a problem at the end of the last sitting.

**MR KAINE** (10.38): Mr Speaker, I move the following amendment to Mr Moore's motion for the suspension of standing and temporary orders:

Add “and standing orders 113B and 160” after “203”.

I do so because Mr Moore’s motion clearly flows from the events of two weeks ago and it was the government’s abuse of the standing orders in connection with questions that led to the circumstances of two weeks ago. I think that the debate would be incomplete if we were to discuss amendment of standing orders 202, 202A and 203 to introduce a new course of action for the Speaker without debating also the parts of the standing orders that deal with the asking of questions and the answering thereof. So I seek to add standing orders 113B and 160 to Mr Moore’s motion for the suspension of standing and temporary orders.

**Mr Moore:** Will you circulate the changes you have foreshadowed, please?

**MR KAIN:** I will circulate the amendments before we debate them, Mr Speaker, but I do not have to circulate my amendment to the motion for the suspension of standing and temporary orders. Mr Moore did not circulate his motion beforehand.

**MR BERRY (10.40):** I am flabbergasted that the government would not take the opportunity to move a vote of confidence in its Speaker. It was the government which moved for the adjournment of the house—

**Mr Moore:** I take a point of order, Mr Speaker. The debate is about the suspension of standing orders.

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

**MR BERRY:** The government, missing its first opportunity, is now moving to try to shift the blame for the chaos which erupted at the last sitting of this Assembly onto someone else, whereas the government created the problem, Mr Speaker. This debate is nothing but a sham. The government created a crisis by adjourning the last sitting of this house following the failure of a motion in relation to the expulsion of a member from this place, thereby drawing into question the standing of the Speaker.

Mr Speaker, the first job that this Assembly should do is establish the authority of the Speaker. That authority was undermined by the failure of that motion and the government’s move to deal with it in this way is quite inappropriate. The basis of Westminster parliamentary democracy is the authority of the Speaker. The government may feel fearful of that approach as the government, be it noted, has refused to move a vote of confidence in the Speaker. Let that be noted. There is nothing more to be noted from the government’s actions in this matter. The government has refused to move a vote of confidence in its Speaker, leaving the Speaker up in the air. Members on this side of the house believe that the Speaker of the day should be the nominee of the government. We have always adopted that view. We believe also that the Speaker should have appropriate authority to manage this place.

**Mr Humphries:** Why did you vote against the motion?

**MR BERRY:** We are entitled to vote in whichever way we like in this place. Mr Speaker, we are entitled, if we wish, to react to whichever Speaker is in the chair. On this occasion the government has failed to reinstate the authority of the Speaker, which is a major failing.

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This debate in relation to the suspension of standing orders is just a ruse to create the impression that it is somebody else's fault that this government has created dismay in this place during question time. Mr Speaker, this government has put undue pressure on you, requiring far too much solidarity from you in relation to the interpretation of the standing orders of this place. If the government were to stand by a firm interpretation of the standing orders, the chaos which ensued as a result of its failure to observe the standing orders would not have occurred.

Mr Speaker, the comments in this place last time were about the government's performance. There is nothing in this motion which would repair the government's performance. All it seeks to do is to shift the blame onto somebody else. Indeed, why is it that the government is moving to change the standing orders? Are they doing it because they are concerned about the role of the Speaker? I do not think so. They are doing it because they are concerned about their own standing and performance in this place; that is all it is about.

A most appropriate way of dealing with this matter is open to all members and the government at any time. It is the usual practice for matters which relate to the standing orders of this place to be dealt with, first of all, by the Administration and Procedure Committee. That is where this motion should be going. It should have the support of members for its consideration and report back to this place, rather than the process which has been adopted by the government. That is why we oppose the suspension of standing and temporary orders and, if the suspension succeeds, we will seek to refer the proposal to the Administration and Procedure Committee so that all members, through their attendance on this committee, can be involved in an appropriate investigation and report back to this Assembly.

**MR HUMPHRIES** (Chief Minister, Minister for Community Affairs and Treasurer) (10.45): Mr Speaker, I want to start by putting very clearly on the record the government's confidence in you as the Speaker of this place. I think that we can assume with some confidence the view of the opposition about the matter that it has raised. For the record, the government's position is crystal clear on this matter. We support the authority of the Speaker and we support the incumbent Speaker in respect of this matter. Mr Speaker, the reason the government has not taken up the kind offer made by Mr Berry is that it was clearly a stunt. The contrast between—

**Mr Corbell:** On a point of order, Mr Speaker: Mr Berry was unable to make comments about his earlier proposal. You ruled him out of order on that. You should uphold that in relation to the Chief Minister as well.

**MR SPEAKER:** I remind all members that we are debating a motion that the standing and temporary orders be suspended.

**MR HUMPHRIES:** Mr Moore has done the courtesy of forwarding to every member of this place a copy of the proposal that he indicated it was his intention to put to the chamber today.

**Mr Stanhope:** His stunt.

**MR HUMPHRIES:** He has indicated clearly what he wanted to do on behalf of the government. He wrote to members as a courtesy to tell them about what he proposed to do. He gave notice of that, unlike those opposite who pulled a stunt this morning by announcing a motion of which they had given no notice whatsoever to anyone else in this chamber, at least no-one on this side of the chamber. Mr Speaker, if you want to see who is sincere about wanting to fix this mess, you will find out that it is the government.

I view what happened on the occasion of the last sitting as a matter of considerable concern. Mr Berry is absolutely right when he says that the authority of the Speaker was undermined by the failure of that motion in respect of Mr Kaine. He was absolutely right about that, Mr Speaker. But it does seem strange to me to have Mr Berry utter those words, as Mr Berry and his five Labor colleagues in this place unanimously opposed the motion which he now says undermined the authority of the Speaker.

How to restore that authority is a matter of some contention and, no doubt, we will have that debate. We ought to suspend standing orders to allow us to have that debate. In particular, I think it is important that we take the time to work out how the Assembly should deal with this matter. Refusing to suspend standing orders is not the way to do that. Refusing to suspend standing orders leaves the situation unresolved. The government has given notice of its intention to bring the matter forward and I think it would behove Labor to let that debate go forward, because we need to act in some way.

**Mr Stanhope:** Which debate?

**MR HUMPHRIES:** The debate on the motion that Mr Moore has foreshadowed. Mr Kaine has foreshadowed a further motion to suspend standing orders. If I might speak briefly to his amendment before he moves it, he wants to add a standing order 113B and amend standing order 160, I assume. He has told us that he wishes to amend the standing orders, but has not told us what he proposes to do. Generally, when someone wants to suspend standing orders, they announce what they propose to do with that suspension, such as move a motion, and usually, the motion is fairly clear. I do not know what Mr Kaine's motion will be. Therefore, I am concerned that we have not been privileged to know what is going on. Again, I urge members not to proceed in this place by way of apathy.

**MR SPEAKER:** Order, please! There is far too much audible conversation. I remind members that I have already written to them about behaviour in the chamber.

**Mr Wood:** The Manager of Government Business is the one you are talking about, I take it.

**MR SPEAKER:** All members in the chamber. I can only assume that you have not had the opportunity to read it or you cannot read. If members want to have conversations, please go outside.

**MR HUMPHRIES:** Mr Speaker, I will say briefly that there are two matters being moved on the floor of the chamber today—one by Mr Berry and one by Mr Kaine—of which no notice has been given in this place. The government has given notice of its intentions, and I ask members to ensure that that matter is debated.

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**MR KAINE:** Mr Speaker, as the Chief Minister has indicated, I have already sought to amend the motion for the suspension of standing and temporary orders, but I seek leave now, if I require it, to speak to the motion.

Leave granted.

**MR KAINE:** I sought leave to add a couple of other standing order amendments because Mr Moore has provided the vehicle through which I can now move those amendments. They have been in my mind for some time and they do not have anything to do with the events of the last sitting day of this Assembly. Mr Moore, by seeking to amend the standing orders, has provided the vehicle by which I can now move these amendments. But I would much prefer that we not be debating Mr Moore's original motion at all. By definition, I am saying that I am not too fussed about having my amendments to his motion debated.

The reason I am not too fussed about whether his motion is debated is that I do not believe it is necessary. This place has operated very satisfactorily for nearly 12 years with a set of standing orders which provide you, Mr Speaker, with sanctions against members if you believe that they have offended. That has operated very effectively. We had never had this sort of punitive action raised in this place until the last sitting day when not you, Mr Speaker, but members of the government were offended, presumably, because nothing that has been said so far indicates that they are defending your position or your authority. All they are seeking to do is to amend the standing orders to defend their own position, not yours. I repeat that I do not believe—

**MR SPEAKER:** Order! The time for the debate has expired.

Amendment agreed to.

Question put:

That **Mr Moore's** motion, as amended, be agreed to.

The Assembly voted—

Ayes 10

Noes 7

Mrs Burke	Mr Moore	Mr Berry	Mr Stanhope
Mr Cornwell	Mr Osborne	Mr Corbell	Mr Wood
Mr Hird	Mr Smyth	Mr Hargreaves	
Mr Humphries	Mr Stefaniak	Mr Quinlan	
Mr Kaine	Ms Tucker	Mr Rugendyke	

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



## **Standing orders relating to disorder, questions seeking information and voting—proposed amendments**

**MR MOORE** (Minister for Health, Housing and Community Services) (10.56): Members will be aware that Mr Berry has circulated a motion that refers this matter of changes to the standing orders to a committee. Apart from the fact that the motion needs to be amended to take into account Mr Kaine's proposed amendment to the standing orders, I would like to indicate to members that the government is prepared to accept that motion. I would also like to indicate to members that we are prepared to accept the prerogative that the Assembly has given us to move a motion of confidence in the Speaker following that process.

**Mr Stanhope:** Have you changed your mind?

**MR MOORE:** Mr Stanhope asks whether we have changed our mind.

**Mr Wood:** Explain the circumstances.

**MR MOORE:** I would love to explain the circumstances. Mr Speaker, at the end of the last sitting of the Assembly we had a situation where we had 16 members in this chamber and in that situation there was a naming of a member and the Assembly of 16 members did not support the naming of that member. The government has been extraordinarily dissatisfied with the conduct particularly of question time.

**Mr Stanhope:** So have we.

**MR MOORE:** It is also clear that the opposition has been dissatisfied with the conduct particularly of question time. Indeed, Mr Kaine has made it very clear that he, too, has been dissatisfied with the conduct of question time. Mr Speaker, we all have different reasons as to why we are dissatisfied. I feel that having a constant rambling of voices quite loudly while I am trying to answer a question is unacceptable. I understand that members feel that I am not answering questions. I believe that I do attempt to answer questions clearly, but that is something for me to look at. We recognise that there is dissatisfaction with particularly the conduct of question time.

That clearly has resulted in a vote of the Assembly not to give a three-hour suspension to a person named by the Speaker. What the government has said is that it appears to it that there is a systemic problem when a number of people are dissatisfied with what is going on and we need to find a solution to that systemic problem. That is why it is that we have sought to find a way to modify the standing orders that would be suitable particularly for a minority government. I have to say that one of the things that were most important as far as I was concerned was the assistance that the Clerk gave us in drawing our attention to the New Zealand standing order for a sin bin. The sin bin is used in the federal House of Representatives.

**Mr Wood:** What has this got to do with explaining the background? You were going to say why you will have a motion of confidence.

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**MR MOORE:** Mr Speaker, I draw your attention to the interjection from Mr Wood, who is the Deputy Speaker. He has not risen to his feet to take a point of order; he has just rambled on. Those are the sorts of things that I find entirely inappropriate.

**Mr Stanhope:** Which you never do.

**MR MOORE:** We have now had one from the Leader of the Opposition.

**Mr Stanhope:** What a hypocrite!

**MR SPEAKER:** Order! Withdraw that.

**Mr Stanhope:** I withdraw, Mr Speaker, but this is the problem, this sort of double-faced nonsense we have from Mr Moore.

**MR SPEAKER:** I asked you to withdraw, not to make a speech.

**Mr Stanhope:** I withdraw.

**MR SPEAKER:** Resume your seat.

**MR MOORE:** Mr Speaker, that is simply not a withdrawal. He called me a hypocrite and withdrew the word “hypocrite” and replaced it with “double-faced nonsense”, namely, hypocrisy. Mr Speaker, that is the sort of unacceptable practice that we have here from the so-called Leader of the Opposition. Apart from the fact—

**MR SPEAKER:** Order! Get on with your speech and stop provoking.

**MR MOORE:** Mr Speaker, that is pertinent to my speech. It is pertinent because that is the sort of thing that has raised the issue and that is the reason that we do need a sin bin power. I have to say that the more I hear this morning, the more I think that we should reconsider whether it should go to a committee or we should just—

**Mr Berry:** I take a point of order. So that we do not have to go through this again, it might be a good idea if Mr Moore moved the motion.

**MR SPEAKER:** He will be doing that at the end of his speech. I am going to remind him to do so.

**Mr Berry:** The standing orders have been suspended to enable Mr Moore to move a motion.

**MR SPEAKER:** Mr Moore will be moving it.

**MR MOORE:** Thank you, Mr Berry, for drawing that to my attention. I move:

That the Standing Orders of the Assembly be amended as follows:

1.

**Order 202**

**Disorder by member**

*Omit the words:*

“that Member may be named by the Speaker”,

*substitute:*

“that Member may be—

- (i) ordered by the Speaker to withdraw from the chamber for one hour, or
- (ii) named by the Speaker.”.

**2.**

**New order 202A**

*After Order 202, insert the following new Order:*

**“Member ordered to withdraw**

**202A.** If a Member fails to leave the chamber immediately when ordered to withdraw from the chamber under Standing Order 202, or returns to the chamber contrary to such an order, the Speaker shall forthwith name the Member.

Notwithstanding an order to withdraw from the chamber under standing order 202, the Member may return for the duration of any vote, commencing with the declaration by the Speaker that a division is required, but shall withdraw immediately after the result of the vote is announced.”.

**3.**

**Order 203**

**Proceedings following naming**

*Omit the words:*

“The Speaker shall forthwith put the question, on motion being moved”,

*substitute:*

“When a Member is named by the Speaker, the Speaker shall forthwith put the question”.

Mr Speaker, it is my prerogative to do that at a time of my choosing. I thank the Clerk for drawing my attention to the situation in New Zealand, which has a multi-party parliament with the balance of power clearly in the hands of the crossbenchers. The sin bin power there has with it the restriction that it does not interfere with a member’s right to vote. I think that is a very fundamental and important issue. It is something that I was wrestling with and, I know from discussions with them, other members were wrestling with.

Mr Speaker, I would like to clarify something that I told the Chief Minister and he repeated in the chamber; it is a good time to do so. He said that we had actually circulated the motion to all members. As I understand it, my office would circulate it to the appropriate person in the Labor Party. We would expect it then to be further circulated. If that is not working, I will quite happily make sure in the future that it is more broadly circulated. I did raise the matter last Wednesday at the meeting on government business, which was appropriate. It was circulated on Thursday and the final draft was circulated yesterday. If the Labor Party prefers me to circulate things to each member, I will be happy to do that, rather than doing it through the manager of opposition business.

**Mr Stanhope:** I think it is an insult, but I am not sure.

**MR MOORE:** No, I was trying to be helpful, Mr Stanhope.

**Mr Stanhope:** I thought you were trying to insult us.

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**MR MOORE:** I hear your interjection, Mr Stanhope. I must say that I am extraordinarily grateful that I do not look at the world through your glasses. It must be a very strained view indeed.

Mr Speaker, I have made it very clear that what we have put up is a sensible way to resolve the standing orders issue; but I am happy for the committee to look at it, so I will not go into more detail on that and we will be happy to accept Mr Berry's amendment to include the issue that Mr Kaine has raised.

Mr Speaker, I should just explain for members exactly what our amendment to the standing orders does. First of all, it removes the need for either the Manager of Government Business or the opposition's equivalent to move a motion for suspension. Under the current standing orders, if the Speaker names somebody, it is my responsibility as Manager of Government Business to stand up and move that that member be suspended from the service of the house. If a government member is named, it is Mr Berry's responsibility to stand up and move that the member be suspended from the service of the house.

This amendment removes that necessity, saying that the Speaker in naming somebody shall forthwith put the question that the member be suspended from the service of the house, simply to make the system more efficient. We also add the sin bin power. If somebody's behaviour is inappropriate in the view of the Speaker, then the Speaker has the prerogative either to name that person or to order that that person withdraw from the chamber for one hour. Proposed standing order 202A says that if a member has been ordered to withdraw for one hour, the withdrawal will not apply to the call of a vote; so, should a call of the vote happen within that hour, the member can come back to vote and then leave the chamber again. That is the change proposed to the standing orders. The Speaker still has the prerogative to name somebody in the standard way with that extra efficiency, as the case may be, and the standing orders would still require a three-hour suspension for the first offence, a day's suspension for the second offence and so on.

Mr Speaker, I think these amendments to the standing orders are very sensible. I have to say that we have had some debate on whether there should be a temporary standing order or there should be a permanent change to the standing orders. When the Administration and Procedure Committee is looking at it, it should take that into account and decide whether it believes that it should be for the length of this Assembly and then drop off, unless brought back on, or it should become part of the standing orders. Mr Speaker, I am of two minds about that. I have fallen down on the side of saying that it should be a permanent standing order, but members may have a different view on that. Maybe that is an issue that the Administration and Procedure Committee could consider.

Mr Speaker, I commend the motion to members. In particular, we accept that the Administration and Procedure Committee should look at it and report to the next sitting of the Assembly, which is how Mr Berry has set the timing.

**MR KAINÉ** (11.06): I move:

That the following new paragraphs be added to Mr Moore's motion:

**"4. That the following new standing order be adopted:**

**Questions without notice – time limits**

113B. The following time limits shall apply during the period when questions without notice has been called on:

(a) The asking of each question shall not exceed two minutes and the answering of each question shall not exceed 5 minutes.

(b) The asking of each supplementary question shall not exceed one minute and the answering of each supplementary question shall not exceed one minute.

**5. That Standing Order 160 be amended as follows:**

Omit the words “in alphabetical order” substitute “, with the first call being in alphabetical order, and every alternate call being called in reverse alphabetical order.”.

I will speak to both Mr Moore’s motion and my amendment. As I indicated before, I will be perfectly happy in a sense if the whole motion is rejected by this Assembly, including my amendment, because I think it should be. I think Mr Moore’s motion should be rejected. As I said, for 12 years we have not required it. One has to ask: why does the government believe that we require it now?

We require it now because the government lost a vote, so the message is clear that the standing orders of the Assembly are fine as long as they allow the government to win votes. The minute they lose one, we have to amend them so that that will never happen again. In fact, it was not the standing orders that resulted in their losing the vote on the last sitting date; it was the merits of the case and the fact that one member was absent. They are now seeking to remake history by changing the standing orders so that that can never happen again. If a member who might support the government on an issue happens to be absent on any given day, we have to suspend the standing orders to make sure that the government does not lose the vote. That is the message behind what Mr Moore is doing day. I repeat, Mr Speaker, that for 12 years we have not needed it. What has changed? I think that is the question that people need to turn their minds to during this debate.

In connection with my own amendment, Mr Speaker, the circumstances of the last sitting day were aggravated by the members of the government and their abuse of the standing orders in terms of answering questions. There has been a move in the past to impose the same sorts of time limitations on ministers and on people asking questions as apply in the House of Representatives and the Senate, but that has not succeeded. I think that the events of the last sitting day clearly demonstrate that some members of this place—in fact, perhaps even a majority—are fed up with the government’s abuse of the standing orders in this matter.

A simple solution is to adopt the specifications there. Mr Moore says they have a sin bin. They also have standing orders that impose time limits on both the asking of questions and the answering of them and, had we had those standing orders in place two weeks ago, there would not have been the aggravation caused by Mr Moore, who had already spent 15 minutes answering a question and was then being invited to repeat his whole answer. That is what led to the events of the other day; the frustration at the government’s total disregard and abuse of the standing orders. If Mr Moore is keen to adopt the House of Representatives practice and have a sin bin for an hour, let us also remove the cause of the frustration and have the same time limits imposed on asking and answering questions as the House of Representatives and the Senate.

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I do not think that Mr Moore, as the Manager of Government Business, can have his cake and eat it as well by adopting the punitive provisions of the House of Representatives and the Senate standing orders but not the others that would remove the frustration in the first place. But I repeat that we have never found a need for this before and it is a matter of some concern that the government's resort, having lost a vote, is to seek to change the standing orders so that it can never lose a vote in similar circumstances again. Is that democracy? Is that what this place is about? Should we amend the standing orders always to protect the government's position, whatever it is? That, I believe, is inherently wrong.

Mr Speaker, you have available to you sanctions that you can use against members now. I know that it requires the little formality of your naming the person and, in most cases, the Manager of Government Business having to move that the services of the offending member be dispensed with. That little formality is in the way of arbitrarily throwing somebody out of this democratic chamber, this chamber which the government purports to run in an open and accountable way. There are little impediments in the way of an arbitrary exercising of power. It is appropriate that there are some mechanisms that are required to be met if a member, in the mind of the government, offends the government. That is where the perception has to lie before any punitive action is taken.

I believe, first of all, that if the government feels offended it should not have the power to amend the standing orders to allow it to do whatever it wants in a punitive way and, secondly, that there ought to be one or two little impediments in the way of that, and the present standing orders provide for them. I do not believe that what the Manager of Government Business is now proposing is necessary or desirable because, Mr Speaker, you have existing powers that ought to be quite adequate. For that reason, Mr Speaker, I oppose the motion that Mr Moore is putting forward.

**MR OSBORNE (11.13):** I feel somewhat responsible for this mess, given that I was not here at the time. Mr Rugendyke and I are often criticised for our actions when we think that we are providing stability. We often make decisions that we think are in the best interests of this Assembly. It is interesting that this happened the first time we were not both here. If we had followed the philosophy of some other people in this place, we would be still arguing about the Assembly shutdown. We are here a few weeks later arguing about the same thing. I think that some of us on the crossbench here do accept that we have a responsibility.

I was very disappointed, I have to say, when I became aware of what happened. I had leave of the Assembly, obviously, through the birth of my latest son and I was very disappointed when Ms Tucker refused to give me a pair on the vote about you, Mr Speaker. We have discussed this matter. She has given some explanations, and I accept them, but I was disappointed because Mr Rugendyke did attempt to secure a pair for me on that issue. My office had spoken to me, Mr Speaker. Whether Mr Rugendyke got that message beforehand, I have not discussed with him as yet, but I had been contacted by my office. I have been very consistent in my support of you as Speaker over the years and I will support you again today. If I had been here for the vote last time, Mr Kaine would have been out. I may have enjoyed kicking him out, Mr Speaker.

On that issue, I will not support Mr Kaine being ejected today. I think the horse has bolted, it is over, but it is clear that problems are developing, especially at question time. I think that control has been lost. Perhaps that is a slight shot at you, Mr Speaker, but I have witnessed in this Assembly, especially in the last 12 months, that the situation has just degenerated into a farce at times. I would encourage you to assert your authority.

**Mr Hargreaves:** On both sides.

**MR OSBORNE:** If you do that, if you are consistent and you are fair, we will support you; but on both sides, as Mr Hargreaves says. We have been dealing with the government, Mr Moore in particular, on this motion and I quite like it. I intend to support it when it comes back for debate later in the year. But I do think that the proper process is for it to go before the Administration and Procedure Committee, of which I am a member. I look forward to discussing it within the confines of that committee. Often, a lot of the heat goes out of these debates when they go from the floor of the Assembly to a committee. I do intend to support the motion.

I quite like the first part of Mr Kaine's amendment about question time, because there are times when Dorothy Dixers are asked and we sit here for 15 minutes listening to a prepared answer. I would be quite happy for ministers to table their speeches to save a little bit of time. I have not discussed the part about standing order 160. I think Mr Kaine did raise it a while ago. I will talk to him about that. It is a fact that his surname starts with a K and not a Z, but I am happy to look at that.

In saying that, I am disappointed that this whole situation has arisen. It arose because I was not here. It really has reinforced in me the importance of the role of the crossbench in the functioning of this Assembly. It really has broken down because of what happened, and that is regrettable. We do take our job seriously. I apologise for not being here, but I believe that my priorities were right, Mr Speaker. I accept what Ms Tucker had to say to me. I do not necessarily agree with what she had to say, but I accept her explanation. As I have said, I intend to support the introduction of a sin bin, for want of a better term, that is being proposed by Mr Moore, and look forward to the discussion within the Administration and Procedure Committee.

**MR STANHOPE** (Leader of the Opposition) (11.17): I wish to make a couple of points, Mr Speaker. The first point to be made, to respond to some of the comments by Mr Osborne, is that if we had majority government the situation would not have arisen at all. To draw some conclusion that the crossbench provides stability is something that could be argued quite consistently. I think Mr Humphries and I probably would have a similar view on that. I am one of those who would just as happily see nine Liberals in the place as the current configuration of the joint. In that event, the vote would not have been lost by the government. The Manager of Government Business would not have forgotten to count, would not have been carried away in the heat of the moment and failed to recall that he did not have the ninth vote, the vote that he normally relies on as a matter of course.

I am not sure that it is so much a question of Mr Osborne providing stability. It was just that, on an occasion when the government automatically assumed it had your vote, Mr Osborne, you were not here for it to be taken. There is a whole range of scenarios that we can run about the role of the crossbenchers in relation to the events of the day.

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I must say on the point that Mr Osborne made about pairs, and Ms Tucker can defend herself, that there is no way in those circumstances that Ms Tucker could possibly have assumed what your attitude or view would be. I do recall after the debate Mr Rugendyke declaring with some passion that he can read your mind, that he is at one with you and knows exactly and precisely what you are thinking.

**Mr Humphries:** You know what other Labor members are thinking.

**MR STANHOPE:** Absolutely. As you know very well, we actually caucus on decisions.

**Mr Quinlan:** And we were here.

**MR STANHOPE:** We were here. We caucus and we understand; we do not have to rely on mental telepathy. I am pleased that the government is now accepting that the matter should be referred to the Administration and Procedure Committee. It always should have gone there. The fact that Mr Moore gave notice of this motion does not reduce in any way the fact that it is a stunt. Giving notice of a stunt does not make it not a stunt; it is still a stunt. It is simply a stunt for which notice was given, but it is still a stunt. It should never have been proceeded with in this way. If the government was determined to proceed with an amendment to the standing orders, it should have gone straight to the Administration and Procedure Committee. There should have been no attempt to force it through, to bludgeon it through, in this way without having the matter reviewed or investigated.

It is all right to refer to what happens in the House of Representatives. It is all right to refer to what happens supposedly in New Zealand. The Senate has not adopted this rule, and there are very good reasons for that. There are very good reasons that this Assembly should think about doing so.

**Mr Humphries:** New Zealand has.

**MR STANHOPE:** But the Senate has not. It is worth reflecting on why the Senate has not adopted this rule. The considerations in relation to why the Senate has not adopted this rule are pertinent to the sort of consideration that the Administration and Procedure Committee needs to give to whether it should be adopted in this Assembly. They go to the fact that Mr Osborne has made play about, that is, that we have minority government. Just as the Senate is hung, so is this parliament. The notion of not permitting members in a hung parliament to participate in a particular debate but of then allowing them to run in from the sideline and participate in the votes is an absolute nonsense.

Excluding members from the place during a debate but then allowing them to rush back to their seat and vote in a division seems to be quite bizarre. It seems to me to be an absurdity. It is a bit like allowing a sin binned rugby league player to cross the sideline as a winger is belting down the sideline and about to score—Ken Nagas, probably—and ankle tap the winger. It is exactly the same sort of scenario. It is a nonsense. The one benefit of the notion of actually excluding people from the chamber during the debate is that we would be saved, those of us on this side at least, the tedious nonsense that we would otherwise have to bear. In a way it could be a disguised blessing. Excluding someone from the debate but requiring them to participate in a vote seems a very strange concept to me.

Just to put it into perspective, I do not think we need to go over the issue much more than that. We are going to debate it at a later date. But it is important for the government to accept its role and its responsibility as the catalyst for the issue in the first place. The fact is that Mr Moore took 15 to 20 minutes to answer a Dorothy Dixier and, during the answer, defamed quite outrageously the secretary of the ANF, and then he stands here like Pontius Pilate—



**Mr Humphries:** Why is that a breach of standing orders?

**MR STANHOPE:** It is that he went on and on forever with irrelevancies, defamed the secretary of the ANF, used the opportunity of a Dorothy Dixier to attack her personally, did not remain relevant to the question that was asked, dealt with extraneous matters, irrelevancies, and used parliamentary privilege to launch a personal attack on the secretary of the ANF, somebody that he was not having much success with in other negotiations. That was the catalyst.

Mr Kaine had had enough and said some things in the heat of the moment, and then we had the repercussions of which we are all very much aware. As I say, the government's response to that was not to come into this place and defend its Speaker. It was to come into this place and, through this stunt, seek to deflect attention from the fact that it had failed, that it had not behaved appropriately, that it had not managed to maintain control of the place and that the Manager of Government Business forgot to count, that the political genius in the joint, in the heat of the moment, forgot to look at the numbers.

**MR WOOD (11.24):** Mr Speaker, the weight of numbers has told on the government. On today's look at things, they can suddenly count and this issue is being referred to the Administration and Procedure Committee, where it always should have gone. Next, and belatedly, we will come to deal with confidence in the Speaker. It has been said very effectively by Mr Kaine that the motion which was proposed by Mr Moore and which is to going to the committee did not deal with the problem the Speaker and the Assembly faced. The situation could arise again at any time where the Speaker found lack of support in the Assembly.

This amendment to standing orders does not have a thing to do with that; it will not change it. We could still be here one day without Mr Osborne or someone else or the Speaker's ruling could be voted down. It might make some change to how question time and other proceedings are held, but it does not deal with the problem. It is not unusual for this government not to deal with the problems; it does do a bit of window-dressing. The committee will look at the proposals and make its decisions about them; but the government also has to consider—perhaps in the longer term, but certainly very soon—exactly how it will deal with a situation where the Speaker lacks the confidence of the house. We should get onto that.

I would make the point as an aside that I am not even sure that the Speaker should be in the chair at this moment, because we still have not dealt with the crisis of the last sitting day. We have been here for nearly an hour and that has not been dealt with. He is trying to get onto it.

**Mr Humphries:** The crisis you helped engineer.

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**MR WOOD:** No, no. You can see that: we are not making any ground here.

**Mr Humphries:** You voted against confidence in the chair.

**MR WOOD:** Indeed. Are we not entitled to do that? Do you want to remove that—

**MR SPEAKER:** Order, Mr Wood! I do not want a debate across the table.

**MR WOOD:** You ought to call Mr Humphries to order, because he was the one that started it.

**MR SPEAKER:** Yes, that is very true.

**MR WOOD:** That is the problem. Call Mr Humphries to order. But let us get on to the debate. If we are to have confidence in the Speaker, you should look at coming up with solutions, not window-dressing.

**MR HUMPHRIES** (Chief Minister, Minister for Community Affairs and Treasurer) (11.27): Mr Speaker, I want to put a few observations into this debate. As someone has pointed out, the substantive debate will take place later, but there are a few points that need to be made right now. First of all, it is richly ironic that we have those opposite in the Labor Party attacking the government for allowing the authority of the Speaker to be undermined when they contributed six votes on the day of the last sitting to the situation where the Speaker's authority was repudiated. How the government is to blame for that, I do not know. I would like to have someone from the other side explain that. How their opposing a motion which was designed to uphold the authority of the Speaker is somehow our fault is a mystery to me.

Mr Kaine made the observation that it was not necessary in a sense to move this motion as it does not address the issue of the goings-on of the last sitting Thursday. I suppose he is right about that; it does not directly address it. But something needs to be done to resolve the outstanding issue.

**Mr Berry:** Answer the questions.

**MR HUMPHRIES:** I will come to that now, Mr Berry. The claim of the opposition and Mr Kaine in this debate is that the reason for the breakdown in the proceedings of the last Thursday of sitting was the government's failure to answer the questions. First of all, I would say to members who were not sitting in this place in the days when Labor was in office that they should peruse the *Hansard* for the days when it was. They will see that some measure of misbehaviour in respect of the answering of questions is by no means without precedent.

Ms Tucker, who was not here at that time, Mr Rugendyke perhaps and Mr Osborne would be greatly illuminated by going back and reading the answers to questions. Mr Berry, in particular, would be worth while reading in that respect. The issue of questions not being answered is a matter of great subjectivity. I take pride in this place in answering the questions that I am asked. I believe that if you go back to the questions that I have been asked in this place you will see that they have been answered.

Mr Kaine complained about the time taken to answer questions. He said that the government went on and on and Mr Moore took 15 minutes to answer a question. I would like to read a passage from *Hansard* of 20 October 1993 which is very pertinent to this matter. It begins, rather ironically, with a point of order taken by Mr Cornwell. It reads:

I take a point of order, Madam Speaker. I refer you to standing order 118 (a), which states that answers to questions without notice “shall be concise and confined to the subject matter of the question”. This answer has been going on for 11 minutes now.

Eleven minutes. Madam Speaker responded:

It is purely a question of judgment. Mr Berry—

there is that name again—

is answering the question. Mr Berry may proceed to answer the question. In my judgment, “concise” may well take 20 minutes on some points, particularly if the Minister is continually interrupted. Please proceed, Mr Berry.

Let us cast our minds back to the last Thursday of sitting. What was happening to Mr Moore’s answer to his question? He was being continually interrupted, constantly interrupted. Go back and look at the *Hansard*; there are dozens of interruptions to Mr Moore’s answer. Is it surprising that it took 15 minutes, an outrageous 15 minutes, to answer the question?

With respect, Madam Speaker McRae was absolutely right: “concise” in the standing orders does not mean short. Has anyone seen the *Concise Oxford Dictionary* lately? It is not a short document; it is an extremely long document. You can draw from that that “concise” does not mean “short”. An answer should be pertinent and it should be relevant, but that does not mean that it should be short. Mr Speaker, I reject the suggestion that the government is somehow to blame because it gives a longer answer than some members would like and it gives that answer in the teeth of furious interjection.

The second point that needs to be made here is that we are different from the Senate or the House of Representatives because we have provided in our standing orders—uniquely, as far as I am aware, in the Australian experience and perhaps the experience anywhere else—that there is no limit to the length of question time. The length of a minister’s answer is, in a sense, immaterial because it will not stop another member from asking his or her question. It does matter in other parliaments where there is a time limit on the total length of question time, but it does not matter here.

I note Mr Kaine’s amendment to provide for a limit on the asking of questions and the answering of questions. Without reflecting on an issue that we are not going to debate in full today, I have to ask: what is going to happen when a minister faces continual interjections and the five minutes is taken up with interjections, as it can easily be and has easily been on occasions, and the minister gets to say less than other people in the course of answering his question? What would be the answer to that issue then? I do not

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know; there is no provision made there for interjections. Is there to be a little stopwatch which is stopped whenever an interjection starts and is started again afterwards? I dread to think how the poor Clerk would handle that.

The second objection which was raised to the handling of question time on the last occasion was raised by Mr Stanhope, who said the reasons that the government's behaviour was outrageous on that day were, firstly, that the answer went on for too long—I have already addressed that issue—and, secondly, that it included a personal attack on the secretary of the ANF. With the very greatest of respect to that lady, there is no provision in our standing orders which prevents a member from making an attack on anybody they please, with a small number of exceptions. Those exceptions include other members, members of the judiciary, the monarch and people like that. With those exceptions, there are no limits on whom one may attack. With great respect, it is a matter of personal judgment whether one makes such attacks.

Mr Speaker, this is a case of saying, "Let he who is without sin cast the first stone." Whom here has not used a speech in this place to make an attack on somebody outside this place? I doubt that any of us can rise and make that claim. So why should the minister whose responsibility it is to keep the health system in this territory ticking over be blamed for retaliating in this place against a person who has been attacking him in most personal terms in the last six months? Why should that be used as a ground for the government being blamed for what happened in question time on that day? Again, could someone explain that to me? I do not quite understand that.

Mr Speaker, I contend that the government's behaviour in this place has been appropriate and that we are no more sinning in this place than sinned against; that is, that there are people in this place who continually abuse standing orders, repeatedly abuse standing orders, and whose behaviour apparently does not come into account in this exercise but who ought to be held to be contributing to the instability of our question time.

I remind members that on the day in question, the Thursday of the last sitting week, Mr Berry came into this place and put up a sign, the words of which were in breach of standing orders if nothing else. The fact of its being waved in this chamber surely constituted a grave breach of standing orders—if not the letter, then surely the spirit, of standing orders. Mr Berry was not held to account for that. He was not expelled from the chamber; he was not asked to withdraw. In fact, he put the placard beneath his desk and had it there presumably ready to raise later had the opportunity again presented itself. However, apparently, it was the government's behaviour which contributed to the breakdown of the Assembly on that day. Again, I do not understand that.

Mr Speaker, there are huge dollops of hypocrisy being handled in this debate and I think that we need to consider our position. It was utterly wrong of the Assembly to leave the Speaker high and dry on the last occasion, utterly wrong, and I do not resile from that statement one iota. I suppose Labor might be forgiven for saying that they are entitled to vote against the Speaker in those circumstances. The measure seems to be that therefore those on the crossbench bear the responsibility of fixing it. I am not quite sure about how that works. I have to say that I certainly expected better of Mr Kaine, who has been in this chamber for a long time. His not supporting the Speaker's position was most unfortunate.

**MR QUINLAN** (11.37): Mr Speaker, I will speak briefly. Moving away from the example of the question time, I recollect that during the last week of the sittings of this place, on the eve of International Women's Day, Mrs Burke read from a prepared speech and effectively delivered a diatribe against the ALP. Correctly, Mr Speaker, you directed Mrs Burke to address the substance of the matter at hand.

**Mr Humphries:** It was Mr Wood who was in the chair, not Mr Speaker.

**MR QUINLAN:** Well, there you go. The Deputy Speaker directed Mrs Burke to address the substance of the matter at hand. Mrs Burke continued to read from the prepared speech with, I have to say, the active encouragement of Mr Michael Moore, the Manager of Government Business. He was encouraging defiance of the Deputy Speaker's ruling.

**Mr Humphries:** You would never do that, would you, Ted.

**MR QUINLAN:** Mr Humphries has just mentioned the word "hypocrisy". I think that incident underscores the fact that, yes, there is hypocrisy in this debate. I recall from further back in my early days in this place Mr Moore, with a twinkle in the eye, persistently taking tactical and irrelevant points of order purely to disrupt those who were speaking—with a devilish grin, of course. I think what we ended up with last week was just a monumental error of judgment on the part of Mr Moore.

I am concerned that the sin bin proposition would have a far more significant impact in this place given that we only have 17 members and, in any particular debate, whether or not the member is entitled to vote is a separate question. I think there is the potential for the sin bin proposal to have a far more material impact upon the way this place operates in the interests of public debate than it would in the House of Representatives. For that reason I do not think I could support it.

**MS TUCKER** (11:40) I thought Mr Rugendyke would be speaking. Okay. The first point I would make is that this is clearly an issue for a committee. I am very surprised that Mr Moore considered just putting this forward as a motion in the way that he did because it is quite a serious thing, I believe, to seek to change the standing orders of the Assembly. We do need to understand what the implications of those changes might be, so I am glad to see that there is support now for this matter to be referred to the Administration and Procedure Committee, and for Mr Kaine's amendments to go there as well.

I personally do not know that either of these proposals or proposed amendments would deal with the issue that caused the problems last sitting. You can say that by shortening the time that a minister has to answer a question you may in some way avoid some of the tedious performances that we sit through, but I think even in 10 minutes you could have a manipulation of question time anyway. It is not really about the time, in my view, although I will look at it. I am a member of the Administration and Procedure Committee. Obviously I will have an opportunity to do that.

As for Mr Moore's proposal, the sin binning, I even find the language pathetic in a way. It is such a sort of law-and-order response, isn't it, to a situation where we have people in this place elected to represent the community. We are supposedly leaders in our community and we want to sin bin each other.

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I heard Mr Humphries read out what Mr Berry did, or what the Speaker did then or whatever. I really do not see the relevance of that. What I think we should be focusing on here is how we operate as a parliament now and how we want to operate as a parliament.

Clearly, nobody was happy with what happened on the last sitting Thursday. As much as Mr Moore might like to blame Labor or me, as much as Mr Osborne might like to blame me, and it appears he does, the real issue here is why this happened in the first place. Why did I, as a member of the crossbench who has said that I believe it is important to have the authority of the Speaker respected and clear, on that occasion not support the Speaker? I made it clear at the time that I was not supporting a substantive motion against the Speaker. What I was saying at that time was that I was concerned about the way things were happening on that day and on other days.

**Mr Moore:** You don't have that choice.

**MS TUCKER:** I made that clear here.

**Mr Humphries:** So what is the excuse, Kerrie?

**MS TUCKER:** What has happened since then, of course, is this problem. Because Mr Osborne was not here that meant that the vote went down.

**Mr Humphries:** You exploited that fact, didn't you.

**MS TUCKER:** Mr Humphries interjects that I supported that vote. Yes.

**Mr Humphries:** Exploited that fact.

**MS TUCKER:** Yes, I supported that vote. Of course I did.

**MR SPEAKER:** Order, please! I do not want any interjections.

**MS TUCKER:** Well, can I draw attention to the fact that there are interjections?

**MR SPEAKER:** I don't like interjections.

**MS TUCKER:** I don't interject. I don't know why I do not have the right just to make this speech. I mean, this is what we are talking about, isn't it? Mr Moore says the level of interjection is so offensive to him, but, as someone on the crossbench who rarely interjects, I can tell you that I feel the interjections from that side of the house just as much. Sure, you could say that that is because Labor does not disagree with me so often; but there is the argument. People in this place choose to interject when they do not like what someone is saying, and that is the way things work in this place on the whole. I do not think Mr Osborne interjects that much, or Mr Kaine either. As for Mr Rugendyke, I am not sure that I have noticed. Basically, it is mainly between the major parties that you see the very consistent interjections going on.

Now, when we had to have that vote and Mr Rugendyke asked me whether I would pair with Mr Osborne, I thought that was a presumption. I understand that Mr Rugendyke and Mr Osborne are not a party. Earlier in this debate I think Mr Humphries made the comment—I think it was an interjection, but I will pick it up—that the Labor Party apparently can read the minds of their members. The difference obviously is that the Labor Party is a party which takes a position on any given issue. We do not see people in the Labor Party taking a different view.

On the other hand, we have Mr Osborne and Mr Rugendyke. Now, this morning, in this debate, there was a vote on a procedural issue, the suspension of standing orders. Mr Rugendyke voted one way and Mr Osborne voted the other way on that motion for the suspension. Mr Rugendyke voted with Labor against that. Why? I don't know why. There was a limited time for that debate. Clearly, Mr Rugendyke had a different view from Mr Osborne.

In the situation that occurred here on the last sitting day we had exactly the same situation. I have never been told by Mr Osborne that he would never, under any circumstances, support a motion against a ruling of the Speaker. I do not know that. He has not told me that. So I believe it was not appropriate that I should be asked by another member of the crossbench, who is not in a party with Mr Osborne, to grant a pair. I was not spoken to by Mr Osborne's adviser. For that reason I think it would have been entirely inappropriate for me to take the word of Mr Rugendyke on this matter. I have seen Mr Osborne change his position on matters because he listens to the arguments, as I do, and that was the first time I had supported any kind of ruling against the Speaker. Under the circumstances on that day I thought it was appropriate.

Getting back to the question of the responses to this issue and the amendments that Mr Kaine and Mr Moore have put, I believe that they should be looked at by the Administration and Procedure Committee. I do not know that they are going to deal with the issues that have caused concern. I think this is something that every member of this place can take responsibility to deal with. We can take very seriously the rights of privilege that we have here.

At one point I was considering moving for another possible topic for discussion in the Administration and Procedure Committee. Mr Humphries has referred to this twice this morning already. Standing order 117 does not apply to the answering of a question, only to the asking. There are quite strong rules in the standing orders about how we can ask a question in terms of naming people and so on. In fact, on occasions I have named people, and I think I can recall that on one occasion it was probably unnecessary. I was certainly pulled up by the government on that occasion, and I acknowledge that it was probably unnecessary. I take those standing orders seriously.

But Mr Humphries then says, "Standing orders do not apply to the answering of a question, and therefore we don't have anything to discuss." Of course we do. If people feel that the right of privilege is being abused in some way, then I think there is a legitimate right for that discussion to occur in this place. We might have different views on whether or not what Mr Moore said about the person concerned was appropriate, and we should be able to have that debate.

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On the question of whether you would change standing orders to make the same rules apply to the answering of a question, I am not sure that that is a good solution, just as I am not sure that the other potential solutions that have been put today are good because we have to be careful that we do not get too restrictive. We have a very important role here, and we do not want to get to a situation where we are so muzzled that when it is really important and necessary for the public good we cannot say something that we could not say outside.

That is why I want to stress again that I think playing around with the standing orders is a really serious thing. That is why I repeat my concern that Mr Moore thought he could just have this after a couple of days notice and debate completed today. I am aware that he has stated here that we were given notice, but there was not very much notice, I have to say, for the seriousness of these sorts of proposals. (*Extension of time granted.*) It is an extension of the powers of the Speaker. I think we should have time to look at that and consider it in a thoughtful way, not just in a debate here after a couple of days notice.

**MRS BURKE** (11.50): There have been some comments made about me in this place today, and I would like the opportunity to clarify the situation. I was actually highlighting and perhaps defending the inequities that exist for potential women candidates in the ALP, and, far from being geed up by Mr Moore, he urged me on a couple of occasions to wind up my speech, which is what I did.

**MR BERRY** (11.51): I intend to speak briefly on the motion that has been put forward by Mr Moore. I foreshadow that I will move a motion, as referred to by Mr Moore during his speech, to refer this matter to the Standing Committee on Administration and Procedure.

Mr Speaker, when I first heard of this I made it clear to Mr Moore that this matter ought to have been determined by or looked at by the Standing Committee on Administration and Procedure. I have always resisted it coming to this house in the form that it is in. I hope that clarifies that issue.

Turning to the events which gave rise to these motions, I would like to draw a few things to the attention of the Assembly. I do not mind some strategic interjections, and I do not mind provocative speeches, but, Mr Speaker, it gets to a point sometimes when there is a limit to everybody's patience. Mr Speaker, I admit that I have good days and better days. I suspect that there are other people in this place who might go so far as to admit that as well. We are not usually a bunch that confesses to any major failings. So I do not mind that sort of thing in the chamber. There is a contest of ideas going on in here and it is open to the opposition or crossbenchers or opposing forces within the Assembly to draw to the community's attention the failures of the other side whatever the argument might be about.

Mr Speaker, one of the issues that have been most contentious in relation to question time has been the word "concise". I think there are some historic reasons for why "concise" is in the standing orders concerning ministerial responses to question times. When I look at the *Macquarie Dictionary* it says "concise" means "expressing much in few words; brief and comprehensive; succinct". The *Concise Oxford* says "brief but comprehensive in expression". In other words, it seems to mean short. I am not sure whether "concise" is the right word, but it is the word that is in the standing orders



nevertheless, and that is the one that draws the most attention when it comes to ministers answering questions.

But let's face it: it is open to any group of us in here to unload the Speaker at any time. Historically, the Speaker has always been in a risky position. We know that in Westminster the proposer of the Speaker, after the Speaker is elected, physically assists the Speaker to the chair, because history tells us that the Speaker is the most likely to be necked by the king or queen. It has always been seen to be an arduous job. It is less arduous with 17 members, of course, than it is with several hundred. The contest of ideas amongst the 17 is much clearer and less organised, one might argue, given the fractious membership of this place. So we have a situation where it is open to any of us to challenge the Speaker at any time.

I saw the events of the last time we sat as a very clear shot across the bows, if I can put it that way, of the Speaker. It was, in my view, as a result of an extraordinary exchange in relation to an industrial issue at Canberra Hospital. I also have dealt with industrial disputes in the past and I have to admit that on occasions relationships become tense. One human frailty is to try to defend oneself by attacking, but I must say I was rather upset at Mr Moore's response in relation to this.

I refer to the uncorrected proof copy of *Hansard* covering the events on that day, and I must say, Mr Speaker, that I had no hesitation in opposing the motion to throw Mr Kaine out because of the events which led to what he said. At one stage Mr Moore was having a bit of a shot at the nurses, and Mr Speaker said:

I have the standing order in front of me. I am not sure that there is any reflection or he is being critical of the character or conduct of a person who happens to be involved somewhere in the Trades and Labour Council. I think it is rather a slur on the TLC...

That commentary angered me, I must say, and I took the view, rightly or wrongly, that the Speaker had entered the debate somewhat further than he should have. The response went on and Mr Moore continued to vent his spleen in relation to the nurses, as he is entitled to, but I will come to another issue in relation to that in just a moment.

Mr Speaker, I again refer to comments by you. You said:

Questions may not ask ministers for expressions of opinion. As I understood from the minister's response, he was speculating on what would happen on the one hand or another. That is hardly an expression of opinion, in my view. However, I did not hear it very clearly, so you might like to repeat it again for my benefit.

That, in my view, was just inviting Mr Moore to make more provocative comments. When Mr Kaine, shortly after that, rose to his feet and said, "For how much longer are you going to connive with this government to turn question time into a joke?", I must say I had some sympathy for Mr Kaine's view, and I am not surprised. I had no hesitation in voting against the motion to exclude Mr Kaine from this Assembly.

People will say that to some extent that is a vote of no confidence in the Speaker. My understanding is that history tells us that not many Speakers have left their job because of a motion of a similar order in a parliament in Australia at least. One comes to mind

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when the then leader of the Labor Party expressed a want of confidence or expressed some questions about the Speaker and the Speaker resigned, but that was principally because he lost the confidence of his Labor colleagues, I think, more so than the chamber.

Mr Speaker, if Labor ever wants to get ourselves a new Speaker we will move a motion of no confidence in the Speaker. There is no question about that. We believe we have the right to do that. But we also believe in the authority of the Speaker in this place. If the Speaker does not have clear authority, this place cannot proceed in an orderly way. So, as I said, that is why we invited the government to move a motion of confidence in this place. I have no doubt that it will pass and the Speaker's authority will be without question until the matter is raised again.

One matter that I said I would refer to is the exercise of the freedom of speech. I refer to the resolution of the Assembly of 4 May 1995 which states:

That the Assembly considers that, in speaking in the Assembly or in a committee, Members should take the following matters into account:

- (a) the need to exercise their valuable right of freedom of speech in a responsible manner;
- (b) the damage that may be done by allegations made in the Legislative Assembly to those who are the subject of such allegations and to the standing of the Legislative Assembly;
- (c) the limited opportunities for persons other than members of the Legislative Assembly to respond to allegations made in the Legislative Assembly;
- (d) the need for Members, while fearlessly performing their duties, to have regard to the rights of others ....

I need not go on. Members know which motion I am referring to. That probably had an appropriate place in the course of the answering of the question which was the trigger for the events which led us to the motions which are before the house today.

Mr Speaker, I take the view that Labor's support of Mr Kaine in relation to that matter was quite appropriate. Yes, I think it does undermine the authority of the Speaker and I believe there was a good reason for it. It was a shot across the bows. It is now appropriate that we go to a motion of confidence and that this house then determines its support or otherwise for the Speaker. This is an appropriate course. Without saying any more in relation to the matter, Mr Speaker, I will now seek leave, if I may, to move the motion which has been circulated in my name.

Leave granted.

## **Administration and Procedure—Standing Committee Reference**

**MR BERRY** (11.58): I also seek the leave of members to include in paragraph (1) of that motion, after the word "motion" on the first line, "and Mr Kaine's amendments".

Leave granted.

**MR BERRY:** Thank you members and thank you, Mr Speaker. I now move:

That:

(1) Mr Moore's motion and Mr Kaine's amendments be referred to the Standing Committee on Administration and Procedure for inquiry and report on whether the proposed changes to standing orders are necessary;

(2) Mr Moore's motion be set down as an order of the day, and the resumption of the debate not proceed until the Committee has presented its report;

(3) The Committee report by 2 May 2001; and

(4) The foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Mr Speaker, this motion merely sends all of these matters off to the place where they are best analysed and pitted against standing orders in other places, I suspect. The view of the Administration and Procedure Committee will be reflected in one way or another in a report.

As members know, the Standing Committee on Administration and Procedure is not like other committees in this place, so the matter will receive a full scrutiny and I trust that some sort of agreement can be reached as to a way forward. But I would say from the outset that we should not err by trying to put in place what I have heard Ms Tucker refer to as some sort of law-and-order reaction to the argy-bargy of debate in this place. There is a need for an open contest of ideas, but there is also a need for respect for the rights of members across all political groupings within the place to question the Speaker's role in managing this place. We have that role and we should treasure that. The Speaker must always be on notice that his management of this place is the subject of close scrutiny by this place. I think, Mr Speaker, that that is why this matter has come to a head. Members have become anxious, and we need to resolve the issues and move on.

That is not to say that I have any hesitation about what occurred on the day. If the same thing happened again I would do the same thing again. I think the Labor Party would too. It received the attention that it deserved, in my view. Mr Speaker, I urge members to support the motion which has been circulated in my name. That means, I think, that we do not proceed with your motion, Mr Moore.

**MR MOORE** (Minister for Health, Housing and Community Services) (12.03): Mr Speaker, the government will be supporting Mr Berry's motion, as I indicated earlier, and accepting the opportunity for the matter to go to the Administration and Procedure Committee.

Mr Speaker, in the course of the general debate here about this issue and the proposal to put an amendment to the standing orders before the Administration and Procedure Committee, it is interesting that a number of members have misrepresented what is in the standing orders. I think it was Mr Quinlan—it was certainly somebody from the Labor Party—who said that I made a monumental error of judgment, and Mr Stanhope said that I could not count the numbers and that was what the problem was. But, of course, Mr Speaker, the standing orders do not give the prerogative to the Manager of Government Business to count or not count. Once the Speaker has named the member it

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is the role of the Manager of Government Business to move the motion for suspension of that member.

Mr Kaine understands that. He understood that, when I stood to move that motion to have him suspended from the service of the Assembly, it was the procedure. It was not a case of the fact that I was very keen to see Mr Kaine booted out. I did not vote then to boot him out because I was keen to see him go out.

**Mr Kaine:** There are times when you enjoy it.

**MR MOORE:** But that was not why I jumped to my feet. Perhaps on that occasion I did so a little more enthusiastically than I might have at other times. So I think members have misunderstood the standing orders as far as that goes.

There is a second issue that I think is quite important. Members have said that this matter should go to the Administration and Procedure Committee because it is so important. I would remind members that there have been many precedents, from the beginning of the Assembly in 1989, for changes to standing orders happening on the floor of the house, so this is not an absolute necessity, but I accept that this is going to the Administration and Procedure Committee.

The third point I would like to make, Mr Speaker, is that a great deal has been made—it started with Mr Stanhope—of the fact that I somehow was using parliamentary privilege to defame Ms Duff, the President of the TLC and the Secretary of the Australian Nursing Federation ACT Branch. Mr Speaker, had it been necessary to do such a thing as part of my responsibility as minister I would have done it unhesitatingly; but I would do it in the context of Mr Berry drawing to my attention the issue of freedom of speech that we keep in the back of the standing orders. I take that into account.

But, Mr Speaker, the truth is there was no defamation. If there was defamation, why hasn't it been tested outside, because I have used exactly the same statements on radio and in the paper—everywhere. I was not using parliamentary privilege to identify the fact that Ms Duff was the President of the Trades and Labour Council as well as Secretary of the Nursing Federation. I have to say, for the life of me, that I don't see why drawing attention to that is defaming somebody. The implication that I draw from that is that perhaps she has her roles confused. I have done that publicly on many occasions.

**MR SPEAKER:** Order! We are drifting off the debate.

**MR MOORE:** On many occasions. Thank you, Mr Speaker, and I think that is why we are referring this to a standing committee. Mr Quinlan suggested that I had been supporting Ms Burke in defiance of the ruling of the Deputy Speaker at the time. Mr Speaker, I took a point of order under standing orders. I think I did so twice. I questioned the Deputy Speaker's interpretation of the standing order. That is a normal procedure. As Ms Burke has now reiterated, I encouraged her to leave it.

Finally, Mr Speaker, when members of the Administration and Procedure Committee are considering this, I would ask them to consider the view that Ms Tucker has put—that this standing order is a law-and-order response. It is not, Mr Speaker. It is a sporting response. It is anything but a law-and-order response. The sin bin is what we use in ice

hockey. The sin bin is what you use in soccer. The sin bin is what you use in rugby. It is a sporting response, saying it's time that somebody cooled down without losing it. In those cases, in a sporting response, people actually lose their ability to assist their team. In most cases when somebody is sin binned—it depends on the sport—they are replaced with another player, but not always.

**Mr Kaine:** If you sin bin me, I don't have a team.

**MR MOORE:** I understand that very well, Mr Kaine. When you are sin binned there is not a team that you are letting down. The only person that you let down when you are sin binned is yourself, Mr Kaine. Nobody else, anywhere. That was a bit mean. Okay. I withdraw that.

Mr Speaker, the most important part of the convention that I would like the Administration and Procedure Committee to look at is a part that we picked up from New Zealand, and that is that we do not take away the member's right to vote. I think that is of fundamental importance in this proposal, and I would ask the members of the committee to consider that when they are looking at this sporting response rather than a law-and-order response.

**MR BERRY** (12.09), in reply: I will close debate on this, Mr Speaker. One thing I would say in response to Mr Moore is that this is not a sport. This is a bit more serious than that. A summary execution of a particular standing order is something to be very concerned about because you are not just smacking some child on the wrist; you are taking away the rights of constituents to be represented. So it is a little more serious than that. It is far more serious than that, in fact.

Also, you cannot compare this place directly with other places. For example, you cannot compare this parliament with the House of Representatives where there are mostly two groups that represent the government and the opposition, and a lot of members who never do anything else but vote. In this place all of the members some of the time, and most of the members all of the time, make a contribution to debates. That does not happen in the bigger parliament.

It is extremely important that members contribute to debate, and I would like the Administration and Procedure Committee to consider this. If it is all right for members to vote on a particular issue, then it is all right for them to come in here and try to convince other people to vote the way they want them to. I mean, how do you say at what point somebody's right to represent their members has been taken away? These are matters on which I am not going to go too much further because the Administration and Procedure Committee is going to look at them.

I say unashamedly that in my view this has come up in the form that it has in order to try to distract attention away from the government's difficulties and to try to blame other people for the problems here. Sorry, it will not work. As I said earlier, we accept the right of the government of the day to put forward a Speaker. We also accept the responsibility to move against the government's nomination for Speaker. If successful we would accept the government's further nomination of a Speaker, but we always reserve the right to express a view in relation to the management of this house.

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I wish the Standing Committee on Administration and Procedure well in relation to this. I think there is far more to it than meets the eye, and once it is out of the political limelight perhaps wiser decision-making will follow. This is not a game. This place, in my view, is not a place where members' rights to represent their constituents should be taken away in some sort of summary way without reference to the Assembly. Once you jump that hurdle in a place which is based on proportional representation, as this is, I think we get into some pretty dangerous territory. I am sure that these matters will be taken into account by the Administration and Procedure Committee. I thank members for their support.

Question resolved in the affirmative.

### **Speaker—vote of confidence**

**MR MOORE** (Minister for Health, Housing and Community Services) (12:13): Mr Speaker, I move:

That this Assembly has confidence in the Speaker.

**Mr Berry**: You had better seek leave.

**MR MOORE**: I think I was already given that. I will seek leave again. I think I was given leave earlier but I seek leave to move a motion expressing confidence in the Speaker.

Leave granted.

**MR MOORE**: Thank you, members. Mr Speaker, I move:

That this Assembly has confidence in the Speaker.

Mr Speaker, we have had some debate this morning about standing orders and the implementation of standing orders. It would appear that everybody in the chamber has some dissatisfaction with you as the Speaker. I would add to that some dissatisfaction with the Deputy Speaker as well. I certainly would like to express my dissatisfaction with the way the Deputy Speaker handles the case.

**Mr Berry**: I take a point of order, Mr Speaker. You will have to do that by way of a substantive motion.

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

**MR MOORE**: However, Mr Speaker, the main debate here is about the notion of confidence in the Speaker. I was trying to make it very clear that at times we do feel dissatisfied with the protection that is given to us from the chair, sometimes from the Deputy Speaker, sometimes from the Speaker. Only this morning, Mr Stanhope called me a hypocrite. He was asked to withdraw and in withdrawing effectively called me a hypocrite yet again. I did not gain what I consider adequate protection from you, Mr Speaker. This is constant, but we accept that this goes back and forth, and we accept

that you make a judgment, Mr Speaker, as to whether to leave the issue and to move on and allow the Assembly to work.

Mr Speaker, I sit here and I am extraordinarily dissatisfied with the fact that Mr Stanhope sits with his back to you, leaning right back through question time with his mouth going. It contrasts greatly with the technique that Mr Berry tends to use. Mr Berry's technique tends to be an interjection technique which is about making a point and driving a point home. That one I accept. That is the normal run of the mill. What I do object to about the way Mr Berry operates, and I would like you to take note of this, Mr Speaker, is that he often rises to take a point of order that is not a point of order at all.

**Mr Kaine:** On a point of order, Mr Speaker: are we dealing with a motion of confidence in you, or are we talking about the Leader of the Opposition or Mr Berry?

**MR SPEAKER:** Yes.

**Mr Kaine:** I am not too clear what the relevance of this is.

**MR SPEAKER:** Mr Moore, I would suggest that you come back to the motion. It seems to me that there is a little bit of personal point-scoring going on at the moment.

**Mr Berry:** Mr Speaker, may I just add to that? You may wish to rule on this as well. Would you draw Mr Moore's attention to the fact that he moved a motion of confidence, not a motion of no confidence. It might be better if he talked about your good points rather than your bad ones.

**MR SPEAKER:** Mr Moore, get back to the subject please.

**MR MOORE:** Mr Berry delivers on exactly the thing that I am talking about. He stood on his feet and said, "This is a point of order." It was not a point of order. If he wants to do it as an interjection, Mr Speaker, I can see that and I can deal with it. But raising a point of order stops a member speaking.

**Mr Wood:** And you have never done that?

**MR SPEAKER:** Order, please! You all should stop behaving like children.

**MR MOORE:** He uses this as a particular technique.

**MR SPEAKER:** This has gone on for far too long.

**MR MOORE:** Mr Speaker, I would suggest to you that these things are not particularly easy to handle. The point I am getting to, Mr Speaker, is that I am sure each member here has felt at times that something has not been done in the way they want. Mr Kaine blew his top not so long ago because he thought I was taking too long to answer a question, and he felt dissatisfied with the way you handled the thing.

Mr Speaker, the role of Speaker is not, as some have tried to put it, designed to be a partisan way of delivering power. I believe you have not exercised your role in a partisan way. That is why I raise these issues of dissatisfaction, Mr Speaker, and why

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I am very specific about them. I believe you have been non-partisan in your approach. That, members, is the difficult role of the Speaker.

That is why it is that I have confidence in you, Mr Speaker, to deliver a fair Assembly. There will be times when I disagree with you. There will be times, Mr Speaker, when Mr Berry disagrees with you, and Mr Corbell, and Ms Tucker, and Mr Osborne. There will be times when we all disagree with the way you are doing the job, but we know that we have given you the prerogative to sit there and manage the house.

Mr Speaker, I believe very strongly that you are doing that job in a fair and reasonable way. There are times—and this applies in exactly the same way to Mr Wood when he sits there—when we are all dissatisfied, and I cannot see it ever being any other way. I cannot. I think we should be worried if one member sits back and says, “I think the Speaker is looking after me very nicely.” That is the point that I am making. It is a very important point to make.

Mr Speaker, when your predecessor Ms McRae was the Speaker I heard constant moaning from both sides of the house about the way she delivered. I know, because I have spoken to her, that the former Chief Minister on a number of occasions berated the way that she was doing the job. I know that Mrs Carnell was dissatisfied with the way she was doing the job. I have to say that sometimes, from the crossbenches, I thought she was terribly unfair on me.

So, Mr Speaker, when we deal with this issue of a vote of confidence in you as Speaker, I think we have to understand that what we are looking for, most importantly, is a non-partisan approach from you. Mr Speaker, I believe you do that. That is why it is that I have confidence in you. That is why it is that the government and this Assembly should have confidence in you as Speaker.

**MR Kaine** (12:19): I am pleased to note that the government finally saw the sense in doing what it has done, and that is to move a motion of confidence in you as the Speaker. Mr Speaker, we have known each other for a long time and we have crossed swords on many an occasion, but I am well aware that very often in your place your patience is sorely tried, as indeed is mine. Sometimes when I am being a little frustrated I look at you and I can see your eyes rolling too, so I know that you often share my feelings of frustration at the things that go on in this place.

I think Mr Moore has made the point that your role is to be non-partisan, and I know that that is sometimes very difficult. Having shared a party room with you in the past I know that pressure is sometimes put on you. I am not suggesting that it is now, but I know that in the past pressure has been put on you to be a bit harsher on the opposition in the interests of the success of the government’s debate. I know you wrestle with that, and I am not at all convinced that you always accede to the government’s requests. You are in a difficult position and I understand that, and I am sure that everybody else in this place does also.

I just have to say in conclusion, Mr Speaker, that I recall a debate in a certain place about 2½ years ago when appointments to the Speaker’s chair were taking place. I am sure you will recall the nature of that debate and what the awful alternatives to putting you in the Speaker’s chair might have been. I have not forgotten that, Mr Speaker, and I am sure



you have not either. I think it is appropriate that the government put forward this motion of confidence in you as the Speaker, and I can assure you that I will not vote against it.

**MR STEFANIAK** (Minister for Education and Attorney-General) (12.22): Mr Speaker, the job of Speaker is not an easy one, and I say that as someone who, in the First Assembly, was in a similar position to Mr Wood as a Deputy Speaker, and also as someone who was the Acting Speaker for some time when David Prowse was unavailable.

I think it is fair to say, Mr Speaker, that you have been regarded during your tenure as an excellent Speaker. I have seen various publications written from neutral observers and observers in the media referring to you as the best Speaker since self-government. I think that is something that you can take a lot of pride in.

I have always found you to be a very fair Speaker. The role of Speaker is different from that of anyone else in the Assembly. Yes, as Mr Moore says, no doubt government members, even me occasionally, from time to time might have been slightly annoyed at the stance you were taking. No doubt opposition members have been too, but the role of Speaker is a unique one. You have to be fair and fairly arbitrate disputes before the Assembly, and I think that is something no-one can accuse you of not doing. It is something that you have done very well, however disagreeable that might be sometimes for various members opposite. So, Mr Speaker, I just put on the record that I certainly have complete confidence in you. I think you have done an excellent job, and I am very happy to support the motion moved by my colleague Mr Moore.

**MS TUCKER** (12.23): I am happy to support this motion of support for you as Speaker. I clearly expressed concern about certain circumstances on the last sitting day, the Thursday. I do acknowledge that you have a difficult task. I also obviously had got to the point where I was concerned. I do not like it when I see editorialising coming from the Speaker's chair. I do not think it happens that often, but it does happen. I guess that last sitting day I was saying quite clearly that I was not going to support a substantive motion against you, but I was concerned about that situation. I would just like to say that I hope that the way that you perform the task will continue to be of a high standard.

Mr Speaker, I do understand your position to be very important in the parliament, and for that reason I expect very high standards, basically. I believe that on the whole that is what we see. But I will continue to exercise my right to make the point if I feel for any reason that your role is not being undertaken to the standard that it should be.

I have already spoken today about the importance with which I see the conduct of a parliament. It is not just about the role of the Speaker; it is about how we all operate. Mr Moore corrected my language. A sin bin is not a law-and-order response, he said; it is a sporting term. I am grateful to Mr Moore for explaining that to me. I guess the point is then even clearer that I think that is pretty pathetic. We are not playing football. We are dealing with the lives of people in the ACT. We have different views on how we can best achieve good outcomes for the ACT. It is a serious business, and I would like to see it treated as such.

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**MR BERRY** (12.26): Mr Speaker, the move by Labor this morning to ensure that this vote of confidence was put forward by the government was in response to a hiatus in your authority created by the government on the last occasion that we met. The government created the impression of a crisis when there probably wasn't really one at all. It was a crisis of its own creation when it moved to adjourn the Assembly at short notice after the motion to eject Mr Kaine failed.

Mr Speaker, that could not be read as a vote of no confidence in the Speaker from Labor. There will be no mistake about it: if Labor ever seeks to move against the Speaker it will move a vote of no confidence in the Speaker, and we will argue specifically in relation to it. As I have said before, we have always adopted the approach that the government nominee as Speaker should be supported, and we continue to observe that. We make no apology for the view, Mr Speaker, that we would rather there be a Labor Speaker and that a Labor government nominate the Speaker, and we will get to that one day. That day is not far away, I suspect.

But we also reserve the right, as I have said previously in this debate, to decide at any time that a particular nominee as the Speaker does not have our confidence. Mr Speaker, this motion that has been moved in the end by the government, after some goading, at least will establish your authority in this place and we can move on from there rather than have an 8:8 vote hanging around which could be considered to be a reflection against your authority in the place. It is a motion that will succeed.

We and the other side, I suspect, or other sides in this place, will test your rulings as Speaker in relation to the standing orders from time to time. That is the nature of the place and I do not see that that will change. Without wishing to be too harsh, this incident should also be seen as a shot across the bows and an indication that we have been unhappy about the government's performance, particularly in relation to question time.

I listened with interest to what Mr Kaine said about the party room. I acknowledge and understand that party rooms can be difficult places, and in particular for Speakers when the government is under pressure, especially if you have particularly demanding colleagues who are prepared to trade off on some of those issues. This becomes even more difficult at around preselection time, and all those sorts of things. But they are issues for you to navigate. I do not have to lecture you on that. I am sure that you have been going through that for some time.

It is necessary though, Mr Speaker, for this question to be resolved. I have no doubt that it will be resolved in the affirmative and we will move on. I look forward to what, if anything, comes out of the Administration and Procedure Committee in relation to this matter. The issue that started this was a sense of concern about the management of this place, and that should be taken on board. Once this motion of confidence which the government has been forced to bring on is dealt with we can get on with the management of this place, in the fond memory of events past.

**MR WOOD** (12.30): Mr Speaker, I presume that the Chief Minister is going to speak to this motion. I am carrying on the debate—

**Mr Moore:** No, it is my responsibility.

**MR WOOD:** Your responsibility. Well, that's fine, Mr Moore, but I would still expect the Chief Minister to have something to say. I would find it remarkable—

**Mr Moore:** See how we get different expectations?

**MR SPEAKER:** Order! Get on with it, please.

**MR WOOD:** Well, that's good. I am pleased that we do. Mr Speaker, are you "ordering" me or Mr Moore?

**MR SPEAKER:** I am just saying "order".

**MR WOOD:** Well, it's a fair point to ask from my position. Mr Speaker, you do have a difficult task. There is no question about that. In other parliaments Speakers also have difficult roles to play, but sometimes they are backed up by a majority assembly which does make their life a little easier. You do not have that here. The government, I think, is fortunate in the fact that it has more reliable support in these matters from two Independents than Labor Speaker McRae had when she performed that role. Mr Moore, not by interjection, indicates his disagreement with that, but I recall that Roberta McRae had an even more difficult task as she was never sure that she had the support of the Assembly behind her.

Mr Humphries came into this place a little while ago and reflected on some of the answers to questions in the time of the Labor government, and he made a reasonable point, I suppose, in the comments that he made. But I want to reflect a little more broadly than just the member that Mr Humphries focused upon. I can remember Rosemary Follett as Chief Minister answering questions, and she was exemplary in the way that she did it. She was unfailingly polite, responsive and informative—very different from the current Chief Minister and the former Chief Minister. Rosemary Follett never went on for 15 minutes at a time. It would be a rare circumstance if she did, if someone wants to check back. She was a very good example of how questions should be responded to.

I think it would be fair to say of Mr Berry that he proved that he was capable of giving colourful responses to questions. As for me, I tried then, as I try today still, to be brief and still say things that need to be said. Mr Connolly was a very effective speaker. I think if you line up the Labor ministers against the Liberal ministers we come up better in terms of answering questions precisely and effectively.

Mr Humphries forgot to give the other side of the story. He forgot that the Liberals at that time had come to a policy decision to make life as tough as possible. They had Tony de Domenico with a wonderful voice for that purpose, and Mrs Carnell who set out deliberately to break down question time. They set out to do it. It was a clear policy decision. There was a definite tactic to do that. So if Mr Humphries wants to raise one side of those questions, he should look also at the other side and the way that the opposition behaved at that time.

**Mr Moore:** Now you should do the same. You do the same.

**MR WOOD:** I will take your interjection, Mr Moore.

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**Mr Moore:** You do the same now.

**MR SPEAKER:** Order! There are no interjections, thank you very much, Mr Wood.

**Mr Moore:** Look at the other side.

**MR WOOD:** We should each, Mr Moore, through you, Mr Speaker, look not just at what the other side does but what we do.

**Mr Moore:** I did it in my speech. You do it now.

**MR WOOD:** You are so noble, Mr Moore. You are so much finer than anybody else in this place, I acknowledge.

**MR SPEAKER:** Order, please, otherwise I will have to adjourn this.

**MR WOOD:** I am giving the balance, Mr Speaker, to what Mr Humphries said this morning. I am giving that balance. He did not mention the behaviour of the Liberals at this time. Question time is a feisty time. We expect a degree of feistiness. There is someone here in this chamber who has had a recent example of how the New South Wales parliament operates. Well, we do not want to go, please, to that level. I think we would be pretty quiet in comparison.

Yes, the opposition is feisty. You are going to expect us to be feisty if Mr Humphries thinks he can get up for long periods and slag off at us. If he thinks he can do that, what does he expect us to do? Sit down here and nod sagely at what he says? Of course not. We are not going to do that. If Mr Humphries thinks he can go on and on and on indefinitely without answering the question, or Mr Moore or anybody else, are we going to sit here and nod politely? We make some noise about it. If question time is to improve, both sides have to take a role in that. There is no question about that. I think it can be done. I think it can be done because, Mr Speaker, we do want to make life easier for you.

But let's get back to the confidence motion. The problems we have mostly relate to question time. This Assembly works pretty well. One of the other troubles that Mr Speaker has is that members move around and talk to each other and organise the way this place goes. Mr Moore can come across and talk to Mr Berry. Other members are talking all the time, to Mr Speaker's distraction. But this Assembly works pretty well.

It is in the public domain of question time that the difficulties arise, and I think we can attend to that. I think all sides can attend to that. But I caution Mr Humphries. He should not think that right is on his side, and wrong is on this side, because that is not the case. He has as much responsibility in improving what happens at question time as people on this side. Maybe there are some agreements to be made about the way these things are done. Maybe there are some agreements needed. Amendments to standing orders of the type proposed today will not do that. It is simply by talking to each other and coming to some understanding about how things are done that things can improve, and Mr Speaker's task in this place will be a little easier. I think we can do that. Perhaps it has not been done in the entire 11 years of this Assembly, but there are certainly ways of improving things, and all members bear a responsibility in that.

**MR MOORE** (Minister for Health, Housing and Community Services) (12.38), in reply: Mr Speaker, I will respond very quickly to a couple of the points. Mr Kaine and Mr Berry raised the notion that we somehow bring pressure on you in the party room. I do not know what happens in your party room. When I have attended the all-of-government meeting which includes me, Mr Speaker, there have been a number of times when, as Manager of Government Business, I have spoken to you and said I feel that a member's interjections at question time are inappropriate and have asked you to keep an eye on that. I think you and I would agree that, effectively, that was the extent of, if you like, pressure that was put on. At any time that I have said that I have also said to ministers and other members here that we must make sure that our behaviour in question time is exemplary. Now, none of us is perfect, Mr Speaker, and we let that go.

Mr Berry suggests that this is a hiatus created by the government. Nothing could be further from the truth, Mr Speaker. There was a vote. It was an 8:8 vote, with one member missing. You chose to name somebody, Mr Speaker. We had the confidence in your prerogative to name somebody and supported you. I moved the motion, not because I could count numbers but because standing orders required it to be moved.

**Mr Berry:** No, no; you moved the adjournment.

**MR MOORE:** Mr Berry interjects. He is talking about the adjournment of the Assembly. Okay, I misinterpreted that. Mr Berry also suggested that the Labor Party did not have, and did not believe in, no confidence of the Speaker.

**Mr Berry:** What?

**MR MOORE:** I have to question then that you did not think that that was a no-confidence motion in the Speaker. That is what you said in your speech. Am I misinterpreting your speech, Mr Berry? You indicated in your speech that you did not see the motion that failed, in that Mr Kaine was not booted out, as being a no-confidence motion in the Speaker. I understood you to say that in your speech here. That is a very different position from the one you took at the all-of-government business meeting when you asked me did I know whether the Speaker was going to step down as would be the normal precedent.

**Mr Berry:** I asked that question, yes.

**MR MOORE:** In which case I said to you, "No, as I understand it, he is not going to." You asked me why and how did I know. I said, "Because I asked him. Because I spoke to him." Mr Speaker, I am happy to reaffirm that position by supporting this motion of confidence in the Speaker.

Mr Speaker, I have to say that Mr Wood's speech was pretty close to the most self-righteous and most acrimonious he has made. It was almost but not quite to the level of Ms Tucker. It was pretty close. What I am particularly interested in was his approach to Ms McRae when she was Speaker. At the time I was on the crossbench with Ms Szuty. I do not know what Mr Stevenson did at that stage that she may have had some doubts on, but on many occasions Ms Szuty and I, and it only took one of us, remember, went to Ms McRae and said, "We think the house is not in order enough. We understand how

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difficult it is for you. We have made it very clear to you that we would support your ability to name a member.” Just as I said to you, Mr Speaker, in the previous Assembly and in this Assembly, that I would support your ability to name a member. That motion was necessary because it was supporting the Speaker.

I think I have spoken in those terms to Mr Rugendyke on many occasions. I have spoken in the same terms to Mr Osborne on many occasions, and on innumerable times to Ms Tucker and to Ms Horodny when she was here. I pointed out how important it was for us to make sure that we keep a stable Assembly by ensuring that the Speaker knows that he has the power and the confidence to be able to name somebody should he so wish.

Mr Speaker, this government, this Assembly, does have confidence in your ability to carry out what we can tell from this debate is an extraordinarily difficult task. I think it is fair to say that I also believe, on behalf of the government, that Mr Wood, as Deputy Speaker, also fulfils that task in an appropriate way. We will always be dissatisfied at some stage about certain ways that things are done, but as long as that happens in a non-partisan way you should retain our confidence.

Question resolved in the affirmative.

**Sitting suspended from 12.42 to 2.30 pm**

### **Questions without notice Canberra Hospital—nurses**

**MR STANHOPE:** My question is to the minister for health. On 8 March, the minister used the privileges afforded to members of this place to make an unwarranted, unprincipled and defamatory attack upon the secretary of the ACT branch of the Australian Nursing Federation. In fact, the minister was brazen enough to admit his motives. *Hansard* records the minister as saying:

The ANF, of course, is led by Colleen Duff. She is also currently the president of the ACT Trades and Labour Council ... Mr Speaker, I am using parliamentary privilege to suggest an improper motive ...

Later, he said:

... The ANF, led by Colleen Duff, has made a very clear statement that they wish to run candidates in the next election ... Ms Duff is the president of the ACT Trades and Labour Council ... The disappointing part there is that I said that it seems to me that there is a confusion in her roles as leader of the ANF and leader of the Trades and Labour Council in dealing with this issue—

namely, the ANF’s negotiations. As recently as this morning, the minister again reflected on Ms Duff’s dual roles as secretary of the ANF and president of the TLC. Can the minister say on what basis he assumed that the incumbent of the TLC, Carolyn Humphreys, had resigned? Can the minister tell us that he genuinely was not aware, in making these unprincipled and defamatory attacks on Colleen Duff, that she had resigned as president of the TLC over six months ago? Will he apologise for misleading the Assembly, misleading the people of the ACT and defaming Ms Duff in this way?

**MR MOORE:** Mr Speaker, when I made those statements I asked for staff to investigate and find out whether it was correct that Ms Duff was the president of the TLC. I was informed that she was. I have been informed today by a reliable person that I was incorrect and that what Mr Stanhope has put to me is correct, that she is the immediate past president and she did resign. For misleading the Assembly in that regard and for the remarks I made about Ms Duff in that regard, I apologise.

### **State-territory funding**

**MR HIRD:** My question is to the Chief Minister. I refer to reports in today's newspapers that the New South Wales and Victorian Labor governments are joining forces to change the system of state and territory funding. They say that they want to cut the level of funding to the territory. Can the Chief Minister advise the parliament whether the ACT contributes more to the Commonwealth in taxes and charges than it receives in grants?

**MR HUMPHRIES:** Yes, I can confirm that that is the case. A few years ago, the treasury of Western Australia did some modelling on the amount of money which every state and territory contributes to the collective national fiscus, if you like, and the amount that each takes from it in the way of grants from the Commonwealth. It is on the record from the work of Western Australia on this subject, of which I have not seen a better version, that each man, woman and child in the ACT contributes \$1,460 per annum to the national pool from which Commonwealth grants are drawn. By comparison, New South Wales contributes \$410 per person and Victoria contributes \$366 per person. Obviously, that is a reflection of the higher average income enjoyed by Canberra residents; nonetheless, it is worth noting that that contribution is being made.

It is also true to say that the ACT, as a community, enjoys a slightly higher return from the national fiscus than the national average and places such as New South Wales and Victoria, but there are very good reasons for that. The economy of scale that is not present in the ACT is one reason why that might be the case. The ACT government emphatically rejects the idea put by the premiers of New South Wales and Victoria that there is any imbalance that the ACT needs to account for. Indeed, the only imbalance that I see is one that very much disadvantages the ACT in terms of its contribution.

I was pleased this morning to see the Leader of the Opposition, Mr Stanhope, also contribute to this debate by indicating in respect of the premiers, "I have no hesitation in saying that they were wrong, misinformed and ignorant." I think that is an appropriate signal to be sending at a time when the ACT is being attacked. I will not know until Friday's meeting of treasurers in Canberra how successfully it has been attacked. It is very useful, I must say, to have a united political position in this place reflecting on the comments made by those two gentlemen. I am sure we would all agree that the ACT does not deserve that kind of comment, that the ACT is certainly pulling its weight in this federation, and that we have nothing to apologise for to any other state or territory in this country; indeed, we are a net contributor to the fortunes of other states and territories.

### **Integrated document management system**

**MR QUINLAN:** My question is to the Minister for Urban Services, I think. Can the minister confirm that tenders were invited late last year for the provision of an integrated document management system? Can he say how many responses were received and what is the status of the tender process? Is it a fact that the tender is to be reissued because the original documentation contained no objective measurements against which the competing bids could be reliably assessed?

**MR SMYTH:** Mr Speaker, we have an integrated document management services tender out. I would have to find out for the member the answers to the rest of his questions.

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

**MR QUINLAN:** To add to the ones on notice, can the minister advise this place how much money the department has wasted on the original flawed tender process?

**MR SMYTH:** I will add that to the list of questions I ask, Mr Speaker.

### **Standing Committee on Planning and Urban Services—report on Gungahlin Drive extension**

**MR KAINE:** My question, through you, Mr Speaker, is to Mr Harold Hird as chair of the Standing Committee on Planning and Urban Services. I ask the question under the provisions of standing order 116. Mr Hird, I have received a copy of a letter which was addressed to you and which was sent, I am sure, to all members of the Assembly in connection with your report No 67. That letter makes a series of what I consider to be most serious and, if they are correct, most serious allegations about the conduct of your committee and the manner in which certain evidence to the committee was reflected in the final report signed by you and tabled in this Assembly. The allegations boil down to three basic charges: that their views were misrepresented in the committee's report; that new evidence given to the committee was ignored in the report; and that the number of persons for and against various options for the Gungahlin Drive extension were incorrectly tallied in your report.

I ask Mr Hird as chairman of the committee: why did your committee's final report on the proposed Gungahlin Drive extension misrepresent the views of the Save the Ridge community group? Why did the report fail to take account of new evidence presented to your committee? Why did the report contain incorrect tallies of the professed support for the various options, in particular the so-called eastern and western routes?

**MR HIRD:** Like Mr Kaine, I received correspondence from Save the Ridge convener, Mr Tanner, today and I instructed my secretary to place it on notice for the next deliberative meeting of my committee. However, the accusations made by the writer of that letter I refute. I believe they are one assessment by an individual of a very fine report that goes into detail.



I would also like to say that I was surprised by the questioner's attitude when I tabled the report in this place. He seemed to find offence and indicated that we had nothing new to offer. Yet he had not had a look at the 25 recommendations, and indeed had not read the report, because it had only just been tabled. I do not believe that the writer of the letter which Mr Kaine refers to understood, or indeed had any comprehension of, the fact that the government and people who live in Gungahlin had taken into consideration the requests by the people of Save the Ridge. Certainly my committee undertook to do it, and we did. If you read the report, Mr Kaine, you will see that we did. To say that my committee did not, I find most offensive. I am surprised that you, as the elder statesman of this place, should pick up a piece of paper you received today and make these wild accusations without informing yourself.

**Mr Stanhope:** I take a point of order, Mr Speaker. Mr Hird is making absolutely no attempt at answering the questions that were asked. Very specific questions were asked, and Mr Hird has made absolutely no attempt at answering any of the specific questions that were asked. I would ask you to call him to order, Mr Speaker.

**MR SPEAKER:** I uphold your point of order to an extent. He answered some of the questions earlier, but he then drifted into what appeared to be a personal attack on Mr Kaine. I would ask you to come back to the subject, Mr Hird, please.

**MR HIRD:** Mr Speaker, I apologise if the inference was that it was a personal attack on the member asking the question. It was not intended to be a personal attack. It is a matter of fact that Mr Kaine made certain accusations in respect of my committee's report.

I will go back to the question asked by Mr Kaine. We will analyse the aspects raised by the writer of the letter, than we will make certain arrangements. At this point, I will have to discuss with Mr Rugendyke and Mr Corbell what action, if any, will be taken. I still find it very interesting that in respect of a letter I received today—and I assume Mr Kaine did—Mr Kaine should go on the offensive as he did when I tabled the report.

**MR Kaine:** I ask a supplementary question. Incidentally, Mr Speaker, I received this letter on 22 March, not today. Given Mr Hird's refusal to answer the specific questions, I ask him another specific question. Mr Hird, will you undertake to respond directly to the 10 questions posed to you in this letter and respond to the Save the Ridge group accordingly?

**MR HIRD:** I cannot. Mr Kaine always blocks out that part when he turns his hearing aid down—

**MR SPEAKER:** Order! That is enough.

**MR HIRD:** I indicated to Mr Kaine that I would have to take advice from Mr Corbell and Mr Rugendyke. He knows that. He has been a member of a committee, and he knows that I cannot answer those 10 questions personally. He is deliberately trying to put down a fine report.

**Mr Kaine:** Mr Speaker, I seek leave to table the letter and to have it incorporated in *Hansard*.

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Leave granted.

**Mr Kaine:** I present the following paper:

Gungahlin Drive Extension—Objections to the Standing Committee on Urban Services' Committee Report No 67—Letter, dated 21 March 2001, from Chair, Save the Ridge to The Chair, Standing Committee on Urban Services (including Attachments A and B).

*The document read as follows:*

[www.savetheridge.org.au](http://www.savetheridge.org.au)

Save the Ridge  
P.O. Box 204  
O'Connor,  
ACT, 2602

Harold Hird  
Chair  
Standing Committee on Urban Services

Cc: David Rugendyke, Simon Corbell  
Cc: all MLA's

21/3/01

Objections to Urban Services Committee Report No 67 - Gungahlin Drive Extension

Mr Hird.

Save the Ridge on behalf of its members objects strongly to the Report handed down by the Urban Services Standing Committee Inquiry into Gunghalin Drive Extension, in particular recommendation 24 that GDE be built to the East of the AIS. The Report is biased, has ignored significant new evidence that was put before the Committee and has misrepresented the views of Save the Ridge and a large majority of the community who made submissions to the Inquiry.

We believe a written explanation from the Committee specifically addressing the following issues is required.

1. Why did the Committee choose to completely ignore new evidence that was presented to the Inquiry, including:

- Evidence of Environment ACT's criticism of the adequacy of the PA.
- Evidence that the eastern option will undermine one of the basic tenets of the Y Plan.
- Evidence that the Eastern option can only be an 80kph arterial because of the topography of Bruce Ridge and the AIS, whereas the Western option is capable of a 100kph parkway standard transport link.

2. Why didn't the Committee direct the Government to provide more detailed costing information, especially when this was one of the terms of reference and obviously has a large bearing on any decisions.

3. Why did the Committee put so much credence to the costings provided by Maunsell in January 2001 when this costing was commissioned by an interested party - namely the ACT Government agency (Bruce Operations) and the ASC but only details new (inflated) costings for the Western option and **did not update or do a comparable costing for the Eastern option.**

4. Why did the Committee accept the inclusion of \$3m in these costs for 'other works' (Masterman St etc) which are unrelated to the Western option per se?

5. Why in relation to costs/benefits was no mention made of the significant cost savings afforded by a 100kph Freeway standard road (such as the western alignment) compared to an 80kph arterial road (such as the eastern). These cost comparisons were detailed by Voorhees as part of the thinking behind the Y plan with regard to efficiency of transport links and were contained in a submission to the Inquiry by Save the Ridge in November 2000.

6. Why was significant new environmental research ignored, including that published in late 1999 and early 2000 by Dr David Freudenberger (CSIRO Wildlife) which show O'Connor Ridge contains one of the highest value remnant woodland areas in the ACT, currently supporting a wide variety of bird species, many of which are endangered or threatened. This research was presented to the Committee but totally ignored.

7. Why were the views of Save the Ridge **misrepresented** in the Committee Report?

The Table at the rear of the Committee Report erroneously records Save the Ridge (page 174) with

- a question mark in the column headed "For GDE" and
- "Not East" in the column headed "East or West Route".

This is in total contradiction to the evidence that was presented to the Committee both in written submissions and in verbal evidence at the public hearings. Attachment A contains specific quotes from the transcripts of our public hearing which clearly show our position is **For GDE** and to the **West**. We have evidence that ours was not the only submission that was misrepresented in this way in the Report.

8. Why has the Committee misrepresented the views of the majority of those who made submissions to the Inquiry? In November 2000, eighteen months after the Inquiry commenced, the Government 'changed the goal posts' by removal of the connection to Barry Drive. Practically all submissions to the Inquiry were made before this change was made and not unsurprisingly focussed on the Government's original proposal for GDE. For the Committee to interpret submissions made to the Inquiry as 'votes' for or against an unstated and unpublicised question of supporting a changed interpretation of east or west is misleading in the extreme.

9. Why does the tally of these 'votes' on page 138/139 of the Report only add up to 683 when it is stated that 891 submissions were made to the Inquiry?

10. Why has the Committee counted some group submissions and/or form letters as representing groups (and thus not counted), while others were taken as representing individuals (and thus were counted) in a biased way that favoured the government's preferences. An example of this was early in the inquiry STR presented a submission with several hundred signatures clearly supporting the western option and opposing the eastern option. This was briefly mentioned in the introduction as a 'petition' along with 5 others with a total of nearly 1800 signatures. This submission was presented by myself and clearly specified it as a submission to the inquiry, not as a petition to the Legislative Assembly. Yet no mention of the wishes of the signatories has been made and none of them are tallied in the final analysis of preferences. In contrast several hundred form letters supporting the Gungahlin Community Council's view have been counted as separate submissions expressing explicit support for the eastern option. Attachment B contains more details on this.

In summary, this Committee Report sets an alarmingly low standard for Committees in the ACT and shows a disregard for democratic process and public consultation. It's shortcomings are highlighted when it is considered that **less than 20 pages specifically refer to new evidence that was presented to the Inquiry in over 900 submissions, 6 days of public hearings over nearly two years.**

Greg Tanner  
Chair Save the Ridge

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#### **ATTACHMENT A TRANSCRIPT OF PROCEEDINGS FRIDAY, 5 MAY 2000**

The Table at the rear of the Committee Report erroneously records Save the Ridge (page 174) with

- a question mark in the column headed "For GDE" and
- "Not East" in the column headed "East or West Route".

The following evidence from transcripts of the public hearing presentation by Save the Ridge, clearly indicates that Save the Ridge supported the West alignment for GDE and that we have been seriously misrepresented in the Committee Report.

#### **Dr G Tanner and others page 134:**

"Our constituency is broad based, with over 1,000 financial members and supporters from 61 per cent of all Canberra suburbs, including the inner north, Gungahlin, Belconnen, inner south, Woden, Weston and Tuggeranong, as well as other surrounding districts. We have submitted a petition containing over 2,000 signatures to this committee objecting to the government's eastern option and supporting the community option of the western alignment."

#### **Dr G Tanner and others page 135:**

"Save the Ridge, on behalf of thousands of ordinary Canberrans, strongly opposes the proposed eastern extension of Gungahlin Drive through the Bruce/O'Connor Ridge. The community option, or the western alignment, provides an acceptable, far less destructive alternative."

#### **The following are quotes from pages 151 and 152 following questions by Committee member, Mr Simon Corbell:**

MR CORBELL: Could I ask a question about the community option? I understand that it is the Save the Ridge's position that the community option should be the preferred road reservation for an arterial road from Glenloch Interchange to the existing section of Gungahlin Drive.

Dr Tanner: That is right.

MR CORBELL: For the record, could you state that it is certainly your view that the community option does provide for an effective arterial road link for Gungahlin residents and that you do

not present the position of no road? I think this is a view that is being presented quite often through the community. Can you clarify for the record the no-road argument versus the community option argument?

Dr Tanner: We have stated quite clearly in all our submissions that we support the community option. We see that as a viable alternative. It is a straight line. These things were designed originally to funnel traffic from the north of Canberra to the south, not through the city but around it. The community option does that. The government's preferred eastern option does not. It would funnel traffic directly into the city. The government's preferred eastern option is far more destructive than the community option. The community option does destroy some bush behind the Calvary Hospital. We accept that. We see there is a compromise that has to be reached.

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#### **ATTACHMENT B SUBMISSION SIGNED BY 2000 INDIVIDUALS IGNORED**

During 1999 and 2000, Save the Ridge submitted several submissions signed by approximately 2000 individuals (including names and addresses) to the Inquiry. These submissions were not petitions as they did not comply with the regulations for a petition. When specifically asked by the Committee Secretariat, Save the Ridge made it clear that these were submissions.

The submission read: "We, the undersigned residents of Canberra and the ACT, oppose the proposed eastern extension of the Gungahlin Parkway through O'Connor Ridge. In our view, it would destroy one of our area's most cherished assets. The proposed eastern route would be a planning disaster. If there must be a road, the 'community option' or western route is preferable on several environmental grounds.

The eastern route would seriously damage the Canberra Nature Park, destroying the present tranquility of its recreational features, and degrading its important bird-breeding grounds and rich ecological diversity. In our view, it would also damage the residential environment of much of O'Connor, Turner and its surrounding suburbs, creating permanent traffic and noise problems."

These 'votes for the western option' by 2000 residents of Canberra are **totally ignored in the Committee Report.**

They are **not recorded** in the table of submissions in the rear of the Report.

They are **not tallied** in the count of submissions on page 138/139 of the Report.

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### **Canberra National Multicultural Festival—Mr Domenic Mico**

**MR WOOD:** Mr Speaker, my question is to Mr Smyth, the minister for the arts. Minister, in a media statement today you have indicated that the government looks forward to the Canberra National Multicultural Festival's ongoing success. In view of that support, and in view of the Chief Minister's strong approval of the festival and of Mr Mico himself, how could you allow Mr Mico to be sacked?

**MR SMYTH:** The reality is that Mr Mico has not been sacked. His contract will be paid out until the end of his term of employment, which is the end of June. There are many contracts across the ACT. For many types of employment, when contracts come to an end, often they are not renewed. This contract will not be renewed.

**MR WOOD:** What a fudging! I take it he will get his car back and the keys to his office?

**Mr Moore:** I take a point of order, Mr Speaker. That is a preamble. Perhaps you should sit Mr Wood down.

**MR SPEAKER:** I appreciate that. I was about to pull Mr Wood up. No preamble, Mr Wood.

**MR WOOD:** I cannot talk about the fudging of that answer. All right. I will not talk about the fudging of that answer.

**MR SPEAKER:** Don't be smart.

**MR WOOD:** Minister, the government has removed the National Multicultural Festival from CTEC, just as Mr Mico suggested in quite moderate terms. You have acknowledged that he was right. Will you now apologise to Mr Mico and—no more fudging—will you reinstate him?

**MR SMYTH:** Mr Wood is wrong in his assertion that the government has removed the Canberra National Multicultural Festival from CTEC.

### **Hare-Clark electoral system—women candidates**

**MRS BURKE:** My question is to the Chief Minister in his capacity as minister for women's affairs. Chief Minister, I refer to recent comments from the secretary of the ACT ALP, Mr Michael Kerrisk, and member for Ginninderra Mr Berry to the effect that the Hare-Clark electoral system is not fair to women. Are you aware of any elements in the Electoral Act that would work against women candidates?

**MR HUMPHRIES:** No, I am not aware of any such elements. It seems to me that the Hare-Clark electoral system has enormous advantages for any community that wants to have a parliament elected on a strictly proportional basis, a strictly representational basis. I am not aware of any electoral system which has such a strong capacity to reflect the percentages cast for candidates into the representation of those candidates in the parliament.

To give an illustration of that, just a couple of weeks ago there was an election in Queensland, where the ruling Labor Party secured, I think, on last count, 49 per cent of the primary vote yet it enjoys something like 75 per cent of the seats in the parliament. That would suggest to me that the ACT's electoral system, with a much greater accuracy in its representation of the vote cast by electors, is a far superior system.

Mr Kerrisk, to whom Ms Burke refers, has certainly made some very strong attacks on Hare-Clark. He said last week in an undated press release:

The Hare Clarke electoral system ... is a brutal one. Let's not mince words.

**Mr Corbell:** I take a point of order, Mr Speaker. The question did not ask the Chief Minister to comment on the comments of Mr Kerrisk. It asked the Chief Minister to outline whether he was aware of any impediments in the Electoral Act which prevented women from being elected.

**Mr Moore:** Based on the comments of Mr Kerrisk.

**Mr Corbell:** No, not based on the comments of Mr Kerrisk. Mr Moore's interjection is highly disorderly. The question specifically related to the Chief Minister's responsibility as minister for women's affairs on any impediments in the Electoral Act relating to the election of women to this place. It was not related in any respect to Mr Kerrisk's comments.

**MR HUMPHRIES:** Mr Speaker, I have to correct Mr Corbell. I will read the question that was asked of me, because Ms Burke has provided it to me in writing:

... I refer to recent comments from the secretary of the ACT ALP, Mr Michael Kerrisk, and member for Ginninderra Mr Berry to the effect that the Hare-Clark electoral system is not fair to women.

If I cannot refer to the comments they have made, which has been asked of me in the question, how can I respond to the question in full?

**MR SPEAKER:** That is a fair point. Do you have a point of order, Mr Corbell?

**Mr Corbell:** The Chief Minister did not read out the question, which was: can the Chief Minister comment on any difficulties in the Electoral Act that would inhibit the election of women to the Assembly?

**MR SPEAKER:** It was prefaced by reference to remarks made by Mr Kerrisk and Mr Berry.

**Mr Stanhope:** No, it is an allegation.

**MR SPEAKER:** All right, but the fact is that the question mentioned their names and asked for comment. There is no point of order.

**MR HUMPHRIES:** I will again quote the words of Mr Kerrisk:

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The Hare Clarke electoral system ... is a brutal one. Let's not mince words. Increasing the level of female representation in the Assembly will not be easy. In fact it will be very difficult indeed.

Mr Berry followed that up with a letter to the editor of the *Canberra Times* yesterday:

... the history of ACT Self Government ... prove[s] the point that the Hare Clarke system has been unkind to the prospects of female candidates.

Those comments need to be taken in the context of further attacks on the electoral system from the leader of the Labor Party himself—perhaps not such overt attacks but nonetheless, you would have to say, at least damning with faint praise. He said on 7 May at the National Press Club:

I'm no great defender of the Hare-Clark system.

**Mr Corbell:** I take a point of order, Mr Speaker. Is the Chief Minister entitled to make comments about the statements of a Labor Party member in this place, or is he simply responsible for answering questions which are in his portfolio responsibility? Nowhere in Ms Burke's question was there any reference to Mr Stanhope. So purely on that point, Mr Speaker, you should direct the Chief Minister to answer the question without straying. Regardless of that, I fail to see how this is within the Chief Minister's portfolio responsibility.

**MR SPEAKER:** He is responsible for electoral matters. I may have missed—

**Mr Corbell:** Yes, for electoral matters, Mr Speaker, not for the leader of the Labor Party.

**MR SPEAKER:** I may have misunderstood. I thought that when the Chief Minister was referring to the leader of the Labor Party he may have been referring to Mr Berry's time, because Mr Berry was part of the question. But if you were not, if you were referring to Mr Stanhope, Chief Minister, please restrict—

**MR HUMPHRIES:** Could I address you on that point of order before you make a ruling, Mr Speaker, since you have heard one side of that debate?

**MR SPEAKER:** Yes.

**MR HUMPHRIES:** It has never been the practice in this place for members to be restricted only to echoing the very words that are used in the question. Members have always been in the position of being able to quote matters relevant to the subject matter at hand. The subject matter of this question is the hostility of the Labor Party, particularly certain members quoted, towards the Hare-Clark electoral system, particularly with respect to the election of women. How am I excluded, in responding to that question, from referring to matters which are closely related to that? If the line is run is that the question, which refers to Mr Kerrisk and Mr Berry, cannot admit of any other name being mentioned in answer to it, that is an absurd extent to which to take the standing orders. They have never been taken to that extent by any Speaker, including you.



**MR SPEAKER:** Clerk, could I have a look at the question, please? I would like to see the question. The second part of the question, “Are you aware of any elements in the Electoral Act that work against women candidates,” is perfectly legitimate. I am still not convinced, Chief Minister, that the phrase “the effect that the Hare-Clark electoral system is not fair to women” necessarily involves the Labor Party per se. Mr Kerrisk and Mr Berry have certainly made recent comments about it, but I am not sure that that necessarily involves all of the ALP.

**MR HUMPHRIES:** May I address you on that subject, Mr Speaker? I am not asking for any special privilege in this place. I am asking for the same rules which have been applied in this place for 12 years to be applied here. Members have never been restricted to strict repetition of the names of people who have been quoted in a question. There is no rule that says you cannot mention other people and other related issues.

**MR SPEAKER:** Other people by name.

**MR HUMPHRIES:** Mr Speaker, I could produce *Hansards* this thick with questions of the same kind which have been asked without problem in previous question times in this place. Members opposite have answered questions in that way as well when they were in the ministry. The point of order is a absurdity. If it was applied it would make it impossible to run a question time in a constructive way, not just here but anywhere in the country.

**MR SPEAKER:** Very well, but be careful.

**Mr Stanhope:** Mr Speaker, there are a couple of points that I wish to make. In the first instance, Michael Kerrisk has never suggested that the electoral system is unfair to women. He has not suggested that. He said it is going to be difficult.

**MR HUMPHRIES:** Mr Speaker, what has this to do with it? You are debating the issue.

**MR SPEAKER:** Order! Just a moment. You are now debating the issue. We are not discussing this. You were taking a point of order on a comment made by the Chief Minister.

**Mr Stanhope:** I will. I am referring to the basis of the question. Mr Kerrisk actually has not criticised Hare-Clark in the context of the difficulty that confronts women.

**MR SPEAKER:** Order! I am sorry. I will not allow it. Resume your seat. Look, the situation is that we are discussing whether or not certain people made certain comments relating to whether the Hare-Clark system was fair or not to women.

**Mr Stanhope:** The question was wrong.

**MR SPEAKER:** Whether it was wrong or not is not for me to decide. It is a question that has been asked and the Chief Minister is answering it. I will allow the Chief Minister to continue to answer it, but I would remind him that we are not discussing the ALP as a political party. I uphold your point that other members may be mentioned, Chief Minister.

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**MR HUMPHRIES:** Mr Speaker, the reality is that there are, under the Hare-Clark system, no such things as safe seats. That is the basic problem that the persons referred to, and their allies, are bridling at. Hare-Clark is a fair system. The recommendations of the Aird-Beacham report a few years ago suggested that all concerned should accept that fact. Unfortunately, it has not been taken very seriously in some quarters, Mr Speaker, as comments by others—

**Mr Corbell:** On a point of order, Mr Speaker: in what capacity can the Chief Minister stand in this place and, as part of his portfolio responsibilities, make not only comment but state outcomes of an internal review in the Labor Party? In what capacity is he able to do such a thing? It is completely out of order, Mr Speaker.

**MR HUMPHRIES:** Mr Speaker, I ask members opposite to ask themselves whether they have ever commented on the internal politics of the Liberal Party.

**Mr Corbell:** On the point of order, Mr Speaker: ministers can be asked questions related to their portfolio responsibility. I simply ask you how an internal review of the Australian Labor Party has anything to do with the Chief Minister's responsibilities.

**MR HUMPHRIES:** Mr Speaker, it is again profoundly ridiculous to have—

**Mr Corbell:** Are you going to rule, Mr Speaker?

**MR HUMPHRIES:** I am speaking to the point of order.

**MR SPEAKER:** I am reading this. Order, please! I do not believe, Chief Minister, that it is possible to know whether or not the recommendations of the report have been implemented by the Labor Party, so I do not think you can categorically state that, but you can certainly suggest that it has not been done. That is entirely up to you. You did categorically state that, and I uphold Mr Corbell's point of order on that point.

**MR HUMPHRIES:** I withdraw the suggestion that they have categorically rejected the Aird-Beacham report and would suggest that it seems to me, and everybody else who would be observing this process, that the report's recommendations in that respect are in tatters.

**Mr Hargreaves:** What?

**Mr Quinlan:** You would love to think so, wouldn't you.

**MR HUMPHRIES:** The Hare-Clark electoral system is not unfair to women. Mr Speaker, I seek your upholding of the standing orders in respect of my capacity to speak.

**MR SPEAKER:** Yes. Silence, please.

**MR HUMPHRIES:** There is nothing about the Hare-Clark electoral system which makes it difficult for women to be elected. There is plenty that political parties can do in the context of a Hare-Clark election to ensure that women are not elected, and what we are seeing in comments by Mr Kerrisk and Mr Berry is a softening up of the electorate in

preparation for the reality that after 20 October there still will not be any women members of the Labor Party sitting in this place. Why? Because they are not being promoted by the Labor Party. The sitting male members of the Labor Party are being promoted, not the female members.

**Mr Stanhope:** Tell us how you are going to get women elected.

**MR HUMPHRIES:** The Hare-Clark electoral system, Mr Speaker, is a very fair system to women.

**Mr Stanhope:** Watch out, Harold.

**MR SPEAKER:** I warn you, Mr Stanhope.

**MR HUMPHRIES:** I am sure, Mr Speaker, that we will see plenty of other women elected in this next election, not necessarily, or course, from the Labor Party.

### **LAPACs**

**MR CORBELL:** My question is to the Minister for Urban Services. Minister, members of the Manuka LAPAC recently received a letter titled "How Manuka LAPAC Members are Wasting their Time and Why I'm not Going to Waste Any More of Mine" from a disillusioned member of the committee. The letter highlighted the government's disdain for LAPACs, citing a number of examples, including the failure of the government to take account of input from LAPACs in relation to section master planning processes, and the failure of the government to properly involve the LAPACs in its much vaunted Future Canberra project, to such an extent that it has bypassed the LAPAC process. Minister, why have you chosen to marginalise the role of LAPACs in the planning process?

**MR SMYTH:** Mr Corbell's assertions, and that is all they are, are incorrect. This is the government that set up the LAPACs. This is the government, under the former planning minister and the now Chief Minister, Mr Humphries, that said there was a need for another level, a forum, for the community to have their say. Our support for the LAPACs is still there. How is it still there? Because we provide the support to them and we do, contrary to what Mr Corbell might assert, take into account the advice that the LAPACs provide the government through PALM.

**MR SPEAKER:** A supplementary question?

**MR CORBELL:** Thank you, Mr Speaker. Does the minister believe that the support of one full-time ASO2 for over five individual LAPACs is sufficient support?

**MR SMYTH:** There is a question in everything that the government considers as to the level of resources that go to it. I believe that the LAPAC process at the moment is working well. I meet with the LAPACs regularly. I attend LAPAC meetings as well on an ad hoc basis when I can. I believe there is valuable input to the community and to the LAPACs. They are gaining respect. I believe that the level of support that the government gives them is appropriate.

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**Mr Corbell:** On a point of order, Mr Speaker: my supplementary question was very specific. I asked the minister whether he believed the provision of a single ASO2 officer was sufficient support for LAPACs.

**Mr Humphries:** He just answered that question.

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

### **Kambah adventure playground—burst water main**

**MS TUCKER:** My question to Mr Smyth concerns a burst water main in Kambah adventure playground on 12 March. I am sure that the minister is aware of this because people in my office contacted his office trying to seek resolution of the problem. Basically, a water main burst in the playground sometime in the early hours of 12 March and it was reported to ActewAGL at 7.30 am. ActewAGL staff denied that it was their responsibility to deal with the problem and it was only after many phone calls that an employee of Totalcare went to site at 7.30 pm and turned off the water. I was contacted by a neighbour who was very distressed about the situation because the force of the water had left a hole about eight feet wide and, in the middle, about five foot deep. Basically, he felt that children in the area were particularly at risk of drowning.

There were communications between the minister's office and my office the next day. They continued right through the day and at about 6.30 in the evening I finally rang ActewAGL who told me it was not their job. They told me to ring Totalcare. I rang Totalcare and they told me it was not their job. I rang CityScape. They told me it was not their job, it was ActewAGL's, at which point I said, "Okay, I am going there with a spade to help my neighbour fill the hole." This neighbour had been watching the hole of water all the afternoon because he was so fearful about what could happen.

My question to you minister is: why are these lines of responsibility so unclear that children were put at risk to this degree, and what have you done about it?

**MR SMYTH:** Ms Tucker did ring my office concerning this matter and I would thank her for doing so when things are not seemingly working well. There is occasionally some overlap in which areas of infrastructure are governed by which body. I think that is unacceptable. It should be quite clear and unambiguous and I have asked my office to follow up to make sure that this does not occur again.

**MR TUCKER:** Mr Speaker, I ask a supplementary question. It was not going away at all and the minister did not get back to my office. My supplementary question is: who was responsible?

**MR SMYTH:** Mr Speaker, I am not aware of what the determination was on who was responsible. There are different pieces of infrastructure that the different bodies are responsible for. I will seek more information for the member.

## **Building industry—development conditions**

**MR HARGREAVES:** Mr Speaker, my question is to the Minister for Urban Services. In the discussion paper of the review of private certification in the ACT building industry, staff in PALM expressed concerns that “there are no site audits undertaken by BEPCON resulting in compliance now being too reliant on neighbours blowing the whistle”; “BEPCON audits also do not include planning considerations imposed under the development approval”; and “Private building certifiers do not certify off-site works or other development conditions that affect the public realm”.

Minister, your own staff have raised these major concerns. What have you done since these comments were made in April 1999—that is almost two years ago—to ensure that the development conditions set by your department are being complied with?

**MR SMYTH:** Mr Speaker, a comprehensive review has been done. I have now received that and the government is to respond accordingly. There are some concerns, and this is why the government said that when we put in place these provisions we would have a review and if there were any shortcomings they would be addressed. That process is being followed through now.

**MR HARGREAVES:** Mr Speaker, I have a supplementary question. Given that this issue is two years old, what guarantees can the minister give that development conditions are being complied with, and when will he publish the results of that review?

**MR SMYTH:** Mr Speaker, the results of the review will be out shortly. I have had time to consider it. The government’s response will be fulsome and appropriate. We said when we brought in these new conditions that, yes, it was a new system and it would need to be reviewed and looked at, and if any finetuning had to be carried out then that would occur. Different groups have made many comments on the whole range of what this affects and the government will be responding shortly and accordingly.

## **Canberra Hospital—admission of children**

**MR OSBORNE:** My question without notice is to the Minister for Health, Housing and Community Services, Mr Moore. Minister, this morning I received a visit from a constituent about the experiences he had at the Canberra Hospital last night with his 12-month-old daughter. I gave the minister a copy of the notes taken from that meeting earlier today, which I will briefly summarise for members. This person had their child referred to the hospital by their GP due to a confirmed serious bacterial infection. The child was admitted around 7 o’clock last night and given a bed in an acute care ward. This was done as there were no beds available in the paediatric ward and there were no cots available in the hospital. The baby’s parents got the impression from hospital staff that this was not an unexpected nor uncommon occurrence.

As the family had private health insurance they admitted their baby as a private patient. As there was no room in the paediatric ward or a cot for the child they asked to be transferred to the paediatric ward of the National Capital Private Hospital in which they had previously had care. They were informed by the staff that the paediatric ward of the National Capital Private Hospital had been closed about two months ago. After a couple of false starts a cot was eventually available in the paediatric ward and the baby was

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transferred there in the early hours of this morning. It is expected that that child will remain in the hospital until at least tomorrow.

Minister, obviously the family are left wondering what use their private health insurance is to them because, firstly they could not get into a private hospital and, secondly, the public hospital available to them had neither room in its paediatric ward for nearly seven hours or even a cot for their baby to be in. Have you been able to confirm the facts of this incident, as I gave them to you this morning?

**MR MOORE:** Thank you Mr Osborne for that question. My office contacted the hospital and has been provided with the following information. The availability of cots in the emergency department is variable, depending on the level of usage. Babies often remain in cots that are used to transfer patients to the ward—that is, that are not returned to emergency. Generally parents attend the emergency department with their child and often nurse the child, or lie with the child on a bed. If a cot is required and not immediately available, efforts are made to obtain one. In the absence of a cot, and where necessary, the safety of the child will be ensured by providing pillows around the child. So I would assume that this would apply to very small children.

The paediatric ward was full last night. The ward was nursing to capacity and, taking into consideration the acuity of patients, the hospital staff were nursing slightly beyond capacity as well. This is another instance of where our nurses go beyond what is required. This morning there were six children waiting to be bedded. Two of those were medical admissions and four were children with fractured arms. During the night one child was moved into the high dependency unit, which allowed for this child's admission to the ward.

When Mr Osborne approached me earlier, he raised an issue about formula and I think what he is seeking will be covered in the following explanation. Each morning the formula room makes up formula as required for the patients in the hospital over the next 24 hours. Additional supplies of formula are available on the ward to meet the needs of after hours admissions. It is understood that this child uses S26. S26 was not available in the ward but there were other interchangeable formulas of the same nutritional value. The mother chose not to take advantage of this and the S26 was then requested from the formula room and was available for the child from 9 am today. So the mother chose not to take advantage of that.

Mr Osborne also raised the issue of the National Capital Private Hospital. We have no say over whether or not the National Capital Private Hospital, or any other private hospital, should have a paediatric unit. But this does reflect that some people like to make choices about where they will go. This is why private hospitals exist, particularly with the injection of billions of dollars that the federal government has put in to encourage people to use private health insurance and so forth.

We are concerned to make sure that a child's care always takes priority. From my reading of what I see, it is not an optimal situation. Sometimes our wards will get crowded but the nurses have worked to get a good solution in this particular case.

Mr Speaker, while I am on my feet might I say that I apologised earlier to Ms Duff, and that still stands. But can I also say that I asked my staff to have a look at the Trades and Labour Council website, which is where the information came from that Ms Duff was president of the Trades and Labour Council at that time. I table two pages taken from today's website which shows Ms Duff still as president of the Trades and Labour Council. That is where the mistake, which I acknowledge and apologised for, originated from. I present the following paper:

Trades and Labour Council—Copy of ACT Trades and Labour Council website page details, dated 27 March 2001 (Pages 1 and 2).

### **Latham shops**

**MR BERRY:** My question is to the minister for planning. The Standing Committee on Planning and Urban Services, in its majority report on the development application for the Latham shops, recommended that “the prolonged period of uncertainty about the future of the Latham local centre be resolved as soon as possible, with full regard to the statutory process”. Minister, will the statutory process follow the ordinary course and allow the independent Commissioner for Land and Planning to decide on the current development application for block 1 section 31 at Latham, the present shop site? Will you unequivocally rule out calling in that application for decision?

**MR SMYTH:** The Latham site will follow the statutory process. That process has a number of options. One is that PALM approve it; but, given that there are objections, it would go to the commissioner. The other option, of course, is that PALM recommend to me that I call it in. I will wait and see what PALM recommends.

**MR BERRY:** I have a supplementary question. Minister, what steps have you taken to make sure that the debacle at the Latham shops and the Aranda shops will not be repeated?

**MR SMYTH:** There have been many steps in both of those shopping centres in their quest for renewal. The assertion that it is a debacle may stem from one point of view that it has taken too long. On the other hand, you could say that the committee consultation has been fulsome. I think that everybody in this place would like to see is a result that sees those centres reinvigorated, ideally with some commercial activity in them, and serving the community. That is certainly what we will be working towards and that is certainly the intention of the draft variation.

### **Health and Community Care staff—outside employment**

**MR RUGENDYKE:** My question is to the minister for health, Mr Moore. Minister, I understand that it is normal departmental procedure for Health and Community Care employees to be granted permission to partake of outside employment to further their work experience and expand their areas of expertise. I understand that there is a straightforward procedure whereby a form or written advice is simply submitted to the department for approval. Could you advise me how many Health and Community Care staff have presently been granted permission for outside employment under these arrangements? I realise that you may need to take that on notice, Minister.

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**MR MOORE:** Yes, I will take it on notice, Mr Rugendyke.

**MR RUGENDYKE:** I have a supplementary question, Mr Speaker, and I do not think that the minister will have to take it on notice as the answer will be about one. Minister, how many of the present Health and Community Care staff have been refused permission to partake of outside employment? More importantly, what reason has been given?

**MR MOORE:** I will take that on notice as well. I am surprised that Mr Rugendyke thinks that I would know the answer to the second part of his question. I am not aware of anybody being refused permission. My gut reaction would be that somebody who is employed by Health and Community Care normally would be doing the work in health and community care. Sometimes, though, there are good arguments as to why somebody could work for the World Health Organisation, for example, or adopt an approach like that. I will take the supplementary question on notice and come back to Mr Rugendyke.

**Mr Humphries:** I ask that further questions be placed on the notice paper, Mr Speaker.

### **Elective surgery**

**MR MOORE:** I have answers to quite a number of questions that I have taken on notice over the last few weeks. The first one is from 5 December. I apologise that it has taken me so long to come back to Mr Wood. He asked about the recategorisation audit of category 2 elective surgery patients at Canberra Hospital. He asked whether it was complete and whether it was done once or twice a year.

A clinical audit of category 2 and 3 patients will be undertaken at the Canberra Hospital. The department is currently in negotiation with the hospital regarding performance indicators and expected outcomes from the audit. This type of audit will involve a clinical manager meeting with the doctors who have categorised the patients to ensure a similar standard has been used for category assignment.

The hospital also undertakes clerical audits of their waiting list databases. Clerical audits are undertaken to ensure that patient details within the databases are correct and also to assess whether people are still waiting for surgery, have had their surgery completed in the private sector or no longer require surgery. In finding any discrepancies between information held in the databases and information gathered from people in the waiting lists, the database will be updated to ensure that they reflect the current situation of the waiting list patients.

Clerical audits are undertaken approximately once a year, because they involve contacting over 3,000 patients by either phone or mail-out survey. The need to validate and update patient information and patients' need to be on the waiting list must be balanced with the invasiveness of the process. While waiting lists are being revised and changed, through either a clinical or a clerical audit, surgeons continue to undertake work on the people who are waiting.



## **Nurses pay**

**MR MOORE:** I took the following question from Mr Stanhope on 27 February on notice:

I wonder whether the minister would be prepared to table any documentation—if there is any documentation—relevant to the negotiations with nurses and Community Care to complete the trifecta.

ACT Community Care met with the ANF on 11 December 2000, 9 January 2001 and 16 January 2001. The agency has advised that the ANF has appeared reluctant to meet and expressed interest from the outset as to when the offer would be taken off the table. Community Care does not believe the ANF is interested in the pay offer and that this is demonstrated by their apparent lack of enthusiasm towards the offer at meetings and the difficulties encountered in trying to meet with them. The agency advises that the ANF have been reluctant to engage in meaningful discussion on the pay proposal and the strengthening the nursing work force initiative. As Mr Stanhope requested, I table the correspondence between the parties. I present the following paper:

ACT Community Care (Nurses) Certified Agreement 2000-2002—Proposed variation—Copy of letter from Executive Director, Corporate and Business Development, ACT Community Care to Secretary, Australian Nursing Federation (ACT Branch), dated 25 January 2001.

## **Heroin addiction**

**MR MOORE:** On 6 March Mr Rugendyke asked me the following question about morphine:

I would be happy to recommend it [morphine] as a drug treatment. I wonder what further investigation of this method of treatment for adults is being undertaken by your department, given that morphine is already used to treat drug-affected babies.

Whilst morphine is prescribed in the Northern Territory for opioid dependency, this is because there is no methadone maintenance program in the Northern Territory. While there is no doubt that morphine is being prescribed to heroin users to save lives and to improve personal and community functioning, it is being used in lieu of methadone, due to restrictions in that jurisdiction.

Methadone has a longer half-life than morphine, which means it lasts longer in the body, therefore requiring fewer dosings. It is therefore generally favoured over morphine. Because morphine has a shorter half-life than methadone, patients being provided with morphine may need to attend their doctor up to three times a day for injections in order to maintain the dosage level and to prevent withdrawal. Any other type of provision, such as take-away doses, as described by the television program which aired recently, could lead to the development of a black market in morphine, and that is something we need to take into consideration. In the ACT the Drugs of Dependence Act 1989 currently allows only the provision of methadone. As morphine is a drug of dependence, the act would require changes to allow for the prescribing of morphine.

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Trials are currently under way in Australia to test the effectiveness of slow-release oral morphine in the treatment of drug dependency. Information from Professor Jason White, who is supervising the trial of slow-release oral morphine in South Australia, indicates that at this stage outcomes are proving similar to those of methadone. Slow-release oral morphine will allow for once per day dosing rather than injections three times a day, as is currently the case with injectable morphine. However, at this stage the trials seem to be progressing slowly. There have been 10 participants in the South Australian trial, and the Victorian trial through Turning Point in Melbourne has had some difficulty in attracting participants.

A full report of the outcomes of each trial is not expected, unfortunately, until December this year. It would be sensible to await the outcomes of those trials before making premature decisions about extending our existing treatments. However, all potential pharmaco-therapies for opioid addiction will be considered by the Chief Health Officer under the terms of the Drugs of Dependence Act 1989. Amendments to that act are currently being explored to allow the Chief Health Officer this discretionary power if morphine proves to be a viable alternative to methadone, but that sort of legislation would have to come before the Assembly before we made any change. I will let members know how we are going with that.

### **Needlestick injuries**

**MR MOORE:** Mr Rugendyke also asked me a question on 7 March about a needlestick injury that occurred in John Knight Memorial Park. He asked whether I could advise the Assembly whether the Chief Health Officer had reviewed the situation. Yes, the Chief Health Officer has reviewed the situation in relation to needlestick injuries within the ACT. In addition, the procedures and information available to members of the public experiencing needlestick continue to be reviewed locally and nationally. Procedures are updated as new information becomes available.

Both Calvary and the Canberra Hospital emergency departments have structures in place to meet the needs of people in these situations. A pack of information that deals with exposures to blood-borne viruses is available at both emergency departments and is used by staff to assess a person's level of exposure and to provide clear pathways to counselling. Counselling is available through the emergency departments, the Canberra Sexual Health Centre and the person's general practitioner. A pamphlet for members of the public experiencing needlesticks has been trialled at Calvary Hospital. I have one that I am happy to make available. The pamphlet is being revised based on the trial experience. The Chief Health Officer will continue to work with both hospitals to ensure that all people experiencing needlestick injuries receive appropriate care and counselling.

### **KLA housing study**

**MR MOORE:** Mr Wood asked me a question on Wednesday, 7 March, about the KLA study of stock transferred from ACT Housing. He asked whether I would make the study available. I think that was the broad thrust of the question. The review commenced by KLA some time ago to evaluate and assist in informing the government of the outcomes of the pilot scheme to transfer 200 public housing properties to Community Housing Canberra Ltd. The review will also identify areas for improvement in order to help inform the government on how best to achieve the objective of transferring

1,000 properties to community housing management by 2005. KLA is currently finalising the report, and the report is now expected to be available by the end of April 2001. I would be pleased to make a copy of that KLA evaluation available to interested members and readers following the government's consideration of the report.

Mr Wood's supplementary question was about a number of calls from community housing groups in relation a hold on transfers. It is appropriate that the government not proceed with a large-scale transfer of properties to community housing management until it has had the opportunity to properly consider the KLA report and evaluate the current arrangements around the transfer. Nevertheless, it is recognised that there is a continuing need for property by community organisations, including the community housing providers.

The other day at a Meet the Minister session—as you know, we make ourselves available to the community through the Meet the Minister process—a person who approached me had been promised a house through community housing. Following that meeting, fortuitously, I had a meeting with Community Housing Canberra, and I believe we have been able to move this along a step further.

Properties are continuing to be leased to community groups under the community organisations rental housing assistance program (CORHAP). The Department of Health, Housing and Community Care is also negotiating with CHC to transfer a number of properties—I think it is nine they were waiting on—to CHC on an interim basis pending the resolution of longer term transfer arrangements.

## **Personal explanation**

**MR BERRY:** Mr Speaker, I seek leave to make a statement under standing order 46.

**MR SPEAKER:** Proceed.

**MR BERRY:** During question time a question from Ms Burke directed to the Chief Minister misrepresented me in respect of references made to me and a publication in the *Canberra Times*. Mr Speaker, to make the position clear for members and to rule out any further fears of misrepresentation, I will read to you the letter which I wrote to the *Canberra Times*:

Crispin Hull's "Poll position clears the track for women" ...

**Mr Humphries:** Mr Speaker, I take a point of order. Mr Berry has not explained how he was misrepresented. He obviously wants to read into the record a letter, but he has not explained exactly how he has been misrepresented.

**MR SPEAKER:** I uphold the point of order. You have to explain where you have been misrepresented.

**Mr Humphries:** In fact, Mr Speaker, I might just add to that. I did not get to the part of my answer that referred to what Mr Berry had said, so he will have difficulty showing how he was misrepresented at all.

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**MR SPEAKER:** He did not mention what you said, Mr Berry. That is true. You were mentioned.

**MR BERRY:** I will select from the letter first of all, Mr Speaker, the part where Mr Humphries referred to me in a tirade against other members in this place and the Labor Party in particular.

**MR SPEAKER:** Never mind about you being misrepresented!

**MR BERRY:** He quoted the words “to prove the point that the Hare Clarke system has been unkind to the prospects of female candidates”. Reading just that part of the letter completely misrepresents my position on this matter and the letter which was reported in the *Canberra Times*.

**Mr Humphries:** Mr Speaker, I take a point of order. I did not read any part of Mr Berry’s letter.

**MR BERRY:** You did.

**Mr Humphries:** No, I did not.

**MR BERRY:** Would you put your job on it?

**Mr Humphries:** I do not have the question I was answering, but I did not have his letter to read.

**MR BERRY:** It does not matter. Let me read it and it will all become clear.

**MR SPEAKER:** No. I want to hear where you claim to have been misrepresented.

**MR BERRY:** You cannot quote two lines of a letter in the *Canberra Times* and claim that that states a position in relation the Hare-Clark electoral system. Mr Speaker, you have to consider all that was said. That will become clear.

**MR SPEAKER:** There is more to it?

**MR BERRY:** Indeed. Let me read it to you.

**MR SPEAKER:** No.

**Mr Humphries:** Mr Speaker, on a point of order: I might correct myself. I did quote a line from Mr Berry’s letter to the *Canberra Times* that simply said that the Hare-Clark system had been unkind to the prospects of female candidates. All I did was quote Mr Berry. How could I have misrepresented him by quoting him?

**MR BERRY:** He quoted from a letter in the *Canberra Times* that went a lot further than just the Hare-Clark electoral system.

**MR SPEAKER:** The question related to the Hare-Clark electoral system. I do not know what else you said in the letter, and I am not interested.

**MR BERRY:** It is not up to you whether you—

**MR SPEAKER:** Unless it relates to your personal explanation concerning Hare-Clark.

**MR BERRY:** And it does, Mr Speaker, because it clarifies my position and does not confuse it as Mr Humphries attempted to do.

**Mr Humphries:** I just quoted your letter. That is all I did.

**MR BERRY:** I will read it to you:

Crispin Hull's "Poll position clears track for women"—

which you will recall, if I can editorialise for a moment, proffered the Hare-Clark electoral system as a good thing for women—

is an exercise in self-delusion. It needs nothing more—

**Mr Humphries:** Mr Speaker, I have to rise again on a point of order. All I did was quote Mr Berry's letter. I did not make any comment or misrepresentation. How could I have misrepresented him by quoting him?

**Mr Hargreaves:** On that point of order: Mr Berry is suggesting that the Chief Minister's selective quoting of a particular passage misrepresented him. I urge you to allow him to continue.

**MR SPEAKER:** I am still waiting to hear where you have been misrepresented by that quote.

**MR BERRY:** It will come clearly to you. Mr Humphries tried to make the point that Labor was opposed to the Hare-Clark system—

**Mr Humphries:** That is Labor; that is not you, Mr Berry.

**MR BERRY:** And he mentioned me in relation to the matter, Mr Speaker. I will make clear what I said in this letter. That is not what I—

**MR SPEAKER:** Make it clear, please, but that does not require you to read the entire letter, I would imagine.

**Mr Moore:** Table it, Wayne. We will let you table it if you think it is out of context.

**MR SPEAKER:** Or use the adjournment debate.

**MR BERRY:** Mr Speaker, I have been misrepresented here. Are the standing orders any good to me or not when it comes to misrepresentation?

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**Mr Kaine:** On a point of order, Mr Speaker: since Mr Berry got to his feet to make an explanation, the Chief Minister has three times got to his feet to interrupt him. You interrupted him once. The leader of government business has interrupted him once. You only earlier today were making comments about stopping ministers from answering questions by interjections. It must also apply the other way, surely.

**MR SPEAKER:** We have had this problem before with personal explanations. If members would stand and say where they had been misunderstood, we could get on with it, but we have far too many attempts at reading matters into *Hansard*. I want Mr Berry to explain to me where he has been misrepresented.

**MR BERRY:** Because I was selectively quoted. I will give you the full letter and it will become clear to you. The letter reads:

Crispin Hull's "Poll position clears track for women" (*Canberra Times* March 22) is an exercise in self-delusion. It needs nothing more than to point to the history of ACT Self Government with its changes in electoral systems and the consequent reductions in female representation to prove the point that the Hare Clarke system has been unkind to the prospects of female candidates.

That is what I said.

**Mr Humphries:** That is right. That is what I quoted.

**MR BERRY:** No, you did not quote it all. It reads:

Crispin has never hidden his preference for a small 'l' Liberal government over a Labor one and most pundits agree that the ACT Hare Clarke system is the best system to deliver this outcome. History again has proven this correct.

Once again Crispin resorted to his chipped crystal ball to determine my views on the system. I just wish that he would get a new one which has my telephone number in it so he could find out from me that I don't say much about electoral matters anymore because I am not Labor spokesperson nor Leader as I was when Crispin last heard me speak on the subject.

This was about some criticism that he made because I was being quiet on the subject.

**MR SPEAKER:** Get to the point.

**MR BERRY:** The letter continues:

Mind you if he had asked I would still say that above the line voting (as in Senate elections) and how to vote cards are better for female party aspirants ...

Mr Humphries did not want to say that, because that is the truth.

**MR SPEAKER:** You could have truncated your statement, Mr Berry, by simply reading that last paragraph.

**MR BERRY:** I accept, Mr Speaker, that it might have been more palatable for those opposite.

**Mr Humphries:** Mr Speaker, I take a point of order here. That was an abuse of process. There was no misrepresentation in me quoting that line from Mr Berry. Reading the whole letter—it was obviously Mr Berry's intention to do that—added nothing—

**Mr Stanhope:** What is the point of order?

**MR SPEAKER:** There is not a point of order. Let me say this: members who abuse this standing order will not get permission in future to make a statement. They will have to use the adjournment debate. I am not going to put up with this sort of thing.

**Mr Stanhope:** That was an abuse of process from the Chief Minister. There was not a point of order.

**MR SPEAKER:** I am sick and tired of members coming in here and using standing orders in order to put forward their own views on matters. If it is a genuine misrepresentation, I want to hear it. Otherwise, I will be very cautious about granting permission in future for that member to explain matters where they believe they have been misunderstood.

## **Questions without notice**

### **Kambah adventure playground—burst water main**

**MR SMYTH:** Mr Speaker, I have additional information for Ms Tucker on the question she asked about the burst water main. The responsibility has been determined as Actew's, because it was upstream of the water main. The mains have been repaired. I am told the ground has now been backfilled and the lines of communications have now agreed on a process to determine who owns which bits of the system.

## **Auditor-General's report No 1 of 2001**

**Mr Speaker** presented the following paper:

Auditor-General Act—Auditor-General's Report—No 1 of 2001—Financial audits with years ending to 30 June 2000, dated 8 March 2001.

Motion (by **Mr Moore**, by leave) agreed to:

That the Assembly authorises the publication of the Auditor-General's Report No 1 of 2001.

## **Papers**

**Mr Speaker** presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—Authority to broadcast proceedings concerning the debate on proposed changes to the standing orders for Tuesday 27 March 2001, dated 27 March 2001.

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Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—Authority to broadcast proceedings concerning public hearings of the Standing Committee on Finance and Public Administration on 23 March 2001 in relation to its inquiry into the Appropriation Bill 2000-2001 (No 2), dated 23 March 2001.

Study trip—Report by Mr Stanhope—Melbourne, 23 February 2001.

**Mr Humphries** presented the following papers:

Financial Management Act—

Pursuant to section 14—Instrument directing a transfer of funds between appropriations, including a statement of reasons, dated 22 and 23 March 2001.

Pursuant to section 15—Instrument directing a reallocation of funds and a statement of reasons for the reallocation, dated 22 March 2001.

Pursuant to section 16—Instrument directing a transfer of appropriations between departments and a statement of reasons for the transfers, dated 22 March 2001.

Pursuant to subsection 47 (3)—Approval of guarantee under an agreement between the Australian Capital Territory and the Kingston Foreshore Development Authority, dated 12 July 2000.

**Mr Smyth** presented the following paper:

Occupational Health and Safety Act, pursuant to section 96C—Operation of the Occupational Health and Safety Act and its associated law—Second Quarterly Report 2000-2001.

## **Variation No 118 to the Territory Plan Paper and statement by minister**

**MR SMYTH** (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): For the information of members, I present the following paper:

Land (Planning and Environment) Act, pursuant to section 29—Variation (No 118) to the Territory Plan relating to the Heritage Places Register—Yarralumla Brickworks and Federal Capital Commission type 15 House, Forrest, together 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 short statement.

Leave granted.

**MR SMYTH:** Mr Speaker, variation No 118 to the Territory Plan concerns the proposal to enter the Yarralumla Brickworks, Yarralumla, and the Federal Capital Commission (FCC) type 15 house, Forrest, on to the Heritage Places Register at appendix 5 of the Territory Plan written statement. These sites were included on the Interim Heritage Places Register on 5 December 1997 and 27 February 1998 respectively. These places on the Interim Heritage Places were submitted to Planning and Land Management by the



Heritage Council in accordance with section 63 of the Land (Planning and Environment) Act on 30 June 1998.

In response to the comments received during consultation, the variation has been revised as follows. The explanatory statement has been amended to include specific references to amendments made in consultation with the Heritage Council before the draft variation was released for public comment. These include amendment to the location of place and intrinsic features for the type 15 house in Forrest.

For the type 15 house in Forrest, the identification of the place has been amended to include a reference to the suburb, to be consistent with the approach adopted for this identifier in the Heritage Places Register. The statement of significance has been amended to include a reference to the use of face brickwork in construction, in response to comments from the Royal Australian Institute of Architects, supported by advice from the Heritage Council.

For the Yarralumla Brickworks, the boundary of the place has been amended to include the brickworks accommodation village as an intrinsic feature of moderate significance in schedule 2. Figures 1 and 2 in part a of attachment A and figure 1 in part b of attachment A have been amended to reflect this change. The amendment has been made in response to advice from the ACT Heritage Council in recognition of its associative significance.

The brickworks accommodation village is an archaeological site with the remains of houses, gardens, tree plantings and roads. While it was not considered necessary to retain the site in situ, it could be recorded through other means such as an oral history program or archival photographic search. On this basis, a new control has been added requiring any development on the site to be subject to a detailed recording and suitable interpretation of the historical significance of the accommodation village.

The intended specific requirement (i) (a) relating to the landscape setting has been clarified to indicate where development may be permitted in the vicinity of the quarry. The control now indicates that development may be permitted on land overlooking the quarry and within the quarry excavation. The quarry itself is not a geological feature and has already been substantially altered by excavations for ponds which were never completed or filled.

The geological features within the quarry are protected by requirements (i) (b). Development may include revegetation, enhanced hard and soft landscaping and low/medium height buildings with a high proportion of landscaping. Particular proposals would be subjected to detailed assessment and a conservation and management plan. The amendment has been made in consultation with the Heritage Unit.

The specific requirements for built structures for schedule 2 elements have been amended to separate the controls relating to the use from those relating to development; replace the references to "new construction" with "new development", to reflect the definition of "development" under the land act and thereby include landscape work as well as building; and require any new development which may replace elements 15, 16, 17, 18, 19 and 21 to be consistent with the scale, form, external materials and industrial character of the place rather than the individual buildings being replaced.

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The specific requirement for demolition for schedule 2 elements (iv) (c) has been amended to reflect the changes to the requirements described above. Also the references to “conservation plan” have been expanded to “conservation and management plan”, to be consistent with other references in the Heritage Register.

The Standing Committee on Planning and Urban Services, in their report No 66, dated February 2001, endorsed the variation; recommended that, in order to ensure the heritage value of the brickworks is protected, the government ensure that any proposal for adaptive reuse of the Yarralumla Brickworks undergo rigorous scrutiny; and drew attention to the national relevance of the brickworks in this the centenary of federation year, reflecting the importance of the brickworks in the development of the nation’s capital.

In relation to the committee’s recommendation for rigorous scrutiny for any reuse proposal, the development management branch of PALM has been requested to take into account the committee’s recommendations when any future proposal for the brickworks site is being assessed.

The ACT Heritage Council has also been provided with a copy of the committee’s report, and the council’s attention has been drawn to the committee’s comments.

## **Variation No 162 to the Territory Plan Paper and statement by minister**

**MR SMYTH** (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services): Mr Speaker, for the information of members, I present the following paper:

Land (Planning and Environment) Act, pursuant to section 29—Variation (No 162) to the Territory Plan relating to the Mini Hydro Power Plants at Cotter and Corin Dams, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a statement.

Leave granted.

**MR SMYTH:** Variation 162 to the Territory Plan concerns the mini hydro power plants at the Cotter and Corin dams. The variation proposes to amend the schedules at part C2 of the water use and catchment policies to allow for the construction of mini hydro power stations at the Cotter Dam and at the Corin Dam. As the major energy supplier within the ACT, ActewAGL is seeking to support the government’s aim to reduce greenhouse gas emissions to 1990 levels by the year 2008. To assist in achieving this, ActewAGL has developed the GreenChoice scheme. Currently 1,900 private customers and approximately 20 business customers are participating in this scheme.

ActewAGL has identified two methods of producing “clean” electricity within the ACT. The first method produces energy from methane gas at landfill sites. The second method relates to producing energy from mini hydro facilities. The proposed mini hydro plants will utilise existing infrastructure and require several minor additions to the existing

dams. Additional components include turbine buildings, river discharge structures and connection to the power grid. Powerline extensions will be laid underground for both aesthetic and safety reasons, and the discharge structures will be designed to minimise impact on the river downstream.

The primary beneficial impact of the mini hydro facilities will be the generation of renewable electricity and the reduction of greenhouse gas emissions from coal-fired power stations. The mini hydro at the Cotter Dam is expected to have an average annual generation of 2.3 gigawatt hours. This is approximately 0.1 per cent of Canberra's annual electricity consumption. Based on current GreenChoice consumption rates, the plant will power approximately 350 GreenChoice customers and will replace approximately 2,000 tonnes of carbon dioxide emissions from coal-powered electricity stations.

The area surrounding the Cotter Dam is a popular picnic area for Canberra residents. The mini hydro will be promoted for public display. This will provide an opportunity to promote GreenChoice options to the community and demonstrate ActewAGL's commitment to renewable energy. The Cotter facility will be using water released for environmental flow purposes, along with a proportion of water that would otherwise overtop the dam. The final design and operation of these facilities will be developed with the relevant ACT government authorities, taking into account the environmental flow guidelines implemented in December 1999.

The mini hydro at the Corin Dam will use water normally released to the river for water supply and environmental flow purposes. It is expected to have an average annual energy generation of approximately 6.9 gigawatt hours. This represents 0.3 per cent of Canberra's annual electricity consumption. The Corin Dam facility will power about 1,050 customers and replace about 6,000 tonnes of carbon dioxide emissions from coal-powered electricity stations.

The Standing Committee on Planning and Urban Services, in their report No 64, dated 2001, endorsed the variation.

## **Papers**

### **Subordinate legislation (including explanatory statements, unless otherwise stated)**

**Mr Moore** presented the following papers:

Canberra Institute of Technology Act—Appointment of a member of the Canberra Institute of Technology Advisory Council—Instrument No 28 of 2001 (No 10, dated 8 March 2001).

Cemeteries Act—Appointment of trustees of the Canberra Public Cemeteries Trust—Instrument No 35 of 2001 (No 11, dated 15 March 2001).

Financial Management Act—Financial Management Guidelines Amendment 2001—Instrument No 48 of 2001 (S14, dated 23 March 2001).

Health Promotion Act—Appointment of a member of the ACT Health Promotion Board (No 11, dated 15 March 2001).

Public Health Act—Declaration of a public health risk activity—Instrument No 32 of 2001 (No 10, dated 8 March 2001).

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Road Transport (General) Act—

Road Transport (Offences) Regulations Amendment—Subordinate Law 2001 No 6 (S10, dated 28 February 2001).

Road Transport (Third-party Insurance) Regulations Amendment—Subordinate Law 2001 No 5 (S10, dated 28 February 2001).

Revocation and determination of fees—Registration of motor vehicles and trailers—Instrument No 29 of 2001 (S10, dated 28 February 2001).

Road Transport (Vehicle Registration) Regulations—Declarations of—

Kinds of vehicle to be seasonal vehicles—Instrument No 30 of 2001 (S11, dated 1 March 2001).

Maximum period of registration for seasonal vehicles—Instrument No 31 of 2001 (S11, dated 1 March 2001).

Road Transport (Vehicle Registration) Act—Road Transport (Vehicle Registration) Regulations Amendment—Subordinate Law 2001 No 7 (S10, dated 28 February 2001).

Surveyors Act—Appointment of Chief Surveyor for a period not exceeding six months—Instrument No 33 of 2001 (No 11, dated 15 March 2001).

Taxation Administration Act—Approval for special arrangements for making returns—Instrument No 36 of 2001 (S12, dated 13 March 2001).

Department of Health, Housing and Community Care—Corrigendum to the Performance Report, December 2000-01, dated 27 February 2001.

**Mr Stefaniak** presented the following paper:

Administration of Justice—Statistical profile quarterly series Vol 17 (for July to September 2000).

## **Women's policy issues**

### **Ministerial statement**

**MR HUMPHRIES** (Chief Minister, Minister for Community Affairs and Treasurer) (3.48): Mr Speaker, I ask for leave to make a ministerial statement concerning women's policy issues.

Leave granted.

**MR HUMPHRIES:** Thank you, members. Mr Speaker, I had planned to present a statement on International Women's Day, which happened to be the last sitting day. Members will be aware that there were very good reasons why the opportunity never presented itself. I would like, nonetheless, to put on the record a number of things which I think are still important.

I am taking the opportunity now to celebrate the local achievements of women and to restate the government's commitment to improving the status of women through policy development and the provision of services that meet the diverse needs of all women in

the ACT. The achievements and participation of women are vital in making our community a better place for all of us.

It was the commitment of this government that resulted in the development of the first ACT Women's Action Plan. This was released in March last year following consultations with women and a women's audit of government programs. The plan encourages government agencies to consider that all their policies and programs should meet women's needs, and, indeed, those of all our citizens, as well as continuing to support those important government services for women such as the Women's Information and Referral Centre and the Women's Health Service.

The plan is intended to make a real difference to access, equity and representation for women in the ACT. It provides the government with a framework to maintain and review progress towards achieving its goals in partnership with women. The four key themes of the plan are representation and recognition; health and wellbeing; economic independence, continuing education and training; and violence and community safety. Since last year there has been a coordinated and collaborative process for implementation of the plan involving government agencies, the Women's Consultative Council and women in the community.

Mr Speaker, I would like to take this opportunity to highlight some of the initiatives of the plan that have been implemented so far. In an initiative to help achieve the government's goal of equal representation of women on boards and committees, a leaflet, *Women of the ACT—Come On Board*, is currently being sent out with ActewAGL bills to each household in the ACT. It encourages women to seek nominations and find out more about participation in government processes. I have been advised that there continues to be a tremendous response to this initiative from women in the community.

We are maintaining our high rate of representation of women on government boards and committees, which continues to be the highest in the country at 45 per cent. That is a 3 per cent increase in the last 12 months.

Some of the health and wellbeing concerns in the plan currently being addressed include short-term generalist counselling services for women, a pilot midwifery program for indigenous women and continued support for indigenous rape crisis counsellors. Funding has also been provided to drug and alcohol services for parent and family support services to improve their capacity to support women and women with dependent children.

I am also pleased to inform you that the equity and diversity framework for the ACT public service has been finalised and that government agencies are now working to ensure that the framework meets their particular needs. This will mean that women will continue to have a strong and effective role in the ACT public service.

On 9 March this year the Minister for Education, Mr Bill Stefaniak, launched the strategy "Reaching their Potential—Women and Girls in Vocational Education and Training in the ACT 2001-2003". This is a particularly important initiative as it confirms our commitment to supporting women in enhancing their opportunities in gaining access to continuing education, training and paid work.

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In the complex and challenging field of corrective services, an intersectoral expert reference group on women's issues has been established. This group of government and non-government representatives is meeting regularly to develop and provide policy advice to government about issues for women across the corrective services sector.

The Women's Action Plan is a dynamic document and it will be reviewed and updated to include new and emerging issues for ACT women for the next two to three years. We will continue to consult with women in that process to ensure that all government policy addresses gender issues as well as the diversity of women's needs at different times in their lives.

In January, Mr Deputy Speaker, as a component of the new directions for the ACT public service, I announced the creation of a dedicated Women's Policy Unit in the Chief Minister's Department. This will help ensure that women's issues are addressed in the development of all government policies. It will also provide an enhanced profile for the current work being done on women's issues and make better use of the available resources as well as be a specific point of access for women in the community.

This year we celebrate the centenary of federation and the beginning of the second century of nationhood. It is timely to reflect on the remarkable achievements of the citizens of our city, a city created by federation. Our history is unique. It includes that of the indigenous people of the region, the early pastoral settlers and the establishment of the national capital. The development of our city has benefited from women's active participation in civic, community and cultural life, and their contribution to the development of Canberra as a vibrant and dynamic city.

As part of the centenary of federation celebrations, the "Future Canberra—a Celebration of Community" exhibition in May this year will include a major component about women. It will celebrate and acknowledge women's contributions to the development and planning of Canberra through the themes of planning, arriving, settling, providing, representing and looking to the future.

As we know from the *Demographic and Social Profile of Women in the ACT* which this government released last year, Canberra women are, on average, better off than women nationally in a whole range of areas including paid employment, income, health status, education levels and participation in sport and cultural activities. Of course, this does not mean that all women and girls are doing so well. An important policy focus of the Women's Action Plan relates to a range of access and safety issues for women in public housing. This was raised in the December 2000 report from the Poverty Task Group which also highlighted that many single parents, the majority of whom are women, are at risk of living in poverty.

Another emerging area that we need to pay attention to is the increasing reliance on new information technologies in our everyday lives. We must ensure that women have the same access and opportunities to that technology, particularly older women and those who have English as a second language.

However, I must add that recent figures from the Australian Bureau of Statistics show good results for average weekly earnings in the ACT, especially for women. These figures show that during the November quarter ACT employees brought home an average of \$766.10 weekly, \$116 above the national average. ACT women brought home an average \$654.30 weekly, \$137 above the national average. That is still, of course, below the men, but at least, on that evidence, gaining somewhat.

Average weekly earnings for women in the ACT increased by 10.8 per cent in the 12 months to November 2000, compared to an increase of 8.7 per cent for ACT men and a 6.7 per cent increase for women nationally. These figures confirm that the ACT has experienced higher wage growth for female employees than any other state or territory.

The Fourth ACT Women's Consultative Council continues to play a key role in assisting the government to develop and implement policies to advance the status of women in the ACT. It is a link between women in the ACT and the government. I would particularly like to commend the excellent work of the council's Young Women's Forum which is bringing together the views of a diverse group of young women and providing a voice for them to actively contribute issues to government.

One way in which the government recognises the work of women in our community is through the ACT women's awards. It was my great pleasure to present this year's awards to five women on International Women's Day a couple of weeks ago. The awards have been made every year since 1995 on International Women's Day to publicly acknowledge women's contribution to community life. There has been a total of 21 women receiving the awards. They have made a range of contributions which are highly valued by all of those who know and work with them—a wonderful example of how women contribute to building what I would call the social capital of the ACT.

Mr Deputy Speaker, I would like to make particular mention of a very important occasion to be held in Canberra next month. I will be hosting the Commonwealth, State and Territory Conference of Ministers for the Status of Women on 27 April. It will be a great pleasure for me to welcome ministers from the Commonwealth, the states, the Northern Territory and New Zealand to this conference where critical issues concerning women at the national and regional level will be discussed, even in spite of the irony of that body being chaired by a man.

It is very appropriate in conclusion to highlight women's contribution to our community. It is also important to emphasise the government's continuing commitment to working in partnership with women. We recognise that women continue to have much to offer the ACT and that they have been doing so in many different ways since the establishment of Canberra as the nation's capital.

Mr Deputy Speaker, I present the following paper:

Women's policy issues—Ministerial statement, 27 March 2001.

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I move:

That the Assembly takes note of the paper.

Debate (on motion by **Mr Stanhope**) adjourned to the next sitting.

## **Strengthening the nursing work force offer—outcomes Ministerial statement**

**MR MOORE** (Minister for Health, Housing and Community Services) (3.58): I ask for leave to make a ministerial statement concerning outcomes of the government strengthening the nursing work force offer.

Leave granted.

**MR MOORE:** Mr Deputy Speaker, last December I was enormously pleased to announce a package of initiatives to strengthen the ACT nursing work force. The offer included funding for an expansion of the previously announced scholarship support package which aims to give nursing staff opportunities to increase their speciality training. The program will continue for three years. Primarily, the offer constituted a \$21 million commitment to government funding for our three health services to offer significant pay rises to all nursing staff.

Members will be aware that in each workplace a legal agreement under the federal Workplace Relations Act, known as an enterprise bargaining agreement, was in force. As a result of tight conditions during the previous round of negotiations, each of these agreements, normally for three-year terms, has a shortened length. They were due for renegotiation at various times over the next 13 months. The government offer proposed to fill out these agreements with generous pay increases through to the full three-year terms.

The package included general pay rises of 11.7 per cent, increased bonuses for night shifts and new bonuses for speciality areas with serious attraction and retention problems, together with a number of sensible workplace reforms. Greater shift flexibility, enhancing the existing 8-8-10-hour shift arrangements, and other reforms were aimed at making life easier for working nurses. There were no unpleasant trade-offs, although the proposal to require performance criteria for new appointments to level 2 status, although beneficial to some nurses, seemed threatening to others. It is now 16 weeks since the offer was announced. The results of the offer are now concluded in each workplace and it is appropriate to report on events.

It is important to recall that the existing enterprise bargaining agreements were made between the nurses industrial representatives and employers. These agreements, and any changes made to them, must be negotiated by representatives of those parties and accepted by a valid majority of staff covered by the agreement.

The role of government is to set policy for its agencies and to make decisions about the use of public money, but not to directly negotiate the terms of agreements between these parties. The parties to these agreements are the three employers, the Canberra Hospital, ACT Community Care, and Calvary Public Hospital, and in each case the staff



represented by one or two signatory unions, the Australian Nursing Federation and the Health Services Union of Australia.

### **Events at Calvary Hospital**

After the announcement I made on Monday, 4 December, events moved fastest at Calvary Hospital. Management drew up a variation, a legal text for an amendment to the enterprise bargaining agreement, and began negotiations with staff, including local representatives and union representatives from the Health Services Union and the Nursing Federation. Although there was some level of objection by ANF officials and some members, the HSUA and its members appeared very positive. It became clear very quickly that staff were pleased with the package and keen to accept it.

Unions agreed with management on a variation document on 22 December. This date is important because the government had agreed that it would fund the backdating of the pay rises to that point in the process—the agreement between unions and management.

This agreement had been reached after 18 days. Calvary prepared for the conduct of an all-staff ballot to endorse the variation, although it was not appropriate to conduct this over the Christmas-January holiday period. The ballot was eventually held in the last week of January, and a result was known on Friday, 2 February. Staff voted 83 per cent yes and 17 per cent no, endorsing the change by an overwhelming majority.

The legal process was completed by certification of the change at a hearing in the Industrial Relations Commission. This took place on Thursday, 8 March. The varied agreement is now in force. Calvary Hospital is now advertising for nurses with the slogan “Enjoy the best pay and conditions in the ACT”. I believe they could have said “in Australia”.

### **Events at the Canberra Hospital**

As at Calvary, management at the Canberra Hospital initiated the discussion process with ANF and HSUA. HSUA officials indicated at an early stage that they were happy to accept the offer. ANF officials took a different stance. No detailed progress was made prior to the new year. From the launch of the package and throughout December, January and early February, TCH administration undertook a remarkably extensive effort at communication with staff. In this time TCH circulated no less than 13 staff updates on this issue.

An extensive series of staff meetings and forums was conducted, involving the chief executive, the senior nursing adviser, and a range of other nursing leadership and human resources staff. Meetings took place on a number of occasions with ANF officials. However, progress never reached the point made at Calvary. TCH had produced a series of draft variations, making modifications in response to comments during staff consultations and discussions with the ANF. A document titled “Version 4” was on the table on 31 January.

At this point negotiations began to stall, and indeed it became clear that ANF officials were preparing a strategy of rejecting the offer. Meetings of ANF members took place on Thursday, 8 February, and Friday, 16 February. These meetings endorsed resolutions

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proposed by the union leadership rejecting the offer. It is understood that in the initial vote about 80 members were for rejecting the package, with about 50 supporting the package. No secret ballot was provided.

At this time the ANF began to harden its public commentary and refer to an ongoing campaign in preparation for the expiry of the agreement in November. References to electoral tactics and ACT election candidates also began. ANF also began demanding to negotiate directly with government, bypassing the other parties to the current EBA.

On Monday, 19 February, the 12th week since the offer was made, I attempted to arrange a meeting with the ANF. On behalf of the government, I wanted to discuss criticisms of the policy parameters of the package, but equally I insisted that any detailed variation must be a genuine agreement between the signatory parties. The ANF did not agree to meet with me on this basis. Indeed, they were not cooperative in agreeing to meet at all.

During this period political rhetoric by the ANF and the Labor Party dramatically increased. On Friday, 23 February, and Monday, February 26, I made the only two formal press statements on the matter since December, not counting announcements of the Calvary outcome. Both these statements dealt with my call for the matter to be referred to all staff for a democratic vote. That was their extent.

As a result of the expressed rejections of the offer and with the budget decision-making process looming, I wrote to all the EBA signatories at TCH and ACT Community Care on 1 March indicating that the government needed a final answer by Monday, 19 March in order to finalise the 2001/2002 budget. The ANF was publicly reported to have disbelieved that the deadline would apply.

By this point almost all negotiations between parties had ceased. The chief executive of the Canberra Hospital reported that the ANF were refusing to meet with him to progress the issue. He and his senior staff continued their efforts to communicate directly with staff. During this period 196 nurses signed a petition demanding a secret ballot and 82 staff agreed to accept the offer.

On Thursday, 15 March I wrote again to all parties to alert them to the fast approaching deadline. It appears that for the first time the ANF realised that the deadline was in place for real reasons.

The chief executive of the Canberra Hospital, Mr Rayment, at this point attempted a final change to the proposed EBA variation, subjecting two of the workplace reforms to be worked out during a career structure review. He asked me for clarification of whether these changes were within the policy parameters of the package, and I confirmed that they were.

Mr Rayment spoke with ANF officials on the morning of Friday, 16 March. He urged the union to call a members meeting for Monday to consider this offer. In fact, the ANF officials did not call such a meeting; nor did they take any steps to inform their members of this final offer. Many staff were, however, informed of the situation through a staff update issued by the chief executive. The deadline passed on Monday without action by the ANF, and I confirmed that it would be applied.

I am accused of having failed to negotiate with the ANF. However, I am now willing to reveal that I had made a private approach to the union secretary over a week before the deadline. We agreed that it was a without prejudice discussion. I wanted to understand the basis of her strategy and to explain the government's position, and try to see if the offer could be guided to a successful conclusion, without interfering in the proper open negotiation process between management and the union. We had a pleasant conversation, but I was disappointed that she was not prepared to meet with me on a one-to-one basis. It is important to be able to have such without prejudice discussions, but in light of events since I think it should be public that I did attempt such a meeting.

Members can understand my disappointment at this point. It was now obvious that a political choice had been made that the offer would be rejected come what may. I should say that Mr Rayment had already advised me that he felt that the union leadership was unlikely to move from a strategy related to both ACT politics and possibly to the national agenda of the ANF.

I also attempted to seek a breakthrough through the good offices of former ANF Secretary Prue Power who chairs the industrial relations subcommittee of the ACT Health and Community Care Service Board. She attempted to contact the current leadership, but I understand that her calls were not returned.

Finally, it is worth reporting to the Assembly on events in extra time after the deadline had passed. It appears that a very vigorous reaction broke out among nursing staff after the deadline. Many staff were angry that the ANF had failed to inform them of Mr Rayment's efforts to reach agreement, and that they had failed to call a meeting. Urgent calls were made by staff to demand a union meeting, and the leadership plainly scrambled to control their position. It appeared for a time that the final offer was popularly acceptable. A truly bizarre meeting notice was circulated by the officials accepting that the final offer actually was good enough to vote on.

I indicated to Mr Rayment that if, against all indications to date, staff and management were to unite in agreement, I would give such an outcome the best consideration I could, with a view for a new submission to go to cabinet, even though it would need to compete with other budget priorities.

A union members meeting was held on Thursday, 22 March. At this meeting I am advised that approximately 70 nurses voted to accept the package, and about 200 voted against doing so. A number of staff rang my office and that of the TCH management that morning complaining that as they were HSUA members, or not members of either union, they did not have a say.

It remains a matter of considerable disappointment to me that out of 1,100 nursing staff employed at the Canberra Hospital, even at the largest meeting an estimated 200 TCH ANF members voted down the package against about 70 voting to accept it, leaving over about 800 who did not get to have a say. It was my constant desire to see democracy extended on this deal, but that was to be denied.

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### **Events at ACT Community Care**

Management at ACT Community Care did as the other two agencies did, seeking formal meetings with ANF to propose a variation. Unfortunately, contact was reluctant and inconclusive. Discussions with the ANF trailed off in late January with the union's final message seeking expressions of willingness on the part of management to negotiate wider issues. Management wrote to ANF seeking clarification of what issues the union wished to discuss.

Through the process of the negotiation, the ANF appeared to be treating ACT Community Care, and by inference its members, with contempt. In the period 6 February to 19 March the ANF failed to respond to any written communication and were generally unavailable to answer telephone contacts. ACT Community Care management and staff were left with the sense that the main game was TCH and that the ANF had decided not to discuss the situation of the 300 nurses with ACT Community Care. My disappointment with the lack of democratic process was reinforced.

### **Budget financial statements**

On 8 March the government presented the Appropriation Bill (No 2) 2000-2001 to the Assembly. Amongst other items, this bill seeks appropriation of \$410,000 for the expenditure at Calvary Hospital through to 30 June this year. In addition, in February this year the government published the consultation papers for phase 2 of the budget for 2001-2002. Included in these papers was the allocation of \$7.9 million for next year, with forward estimates of \$11.4 million needed to fund this offer. These amounts represented estimates for the entire package at all agencies.

Clearly, the necessary expenditure in the coming budget is now reduced to that needed for the scholarship scheme, estimated at about \$600,000, and the changed enterprise bargaining agreement at Calvary Hospital, estimated at about \$1.4 million. In effect, the remaining funds, estimated at about \$5.8 million next year, are now freed up for other budget priorities. The outcome of this process will, of course, be announced on budget day.

The government is proud, Mr Deputy Speaker, to have taken the unorthodox step of offering a pay rise before the end of the enterprise bargaining agreement. I believe it was a national first. It was made in good faith, and it was progressed in good faith by many staff in the agencies. Our disappointment with the course of events at the Canberra Hospital and Community Care is tempered by the knowledge that an excellent result was achieved at Calvary Hospital and by the benefits to come from the scholarship scheme. The government will continue to be committed to assisting our nursing work force.

I present the following paper:

The Outcomes of the Government's *Strengthening the Nursing Workforce Offer*—Ministerial statement, 27 March 2001.

I move:

That the Assembly takes notes of the paper.

**MR STANHOPE** (Leader of the Opposition) (4.15): What we have just heard, of course, is a long explanation of failure. I guess we can understand the minister's sensitivity to that. The ACT minister for health has had to come in here today, after his much lauded reform package hit the wall, and explain to us, in the detail he has attempted to provide, why he has failed in his endeavours to introduce his particular reform package, as he titled it, "Strengthening the ACT nursing work force".

I think it is moot, Mr Deputy Speaker, to refer again to the ministerial statement that the minister made on 7 December in introducing his strengthening the ACT nursing work force package. There was nothing in the introduction to the minister's statement on that occasion with which one would disagree.

The minister referred to the national and the international shortage of nurses as affecting the ability of health systems to respond to the needs of the Canberra population, and more generally the Australian population. The minister referred to the worsening situation which is recognised by all states and territories. I think we need to ponder the irony of that. The minister, last December, acknowledged that the situation was worsening and that through his package of initiatives he was going to reverse that trend and make it better. As we look at the situation today, it is ironic and interesting to reflect on the minister's laudable stated intention of trying to reverse that particular situation and what he has actually achieved, and the way in which he has pursued this particular initiative.

On that occasion the minister acknowledged the world-wide advertising campaign that is currently afoot to attract nurses from Australia to other jurisdictions. I think we should all be acutely aware of the very vigorous advertising campaign and recruitment process which the English have launched seeking nurses from around the world, and in particular from Australia. I understand that they have set a target of recruiting something like 16,000 nurses in the short term. That is just England alone. Of course, Australian nurses will be looking with interest at that.

We all are aware of the demands that are placed on the ACT public hospital system. We all acknowledge, as did the minister, rightfully, that nurses are the backbone of the public hospital system. We are all aware that the shortage of nurses is used in here from time to time as an excuse by the minister and by health officials in relation to the elective surgery waiting list. It is one of the reasons why there are those problems.

This situation was referred to again in question time today. Mr Osborne asked a question in relation to a particular issue that was raised with him last night, a situation reflected by the stress and strain that the public hospital system faces. We know that part of that strain is the result of a shortage of qualified nurses in a range of specialty areas, namely intensive care, mainly in the delivery of mental health services, and in relation to oncology and paediatrics. There is a serious shortage of qualified nurses in those specialties, as well as other special areas within ACT Community Care, such as gerontology, oncology and palliative care, paediatrics, and in alcohol and drug services. We do have a public health system severely strained as a result of the difficulty in attracting and maintaining nurses to the system.

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So what have we achieved over the last three months? It seems to me that we have gone rapidly backwards. Nurses have struggled to maintain their morale. The public health system, through both the hospital and Community Care, has battled to maintain enough nurses within the system and faces difficulty in attracting nurses back to work. In light of these facts we should have engaged in a process which made the system more attractive, that improved morale, that enticed nurses back into the paid work force and made it easier or better for them to enjoy full-time or other work within the system.

The first part of the strengthening the nursing work force initiative perhaps was attractive in that regard, a pay rise of around 11 to 12 per cent. That pay rise was touted as seeking to redress some of the quite obvious disadvantage or disincentive that there was for nurses to remain in the system, with the consequent shortages within the specialty areas that we all know exist, and the resulting stress and strain on the capacity, particularly of the Canberra Hospital, to maintain its productivity and its efficiency.

The other aspect of this was the second part of the package, the part that related to conditions, not to pay, and what do we see there? In an environment where the minister was touting the need to make nursing more attractive, to improve the conditions, to improve the morale, to entice people back, we then look at the second part of the package, that part of the package that relates to working and nursing conditions.

We see in the ministerial statement of 7 December, under the so-called workplace productivity reforms, a subheading, "No future permanent tenure for Level 2 nurses". We are talking about attracting people back into a career service. Many of us here would say, when we look at the starting pay of a graduate nurse, that it is not exactly the sort of career that we would have hassled or harassed our sons or daughters to join in terms of the attractiveness of the salary or the wages paid. It is not, and we all know that. There are not many people around this place who would urge on their children a career as a nurse, having regard to the pay and the conditions that we here offer and what is offered elsewhere around Australia.

Then, in relation to that profession, that career with that particular major disincentive, this government makes a ministerial statement about strengthening the ACT nursing work force which includes, under its workplace productivity reforms, a subheading, "No future permanent tenure for Level 2 nurses". The minister seems unreasonably to have caused some concern to not only level 1 nurses but also existing level 2 nurses. They are to be subjected to two-year reviews. The minister, in his justification for this, said:

Level 2 registered nurses obtain this level by undergoing a merit selection process. They are intended to be clinical experts and to contribute to the workplace by providing a resource for quality initiatives and junior staff development.

The minister goes on to say:

These positions are currently tenured.

If you manage to become a level 2 nurse you have got this enormous privilege which you have no right to, namely, that you hold a permanent or tenured position. You are a permanent employee at a permanent level 2. The minister wants to take this away. It is somehow unacceptable to have a career structure within the public health system.

I just cannot believe that as part of a workplace reform designed to strengthen nursing, to make it more attractive, you would actually seek to enforce the removal of an entire nursing level, a level that is fundamental to the career and progression of nurses or nursing sisters. You are going to remove the capacity to take a tenured level 2 nursing position. What is a level 2? We are starting level 1s off at the low 30s. We are talking here about denying to nursing sisters the capacity to take a permanent level 2 position. They are not to be promoted to the next level in their career structure on a permanent basis. They are all to act and they are all to be reviewed every two years. What an outrageous concept. What is more outrageous about it is to seek to sell it or to parade it as an initiative for strengthening the nursing work force; to make this a more attractive career option; to attract ex-nurses back into nursing.

We all know how many tens of thousands of nurses there are around Australia who choose not to work in the field, and why is that? Let's ask some of the fundamental questions. Why don't all these trained nurses work in the public health system? Why would you, in seeking to strengthen the nursing system, do away with a fundamental part of the career structure when you know that the nurses are under a strain, when you know they are under stress, when you know that you have a range of special areas that simply aren't covered and when you know morale is low? Why would you seek to destroy their career prospects or their career structure in this way?

More than just that; you do it in a non-negotiable way. You actually lay it on the table, outside an EBA negotiating period, in a circumstance where there is no prospect of the matter being referred for arbitration. You do it quite deliberately with your eyes open. You lay it on the table outside of the negotiating period and you insist that it is non-negotiable. You expect in those circumstances that nurses and their representatives will say, "Oh well, look, we will take the money. Damn the career structure. Damn the impact on morale. Damn the impact on patient care. Damn the impact on our capacity to achieve something within our chosen profession. We will just take the money and forget everything else." Then you expect them to roll over on the basis that they will be so grateful for the money you are throwing their way that they will not put up an argument.

You will not negotiate. You lay it on the table and say, "Take it or leave it. You have got until 19 March, six weeks before your negotiating period opens anyway. That's it. All over Red Rover. Take the money; accept the conditions; allow your career structure to be destroyed; don't expect to be able to negotiate on the offer, and stop whingeing if it doesn't come off." What do you expect? Fair crack of the whip. What did you expect the nurses to do in the face of that sort of offer?

The nurses and their representatives have done what you should have anticipated they would do. You should have anticipated that they would say, "No, we are not prepared to do this to the nursing work force in the public health system here in the ACT. It's simply not acceptable. We want to negotiate this. We must be given an opportunity to negotiate it. These conditions are unacceptable. We need to be able to negotiate with somebody with the capacity and the authority to negotiate with us in good faith."

Take this letter that you tabled today, minister, from Michael Szwarcbord at Community Care. I love the way these things are turned around. The ANF wrote to Mr Szwarcbord after the initial appropriately convened meeting of the union. The ANF has over 80 per

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cent coverage of nurses. We are not talking about some little rump that represents a couple of people and pursues some sort of self-interest. It represents over 80 per cent of nurses. Every one of them was entitled to go to that meeting. Some chose not to. At every meeting that has been convened the majority of nurses have rejected the offer. You don't need this nonsense that if it is not every single nurse that is employed then it's an invalid result. That is a nonsense. We all know that to be a nonsense. They were all entitled to attend. Those who did attend voted overwhelmingly and in a democratic way against the deal.

I have the letter here from Mr Szwarcbord of Community Care. After that first rejection the ANF wrote and said, "Tell us that you can negotiate with us in good faith. Please let me know that you have the capacity to negotiate." (*Extension of time granted.*)

I want to conclude with this remark. There is much more that could be said and will be said in the context of this debate, but today's statement by the minister is, unfortunately, a long and detailed admission of failure. He says that he set out on this escapade to strengthen the ACT nursing force, but it is an ironic and sad fact that after three months of what I think was a sham process he has achieved the reverse of his stated aim. He actually has created division. He has actually destroyed morale. He has made the nurses furious. He has engineered and created an environment in which I think there are nurses now throwing up their hands and saying, "Why bother? Why continue in this environment where my efforts are not applauded, where I am not appreciated, where I am continually downgraded, where there is no genuine effort to accept my needs in terms of reasonable pay and work force conditions in order to allow me to pursue a meaningful, professional and satisfying career?"

It is ironic in the extreme, I think, that the minister, who set out to strengthen the work force, through the inappropriate and inept way in which he has handled this process, has weakened the public health system, patient care, and nursing as a profession.

**MR BERRY** (4.32): Mr Temporary Deputy Speaker, I move:

Add "and that the Government agree to an immediate variation to the Canberra Hospital and ACT Community Care Nurses Certified Agreements to bring forward the nominal expiry dates to allow good faith bargaining within a designated bargaining period pursuant to the *Workplace Relations Act 1996* (Commonwealth)".

I would like Mr Rugendyke to hear what I have to say. Although he is being distracted by Mr Humphries, there are some issues that he might wish to hear in the context of this debate. I can wait until Mr Humphries has finished.

**MR TEMPORARY DEPUTY SPEAKER** (Mr Hird): Mr Berry, address your remarks to the chair. You have the call, sir.

**MR BERRY**: Mr Temporary Deputy Speaker, the process which has been engaged upon by the government has been an extraordinary one. It has been referred to in the course of the debate—my leader, Mr Stanhope, has referred to this matter—and it is something that members need to be constantly aware of.



The government, through Mr Moore, made an offer to nurses in a way which it would not have been able to pursue under a previous industrial regime—that is, under the Industrial Relations Act of yesteryear before Minister Reith and Mr Howard got stuck into the industrial relations legislation in this country. This approach gave the government the complete upper hand in relation to the negotiations. They could say to their nursing staff, “Here is our offer. These are the parts of it—the positives and the negatives. Take it or leave it.” The nurses had nowhere to go. They could not go to the Industrial Relations Commission without the agreement of the government to enter a proper bargaining arrangement. The government had said, “We will not vary your certified agreement unless it is in terms that we agree to.” The nurses had nowhere to go in terms of conciliation and arbitration or a good faith bargaining process.

We have this situation because of the Peter Reith Industrial Relations Act, which was passed by the federal Liberals in the federal parliament. I will explain the reason for this. Certified agreements are essentially contracts which lock both the parties into the terms of the contract. The terms of the contract cover wages and working conditions. We have ended up with a situation where Mr Moore has the upper hand, and he has exercised it quite viciously.

Mr Temporary Deputy Speaker, my amendment seeks to level the playing field. You will not hear me advocating the Workplace Relations Act on too many occasions, but it does provide a way out in these circumstances. My understanding is that the nominal expiry date of the certified agreement between the government and the nurses is in November, at which point a bargaining period can commence.

Meanwhile, of course, the nurses are sitting out there without a pay rise, having had an industrial storm stirred up in their workplace by the activities of the government and Mr Moore. That situation cannot be allowed to continue because it will impact on patient care in our hospital system. Industrial turmoil created by this confrontation will not help patients. It will work against their interests. It is in the interests of this Assembly and the people of the ACT that we move towards a resolution of the situation. That can be achieved under the Workplace Relations Act—not in ideal circumstances but, nevertheless, within the legislative framework in which we have to work.

Mr Temporary Deputy Speaker, once a bargaining period is initiated, the parties can serve claim and counterclaim on each other. I would expect that if the minister is keen to demonstrate his commitment to an outcome which assists nursing in the ACT, he would be offering a pay rise along similar lines to that which has already been made. That is when the bargaining begins.

The government will say, to try to frighten the horses, that this is when the industrial action will start; this is when industrial mayhem will start in the hospital and this is when patients will be affected by the strident industrial action of the nurses. That is what the government will say to try to frighten the horses.

Nothing can be further from the truth. When was the last time that nurses, policemen, firemen and those sorts of people walked off the job and disadvantaged people in the community? There is often a lot of toing-and-froing and threats flying one way or another, but to my knowledge walking off the job is not something that you hear from nurses or firefighters. They know that that can wreck their industrial campaign—their

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public relations campaign, anyway—notwithstanding their concern for the people they serve. So, Mr Temporary Deputy Speaker, do not listen to the arguments from the government and others about the likelihood of Mr Berry's amendment creating industrial turmoil. What this does is level the playing field and provide a range of involvements for the Industrial Relations Commission.

Let us deal with the industrial relations issue first. The powers of the commission are explicit. Under section 170MW of the Workplace Relations Act, the power of the commission to suspend or terminate a bargaining period is specific. Mr Moore has predicted that if this amendment is passed nurses will be involved in industrial action and they will try to put the frighteners on everybody. The Workplace Relations Act is tough on industrial action. Mr Temporary Deputy Speaker, I will quote from section 170MW of the legislation:

(1) Subject to subsection (8), the Commission may, by order, suspend or terminate the bargaining period if, after giving the negotiating parties an opportunity to be heard, it is satisfied that any of the circumstances set out in subsections (2) to (7) exist or existed.

Mr Temporary Deputy Speaker, I will try to paraphrase this because I do not want to read the whole section of the act. I am sure it will become clear to members what the effect of the act is. Subsection (2) (a) states:

did not genuinely try to reach an agreement with other negotiating parties before organising or taking the industrial action; or

Industrial action is not industrial action just for workers, you know. It is also, under this act, industrial action which is available to the bosses. The bosses can lock people out, as they have done. So protected industrial action is available to both parties. I am suggesting that the government will do that, and it is wrong for the government to suggest that the nurses are going to walk out on strike.

It is made clear in the act that if there is no genuine attempt to reach an agreement, the commission has the power to terminate the bargaining period. There are a range of other situations and I will read a couple of them:

(b) is not genuinely trying to reach an agreement with the other negotiating parties; or

(c) has failed to comply with any directions by the commission that relate to the proposed agreement or to a matter that arose during the negotiations for the proposed agreement; or

And so on. Subsection (3) provides:

A circumstance for the purposes of subsection (1)—

that is, the termination of a bargaining period—

is that industrial action that is being taken to support or advance claims in respect of the proposed agreement is threatening:

(a) to endanger the life, the personal safety or health, or the welfare, of the population or of part of it; or

So the commission can then terminate the bargaining period. (*Extension of time granted.*) There are a whole range of other reasons why the bargaining period can be terminated.

The act also sets out what happens if the commission terminates the bargaining period. The bargaining period can be terminated because of industrial action or those other reasons—that is, perhaps the government is not genuinely trying to reach an agreement or perhaps even the nurses are not trying to reach an agreement. According to section 170MX, once it is terminated, as soon as practicable the commission must begin to exercise conciliation powers. And it goes on. Once the commission has exhausted the conciliation powers, arbitration powers are available to the full bench. This leads us into a system where the parties are forced to negotiate because there is a bargaining period. If they do not negotiate in good faith, the bargaining period can be terminated by the commission. There can be conciliation and, according to the legislation I have in front of me, there are arbitration powers, which are only exercised by the full bench. I should mention that the commission also has arbitration powers and award-making powers under those provisions.

So Mr Temporary Deputy Speaker, let us put aside all this stuff about scare tactics. The government will be saying, as they always do, that this is about the Labor Party encouraging a walk out of the nurses and that patients will be stranded by the roadside. They will try to suggest that all of those sorts of dark and miserable things will occur as a result of this. Nothing more is going to occur in relation to this than has occurred in dozens upon dozens of bargaining periods and the establishment of agreements throughout the country.

In my view, what is happening is not ideal and I do not think the union would particularly like the very tightly regulated arrangements which have been put in place. But the union tell me that they are prepared to agree with the government to bring forward the nominal expiry date in order that they can go into a proper industrial framework. The reason they say that, of course, is because they want to preserve care and treatment for patients within our hospital system and make sure that the industrial turmoil that has been created by this gap in negotiations can be sorted. It is extremely important that we do not leave this matter hanging. If it is not settled within a framework shortly it will hang for months and months.

Section 127 of the legislation also gives the commission power to order the cessation of industrial action. All of this humbug about industrial action being the outcome is merely that—humbug. The legislation allows industrial action but it also makes sure that the commission has strong powers to limit industrial action. Indeed, workers have an entitlement to defend their workplace conditions by the strongest methods that are available to them. But those methods are certainly restricted very tightly—more tightly than they ever have been—by this legislation. I was involved in industrial relations as an official in the early 1970s and before that as an active unionist, and I cannot remember industrial action ever being more tightly regulated than it is under this legislation.

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Mr Temporary Deputy Speaker, I do not think I need to say a terrible lot more in relation to this, other than to urge members to support this sensible move. This is about forcing the government to the table to finish off something they started. The government, which began with the upper hand, has attempted to crunch the nurses and force them into accepting unsavoury industrial conditions in their workplace, to force them into a contract which will give indifferent outcomes or extraordinarily bad outcomes for some people. (*Further extension of time granted.*)

Mr Temporary Deputy Speaker, there is no doubt that what the nurses are proposing is a way forward. It will bring good sense back into the workplace, patient management and health service delivery in our hospital system. This matter will linger on and impact on patients if it is not dealt with. It would not be in the interests of the government, this Assembly, or the community if we were to ignore our responsibility to force the government back to the table with these workers.

As I said earlier, the government came in with the upper hand and tried to exploit an offer which they presented under the headline “12 per cent pay rise”. But they were very careful to keep the extremely distasteful aspects of the arrangements out of the limelight. One aspect in particular related to level 2 nurses, where 25 per cent of the nursing work force were going to be subject to temporary employment and a two-year review of their positions. No union would isolate its members like that; no sensible and decent union would dump its members like that. It is no wonder the nurses fought hard to protect that 25 per cent of their work force. No union could, in good conscience, abandon 25 per cent of its workers and sell out on them as the government wanted the nurses union to do. This was a move by the government to try to exploit greed, and happily the nurses union, through its own democratic processes, has rejected this.

We have got to get a good sense of process. This is a sensible approach which puts the workers and the bosses back into a framework where they have to negotiate in good faith and, if they do not, the commission will settle it. The government should be supporting this because they started something which they never intended to finish unless they got their own way. They did not get their own way and they walked away from it. They have now created a crisis in industrial management and health care, which has to be sorted.

Let me finish by saying that it is never going to be my practice in this place to enter the industrial arena and sort out industrial disputes. I am not going to go into the minutiae of those things. I have a strong view that, unless the circumstances are very unusual, I will not get involved. Because we are distant from the workplace, it is impossible for us to resolve individual issues. But it is not impossible for us to say, “Look, we want you back in a proper industrial framework” and then leave it to the parties to resolve the issue with the assistance of the Industrial Relations Commission.

We are not then involved in the nitty gritty of the negotiations. We are merely providing a way forward. That is our job—to provide a way forward. I think we would be abandoning our responsibilities if we did not commit ourselves to finding a way forward. Although the government does not want to find a way forward, I do and I suspect most members here want this to happen.

We do not want to hear about industrial disputation affecting our nursing work force and, indeed, our prospects of recruiting more nurses to the ACT. Let us not forget that it was this government, and this minister in particular, that promoted recruitment as a means to sort out a nursing crisis. We were always told that there were problems with our hospital because we could not recruit. The government are not serious if they are not prepared to finish this job off, and here is an opportunity for them to do so.

I am sure members of the government will stand up during the course of this debate and say, “Well, you know, Wayne Berry is tangled up with the nurses union and a couple of other unions around the town—the doctors and so on.” Indeed, Mr Temporary Deputy Speaker, but when we had disagreements, the provisions of the legislation relating to the Industrial Relations Commission that applied at that time allowed disputes to be settled by arbitration. We did not have the restriction on certified agreements that was put in place by the Reith laws, and the parties could go off to the Industrial Relations Commission and sort it. My amendment is a way forward to make sure that the parties come together and sort it. That is what the amendment is about and I urge members to support it.

**MR HUMPHRIES** (Chief Minister, Minister for Community Affairs and Treasurer) (4.52): Mr Temporary Deputy Speaker, I would argue that there are a number of very good reasons why the Assembly should not entertain the amendment that Mr Berry has moved. Mr Berry got up in this place and, if I understand him correctly, argued that we need to be able to bring on a period when industrial action is permitted in order to be able to resolve a matter peacefully, calmly, and with common sense. I recall a headline in the *Canberra Times* yesterday or the day before of Mr Berry calling for calm—that the calm approach, the sensible approach, in this matter is to move this into a period when industrial action is permitted.

I do not understand why it is that the Assembly should take the step of facilitating—

**Mr Berry:** You want to wait until it is permitted.

**MR TEMPORARY DEPUTY SPEAKER:** Order! Mr Berry, come to order. The Chief Minister has the call.

**MR HUMPHRIES:** Mr Temporary Deputy Speaker, I think it makes little sense to try to calm an industrial dispute by facilitating the escalation of the dispute through the taking of industrial action. Mr Berry was at pains throughout his remarks to emphasise how this is a way forward, good sense, and a sensible approach. He pleaded that case repeatedly. But where is there common sense or a way forward in facilitating an escalation of this dispute? That is what it amounts to—an escalation of the dispute.

Mr Temporary Deputy Speaker, first of all, there is something very strange about hearing Mr Berry arguing in this place the case for what he calls the Peter Reith Industrial Relations Act. Yet, here he is doing just that. He suggests that the matter has broken down and he blames the government for that.

Obviously, I rise in this place to say that the government has acted in good faith throughout this matter. I turn in particular to the things that Mr Moore, the minister for health, referred to in this debate today—the steps that he has taken to personally bring

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this matter to resolution. Nobody reading or hearing the steps that are being taken by the government, which are not being disputed by those opposite, could fail to agree that the minister has used every available diligence to bring this matter to an appropriate conclusion. It is a case of attempting to discuss the matter, attempting to put issues on the table, attempting to negotiate those matters and, in fact, successfully bringing a significant part of the nursing work force to the table on this matter.

If as Mr Berry says, this offer of nearly a 12 per cent pay rise to ACT nurses is in fact an attempt by the government to crush the nurses, to quote Mr Berry's highly emotive language, why have the nurses at Calvary Hospital and, I think, also potentially members of other parts of the ACT nursing work force, accepted the government's offer by, I understand, an overwhelming majority? Are the nurses at Calvary somehow less understanding of the issues than those at the Canberra Hospital? Why have nurses at Canberra Hospital not had the opportunity to take part in a secret ballot in respect of this matter? Indeed, why have nurses at Canberra Hospital found it necessary to circulate and sign a petition calling on the Nursing Federation to conduct a ballot? If the position is so clear that nurses do not accept the offer that government has made, then put it to a democratic secret ballot. There is absolutely no reason why that should not happen. There is no reason why the result would be distorted in that way. The fact that the nurses federation has consistently refused to do that speaks volumes for their position.

There is another very important reason why I argue that we should not support Mr Berry's amendment, and that is that we are crossing a line here which has not previously been crossed. Let me say first of all that I am not clear what Mr Berry's amendment is actually saying because it uses language which is not usually used in amendments in this place. He wants to add to the motion that the Assembly takes note of the paper, the words "and that the Government agree to an immediate variation to the Canberra Hospital and ACT Community Care Nurses Certified Agreements" et cetera. He uses the words "and that the government agree". Is this: (a) a description of what the government actually does; (b) an instruction to the government; or (c)—

**Mr Berry:** Yes.

**MR HUMPHRIES:** So it is an instruction to the government? It is a direction to the government?

**Mr Berry:** Yes.

**MR HUMPHRIES:** This is mandatory? This is a mandatory requirement?

**Mr Berry:** Yes.

**MR HUMPHRIES:** Well, Mr Temporary Deputy Speaker, in that case this is something which this Assembly has not ever done before. It has not used the paramount power of parliament to direct a minority government. It has not previously used that power to intervene in industrial relations matters in this territory.

**Mr Berry:** We are not.

**MR HUMPHRIES:** You said this was mandatory, that it was a direction.

**Mr Berry:** No. I said we were not interfering in industrial relations.

**MR TEMPORARY DEPUTY SPEAKER:** Order! The house will come to order. The Chief Minister has the call.

**Mr Berry:** And he talks to you.

**MR TEMPORARY DEPUTY SPEAKER:** And he talks to me.

**MR HUMPHRIES:** The record will show that Mr Berry said previously that this was a direction to government. It was not a description of what the government is doing or a recommendation to government, it was a direction.

Mr Temporary Deputy Speaker, we have taken the view in this place that directions to government are matters that the government defies, as Mr Berry just said, at its peril. We have had the discretion to be able to accept recommendations from the Assembly, and that has been the standard practice in this place. But I would say to members that if that is what Mr Berry means—if that is what he says he means—then it is a dangerous line to be crossing. The Assembly has never at any time in the 12 years of self-government intervened and decided to take unto itself the role of directing the course of an industrial dispute in this territory. It is an enormously big step and it is a dangerous step to take.

Mr Berry has brought on this amendment unannounced. I understand that he attempted to have the amendment dealt with tomorrow during consideration of private members business. For some reason he either did not succeed or did not try to succeed. He has now brought on this amendment unannounced—again, another ambush in this place—and he wants the Assembly to support it. There are significant issues flowing from this in an industrial context, particularly given that the industrial relations legislation is federal legislation governing the ACT and our relationship to it is a complex matter. I do not know what the implications of the amendment will be. The government has sought advice about this matter. The government cannot possibly have that advice if this matter is to be debated today. It is a big step.

Mr Berry said that normally he does not wish to engage in this sort of matter—that is, interfering—

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

**MR HUMPHRIES:** Mr Temporary Deputy Speaker, Mr Berry said that he did not think that crossing this line would be something we should do very often.

**Mr Berry:** No, that is not what I said. I will tell you what—

**MR HUMPHRIES:** Well, you said that this was a very big step to take and you would not normally—

**Mr Berry:** No.

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**MR HUMPHRIES:** Well, all right. I will come back and I will quote you when I get the Hansard, Mr Berry. But you did say words to the effect that this was a major step to be taking and that you would not lightly engage in this happening.

Mr Temporary Deputy Speaker, I say to members that this is not a good precedent to set. It is a dangerous precedent to set. We do not have enough information. This has happened without notice. We are doing something which the Assembly has never done before, and for good reason. How are the 17 members of this place to substitute themselves for the industrial relations managers within the department of health, within the Canberra Hospital and indeed within the minister's office? How is that to occur, Mr Temporary Deputy Speaker? Clearly, it is not an appropriate process to use. We should handle this matter with the greatest of caution.

Mr Berry said, and I wrote these words down: "It is impossible for us to interfere, intervene in the workplace." Those are the words you actually used, Mr Berry. I wrote them down as you said them. I agree with that. It is impossible for us to do that, particularly when this particular industrial dispute is obviously not a matter of black and white. I say that because already significant numbers of nurses consider it a good offer. They have accepted the offer. (*Extension of time granted.*) Mr Temporary Deputy Speaker, this is not a black and white issue. This is not a case of where the government is clearly attempting, as Mr Berry has said, to crush the nurses, because many of the nurses themselves have accepted the offer. It clearly is not a matter of that kind. It is dangerous to intervene in this circumstance. We already know that a number of nurses want the offer accepted. I think it is a quite fair supposition to make that, as of today, if the matter were put to a vote by nurses there is at least a good chance it would be accepted.

**Mr Berry:** It has already been put to a vote and it lost.

**MR HUMPHRIES:** No, it has not been put.

**Mr Berry:** It has.

**MR HUMPHRIES:** It has not. It has been put to a meeting of nurses from which some nurses were excluded, Mr Berry.

**Mr Berry:** There is provision under the legislation—

**MR TEMPORARY DEPUTY SPEAKER:** Order! Gentlemen, come to order, please. The house will come to order. Remarks will be addressed to the chair.

**MR HUMPHRIES:** Mr Temporary Deputy Speaker, I will not take any further time. I will simply say that we should not take this step. I think this amendment cannot be properly dealt with today. We ought to get proper advice on what it means and, in particular, I think we should be very wary of the precedent of having the Assembly intervene in industrial negotiations.

**MS TUCKER (5.04):** Mr Humphries is telling us that it is a very dangerous precedent that this Assembly should call on the government to take a certain direction in industrial relations and managing an industrial issue. I think it is quite a significant issue. But after



talking to nurses over the last year, and more particularly in the last few months, I recognise that there is a dangerous situation in the hospital. It is a dangerous situation because we have nurses being asked to work in a totally unacceptable way. This workload has serious and dangerous implications for not only their health but also the health of the people they are caring for.

I have spoken to a number of nurses and have said, “Can you give me your story. Can you tell me what it is that you are experiencing because I need to understand how bad this is.” I have heard those stories and they are frightening. I will give you a few examples. One nurse told me that basically she has received calls at 6 am every day to come to work; and that she has been asked to work double shifts, with one request to do 24 hours straight. After a double shift, finishing at 7 am, there was a call from management at 10 am after an hour’s sleep to work that afternoon. I was told about “calls during my holidays to come to work (this is the norm, rather than the exception) and calls on my days off to come to work (this is the norm, rather than the exception)”.

Another girl reported she had done 14 days straight and the answer to this from management was that the staff are asking to do extra shifts. Other examples are: 100 hours one fortnight, with 40 hours night duty; lists attached to the roster requesting staff to put their names down for extra shifts where there are known gaps; and because the wards can now work out the acuity workload on the ward, albeit the prehistoric system, the patients are often kept in casualty because there is no bed for them on the ward at the time, and this can be for 24 hours.

I was told that patients are required to sleep on hard narrow trolleys in a very noisy environment, sometimes for more than 24 hours; that ward noises include monitors, telephones, pagers, staff and people who are loud and sometimes abusive; and that patients who have stayed in the emergency department for this time can suffer from a variety of medical problems, not limited to elderly patients with dementia, oncology patients and parents with sick children.

I was also told that patients’ personal hygiene is not able to be the priority that it should be; that staff are just too busy with new patients to be able to care for these patients appropriately; and that this is very distressing to the nursing staff. Of course, it is also very distressing to patients. Further, due to the backlog of patients in the emergency department, there are frequent times when the three designated resuscitation beds are used for patients with less serious problems. I was informed that “the ramification here is that if a multi-trauma/cardiac arrest patient were to present to the emergency department, we may not have a bed available to treat them. This situation is worsening. We are already seeing large numbers of patients each day—similar numbers to our busiest time in winter. We are all very concerned about the situation.”

Now we are hearing from minister Moore, the government, the Labor opposition and everybody else that we have a crisis in nursing—this is not just in the ACT—and that what we have to do is encourage people who are qualified to stay and encourage more people to train to become nurses. The objective is to improve the pay and conditions to attract new nurses. What are we seeing being offered here? We are being told that there is an unacceptable situation in the hospital and we have a proposal from government which gives a pay rise but also alters conditions.

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The question of short shifts is obviously extremely problematic for the nurses in the hospital. If you are serious about reducing the stress on nurses in the hospital, and you want to make the profession more attractive, why would you make, through alteration of conditions, the situation more stressful? What I and other members of this place are hearing quite clearly is that short shifts mean that other nurses, full time nurses, have to carry the load. It is as simple as that. As a result of this offer, we are seeing additional stress being placed on nurses who are now in a situation of moving out of the profession. I do not blame them—no-one would blame them—for doing that. This offer is going to increase that stress.

I think it is useful to understand how the job of nurses has changed over the last 20 to 30 years. This relates acuity and that is why this concept is now being brought into the discussion. We understand that what happens in our hospitals is different. We used to have a situation where patients would come into a hospital because they were sick and they would stay there until they were better. That does not happen now. We have early discharge. People are moved out of the hospital quickly. Obviously, the workload of nurses has increased because the people they are looking after are sicker.

So the whole concept of acuity is important and it is being acknowledged by this government. In fact, I noticed today in question time that Mr Moore, in answer to Mr Osborne's question about parents who were very distressed to find their sick child could not be accommodated in the hospital, made a comment about the acuity load and how the nurses, much to their credit, were actually picking up a greater acuity level than they should be. I have been told nurses have been given a direction to go over the limit of acuity anyway, which is not only offensive to the concept of duty of care but is inconsistent with the agreement. That is what I have been told and I would be interested to know if Mr Moore wants to deny it.

If we know that nurses are being asked to work over that acuity level already, surely we should be very concerned about what is actually going in the hospital and why the situation has got to this point. Surely we should be very concerned about an offer which is going to increase stress.

Let us talk about acuity. I understand that most patients have to be incubated before they are admitted to the Intensive Care Unit. So you have got this narrowing definition of why people will be in ICU. I understand there is a ratio of one to one in ICU. What does that mean for the other people who are no longer able to go into ICU? They are in the normal ward where the staff ratio is much lower. So you have people who are critically ill in the other wards that do not have that one to one care.

This is a really serious situation, and it is no wonder that the nurses are so angry about the way they have been treated. Not only have they been told that they do not have the right to negotiate around these conditions, but the minister concerned has said that this large amount of taxpayers' money which his government decided should go to nurses maybe will not go to health at all. I heard Mr Moore say, "I'm sure my colleagues would have somewhere to spend that money." How does this government make decisions about spending public money if you can just take it away like that because people will not play the game the way you want to play it?

If there is a need to increase the salaries of nurses, which apparently this government has acknowledged, then do so. Do not make it conditional. Do not say, “You can only have this pay rise and you will only deserve this pay rise if you accept the rest of the deal, and if you do not, anyone can have it, someone else will spend it somewhere else in government.” That is blackmail, that is thuggery, that is not respectful of a work force that deserves respect, that has not been paid properly historically because it is a female dominated industry.

I was interested to hear Mr Humphries’ speech on women—on the Women’s Action Plan and Women’s Policy Unit. (*Extension of time granted.*) Let us carry out a gender analysis of different industries. Let us compare how nurses and workers in male dominated industries are paid for the work they do. I think you will find it is pretty damn obvious that, on the whole, workers the industries that are dominated by women are paid much less. I think it is time that this was acknowledged. As Mr Berry said, federal industrial relations issues are also involved but we have to work with what we have at this point. Mr Berry’s amendment is basically saying that there is an opportunity to solve this problem.

This is a really serious situation. Mr Humphries and Mr Moore can say, “We don’t want to listen to the Assembly. We don’t have to anyway. It’s just an amendment and how dare they intervene in how we manage nurses.” We dare to intervene because we know there is a crisis in the hospital. We are getting calls from people who have not got the medical attention that they should be getting. We are getting calls from nurses who are extremely stressed because of an absolutely unacceptable workload. There is a problem.

Mr Humphries also said that this is going to be an excuse for industrial action. I do not see nurses striking. I do not see nurses jumping up to strike. One of the reasons why women-dominated industries often do not do so well is that even though they may be industrially quite strong in some ways, they are very reluctant to strike. What we have here is a situation where the nurses have been put into a corner. They know that we cannot continue as we are at the moment.

Another interesting issue is the staff mix. The percentage of enrolled nurses is increasing. The trend is for that percentage to increase. Let us sit that next to what we have we have just been hearing from other members and what I have been talking about, which is the increase in acuity. Go back to the question of the Intensive Care Unit. You are not only going from a registered nurse/patient ratio of one to one to a ratio of one to four or five or whatever, depending on the ward, but also you are going to a nursing mix which is not the same—it is not all registered nurses and, in fact, we are seeing an increase.

These are the sorts of issues that you would hope Mr Moore would be working on and be interested in solving. In a way, Mr Moore might have used a quite clever tactic—maybe this is a continuation of the sin bin discussion—but it does not appear to have worked. The point is that there are real issues that need resolving.

Mr Berry’s amendment appears to me to offer some hope—it is an olive branch if you like—to have a negotiation. I do not believe that the nurses are going to use that opportunity to then go out on full strike and leave people dying in hospital. Why would I believe that? They have not ever done that. We know what is happening around the rest of Australia, and it is not what is happening here. Mr Moore has often said that he wants

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to attract nurses here. Why isn't he taking into account what is going on in other places? Nowhere else are conditions being attacked.

Mr Humphries also put up the issue about Calvary. I find that this also is not a very satisfactory argument because, as I understand it, there are quite different arrangements at Calvary. There are different situations, the changes were initiated by employees, and it is a different hospital.

**Mr Moore:** It is not true.

**MS TUCKER:** If Mr Moore thinks it is not a different hospital, he can go and sit in both hospitals. I have done that recently and if he seriously is going to tell me we are talking about two similar hospitals, it is quite obvious that he has not sat in them. Basically I am concerned that the government keep putting the line that if it is okay for the Calvary nurses, why isn't it at Canberra Hospital? I am sure Mr Moore does understand the differences. It would be good if he admitted that and talked it through.

The other argument is that in some way we will not see an improvement in health care if we continue to push the budget or whatever and the government feels that we cannot continue to support a health system which is in some way a terrible burden on the community. But when you talk to people in the community you are told quite clearly that health is an essential service which people expect to be able to access in this country.

Most Australians have an expectation that they will be able to access health care. That is changing. It has changed in the ACT under this Liberal government with the closure of the community health centres. The inadequate provision of primary and preventative health care is directly a result of this government's policies. We have seen so-called more efficient systems produced but that is not the experience—

**MR SPEAKER:** The member's time has expired.

**MS TUCKER:** Yes. I will conclude by saying that I urge members to support Mr Berry's amendment. I urge the government to take it seriously, whether or not they think it is our business.

**MR SPEAKER:** Order! The member's time has expired. Thank you.

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

That the debate be adjourned.

The Assembly voted—

Ayes, 6

Noes, 9

Mrs Burke  
Mr Cornwell  
Mr Humphries  
Mr Moore  
Mr Smyth

Mr Stefaniak

Mr Berry  
Mr Hargreaves  
Mr Kaine  
Mr Osborne  
Mr Quinlan

Mr Rugendyke  
Mr Stanhope  
Ms Tucker  
Mr Wood

Question so resolved in the negative.

**MR MOORE** (Minister for Health, Housing and Community Services) (5.24): Mr Speaker, this amendment, as Mr Humphries put it, is quite unacceptable to the government. What we have is a situation where the Assembly, through Mr Berry's amendment, is choosing to intervene in industrial relations. This undermines what we set out to do, which is to strengthen the nursing work force and negotiate in a reasonable way.

The nurses union agreed with management at the Canberra Hospital that they would operate in a certain way until November this year. The appropriate mechanisms are in place for the continuation of that enterprise bargaining agreement process, which has a six-month lead time where no industrial action is allowed but where people can sit down and talk and negotiate. That is an appropriate way to go. It is inappropriate to remove that time for discussion.

The very thing that Ms Tucker always advocates is that people should be able to sit down and discuss and work through without the exercise of industrial power such as striking. That is why the federal legislation, which we cannot change, exists. Agreements were signed by staff and management in accordance with Commonwealth industrial law and they have expiry dates of November in the case of the Canberra Hospital and April in the case of Community Care.

**Mr Berry:** You are trying to overturn it.

**MR MOORE:** Mr Berry interjects that I tried to overturn it. I have explained to members on a number of occasions what I have tried to do. In my position of responsibility I can recognise there are certain problems, and that we ought to intervene to try to resolve those problems. We ought to be able to make an offer. I took quite some time to convince my cabinet colleagues that this would be a good idea. Their greatest concern was that I would effectively open up an enterprise bargaining process in the middle of an enterprise bargaining agreement and, if that were to happen, then we should never proceed.

What I suppose I find most extraordinary is that the union was prepared to allow a secret ballot to be taken at Calvary but was not prepared to allow a secret ballot at the Canberra Hospital. The 83 per cent result in favour of the package shows that the package was considered reasonable by normal nurses. The union then went through a process of ensuring that their statements were of a political nature, that they would run candidates at the next election, and that they would run a political campaign rather than concentrating on what the issues were in terms of the work force.

As I explained in my statement, I have sought again and again to have sensible meetings to try to sort out what were the issues with the nurses union. Mr Speaker, I am ready to do that at any time. What I said, though, was that I was not prepared to negotiate the package because that was not my role. That is the role of the people who are signing the package—the management of the hospital and the union. I was quite happy to meet to discuss other conditions but not to negotiate the package.

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Mr Speaker, it seems to me that when that package was being negotiated, management had some idea of some of the things that they would like to achieve as well within the parameters of what I had put. You may be aware that Mr Rayment sought to change some of those on the Friday prior to the Monday deadline. Indeed, he checked with me as to whether it was my understanding that the changes would still be within the parameters that I set. As I said in my statement, I confirmed that they were.

Mr Speaker, it seems to me that being forced to vary the agreement under these circumstances is entirely inappropriate. This Assembly delegates to the executive the management of these sorts of issues. If we manage them poorly, we have people like Mr Stanhope saying, as he did in respect of my ministerial statement today, "Mr Moore, you failed. You set out to do this and this, and you failed." He has said that again and again, and that is his prerogative. Understandably, he can push that as hard as he likes in here, in the media, or wherever and say that I failed in what I set out to do. He used my statement from December as well as my statement today to do that. That is entirely appropriate.

I have to say that there will be times when members who stand here and take on this sort of responsibility will fail—except for those members who never try to do anything because if you never try to do anything you will not fail. If you set out to try to achieve some things, there will be times when you make mistakes, there will be times when you will fail to achieve your goals.

Mr Speaker, it is entirely inappropriate for the Assembly to then effectively run our industrial relations program for us. It is entirely inappropriate to tell us that we have to bring an enterprise bargaining period forward. Mr Berry can put up all the arguments he likes and make it sound as nice as he likes but we know very well what occurred when Mr Berry was the health minister and what his relationship was with the nurses union.

I have to say one thing about the nurses union: they certainly have not acted according to a passing political process. When Mr Berry was health minister they tackled him very firmly and very strongly just as they have tackled me on many occasions. I have to say that if you think I have not been successful, go back and have a look at the record of Mr Berry when he was trying to get rid of the 8:8:10 roster and take away—and I note that Ms Tucker is not in the chamber—nurses' conditions.

It is all very well to sit on the opposition side of the chamber or to sit on crossbenches and say, "Yes, you ought to be doing so and so and be looking after a particular constituency" when in fact the responsibility that I wear and the responsibility that the government wears is to look at the big picture not only of nurses and where nurses sit but also of industrial relations and the relationship of government with workers.

Mr Speaker, the proposal Mr Berry has put will not bring any direct benefits to staff or the affected agencies. Indeed, it will bring into doubt entitlement to conditions, including pay increases and expiry dates. This is not a sensible idea at all. In fact, bringing this forward is one of Mr Berry's most stupid ideas. Mr Berry does this for one purpose and one purpose alone: the thing that drives Mr Berry above all else is a possible chance that there may be industrial action which will embarrass the government and which he can personally capitalise on. Members understand that that is what drives him in this circumstance. Mr Berry, this is not a sensible proposal at all. It is a silly proposal.

It seems to me, Mr Speaker, that it would be a very difficult proposal, even if passed, for the government to accept, and that raises a range of other issues. But in the end the government has said again and again that when we have a motion in the Assembly we will take it seriously, as we always do, but in the end, if we are to be directed, then it has to be done by legislation.

Mr Speaker, it is not in the public interest for this amendment to be passed by this Assembly. It is in Mr Berry's interest and it may be in the interest of a handful of union members, and that is probably the same thing. But, as well, it is not in the general interest of workers. Mr Speaker, I urge members to simply reject this amendment.

Members ought to take into account another matter. Mr Berry, as I understand it, took this matter to the Administration and Procedure Committee. The matter was not important enough for committee to list it for debate during consideration of private members business tomorrow. (*Extension of time granted.*)

We have now spent a significant amount of time debating this matter during consideration of executive members business. We were given very little notice of Mr Berry's amendment and we are still trying to understand the full ramifications of it. That is why Mr Hird attempted to adjourn debate on the amendment. I believe that debate ought to have been adjourned to allow better and appropriate consideration of the amendment.

Question put:

That **Mr Berry's** amendment be agreed to.

The Assembly voted—

Ayes, 9		Noes, 6	
Mr Berry	Mr Rugendyke	Mrs Burke	Mr Stefaniak
Mr Hargreaves	Mr Stanhope	Mr Cornwell	
Mr Kaine	Ms Tucker	Mr Humphries	
Mr Osborne	Mr Wood	Mr Moore	
Mr Quinlan		Mr Smyth	

Question so resolved in the affirmative.

Motion, as amended, agreed to.

## Discharge of orders of the day

Motion (by **Mr Moore**, by leave) agreed to:

That the following orders of the day be discharged from the notice paper:

Assembly business—

No 19, relating to the Standing Committee on Planning and Urban Services' Report No 42 on Draft Variation No 113 to the Territory Plan—Kingston Foreshore;

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No 22, relating to the Standing Committee on Planning and Urban Services' Report No 48 on urban parks and sports grounds in inner Canberra and Tuggeranong;

No 39, relating to the Standing Committee on Planning and Urban Services' Report No 60 on the Tuggeranong Lakeshore Masterplan; and

Executive business—

No 12, relating to a ministerial statement on battery hens legislation;

No 20, relating to papers concerning consumer responses and the government direction on a retail sector study;

No 21, relating to the return to the resolution of the Assembly of 24 March 1999 concerning Narrabundah Long Stay Caravan Park;

No 22, relating to domestic animal legislation exposure drafts;

No 28, relating to compliance with national competition policy by ACTTAB Limited and bookmakers;

No 29, relating to a ministerial statement on the 2000 Canberra National Multicultural Festival;

No 34, relating to a ministerial statement on the ACTEW/AGL Joint Venture;

No 41 relating to the 1999-2000 Government implementation report on the Bringing Them Home report; and

No 42, relating to the third report of the Gambling and Racing Commission.

## **Justice and Community Safety—Standing Committee Scrutiny of Bills Report No 4**

**MR OSBORNE:** I present the following report:

Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 4 of 2001, dated 27 March 2001.

I ask for leave to make a statement.

Leave granted.

**MR OSBORNE:** *Scrutiny Report No 4 of 2001* contains the committee's comments on six bills, seven subordinate laws and one government response. I commend the report to the Assembly.

## **Adjournment**

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

That the Assembly do now adjourn.



### **Canberra Hospital—equipment**

**MR BERRY** (5.41): This will take only a short time. I am happy Mr Moore is here. Twice before I have mentioned a constituent of mine who had a cast on her arm. I am not going to stop until I sort this. I am going to keep mentioning it. She had a high-tech cast on her arm that had to be removed because of some problem with it. She went to Accident and Emergency at the Canberra Hospital, where she had the high-tech cast removed. It was some sort of high-tech material. I have forgotten the name of it now. Once it was removed and the problem solved, the hospital was not able to put a high-tech cast back. They could only put a plaster one on.

My constituent was then forced to go to a private clinic to get a high-tech cast put on. I just cannot believe that our teaching hospital is not capable of putting Goretex, or whatever the material is, casts on patients who need care. I am still waiting to get an inkling out of the minister. I have not asked him a question, I know, but usually if you raise these things ministers at least give an inkling about what is going on. I am curious to know, and I intend to find out. I thought this might be a good avenue to raise the matter for the minister's interest and possibly his attention and some sort of a response.

### **Canberra National Multicultural Festival**

**MR WOOD** (5.42): I will not accuse the minister for the arts of misleading the Assembly or the community, but I will certainly accuse him of obfuscation, because he has been marvellously vague, and deliberately so, in a media statement he put out today about festivals. The whole import of the media statement he put out, which I have in my hand and which I will table, would lead one to believe that there is to be a new body, a Festivals ACT. It refers to "a dedicated festivals office ... within the Office of Business, Tourism and the Arts". He does go on, as we now hear, to say that it will play a critical role in developing a festival strategy. But as people have read this statement today they have made the reasonable assumption that the Canberra National Multicultural Festival and other festivals will come out from under the control of CTEC.

In an answer to a question I asked today, Mr Smyth mumbled—I think the body language was very informative—that I should not assume that it was to come out from under CTEC. It is a fairly reasonable assumption that I made and others made upon reading this media statement. I would expect that in the future the multicultural festival will come out from under the control of CTEC.

I suspect the minister is doing more than staging a strategic withdrawal so he is not eating too much humble pie as a result of what I believe is a backflip. It seems clear to me that other pressure, perhaps that of the Chief Minister, once again has resulted in Mr Smyth having to withdraw from a stance that he has previously had. I see no reason why in a media statement Mr Smyth should not spell out loudly and clearly exactly what he wants to do. In this statement today he has failed to do that, and the community is left wondering exactly what he means.

Mr Speaker, I seek leave to table that document.

Leave granted.

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**MR WOOD:** I present the following paper:

Canberra's Festivals—New office to support all of Canberra's festivals—Media release by Brendan Smyth (Minister for Business, Tourism and the Arts), dated 27 March 2001.

### **Hare-Clark electoral system—women candidates**

**MR STANHOPE** (Leader of the Opposition) (5.45): Mr Speaker, I would like to comment briefly on the issue raised in question time today by Mrs Burke's incredibly negative question on representation of women in the Hare-Clark system. The question suggested, falsely, that Michael Kerrisk had said that the Hare-Clark electoral system is unfair to women and purported to rely on a press release issued by Mr Kerrisk to illustrate that. In fact, the press release says no such thing. The question was based on a falsehood.

There was again some incredibly selective quotation in the amazingly negative, divisive and aggressive question that was asked by Mrs Burke. The truth of what Mr Kerrisk said was:

The Hare Clarke electoral system used here in the ACT, and the one chosen by the Liberal Party, is a brutal one. Let's not mince words. Increasing the level of female representation in the Assembly will not be easy. In fact, it will be very difficult indeed.

That is not to say the Hare-Clark electoral system is unfair to women. It just means that in the face of the circumstances that exist—namely, that we have an Assembly of 15 men and two women and that at this stage, as we understand it, all 15 of those incumbent men have indicated that they will be running again, or certainly in relation to both the Labor Party and the Liberal Party they have, and this is the point that Mr Kerrisk has made again and again—incumbency gives a candidate under Hare-Clark such a vital head start.

The question was not answered, but the question that was asked by Mrs Burke was: "Chief Minister, please advise me, a Liberal Party woman, what steps the Liberal Party is going to take to ensure that it increases the number of Liberal Party women in the Assembly to, say, at least 50 per cent of its representation?" Let us just assume the answer the Chief Minister might have given to the real question that Mrs Burke asked. Mrs Burke's real question was: "Leader of the Liberal Party, how are you going to ensure that at least half of the Liberal Party members in this Assembly after the next election are women?"

Let us now analyse that. The first thing we have to do is to ensure that Mrs Burke beats Mr Cornwell. So goodbye, Mr Cornwell. Mr Cornwell—and we all know this—will not be in this Assembly after the next election. I can tell you this for sure: Mr Cornwell will not be in this Assembly if Mrs Burke is. One or the other will not be here. Is it going to be Mrs Burke or is it going to be Mr Cornwell? Have you been tapped on the shoulder yet, Mr Cornwell? Have you been given the wink and the nod that you are to make way for Mrs Burke?

**MR SPEAKER:** Not for years, but I dream of it.

**MR STANHOPE:** Now we get to Mr Hird. Mr Stefaniak, who is here now, will agree with me on this: the Liberal Party will win two seats in Ginninderra. Who is it going to be, Bill? Who is going at the next election—you or Harold?

**Mr Stefaniak:** You never know. We both might get back.

**MR STANHOPE:** You both might be back, do you think? If you both get back, Bill, then there will be no women Liberal members in Ginninderra.

**Mr Stefaniak:** And there will not be any Labor ones if you and Wayne get back either, will there?

**MR STANHOPE:** We are not talking about that.

**Mr Stefaniak:** Oh, no!

**MR STANHOPE:** No, we are talking about Mrs Burke. I am prepared to talk about it. It is what Michael Kerrisk is talking about. Michael Kerrisk is being honest. He is saying Hare-Clark is hard for non-incumbents. He is saying we have 15 incumbent men in this place and it is going to be hard yakka. Who is going, Bill—you or Harold?

**Mr Stefaniak:** You or Wayne?

**Mr Stanhope:** No, what is the Liberal Party strategy? The *Canberra Times* has taken the Labor Party to task on this. I know that Ms Armitage is waiting for an explanation from either the leader of the Liberal Party or the secretary of the Liberal Party. I know she wants to report this. I know she wants to be even-handed and balanced. I know she wants to report on what the Liberal Party is going to do to ensure the election of more women. I know she wants to be even-handed. She has already written about the Labor Party. She has already taken us to task, and she is now waiting to take the Liberal Party to task and to examine its proposals for ensuring that Liberal Party women are elected.

We need to analyse who is going. Is it Bill or is it Harold? Is it Mr Cornwell or is it Gary, or is it Brendan Smyth? We also need to look at the honeypot effect that Mr Kaine's departure from the Liberal Party has had in Tuggeranong. I read incredulously that two of the out-of-seat Liberals that have nominated for Tuggeranong did so because of community of interest. They nominated in Tuggeranong because it is the only place they are sure a Liberal will pick up a seat. Let us get real about that.

**MR SPEAKER:** Order! The member's time has expired.

### **Canberra Raiders footballers**

**MR STEFANIAK** (Minister for Education and Attorney-General) (5.50): That was absolutely fascinating. I am not even going to comment on it.

I rise very briefly to commend the actions of three Raiders who potentially saved the life of some poor innocent victim who was being brutally beaten outside a nightclub in Kingston. Their actions were not only timely but incredibly courageous, especially when, as I understand from media reports, one of the assailants produced a pistol. I think it is

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proper to put on record my congratulations—I would hope I echo the thoughts of everyone in this Assembly—for the prompt action by those three fine young men, which could have saved a person's life, or at least prevented serious injury.

### **Canberra Hospital—equipment**

**MR MOORE** (Minister for Health, Housing and Community Services) (5.51), in reply: I take this opportunity to respond to the issue that Mr Berry raised about the high-tech cast. My responsibility in the public health system is to ensure that we can treat as many people as we possibly can with the best health care. A high-tech cast might be very convenient for somebody who likes having a high-tech cast because they can wash through it, or whatever the case is. That is interesting, and I can understand why people would choose such a cast. But if an ordinary cast is much cheaper and still delivers the same outcome, then we have to think twice about moving to high-tech casts.

That said, I do not mind checking to see whether what Mr Berry said is the case. I think that is really what Mr Berry is asking for. My guess is that the answer will be that the traditional method, the low-tech cast, delivers as good a health outcome, even though it is not quite so convenient. If that is the case, then we will not be looking at any change.

Question resolved in the affirmative.

**Assembly adjourned at 5.52 pm**