DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 June 2001

Thursday, 14 June 2001

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Petition
Hungarian Australian Club—land use policy changes

*The following petition was lodged for presentation, by **Mr Corbell**, from 637 residents:*

> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that we object to the proposed change to land use policy of Section 124 Blocks 2, 3, 14 and 15 otherwise known as the Hungarian Australian Club and adjoining vacant land. This change in land use policy will mean that our community land will turn into 3 storey high rise flats.
>
> Your petitioners, therefore, request the Assembly to not allow the proposed land use policy changes.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Land (Planning and Environment) Amendment Bill 2001 (No 4)

Mr Rugendyke, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR RUGENDYKE (10.34): I move:

> That this bill be agreed to in principle.

I table the Land (Planning and Environment) Amendment Bill 2001 (No 4), which aims to overcome historical siting errors in planning and land management records that can lead to defective development approvals for non-rural land.

Presently there is no requirement for development applications to be accompanied by a survey certificate that verifies existing siting details. The bill compels certain development applications to be lodged with such a certificate prepared by a registered surveyor.

Incorrect siting information has led to building height and location discrepancies that have resulted in referrals of disputes to the Commissioner for Land and Planning and the Administrative Appeals Tribunal for resolution. This amendment intends to prevent

errors being perpetuated and compounded by requiring development applications to be submitted with accurate survey details.

The bill proposes that applications to undertake development involving:

- alterations and additions to buildings in developed areas;
- additional construction in developed areas; and
- redevelopment in developed areas

a) are to be accompanied by a certificate from a registered surveyor that:
- shows the boundaries of the land where the development is to be undertaken;
- shows the location of each building or structure on the land; and
- verifies that any plans for the construction work lodged with the application are based on correct assumptions about the physical features of the land.

Mr Speaker, I was alerted to the anomalies in the system through a dual-occupancy development in Latham that had caused a raft of problems that could have been avoided if there had been a requirement for the developer to submit accurate and up-to-date siting details. It is a fundamental expectation that developments are based on accurate information. But unfortunately this does not occur on occasions and there is no mechanism to recognise the mistakes.

Incorrect sitings can lead to a host of building height and location discrepancies that result in time-wasting and expensive disputes. The Latham instance that I have become familiar with over the last 12 months or so dragged on for more than three years because the mistakes caused the dual occupancy development to be too large for the block. In short, the original house on the block was wrongly sited by a significant amount and it was this error that gave rise to a series of anomalies that are far too detailed to expand on further here today.

Among the approved solutions was cutting off the corner of the dual occupancy house in order to meet minimum distance requirements from the boundary and removing a car park to enable both buildings to fit. It is an extraordinary situation to square off the corner of a house to make it fit, and it is a situation that could have been avoided if the architect had designed the development with the correct information.

While it is now too late for that family in Latham to have the situation rectified, they would certainly like to see the Assembly do what it can to ensure that this does not occur to other residents. My further research on the topic indicated that this is not a one-off. It would be prudent for the Assembly to adopt this measure to safeguard members of the community from unintended consequences of such historical anomalies.

Of course, there are cost implications for the developers to obtain a registered survey certificate which contains three-dimensional information. While it is critical to locate existing structures, it is just as critical to address on a factual basis issues of overlooking and visual privacy. The benefit of investing to get the information right in the first instance certainly outweighs the time, despair and the expense of mopping up the problems caused by architects working off old or incorrect information.

A registered survey certificate has the capacity to verify what the architect is saying and in the long run eliminate unnecessary disputes and mistakes that are a blight on our planning regime. Mr Speaker, I commend the bill to the Assembly.

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

Auditor-General Amendment Bill 2001

Mr Quinlan, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR QUINLAN (10.40): I move:

> That this bill be agreed to in principle.

Quite clearly, Mr Speaker, this bill has its genesis in the Bruce Stadium fiasco—or more correctly, the performance audit process that followed the Bruce Stadium redevelopment. If you read the Auditor-General's report on the Bruce Stadium, you find that it is not a single problem or a single misdemeanour: it is a whole sequence of maladministration and, in fact, law breaking. The scandal would have been far greater had this happened in any other place in Australia. I guess we suffer from being in something of a political backwater—from being political minnows in the great scheme of things across Australia. There would have been a much greater reverberation if it had happened in the states.

As well as having had the benefit of reading the audit report, I have had informal discussions with the Auditor-General. He has pointed up the many references in the audit report that he prepared in relation to missing documentation. Of course, he also pointed up those areas where he just could not identify what had happened. We got to the ridiculous stage of not being able to identify the chairperson of a working party or a management committee. So the Auditor-General could not even identify who was the chair of that committee, or so-called committee.

But, more importantly, it is quite apparent that during the course of this very elongated audit the Auditor received information, data or claims which he then assimilated with other information, data and claims and drew conclusions which, in the interests of protecting the rights of the auditees, he then showed. As a result of that, all of a sudden he got different information, data and claims and found that he had to return to the well time and again.

This bill will not correct and amend all the difficulties that an auditor faces. The great limitation on an auditor is the fact that he can only work with information that is available. It is a case of everybody that is audited being innocent until proven guilty, even if there is a suspicion that the associated information has gone missing.

We have seen in recent times the government standing behind an audit report. The Auditor has been limited by the amount of information when auditing annual reports for the whole of government. He has had to audit in some difficult times. I think you could say that 1997 was part of the era of cowboy accounting in the ACT. A casual observer would say that the quite fanciful business plan for Bruce Stadium was crazy. The plan was supposedly audited and subjected to two checks—one by Arthur Andersen and one by the eventual project managers—and version seven or version 14 was accepted by government. But still, for all the challenges, the quite fanciful, incorrect and, quite

clearly, unsupportable figures that made up that plan remained. Nevertheless, this became the rationale for government decision. So the Auditor has this limitation.

The Auditor is limited in that he can only work with available information. This has been the case not only with Bruce Stadium but also with some of the financial accounting that we have seen, particularly in 1997. This government was clearly trying to create the old standard black hole when they cast back the books for 1995-96. In order to look good you really need to either perform well or in fact change the past so that people will say, "We're lucky to have you now."

The Auditor-General Amendment Bill 2001 is one step that we can take to try to assist the Auditor to require information, to require people to provide information. The bill requires auditees to provide information that the Auditor demands; for the information to be provided in a timely and complete fashion; and for the Auditor to be empowered to take evidence under oath. I think it is a somewhat sad reflection on the current government that the Auditor finds himself in the position of having to seek the power to take evidence under oath.

Just step back one yard from that request from the Auditor and draw your own conclusion about the processes that he went through in making his audit report in 1997. These are the processes that were generally occurring around about that time. As I say, 1997 was probably a very low point in the life of ACT government in terms of dealing with facts and figures.

In some small way this bill attempts to empower the Auditor to get closer to the facts. His ability to do this has been limited on a number of fronts. But, as I said, he is required at the end of the day to presume innocence until guilt can be proven. Unless he has firm evidence to the contrary, he has to accept what is provided. And you would think he would be able to do that. But for the Auditor to have to look for this sort of power is eloquent commentary on this government's administration and the way it has treated facts and figures. I commend the bill to the house.

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

Financial Management Amendment Bill 2001 (No 2)

Mr Berry, pursuant to notice, presented the bill.

Title read by Clerk.

MR BERRY (10.49): I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill is part of a package of measures to ensure that the education funding which has been misdirected to free school buses finds it way back into our schools. The Liberal government made a promise in 1995 that they would implement

a system of free school buses. They said that it would cost about $6 million in 1995. From that point forward, the election promise was completely forgotten—for good reason, because it was unaffordable. If cash was available it should have been put into our education system. I must say that I was surprised that Mr Moore would have supported a cabinet move to put education funding into free school buses.

Mr Speaker, this is a plan to provide free school buses to students who predominantly attend non-government schools and the remainder who attend government schools. The plan was formulated in the wake of the government's decision to slug parents by forcing them to double up on the cost of sending kids to school. By introducing the cross-zone fee system, the government has been charging people twice what they used to pay to send their children to school. According to government estimates, on today's figures it is costing families about $400 to go across zones. Of course, that cost has increased from about $200. The figures that have been released on the government's free school bus scheme confirm everybody's worst fears. Seventy-five per cent of school children will receive no benefit from the $27 million election sweetener.

Mr Speaker, I was warmly surprised to see that Mr Rugendyke, after his consultation with schools in the Ginninderra electorate, said publicly that money should be taken from the $27 million plan and put into fixing problems in our schools. This announcement was published on the front page of the *Chronicle* and went to all readers in the electorate. I will bet that statement from Mr Rugendyke was warmly received by all of the people in the school community in the Ginninderra electorate. Mr Speaker, that announcement has boosted my desire to proceed down the path of having that money put back into our schools. As I said, Mr Speaker, 75 per cent of students will miss out under this plan. What we intend to do, of course, is spread the money across the non-government and government schools.

Let me go to Labor's position in relation to this. We have announced that we will oppose the introduction of free school buses, as set out in the ACT budget. We said that we would move to amend the budget to delete the amount included for the free school bus scheme. We said that we will immediately move for the introduction of a single zone school bus fare system for all school students. We said that we would immediately move for the reallocation of free school bus funds to education in a shared arrangement between the government and non-government sectors. These funds are to be used on a needs basis with a priority on such programs as reducing class sizes in the K to year 3 category and support services for students up to year 12, together with any additional class size reductions which are achievable and appropriate. In many ways, these objectives are very close to the sorts of measures that Mr Rugendyke thought money from the school bus system should be applied to. So, according to his public statements, we are at one on this issue.

Mr Speaker, it became quite obvious to us that if the government was to implement this free school bus scheme, much of the money would be lost to the education system, especially because of the high costs that the government decided upon to make sure that this previously unaffordable election sweetener was implemented before the next election. They know that if they were to say to the electorate in the wake of their 1995 promise, "We will give you free school buses" everybody would say, "Go on, we don't

believe you." The free school bus issue is a bit like the Belconnen pool promise—it is a perennial one. I have got more grey hairs, and less hair, since that promise was first made.

All of a sudden this promise has emerged at the end of an electoral cycle when the government's stocks are down, when it has been the subject of much criticism over imbroglios like the Bruce Stadium, the hospital implosion, the Futsal slab, the Feel the Power campaign and so on. The removal of the Floriade fee is another election sweetener.

Unquestionably, this is election sweetener season. We are seeing some promises that are pretty much along the lines of John Howard's election sweeteners. Members will recall the $300 bribe to pensioners that was made by John Howard. I think this free school bus scheme will be received with about the same warmth as pensioners gave to the $300 bribe from John Howard. People will be entirely cynical about it, and for good reason.

Mr Speaker, proposed section 66AA (1) in clause 4 of the bill states:

> No payment of public money may be made for providing a new free school bus scheme unless the scheme has been approved expressly for this section by a resolution of the Legislative Assembly.

We think it is important that the money be saved for schools. We do not want the government to adopt an expensive scheme and waste money on hiring buses. We want to make sure that this money is not spent before the ACT election.

If a Liberal government wins the election, they can then proceed with it, if that is their wish. But nobody has won the election yet. It is highly doubtful that the Liberals will win. It is more likely that Labor will get closer than the Liberals but it is unlikely that either will win on their own. After a government of either persuasion has been formed, it will be open to this Assembly to authorise the introduction of a free school bus scheme. It ought to be authorised after the election, not before.

This is the sweetest of election sweeteners. It is so sweet that it has turned the stomach of many in the school community, and for good reason. They see it for what it is. They know that there is a need out there for smaller class sizes in the K to year 3 category. They know, I know, and members of this Assembly know that there is a need for much more money to support students right through to year 12. They know that it is important that we make an effort in our primary schools. They know that there are troubled areas in our high schools where students need more support. They know that this occurs not just in the government schools but in the non-government sector as well. That is why Labor has decided that we ought to come up with a shared arrangement to ensure that some of this money is distributed to people in the non-government sector as well.

Mr Speaker, a crucial part of our plan, of course, is to restore the single zone bus fare system which was wiped out by this government when they went into rip-off mode and targeted parents whose children mostly went to non-government schools. They ripped millions out of those parents by doubling the cost of sending their kids to school.

Brendan Smyth doubled the travel costs of children who are educated in the non-government sector. We are going to repair that damage. We will use this money to restore the single zone bus system.

We know what it will cost and we know that we can do it. We know that with this money we can provide a better education system for kids in both areas, rather than take this cynical approach of going out to try to buy the votes of a small sector of the school community. Mr Smyth, 75 per cent will miss out under your plan.

What Labor intends to do by way of this and other measures is redirect that funding into schools. We will redirect these funds into the government and non-government sectors under a shared arrangement. The funds will be used on a needs basis with a priority on the programs I mentioned earlier—programs such as reducing class sizes in the K to year 3 category and support services for students up to year 12, together with any additional class size reductions which are achievable and appropriate.

I go back to one of my earlier points: it is important that we save all of the money. We want to save the $27 million and we want to put all of it back into these programs. We want to see the whole community develop—not just 25 per cent of the community which is being given an election sweetener by a government that has lost all credibility because of its cross-zone bus fare scheme.

The government was stinging from the introduction of that scheme and they felt they had to come up with a big bang to try to buy back votes. I do not think that those parents can be bought off. Yes, there are many parents out there who would save significant amounts of money as a result of this government bribe, but at the end of the day they would rather have it put into schools.

Since I came into this Assembly nobody has said to me that the quality of our education and our education results would be improved by free school buses. Not one person has said this to me. We have never received any evidence, anywhere, that education would be improved as a result of free school buses. Even non-educators would fairly easily come to the conclusion that getting kids to the school gate for free is not necessarily going to improve their education. You have got to spend it in the schools.

Mr Speaker, an inquiry that Ms Tucker, Mrs Burke and I are involved in has identified many areas where this money could be well spent. Our committee has not received any evidence which suggested that the areas we are inquiring into would be improved by free school buses. But they will be under the proposal which Labor has put forward, and that is the difference.

Mr Speaker, there is no doubt that this matter is so important for the community that it ought to be an election issue. I think the Liberals thought, "Well, Labor won't be saying anything about this because it is a bonus for a few people out there." But this proposal is inequitable and unfair, and that is one of the reasons why Labor can quite easily criticise it. We stand for fairness in the community; you do not. You are trying to pick off a few votes with a big election buy-out. Well, it will not work because the rest of the community know that they are being sold out, and that is what we are here to prevent. We will be going to the electorate on the basis of our promise to save a big chunk of that money for use in our schools to improve education.

It will be interesting to see what line of attack the government will adopt. How are they going to argue that free buses will improve education in schools? They cannot. They cannot argue along those lines. It is fallacious to argue that free buses will improve the lot of kids in all our schools, and this has been demonstrated to be the case.

Mr Speaker, the Financial Management Amendment Bill 2001 (No 2) restores some sanity to the education debate. It puts the money where it should be—in our schools—and it guarantees improved education outcomes. There is wide acceptance in the community that there should be better education outcomes in our schools. We know that everybody wants that. People will not be bought off by cheap election bribes but they will respond warmly to attempts to improve education demonstrably in our school system. The proposal to save this money, to prevent it from being spent before the election, will do that, and I urge members to support the bill.

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

Fair Trading (Fuel Prices) Amendment Bill 2001

Mr Osborne, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR OSBORNE (11.05): I move:

> That this bill be agreed to in principle.

Mr Speaker, members may recall that about 18 months ago the Assembly passed legislation of mine to establish temperature correction of wholesale deliveries of fuel. It took over a year for the oil companies to comply with this requirement, but they eventually did so. As it happens from time to time with changes to the law, it turns out the act does need some finetuning. This bill gives the act a little tweak.

The act that was passed by the Assembly was well written and provided a minimalist approach to establishing the practice of temperature correction. Unfortunately, in this case, some oil companies have not done the right thing and seem intent on exploiting a form of words in the act that, as it turns out, are not specific enough. This bill changes that.

Rather than go over all the arguments for temperature correcting fuel, I will just briefly remind members of a couple of key points. As we all know, petroleum products change their volume according to changes in temperature. As they heat they expand and as they cool their volume shrinks. Different types of fuel react differently to changes in temperature, but they all change volume and all do so according to a precise scientific formula.

In Canberra our fuel supplies all come from warmer climates than ours, a factor that is obviously more noticeable during winter. Typically a load of fuel could leave Sydney in winter at around 25 degrees Celsius, arriving in Canberra at, say, 12 degrees Celsius air temperature, and zero degrees once it reaches a storage tank three metres underground.

Obviously, the volume of fuel will shrink in that example by about 3 per cent. When fuel is loaded in Sydney, the volume of the delivery is adjusted by the oil company to what it would be if it was 15 degrees Celsius for the purpose of paying federal excise. This is done quite simply by a gadget attached to the loading hose that does all the calculations.

Despite getting the benefit of only paying excise on a temperature corrected volume of fuel, the oil companies used to charge our service stations for every litre loaded. In the example given, the oil company would have paid excise on between 1 and 2 per cent less fuel than was loaded, while the service station would have had about 3 per cent less litres to sell than they had bought.

While this differential is much larger in winter than it is in summer because of our cooler climate, the ACT is the only jurisdiction in Australia where the service station loses out all year round. Over the course of a year, the difference is worth about 1c per litre—a cost that someone has to pay. With so few franchisees compared to retail outlets owned and operated by the oil companies, franchisees have long been disadvantaged if they attempt to pass on the costs of the phantom litres.

Mr Speaker, the legislation already passed by the Assembly has levelled the playing field. All wholesale transfers of fuel must now be temperature corrected to 15 degrees Celsius. Not only is this the benchmark that oil companies use when paying federal excise, it is also the process used when buying fuel supplies off each other.

The act has already been effective as, for the first time, service stations have been fairly compensated for their fuel losses. Documentation I have seen from one service station proves that. In fact, so effective has the act been that there are now moves under way to establish temperature correction in New South Wales and Victoria.

However, there has been a small glitch. Documents I have seen from a number of service stations show that some oil companies are not providing clear enough information on their delivery dockets and, far worse, are applying an additional charge for the privilege of their compliance with the law. Such a charge is unscrupulous, especially as the same charge is not being applied by the oil companies to fuel delivered to their own service stations.

While this latter situation has been referred to our Independent Pricing Commissioner and the ACCC for their investigation, this bill addresses these two main points, and I commend it to the Assembly.

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

Inquiries Amendment Bill 2000

Debate resumed from 29 November 2000, on motion by **Mr Rugendyke**:

> That this bill be agreed to in principle.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer) (11.10): Mr Speaker, the government does not support the Inquiries Amendment Bill 2000. I think our position was made fairly clear during the debate last year in this place on the question of whether the Assembly had the capacity to require the appointment of an inquiry under the Inquiries Act by virtue of a motion or resolution of the Assembly.

Mr Speaker, the bill provides that the Assembly can direct the executive to establish an inquiry under the Inquiries Act where there has been a resolution passed to that effect by the Legislative Assembly. It will be obvious to all members that this is a change from the previous position where the legislation was clear that the executive, and the executive alone, had the capacity to determine whether an inquiry would be conducted under the Inquiries Act. That separation of powers was reflected in the legislation in the ACT, that is the Inquiries Act, and it was respected by a very long period of practice, or convention if you like, in this and other places in Australia.

As a result it was the government's view from the outset of the debate about the disability inquiry that it was not appropriate for the Legislative Assembly to assume that it would be able to override the government's views and have an inquiry conducted of its own. It was, of course, open to the Assembly to have other sorts of inquiries, such as inquiries by standing or other committees of the Assembly, but the fact is that the Assembly did not take that view and decided that there should be an inquiry under the Inquiries Act.

Mr Speaker, in many ways the horse has bolted on this one. The convention that this is a matter for government has already been dismantled, or at least very badly damaged, and we are left today with the reality that the Assembly is able to impose its view on these matters. In a sense the question today is whether we should formalise that arrangement by formally placing in the Inquiries Act the provision for the Assembly to determine how and when and perhaps by whom an inquiry is to be conducted.

Mr Speaker, for consistency the government will oppose this legislation, but it is worth noting that the matter, in a sense, has already been resolved. The Assembly has changed the rules. It has decided it will have this power and there is much doubt, I suspect, as to whether that genie can be put back into that bottle.

The inquiry that was sought by the Assembly is under way at the moment. For the sake of the record, Mr former Justice Gallop has produced an interim report which at present is being considered by the government. I understand he is likely to seek an extension of time for further consideration of issues by his board of inquiry.

The reality of that inquiry going ahead needs to be balanced against the considerations for the longer term of the way in which this issue has been approached and how we end up in the position of having this power transferred from the executive into the hands of the Assembly as a whole. I believe in the supremacy of the legislature. It is directly

elected by the people of the territory. It is based on a very democratic franchise and it is appropriately the body to arrange for decisions to be made ultimately about the direction of the territory.

By the same token, our system of government is one where there are some separations of power that prevent the Assembly from having untrammelled capacity to make decisions. One obvious and more fundamental separation of power is between the legislature and the judiciary where we respect and uphold the right of judges and magistrates to make decisions which neither the executive nor the legislature can influence in individual cases, although the law under which decisions are made is determined by the legislature.

The separation of powers that occurs in the United States between the legislature and the executive is not so pronounced in the Westminster system, and in this system it is open to the legislature to change the nature of the boundary between executive and parliament. Indeed, Mr Speaker, over the last 12 years of self-government we have seen a gradual shift of power away from the executive into the hands of the legislature.

Mr Speaker, I cannot pretend to be squeamish about that because I have been part of that process. Indeed, on a number of occasions I have supported decisions that have continued that transfer from one side to the other. I have no doubt that anyone who is in the executive position tends to view these things with much more alarm and much more concern than someone who sits in other places in the Legislative Assembly.

But we do need to remind ourselves that there is still a division between the responsibilities of the executive and the legislature, and that if the legislature takes on responsibilities from the executive it wears both the credit and the onus that goes with that transfer. Decisions which are difficult, decisions which perhaps members would like to avoid having to make, necessarily become decisions which they have to share in when they as members of the legislature who are not in the executive acquire those powers or those responsibilities to themselves as a member of this parliament. The budget process is perhaps an illustration of that.

Mr Speaker, I think it is important for us to have a sense of where we believe the line should be drawn. I am not sure that I have a clear sense of where that line should be drawn in the eyes of the broader Assembly at present. I think perhaps we should consider just where the line ought to be drawn in making a decision about this legislation.

I think it is important for us to have the power, as a parliament, to inquire into matters which are very much matters of weight and importance, matters of consequence in the broader community. We are expected by the citizens of this territory to have the capacity to know what is going on, or to find out what is going on, and to supervise the things that happen in this territory which may be of concern to the citizens of this territory. But there is also a danger that in acquiring the power under the Inquiries Act to initiate inquiries we may be assuming a level of knowledge on the part of the members of the Assembly which is sufficient to make decisions in these circumstances, decisions which perhaps require a large degree of knowledge to know both whether to conduct and inquiry and what kind of inquiry to conduct.

Obviously government is privy to information from time to time which is very important, information which will temper and guide the way in which it makes decisions about different matters, and necessarily some of that information cannot be shared more widely with other people. There are some who have argued—the former Independent member for North Sydney, for example, Ted Mack—that there is no reason for any secrecy or for matters to be kept confidential within administrations. He was speaking from the point of view of a local authority in Sydney, of course, when he made those assertions. I have to say, with my experience in government, that I do not believe that that is possible, certainly not at this level of government. If one assumes that it is the case that governments sometimes have information which others do not share, it is to be assumed that there would be other reasons for considering the wisdom of doing certain things, including conducting inquiries under the Inquiries Act.

Mr Speaker, I think there are very good reasons for being extremely careful about the way in which the power is widened without the capacity to make a decision based on the full facts. But, as I have said, Mr Speaker, that threshold has already been crossed. Of course, it is also possible already to conduct quite comprehensive inquiries into these matters, and I have not been convinced, in any recent case at least, that there has been any shortcoming in the capacity of Assembly committees, be they standing or select, to be able to get to the bottom of matters if that is their wish.

Ms Tucker: What did you say yesterday, Mr Humphries?

MR HUMPHRIES: It is not a question of capacity, Ms Tucker. It is a question of will. If the committee has the will to get to the bottom of something, to examine it critically and comprehensively, it can do so. If it wishes to use an inquiry for other purposes, of course, that is another matter. I think the capacity of committees of the Assembly to have inquiries comprehensively if that is what they want to do has not been proven to be inadequate, and in those circumstances, to add another inquiry capacity, as it were, into the hands of members of the Assembly would be a mistake.

Mr Speaker, those are the government's reasons for being concerned about these matters. I do not believe that there is any evidence that the inquiry system has been exercised in a way in this place which could be described as being improper or in circumstances which were not warranted under the circumstances. We have had a number of inquiries under the Inquiries Act in the years since the legislation was enacted. There was the inquiry into the leasehold system by Justice Stein from New South Wales. There was the inquiry into matters relating to contractual arrangements between ACTTAB and VITAB. Mr John Burbidge conducted that. I think in both those cases there was wide support in the Assembly for such matters to be inquired into. It is unfortunate that the inquiry now being conducted by Justice Gallop is distinguished by being the first inquiry which was initiated in such controversial circumstances without there being real support. However, we have to expect more of that if the Assembly acquires the power to conduct these inquiries.

Mr Speaker, I think those are the government's arguments, put reasonably succinctly. I hope that members will consider the question not so much of whether this bill is passed today or not—as I have said, in effect the legislation is already in force—but the question of whether or not we have sufficiently defined how far we may go in these matters and whether there is a clear sense of what the legislature is able to do vis-a-vis the executive

and vice versa. I suspect that each of us, if asked to answer that question, would give a slightly different answer about how far one can go vis-a-vis the other. That being the case, it is not a good basis on which to proceed to provide good government in the ACT.

The question that has to be asked is: what is ultimately preserved for the role of the executive? What can the executive do that no-one could ever suggest should be decided by somebody else? I am not quite sure what that is at the present time, but, Mr Speaker, as I have said, this has been a process of continual change. Perhaps we should be clear that each change is a good change before we choose to make it.

MR STANHOPE (Leader of the Opposition) (11.23): Mr Speaker, I welcome the speech that the Chief Minister has just made in relation to a subject that is of considerable interest to me and I think to many others of us here in the Assembly. In his speech the Chief Minister referred to the fact that he believes views about the powers of the executive vis-a-vis the legislature change depending on whether or not one is a member of the executive or occupies some other position in the executive. I am not sure that that is entirely true. I think many of us in this place do have the capacity to view and to consider issues around the nature of the respective powers of the executive and of the legislature in a dispassionate way with a view to determining what we think is in the best interests of parliament. What is in the best interests of this parliament is also in the best interests of good government in this community.

On a number of occasions over the last three years, Mr Speaker, I have raised issues around the application of the Westminster conventions and the conventions under which this parliament operates with a view to generating some discussion, not just in this place but also within the community, and I have regretted the paucity of analysis from outside this place of the conventions under which this parliament operates. I think as a parliament that we are not well served in terms of academic or media analysis of the operations of this parliament.

I agree with the Chief Minister very much that there are a number of issues that face us in relation to the respective powers of the executive and the legislature, and the relationship between the legislative, the executive and the judiciary, that have not been well considered and have not been well thought out. We sometimes use as a justification for the lack of analysis the fact that we are a young parliament and that we are finding our way, and that seems to me to suggest that there should be a far more detailed analysis of the conventions that affect this place. It is something I have quite strong views about, and, as I say, I was encouraged by the very considered remarks which the Chief Minister just made. I am quite prepared to suggest that I share very many of the concerns that he has raised in terms of the rules and the conventions under which we operate.

Having said that, I must say that many of the concerns that I have had in relation to the blurring of the lines between the executive and the legislature are a result of the actions of the executive, which at times I have felt were perhaps inappropriate or unacceptable or in quite clear breach of my understanding of the standard or usual Westminster conventions under which, on a reading of *House of Representatives Practice*, I have always assumed were applicable in this place. I have raised the point in some ways in the same way that the Chief Minister just has; that there is a very obvious blurring of the application of some of those principles in this place, and that is very difficult.

In the past I have gone to *House of Representatives Practice* and I have sought advice from the Clerk on a number of issues around the application to us of the Westminster conventions as a result of some confusion that I feel about the implications of their application and the implications of the fact that they are blurred. We have established practices and precedents in this place in a whole range of instances going to the budget, as the Chief Minister has mentioned. There is a non-governmental minister in the cabinet who has a list of issues in relation to which he has declared that he will not be bound by the usual conventions in relation to cabinet solidarity. I am not being personal here. That raises a number of issues which we on this side of the place have grappled with and have struggled to accept. There has been a very distinct blurring, to the point where normal conventions, conventions that we understand would apply to most Westminster parliaments, cannot be said to apply in this parliament.

It is a matter of concern, as the Chief Minister says, that at times we operate here on the basis of rules that we are developing as we go along, but the rules are not being written down anywhere. The precedents are not being recorded, as they are in *House of Representatives Practice* for instance. When we look to understand the conventions or the rules that apply in relation to parliamentary practice in this place we discover that they do not really apply at all. There is no document in effect, Mr Speaker.

I have often thought that we have probably reached the stage after 12 years of self-government when perhaps the Clerk of this place needs to develop an addendum to *House of Representatives Practice* as it applies in the ACT Legislative Assembly. I think we have reached that position. We have changed. We have altered the conventions. We have established a number of precedents that indicate that we have departed from a range of accepted conventions in relation to Westminster parliaments. I agree with the Chief Minister that there needs to be some device, some forum, some capacity for us as a parliament to decide on a process for recording the departures from convention that we accept as part and parcel of the operations of this parliament.

I think this is a very useful discussion. As the Chief Minister said, one's views of some of these issues are affected by the position one occupies in this place, but, as I said, I think each of us has the capacity to look a little more broadly at what is necessary for the appropriate functioning of this parliament.

I want to turn to the specifics of the bill that we are debating here today. I think there are a couple of things that could be said about it. At the time that there was debate within this place and within the community about the desirability of the inquiry into disability services in the ACT there was a very clear expression of the will of the majority of the members of this Assembly that such an inquiry, a significant inquiry, be undertaken. That was a concern and a desire that was reflected within the community as well. I think the government did respond to that pressure, or to the acknowledgment of that concern, in its appointment of Justice Gallop under the Inquiries Act. I take the point that the government, in establishing the inquiry, in effect has acknowledged that level of concern. The Chief Minister suggested today that the government, having relented or having acknowledged the level of concern, acted and established an inquiry under the Inquiries Act. It seems to me ironic that after the event we are now debating a piece of legislation that perhaps would have denied the executive the capacity to make the decision it ultimately took.

I am quite happy to say that we will not be supporting this bill today. I am not quite sure, had the government retained what I thought was a recalcitrant attitude to the need for an inquiry, whether the Labor Party's position would be what it is today. I believe and I accept that the government responded in a way that we would have responded at the time, and it responded without the necessity of this Assembly debating a bill which would have forced it to do so.

Once again we come to the point that we have a minority government. This is another perhaps uncomfortable feature of being a member of an executive in this place in a circumstance of minority government. There is a suggestion around that we have institutionalised minority government. It is a result perhaps of what we regard here in the ACT as the institutionalising of that that we do have this very distinct blurring of so many of the so-called conventions or rules, particularly those that relate to the executive vis-a-vis the legislature, and in this instance with some carry across in relation to the relationship between the executive, the legislature and perhaps the judiciary.

To some extent much of what the Chief Minister said in his speech really was a commentary on the difficulties inherent in managing, as an assembly or a government, in a parliament in which you do not control the numbers. That is another debate. A debate about the relationship between the executive and the legislature in this parliament, where we have had nothing but minority government, will be different from a debate in any other parliament where there is majority government. That is a simple fact of life at the moment.

There are separate elements in any debate on whether or not a minority government should accept the will of the majority of the legislature whilst not trampling or trespassing on the executive's inherent rights and need to be able to take the decisions of an executive meant to govern in the best interests of the community. You have no argument with me, Chief Minister, that majority government delivers better government than minority government. I am not sure that you are suggesting that.

Mr Humphries: I did not say that.

MR STANHOPE: I am prepared to suggest it. I am prepared to maintain that I see nothing in the operations of this parliament with minority government that is an enhancement of the democratic process. I see nothing in this parliament that leads me to believe that minority government delivers better outcomes or better government than majority government. I need to be convinced of that. My 3½ years of experience in this place does not lead me to that conclusion. But we have accepted the fact of Hare-Clark and we will operate within it. We will campaign within it, but that does not mean that we accept minority government as the desirable outcome of Hare-Clark. I do not believe there is any correlation between the two. I will conclude on those remarks.

I think it is good that the Chief Minister has approached discussion on this bill in the way that he has. I think it is well past time that we as a parliament thought more seriously about how we can advance a debate about the conventions under which this parliament operates. We are well past the date when we do need a clearer understanding. I think it would avoid some of the frictions, perhaps some of the unnecessary frictions, that are an incident of a vigorous democracy. There is a real misunderstanding about the appropriate role.

I must say that to some extent some of my aggravation is focused on the role which Mr Moore plays as a member of cabinet. It is something that I still do not fully understand, that I am not particularly comfortable with, to the extent that it has blurred what I regard as a significant issue in terms of accountability of governments, namely, the need for some understanding of what is a government's decision. That boils down, so often, to whether or not each member of the executive agrees to be bound, as a unit, to decisions that the executive promulgates. This is another significant blurring. It is one of those areas that I do not think we have thrashed out well and that there is not a unanimity of understanding about.

I raise that, Mr Moore, without wishing to be personal, but I am still not fully aware of the real change to the conventions that we have adopted here, and whether we have adopted it forever. You have one view of it and I have another. There is another view somewhere within the depths of *House of Representatives Practice* that perhaps we could all fall back on or ignore if we choose if it advantages us to ignore it in any particular circumstance.

I think this bill is unnecessary at this point. I accept much if not most of what Mr Humphries said in his comments on this. I do acknowledge, of course, as always that some of the comments he made about the government's positional response simply reflect the politics of the position which the government has taken and has been forced into in relation to the matter.

MR SPEAKER: Before I call Mr Kaine, I would like to acknowledge the presence in the gallery of years 4 and 5 of Duffy Primary School. Welcome to your Assembly.

MR KAINE (11.38): I will be quite brief because I think the Chief Minister and the Leader of the Opposition have spelt out some important issues here which have slowly emerged during this interesting experiment in minority government that we have in the territory.

I will not support this legislation because I think we have to be careful how far we go in diminishing the responsibility and the accountability of the executive. We could, over a period of time, enact all sort of legislation, each in itself slowly diminishing the responsibility and accountability of the government and consequentially making us all collectively responsible rather than making the executive responsible, and I think that is a dangerous process, particularly when the debate that the Leader of the Opposition spoke about has not really taken place.

Looking back over the last 12 years, there have not been very many occasions when the majority of the Assembly has taken issue with the government over a decision or a non-decision and tried to impose its will on the government. Those circumstances have been quite rare. So I think we can say that, in general, executive government in the territory, despite the fact that our governments have all been minority governments, has been effective. There has been some blurring, as the Leader of the Opposition said, in the various responsibilities of the executive as opposed to the legislature, even in some cases the responsibilities of the administration versus the responsibilities of the executive and the legislature.

I think some strange things have occurred that would raise questions about the old conventional wisdom and the Westminster practice of the separation of powers between the executive, the legislature and the administration. We have managed to deal with those, mostly, and we have accepted a sort of evolutionary process, if you like, although we have not codified it.

Perhaps it is time to do some work, not necessarily to codify it but to describe the operating procedures of this legislature and this executive in light of 12 years now of practical experience, because we have evolved in a different way from conventional Westminster parliaments. There is no doubt about it. Maybe some of the people who come into this place for the first time, even if they understand the principles of Westminster parliaments, do not grasp the nature of this beast and how it really works in practice. So perhaps it is time to set down some information about that so that newcomers can be clear on the environment that they work in.

I think there will always be times when there is a test of strength between the executive and the legislature. In the case of a minority government, I think there are mechanisms available to us which can bring the government to a realisation of the situation that they are in; but that depends upon the will of the non-government members of this place to take a strong stand and make it clear to the executive that what they are doing, or what they are refusing to do, is unacceptable or that it is contrary to the public interest in fact. Now, if we cannot do that by debate we are all failing.

I do not believe that we should set everything into law, into statute, in order to somehow control the executive beast. I think there are other ways. We are rational human beings and we ought to be able to deal with those problems in a rational way.

For that reason, Mr Speaker, I endorse the comments made by both the Chief Minister and the Leader of the Opposition. I think it is time for us to look over our shoulders, do a review, look at the way our system really works as opposed to the way that some people think it works, and to set that down in some form, perhaps not going so far as to codify it but merely to describe it so that people can understand it.

I do not believe that this sort of legislation is helpful. The danger is that every time we enact this sort of legislation we diminish the responsibility of the executive and our ability to hold them responsible and accountable for what they do, because they can always say, "Well, you took the responsibility away from us with this piece of legislation." It therefore becomes necessary to re-define the boundaries of where the executive is responsible and where it is not responsible. I do not support the notion of legislating every time we run into an operational difficulty with the executive. I do not support this legislation, but I do support the notion that we should be having a look at the way that we do business so that the government, the executive, is clear on what we, the members of this place, expect of it.

MR MOORE (Minister for Health, Housing and Community Services) (11.44): Mr Speaker, I think Mr Kaine was quite right when he talked about the Westminster process evolving in this place, but that is not unusual. The Westminster system, as practised in the parliament in the United Kingdom in London, evolves wherever it goes. The practice is quite different in the House of Representatives. It is quite different in Canada. It is quite different in a range of other places. I was very fortunate to represent

this Assembly at a Commonwealth Parliamentary Association meeting on Westminster, as did Mr Berry some years earlier. We see it applied differently in every place. We expect it to evolve, and evolve it will.

As part of that evolutionary process in my mind, I proposed quite some years ago a system of what I referred to as binding motions. I put out into the public that we ought to have legislation in place so that when the Assembly passes a motion it has some restrictions on it, but that a binding motion binds the executive to do what the Assembly wishes. At the time the Clerk and Deputy Clerk spent quite some time with me explaining the ramifications of that in terms of the separation of powers. It was following those discussions that I realised the approach I had taken was simply wrong. In my view it interfered with that separation of powers in a way that would create more problems than it would resolve.

What would happen was that a decision would be taken where the responsibility actually lay somewhere else, and that would be inappropriate. For that reason I moved away from that notion of binding motions and did not proceed with it. I put that argument, I think, when Mr Rugendyke indicated that he would be introducing this legislation.

I think this leads to something else that Mr Kaine touched on about how this Assembly should operate and where should we draw the lines. Mr Stanhope touched on it also. I will come to my position in the cabinet. Mr Stanhope is quite right. It does raise the same sorts of issues. We have run into a number of matters that my presence in this cabinet raises.

First, I would like to say that we have made some mistakes in the process, and I have been involved in some of those mistakes. I think the first and the most fundamental of those mistakes, Mr Speaker, was an amendment which you put and which I supported to a budget which affected what Mr Wood had responsibility for in education. It was wrong. We made a fundamental mistake to interfere with that budget package. I see a reiteration of that same mistake in the legislation that Mr Berry tabled this morning. There is a slight difference. I do not suggest there is not.

Mr Stanhope: We are relying on your precedent, you see.

MR MOORE: Indeed, it was a precedent. Mr Stanhope says, "Yes, and we are relying on your precedent." That is why we need to try to codify some of these things and sort out between us what is a precedent. Was it a good precedent? Was it a bad precedent? What are the mistakes that we made? When you are in opposition and you have an opportunity and the precedent is there, of course you will follow it. I am trying to be—

Mr Wood: We will go back and change it. Recommit the vote.

MR MOORE: You cannot go back and change it. In the same way that Mr Stanhope was careful not to make this a personal matter, I am trying to talk about the principles of this matter. There is a real issue about what is the power of the executive and what is the power of the Assembly, and I think it comes back to the fundamental notion of what the executive takes responsibility for. It may well be that in a few months Mr Wood and Mr Stanhope will be sitting on this side of the house wrestling with these issues as well.

Therefore it is a very good time for us to consider where do you interfere and where do you not interfere.

What is very clear to us, from what people have said today, is that the legislation that Mr Rugendyke has put here today does go too far. It does cross that line. But we should use the opportunity to ask what is the line? Where is it? How do we handle the likelihood that many of our governments over the next few years will be minority governments? I do not expect that all of them will be. I expect there will be a time when the community says, "Enough. We want a clearing. We want somebody to get out there and take action," and there will be a majority government.

I have to have this one little dig. I heard Mr Stanhope speak about the advantages of majority government and how he would like to lead a majority government. I was reminded of the way I believe he mistreated Mrs Carnell in a very significant way. Had she been in a majority government she would still be here sitting in that seat. I think you would agree that that is true. I have to say, Mr Stanhope, that I hope that treatment comes back to visit you. I genuinely hope that it does come back to visit you if you are Chief Minister at some stage. I still believe that the precedent that you have set in the way you pursued her with the accusation that she had broken the law is appalling. I said I would have my dig. I have had my dig. I appreciate the fact that you—

Mr Stanhope: It is very hard for me not to respond.

MR MOORE: You even managed to control yourself and not respond, which is absolutely brilliant. There are a series of conventions that I will touch on in terms of my role in cabinet. I think the first and most important of the conventions that we set was that wherever I have responsibility for a portfolio area I am bound by cabinet. That is the first one. The second one is that when I wish to take a different perspective from the cabinet I absent myself from the cabinet on those issues.

It may be interesting to members to know that in most cabinets I absent myself. Very often it is two or three times in the cabinet. So there are some conventions. It did raise issues. It is part of the evolution of a place like this. It may be a one-off, it may never be repeated again, but it has raised interesting issues.

I think it might be interesting for members to know that even though we are in the middle of a debate on the Electoral Act on which I have a very strong difference from my colleagues, at no stage has it become a personal matter. We have discussed it. We have discussed it at length. I think they are very wrong in their approach to this matter. One of the interesting things that have happened is that again and again, and I think the Chief Minister would agree with me, we have had differences of opinion on ideas but there has been no interference with a personal relationship. Unfortunately we sometimes lose sight of this in the Assembly as a whole, and I think that is very disappointing. It does not happen always. There are lots of times when we have managed to disagree but we understand that it is just a difference of opinion.

There is something else that is worth commenting on. I have listened to people here saying no, that we ought not support this bill of Mr Rugendyke's. This raises the issue of when the legislation was originally tabled. It may have been bluff, and that is something that you are the only ones who can judge, that members were going to support

Mr Rugendyke's bill had we not appointed an inquiry into disabilities. As I say, it may well have been bluff, it may well have been poker, but certainly the Chief Minister and I believe very strongly that that would have been the case.

One of the things that influenced the executive in its decision to appoint Justice Gallop was that this legislation would be another step in interfering with the separation of powers. It may well have been a very good bluff on the one hand. We see now that it was not just a bluff, and there is an element of hypocrisy. You have to judge yourself whether that is true or not.

There is something important about this. Mr Kaine said we should try to find a way to codify what we are doing. In the heat of the moment, in the heat of a political debate when an issue is really pushing us—we have all been there and we have all played the game, and we have all made mistakes in this—we are more likely to forget the principle and drive through for the political advantage. I am not pointing a finger at anybody here any different from anybody else. I have been there. I have done it. I just indicated that the amendment that Mr Cornwell moved, which I also pushed very strongly, was a mistake. It was done in the heat of the moment in the same sort of sense. So there is a very good reason for us to do it, and I think it is a challenge for the Administration and Procedure Committee.

I think the Administration and Procedure Committee should begin to look at where we divide those lines so that when it is written we can say, "Well, are we going to change this now?" It never becomes a document that is immutable, but it does make us stop and say, "Are we going to change that? What reason is behind our changing it? Do we interfere with the driving principles of the separation of powers, which I think we all see as fundamental?" For those reasons I will be opposing the bill.

MS TUCKER (11.55): The Greens will not be supporting this legislation either. Just on the last point of Mr Moore's suggestion, we have had that debate over the last couple of weeks in this place. I do not know that it is necessarily appropriate to try to shift the responsibility to the Administration and Procedure Committee. The whole question around the draft budget was related to exactly that blurring of power. The Labor Party has one position and you and the Liberals have another position which is different, and that political debate has obviously been occurring in that particular area. My position there is considered and not totally clear, I have to say. I can see that there are some dangers with the draft budget process and I also like to see consultation with the community. So I think, without reflecting on the Estimates Committee—no, we have not voted on it—and that debate that occurred regarding the draft budget process, that was really exactly what we were talking about, these sorts of blurring powers.

Mr Moore is correct to say that I certainly was expressing an interest in Mr Rugendyke's legislation when he first suggested it. I expressed an interest and I sought advice, and I do not think it is the correct thing to support. That is why I am not supporting it today. I understand why Mr Rugendyke put it up. He was frustrated at the arrogance of the government's response to what was an extreme majority of the Assembly's wish to have an inquiry into how people with a disability in residential care are being supported, and for that reason he proposed this legislation.

However, after considering the issue very seriously, we are not able to support it, for similar reasons to those put by Mr Kaine, Mr Stanhope, Mr Humphries and Mr Moore. It is a blurring between the executive and the Assembly.

I noticed in the paper today that Mr Rugendyke said he wanted to keep the bastards honest, but what he is doing with this legislation is making himself one of the bastards because he is removing that separation. He is making it a collective responsibility and you no longer have the capacity for scrutiny of the executive because it is not the executive's decision to have this inquiry. That is exactly the blurring. We all become collectively responsible. So who is actually going to be giving the scrutiny? Who is going to be scrutinising this decision? Who will be able to scrutinise whether in fact it is correctly put together, and whether the terms of reference are correctly put together and so on? So there are significant dilemmas here because we have got an inquiry that I think we needed.

There is another way that we could have dealt with this, which is politically. If we have a piece of legislation like this, it has no penalties. The government can still ignore, as it has often chosen to ignore, the will of the majority of the Assembly.

Mr Moore explained, and we know, that a motion is not binding, but we have seen a very clear will of the majority of the Assembly ignored by this minority government. When there has been a suggestion that they could be penalised for that politically, through a censure motion or a no-confidence motion, it has often been Mr Rugendyke and Mr Osborne who would support that. In fact, Mr Rugendyke has said on several occasions publicly that it is the government's job to do its job. It is the government's job to do its business, and Mr Rugendyke does not see that it is his role to obstruct that, which is a very inconsistent position with what his legislation is doing today. So I am not quite sure where Mr Rugendyke is coming from in his general philosophy or approach to the Westminster system and the role of the executive at all, because his statements on it are inconsistent.

My concern is that this legislation would not achieve anything except a further blurring of the powers between the executive and the parliament, and therefore the accountability of the parliament. If we are interested in keeping the bastards honest, as Mr Rugendyke said, although it is not necessarily the way I put it, then you have to be careful about doing things like this, because you are actually removing that capacity.

MR WOOD (12.00): Mr Speaker, I think it is a bit late for me to move that we recommit that vote on that education budget back in about 1994 or thereabouts.

Mr Kaine: Well, you could try, Bill.

MR WOOD: I do not think that would achieve a great deal today. I think all speakers acknowledge that this is a debate we need to have, and thank you, Mr Rugendyke, for initiating it. In the end, how do you express the will of the Assembly? That is a point Ms Tucker was just making. How do you express the will of the Assembly? Is there a demarcation? There is certainly not a clear demarcation between the rights of the government as against the will of the Assembly.

I remember an occasion when Mr Moore came into the Assembly many years ago when I was a minister and made claims in quite a different area, and I almost instantly said, okay, we need an inquiry, and the Todd inquiry came about. I think that was an acknowledgment that there was an issue sufficiently important to have an inquiry. Now, if I had said, "No, that's nonsense; we are not going to do anything," and took no notice of you, what would have proceeded from there? Just how far do we go? I do not know.

Things certainly change and perhaps we might need to take a step back. Mr Kaine says we should think about codifying it. Well, how do you write that into legislation? I like the idea, but is it just practice then? Someone soon, Mr Speaker, will write up the legislative procedures and we may go from that. Perhaps after 12 years we are getting to that stage.

They are very interesting points and we need to carry on this debate, perhaps after the election. We do need to sit down, perhaps in committees informally, and perhaps also in this place, and debate these issues further so that we can define exactly how the Westminster system works in this little part of that large complex of Westminster systems. Let's carry on the debate at a future time.

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): Mr Speaker, I was going to exercise a right under standing order 47 to speak again, but I think I should just seek leave to speak again.

Mr Wood: I don't like it, but, anyway.

Leave granted.

MR HUMPHRIES: Well, you might not like it, but I think it is worth doing two things, emphasising what I said before to make it clear to members what it was that was being said. Since having made my remarks, members have been rushing forward to defend the right of the executive to make certain decisions and to exercise power in certain matters over the hands of the Assembly as a whole. I am gratified by the support for my remarks, but I have to emphasise something I said as well in my remarks which needs to be understood.

In a sense the passage of this legislation today is irrelevant because the power of the Assembly to require an executive to conduct inquiries under the Inquiries Act is already clear. It already has that power. It has that power because the convention was changed last year. The fact that I have got up today and argued that the Assembly should not have that power does not mean that it does not have that power.

It has been something of a shock to me today to sit here and listen to people, who just a few months ago were quite prepared to force the government's hand to conduct this inquiry, now saying that it is terribly important that the executive be insulated from certain decisions of the Legislative Assembly.

Mr Stanhope: You could have said no. There is absolutely no logic in your argument.

MR HUMPHRIES: No. We were being condemned by your colleague Mr Berry for showing contempt for the Legislative Assembly by not respecting the decision it had made to conduct an inquiry. You were saying that, Mr Kaine was saying that, Ms Tucker was saying that, and I think Mr Rugendyke was also saying that the executive had to give way when the legislature was imposing its view about these matters.

Mr Wood: It is probably the case.

MR HUMPHRIES: If it is the case, what difference does it make whether it is effected by an amendment to the Inquiries Act or by a binding resolution on the floor of this Assembly? What difference does it make? Mr Speaker, it makes no difference whatsoever. None whatsoever. I will put on the record the fact that, the cat having being released from the bag, it will be used again. I do not rule out the fact that people on this side of the chamber will be prepared to use that power again because—

Mr Stanhope: If you have got the numbers I am sure you will.

MR HUMPHRIES: All I know, Mr Speaker, is that governments tend not to have the numbers, wherever they may be. I put that very clearly on the record for the next time this debate takes place. I might not be around when it takes place. Some of us might not be around, but the fact is that it will take place again, and I send this message to posterity. The power is there. Whether this bill is passed today or not is irrelevant.

We are being consistent by voting against the bill because we argue that power should not be created. But, frankly, it is a bit inconsistent to see some people who argued for the power of the Assembly to impose its will saying today that—

Mr Stanhope: Disingenuous.

MR HUMPHRIES: Yes, it is disingenuous of you, Mr Stanhope.

Mr Stanhope: You are being disingenuous in your argument.

MR SPEAKER: Order, please!

MR HUMPHRIES: No, I am not. I am not being disingenuous. You are being inconsistent by saying in December that you think the executive should do what the Assembly wanted, and today, in June, saying, "Oh no, the Assembly must not be allowed to force the executive to do what it does not want to do with respect to inquiries." Sorry, but it does not wash.

Let me also indicate that I think Ms Tucker was in error when she said that it was open to an executive to ignore a resolution moved or passed under this legislation. Clause 5A (2) says:

> The Executive must exercise its power under section 5 to appoint a board of inquiry … within 21 days after the resolution is passed.

That is the resolution in clause 5A (1).

Mr Wood: Come on. we don't want a rehash now. We were generous to you. Be fair. We were generous letting you speak again, but do not go for 15 minutes.

MR HUMPHRIES: Okay. I am not going for 15 minutes. If you stop interrupting I will be finished in about another 30 seconds.

Mr Wood: Okay. I am watching.

MR HUMPHRIES: Fine. So subclause (2) makes it clear the executive must exercise this power. It must act as required by the legislature. So if an executive fails to do that it can be forced in a court of law to do so, because to fail to do so would be a breach of the law, not merely a contempt of the Assembly. I simply say that to make it clear that this is a step further than that which was taken by the Assembly before, but it is qualitatively no different, Mr Speaker.

MR RUGENDYKE (12.08), in reply: It has been a very interesting debate and I thank members for their contributions. I think it was important to bring this bill forward in this form in order to flesh out things that have come to light and have been considered over the last several months.

As you recall, this bill was initiated as a result of the government's refusal on two occasions to accept motions, carried with the majority will of the Assembly, to conduct an inquiry into disability services in the ACT. Kicking and screaming, they were dragged to the table to initiate this inquiry. As it turns out from things that are coming out of the Gallop inquiry, the call for that inquiry has been vindicated.

Mr Speaker, that aside, it is important to note the things that have come out of this debate today. The debate had to be had. The speakers, Mr Kaine, Mr Moore, Ms Tucker, all members, and both major parties, have made valid points. The advice of the Clerk has been important in this debate. So, Mr Speaker, rather than just withdraw this bill from the notice paper, as could have been done, it has been important to have the debate. It has been important for the debate to continue, and it has been important for members to recognise the need to examine dilemmas such as this, given the different aspect of our Westminster system that we have here in the territory. We see many variations to traditional Westminster aspects of governance. We see a difference in the way the health minister is a part of the cabinet.

Mr Berry: Wait until tomorrow. It will be different.

MR RUGENDYKE: It may well be, but it does highlight the need for examination of the way we do business. Do we need an addendum to *House of Representatives Practice*? It may be appropriate. The differences in the Westminster system we have here certainly need to be recorded.

Mr Speaker, I thank members for their comments. I urge members to continue this debate in order to ensure that the guidelines are there to let us know where the line ought to be drawn regarding the separation of powers. The separation of powers is a very important aspect of the Westminster system and it is important not to interfere with that.

As I said, rather than withdraw this bill from the notice paper, its need having passed, I thought it important to bring it out into the open, to have the debate, and to find out the direction for the future. I think it is important that that happens, and I thank members.

Question resolved in the negative.

MR SPEAKER: I know it is not normal for the Speaker to editorialise, but may I just comment that I thought that was a very thoughtful, reasoned, and civil debate on this matter. It is a pity that people outside cannot always be privy to things of this nature. I think the matters that have been raised are very important in terms of the parliamentary aspects. I will be talking to the Clerk to see whether the Administration and Procedure Committee should examine some of the matters that have been raised. Mr Stanhope, as Leader of the Opposition, raised some good points on this, as did the Deputy Speaker, so we may pursue that, Mr Rugendyke. Thank you, members.

Watson—review of Territory Plan

MR CORBELL (12.12): I move:

> That, pursuant to subsection 37 (2) of the *Land (Planning and Environment) Act 1991*, the Legislative Assembly recommend to the Executive that the ACT Planning Authority be directed to review the Territory Plan as it relates to Block 1, Section 72 and Block 1, Section 80, Watson, so as to not permit residential development and to revise the land use policy to urban open space.

I am very pleased to be moving this motion today. The area of north Watson bounded by Stirling Avenue Reserve, Antill Street, and Northbourne Avenue has been proposed for residential development since the early 1990s, and the area is designated on the Territory Plan for residential land use. This proposal occurred following an inquiry of the planning committee of the Assembly at that time and has been the subject of considerable controversy ever since.

This motion is intended to give the Assembly the opportunity to review and, indeed, change decisions previously taken in this place. The question has to be asked by all members: why is it appropriate to change the land use policy for north Watson? The Labor Party has come to the view—and I have also come personally to the view—that the area of north Watson is of significant environmental value and that this warrants its removal from the residential land use policy and its inclusion at the very least as an area of urban open space.

The north Watson area is an area of yellow box/Blakely's red gum grassy woodland, although it has a degraded understorey—that is, a degraded grassland element. This type of woodland is highly endangered. I will give you some background. This woodland site is approximately 14 hectares. The yellow box/red gum grassy woodland ecosystem is an endangered ecological community in the ACT, but this site is not included on the government's listing, because of its degraded understorey.

However, only 5.2 per cent of the total pre-European settlement distribution of this woodland type remains in the ACT and the southern New South Wales region and, across the region, only 5 per cent of this 5.2 per cent is reserved. That is an extremely

small amount of this level of woodland being reserved across the region. That figure falls significantly below the nationally agreed target of 15 per cent of each forest ecosystem type being protected in a comprehensive, adequate and representative reserve system, as part of a national forest agreement.

The ACT is a participant in this process, and the ACT does on the whole have a very good record when it comes to protecting endangered ecological communities and endangered ecosystems, as well as species themselves. But if we look at what is left of this type of community, which is well below the nationally agreed figure for the preservation of such a forest type, and the fact that this particular site has considerable capacity for regeneration of degraded understorey, it warrants this Assembly looking at the issue again.

One of the key factors in the Labor Party's consideration of this issue was the protection of the woodland component of the site. I must very clearly state that it was a decision of a former Labor government to originally designate this site for residential development. But as new information comes to light and new factors come into being, it is appropriate to reconsider those issues, and that is what all of my colleagues and I have been doing in the past 12 months.

One of the key factors has been the release of a report entitled, *The ecological values of the Watson woodland: a case for preservation*, which was commissioned by the Watson Community Association. The report notes that the woodland is important because it represents this type of forest community and it is at the lowest altitudinal component of the gradient of open forest and woodland communities that extends from the ridge of Mount Majura down to the limestone plain floor. It also notes that there is a rarity of examples of this type of transition community already in the ACT.

The report identifies that this sort of woodland community—in particular, this site—has been identified as a habitat for a range of endangered woodland bird species and that there are already sites adjacent to the Watson site where bird species such as the regent honeyeater, the hooded robin, the swift parrot, the superb parrot and the painted honeyeater have been known to nest or visit.

The government proposes that this site be developed for residential use in the next two to three years. The government argues that the site can be retained and protected for development through appropriate management measures, tree preservation measures for many of the trees on the site and the inclusion of a small 5-hectare site as urban open pace.

I argue that the government's approach is fundamentally flawed. It is flawed in one very important respect: that preserving only part of the site diminishes the capacity of the site to be a representative element of this endangered ecological community. Just as importantly, permitting residential development in the remaining component, with tree protection measures, does not allow that woodland to continue to operate as an intact ecological community. Indeed, given the nature of the trees on the site, it is commonsense to see that residential development within the site will lead to pressure for tree removal and changes to the woodland setting over time.

Let me elaborate on that just a little bit. The trees at north Watson are estimated to be between 200 and 400 years old. They are significant remnant trees, predating European settlement in Canberra. They are trees which are by their nature large, old and have the capacity to drop limbs. They are not the sort of tree that you would want to see in a residential environment. They are unsafe, and it is unwise to allow buildings or dwellings among them.

Yet the government is saying they are going to permit dwellings within these areas but they are going to put tree protection measures in place so the remnant trees cannot be removed. That is an illogical position: you can have no doubt that permitting residential development in this area will lead to residents in the area saying, "These trees must be removed; they are unsafe. They drop limbs. They are a threat to life and property." That would not be an unreasonable claim from potential residents if the government's residential development proposal went ahead. The government's approach not only destroys the intact nature of this woodland; it will also lead to the long-term undermining of its own policy to try and protect significant trees on the site.

Some members in this place and perhaps people outside this place would say that this is a nimby argument from people who do not want development in their backyard and that the environmental issues really do not come into account.

I would like to read to members a quote from a speech by Mr Phillip Toyne, who is a previous director of the Australian Conservation Foundation. Along with Mr Rick Farley from the National Farmers Federation, he was one of the two key proponents for the Landcare movement and the Decade of Landcare established by the Hawke Labor government in the early 90s. Mr Phillip Toyne made a speech at a rally organised by the Watson Community Association in relation to the woodland site earlier this year, in which he said:

> The point I want to make about the Watson woodland here is an important one. We are not talking about a 20 hectares local dispute. This is not the sort of thing that comes up before councils at every council meeting all round Australia. It is not the traditional argument between the developer who wants the houses and the locals who want their peace and quiet.
>
> What it is about, is a 20 ha remnant of the most endangered forest ecosystem in the south east of Australia.
>
> When we talk about endangered ecosystems everybody is quick to talk about wet tropic rainforests of north Queensland. Everybody is quick to talk about the tall eucalypts of the Gippsland forests. Everyone is quick to imagine in their mind what an endangered ecosystem looks like.
>
> Well, look here, behind me. There it is—the most endangered ecosystem in south eastern Australia—a humble-looking assemblage of trees. It doesn't look particularly grand. To me it's beautiful. But it doesn't look spectacular.
>
> It's not the sort of thing that usually arouses our passions. But the federal government has secured the agreement of all governments, including the ACT government, to try and achieve a target figure of putting 15 % of each ecosystem into reserve. The amount of Yellow Box/Red Gum grassy woodland in reserve is

> 0.3%. The total of available Yellow Box/Red Gum grassy woodland left in south east Australia is 5%.
>
> The question I put to you is, if you don't draw the line in the sand and demand the protection of areas with that level of significance, that degree of endangerment, when do you? When is it time to say, it is not a matter of juggling the traditional compromises you know, to try and achieve a win-win outcome, all of the things I regularly attempt to do in my daily working life.
>
> In circumstances like this, you are talking about something that is so rare and of such value that no compromise is possible.
>
> It seems to me that these are the very circumstances in which governments are required to show leadership. They are required to say to developers and proponents of schemes around their jurisdiction, "some places are simply not available to you".
>
> If there was a planning decision to make that area available for housing, it has to be reversed.

That is why the Labor Party is moving this motion today. We believe it is important that this site is protected from development. We believe that, as a minimum, it should be incorporated into the urban open space network of the city. That is what this motion requests the government do. We believe that further work needs to be done on deciding exactly where the buffer zone should be between the end of this woodland area and the commencement of the grassland area below it. That is something we would be interested in pursuing further and have already indicated to the Watson Community Association, who have been one of the key proponents in this issue.

I ask Assembly members this morning to consider this site as part of an endangered ecological community. Degraded understorey, yes, but nevertheless an endangered forest type of which only 5 per cent remains of the pre-European existing coverage—5 per cent when the government itself says we want to try and achieve 15 per cent protection of this forest type in reserve.

The last point I will make is this: the New South Wales government has recently started a process of reconsidering its own criteria for protected forests to include forest types with a damaged or degraded understorey. It is not something the ACT government has indicated its preparedness to do to date.

Our decision in relation to Watson recognises that degraded understorey can be restored and that we can work better to protect these areas of endangered forest types. That is the purpose of the motion; that is the context in which the Labor Party has reached its decision. I urge members to support this motion today.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.30 to 2.30 pm

Questions without notice
Aged care facilities

MR STANHOPE: Mr Speaker, my question is to the Minister for Health, Housing and Community Services. The minister conceded in answer to my question yesterday that the use of hospital beds for people who would be better placed in a nursing home has been, and is, a significant problem for the Canberra Hospital. His response was that to clear the 19 hospital beds occupied by nursing home patients would in itself resolve the workload crisis facing the hospital.

If, as the minister says, this is the case, can he advise the Assembly why he had not acted on this problem earlier? Whilst this may resolve the hospital's immediate problems, can the minister explain what it does in relation to the issue of the adequacy of aged care facilities in the ACT generally?

The hospital's difficulties in this area are only one aspect of the aged care crisis in Canberra. Would the minister explain why he has allowed the problem to develop to the stage it has, what he has done about the problem and, specifically, what approaches he has made to the Commonwealth for improved aged care funding and facilities for the ACT?

MR MOORE: Mr Speaker, I greatly appreciate the series of questions that Mr Stanhope has asked me because I considered having them asked as a dorothy dixer. Taking the last question first, the Chief Minister and I met with Dr Wooldridge early last week in order to raise this and some other issues with him and to emphasise our concern about where we were up to with nursing home beds. As you know, it is a federal government responsibility. But we also can see the need for us to continue to push it. The Chief Minister's office is now following up and organising a meeting with Bronwyn Bishop, the minister specifically responsible for this. I do not know where we are up to with that. We will be meeting with her I think on Monday next week. So we do consider this seriously and we have been working on it.

But there are a series of other things that have been happening. I have had the department, specifically at my request, approaching nursing homes and asking them: do they have beds available? When will they be available? Do they have extra room? Is there a way that we can coordinate with the federal government to get it?

We are not asking the federal government to go beyond what is our entitlement. It would be unfair for us to do that, because they work across Australia and we have a certain entitlement. We do not have available the number of beds that we are actually entitled to, so we want to make sure that we deliver within those areas.

So we have taken this very seriously, Mr Stanhope. Along with other strategies for making sure that bed blocks in the hospital do not occur, we are working very hard, but particularly on this area of nursing home beds, because if we can clear a number of those beds it will assist us in managing this issue.

I think it is worth understanding that this same issue is causing difficulties for health ministers right across Australia. At the health ministers conference—I think it must have been about March—the South Australian minister, for example, was saying that they had

effectively had a winter load right through summer. This phenomenon seems to be the case right across Australia. We are looking at that. We have a winter bed strategy in place at the hospital, and we are doing our best to resolve those issues.

MR STANHOPE: I ask a supplementary question. Can the minister advise whether he is aware that one elderly patient, whose dementia makes him disruptive and difficult to care for, is to be transferred from Canberra to Goulburn because we do not have the facilities in Canberra to deal with him? Does the minister think this is appropriate?

MR MOORE: It is your assertion, Mr Stanhope, that we do not have the facilities available for this particular person in Canberra. In fact, we have a range of facilities available for people in Canberra. I emphasise again that the issue of aged persons care is actually a federal government responsibility. Nevertheless, as I have said earlier, we are prepared to lobby and to push the federal government and try to see if we can get sensible arrangements with them, and that is why we spoke to Dr Wooldridge last week and that is why we are speaking to Mrs Bishop in the coming week to try to resolve those problems.

It is disappointing when somebody does move from Canberra when they need to be taken care of, but perhaps it is worth remembering that there are incidences where some of our patients in hospitalisation circumstances move outside the ACT. For example, somebody who is a victim of burns is dealt with in the burns unit at Westmead, because that is the most appropriate place to deal with the particular thing. But we do have dementia facilities here in the ACT. Because I do not know the specifics of this particular case, Mr Stanhope, I cannot give a more specific answer than that. But if you wish to provide me with a case I am certainly happy to have it investigated.

Growth forecasts

MRS BURKE: My question is to the Treasurer, Mr Humphries. I refer to claims by Mr Stanhope in his budget reply that the growth forecasts in the budget are optimistic. Can the Treasurer advise the Assembly of the comments of independent forecasters on the government's growth prospects for the coming financial year?

MR HUMPHRIES: It is true that the view has been taken by the opposition that there is excessive optimism in the government's figures for growth in the coming year. For my part, I have to say that one can never be entirely sure what will happen with growth or any other economic indicator into the future. It is a very brave person who will make cast-iron predictions about the future. All I can say with certainty is that the prospects for growth in this town would be a great deal less good if we were dealing today with an operating loss of $344 million.

MRS BURKE: I have a supplementary question. Mr Humphries, noting that Mr Quinlan said on ABC radio on 2 May that he would resign if the government could prove its claim that it had inherited an operating loss of $344 million from the previous Labor government, has Mr Quinlan resigned yet?

MR SPEAKER: Order! That is out of order. It is not the Chief Minister's role to decide whether Mr Quinlan should resign from anything.

Policy advice

MR QUINLAN: My question is directed to the Deputy Chief Minister. The question relates to the International Quality and Productivity Centre Conference on Performance Measures for Policy Advice held last month at the National Convention Centre in Canberra. At this conference the Deputy Chief Minister was scheduled to make a keynote address entitled "What I am looking for in policy advice". Further, the Deputy Chief Minister, together with the minister for health, Mr Moore, was to take part in the ministerial round table discussion on the evaluation of policy advice. The detailed notes in the brochure advertised that the Deputy Chief Minister would specifically address common pitfalls and mistakes made in the provision of policy advice. In view of the government's record on recent matters such as the Lyneham tennis centre, Gungahlin Drive and Impulse Airlines, would the minister share with us a brief synopsis of his presentation and any real life examples that he may have used to demonstrate his points?

MR MOORE: Mr Speaker, I will take that question on account of I stood in for Mr Smyth.

Mr Quinlan: Excuse me, I addressed it to—

MR MOORE: I am telling you who did the speech.

Mr Smyth: He gave the speech.

MR SPEAKER: Sorry. Questions may be answered by a minister—

MR MOORE: I stood in for Mr Smyth and raised that issue. One of the examples I gave was the supervised injecting room, Mr Quinlan, and some of the pitfalls that occurred there. There is a small example for you. It will be my pleasure to make that speech available for you.

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

MR QUINLAN: Thank you. My supplementary question is directed to the Deputy Chief Minister.

Mr Moore: No, it can't be. It is not a supplementary, Mr Speaker.

MR QUINLAN: Well, you answer on his behalf. Minister, without the generous and selfless assistance from your department, could you please advise the Assembly who was actually responsible for the discrepancies in costings associated with the Gungahlin Drive extension, the incorrect figures that were issued to the media?

Mr Humphries: This is not a supplementary question, Mr Speaker.

Mr Quinlan: Gungahlin was in the primary question.

Government members interjecting—

Mr Quinlan: On a point of order**,** Mr Speaker: I can't help it if Mr Smyth would not answer the question that I directed to him.

MR SPEAKER: Mr Quinlan, you have stretched the question far too far. The supplementary question is out of order.

Mr Quinlan: I will ask it tomorrow.

MR SPEAKER: You may do so, but I would suggest that you rephrase it.

V8 supercar race

MR KAINE: Mr Speaker, I will try not to stretch my question too far. I have a question for the minister for tourism in connection with the GMC400 car race. Minister, I note that the chairman of the Tourism and Events Corporation has acknowledged that the number of people who attended this year was down compared to last year. He claimed 101,000 this year as against a claim of 109,000 last year. I note in connection with that 109,000 last year that the former Chief Minister—I think it was a Mrs Carnell—admitted that in fact a total of only 50,435 tickets for last year's event had actually been sold, although they were claiming 109,000 people attended. Having that in mind, can you tell me how many one-day tickets, two-day tickets and three-day tickets were sold this year, and how does that compare with the sales last year, for which, in total, just over 50,000 tickets were sold?

MR SMYTH: Mr Speaker, there were a number of contributing factors this year, not the least the weather. CTEC is compiling the final results for the race at this stage. As soon as I have that information I will be delighted to provide it to the member, and indeed all members of this place.

MR KAINE: I have a supplementary question. Noting that this has been sold as a great tourist attraction and that the government has put something like $23 million into the event, or has promised to do so over time, can you tell us how many tickets of those sold were sold interstate? I note that last year it was just a tad over 16,000. How many was it this year? More or less?

MR SMYTH: Mr Speaker, I would be delighted to take that part of the question on notice as well. The interesting thing was the *Canberra Times* article on the following day which highlighted the reports from places like the War Memorial, the gallery and Old Parliament House that said they had huge attendances—

Mr Kaine: On a point of order, Mr Speaker: I did not ask about what the *Canberra Times* said. I asked the minister for facts.

MR SPEAKER: No, that is true. The question was not about that.

MR SMYTH: No, I have said that I will get you that detail, Mr Kaine.

MR SPEAKER: Mr Smyth, you have agreed to take the question on notice. Thank you.

Gungahlin fire station

MR RUGENDYKE: My question is also to the Urban Services Minister, who is responsible for police and emergency services. Minister, recently I wrote to you about continual closures of the Gungahlin fire station, which I am aware was closed for at least eight days in May and for two days again last week. The explanations attributed to government since have tried to create the impression that the fire crews are out and about on other duties, but it is my understanding that it was closed and that there were no officers on duty at the station on those days. In fact, I received information in advance of the station being closed for the last four closures and took the time to investigate the situation for myself. On one of the days I rang the bell and was put through to the communications centre at Curtin. I learnt that there was a grass fire in Nicholls on that day, but the crew attending was from Belconnen, not from Gungahlin. Could the minister inform the Assembly how many days this month the Gungahlin fire station will be closed, and can he confirm that the reason is due to a shortage of fire brigade officers?

MR SMYTH: Mr Speaker, the advice I have is that ACT fire stations do not close. However, the units may not always be in attendance. The units are used for other purposes than simply responding to fires. We have a system whereby we move units around as is required. The brigade is always conscious of its response time standards. These are that the first firefighting appliance will arrive at a fire scene within eight minutes of being called on 50 per cent of occasions, and within 10 minutes on 90 per cent of occasions. That is the standard that we do work to. I do not think it is fair to say that a station is closed because the appliances are not there. They are moved around regularly.

Mr Hargreaves asked a question earlier this year about the ambulance station. The same story; you do not leave units where you do not need them. You move them so that you have maximum effect for the maximum amount of time. That is what we do.

Disability services inquiry

MR WOOD: My question is to the Chief Minister. Mr Gallop has provided you with an interim report on his inquiry into disability services. Do you intend to lock this away in a most secure place in an effort to avoid any discussion of the findings that would impact negatively on the government ahead of the election, or do you propose to demonstrate an openness in government and release the report and allow debate and urgently needed remedial measures to take place?

MR HUMPHRIES: Mr Speaker, I have made it quite clear that I have no intention of leaving any matter which this inquiry brings to light out of the public gaze unless there is a very sound reason, for example a legal reason, why that ought to be the case.

Members will be aware that recently I was provided with a copy of an interim report by Mr Gallop. The interim report deals almost exclusively with the circumstances surrounding the deaths of three people who were in the care of ACT disability programs. The matters covered in the interim report are similar in nature to the sorts of matters that would be covered, one would assume, by the coroner in his inquiry into those same three

deaths. Mr Speaker, I have received advice which suggests that there is a problem pertaining to the rights of a person who might be mentioned adversely in that interim report—

Mr Berry: But are any mentioned? That's the question. I will bet there are none.

MR HUMPHRIES: That may be the case, Mr Berry, but I happen to believe in the need for the processes used here to protect the rights of people who may be ultimately adversely affected by this process. You might not think that their rights are important, but the law presently provides protection for their rights.

Mr Berry: Nobody has been mentioned.

MR HUMPHRIES: I know that you prefer that anybody who stood between you and a vote in the election should have their rights pushed to one side. That was certainly your view with some of the other matters we have dealt with in this place in recent days. My view is that no matter what sorts of opportunities these people might present to make political capital out of, they are people who have rights and the law needs to protect their rights as we proceed to deal with the matters that the inquiry gives rise to.

Mr Speaker, the question has arisen of whether that particular person's rights can be protected by the tabling at this stage of that document, that interim report of the Gallop board of inquiry. I am seeking advice from senior counsel on the appropriate course of action to pursue with respect to the production of the report. I can advise the Assembly that I will produce the report as soon as I am able to do so without prejudicing the rights of any person and consistent with the advice that I receive on that subject.

As I say, I have no intention of having that information kept from the public any longer than it needs to be. I believe that these things should be in the public arena as soon as possible, and that will be the case.

MR WOOD: I thank the minister for that answer. You mentioned sound reasons for holding onto the report. Can you assure the Assembly that one of those sound reasons will not be your embarrassment about the report and its findings and the desire to keep it dark?

MR HUMPHRIES: I am very glad that the views taken by the opposition—

MR SPEAKER: There is an inference in that, Chief Minister.

MR HUMPHRIES: There is an inference in that, Mr Speaker. But the view has been taken that somehow a view can now be determined about what this inquiry is going to say. Mr Gallop has been circumspect in the way in which he has conducted this inquiry. He has not disclosed to me, before the handing down of the interim report, what he was thinking and what he was doing, and I am sure he has not disclosed it to you, Mr Wood, or to any other member of this place, and that is appropriate.

So I do not know what his report is going to say. I am not going to prejudge that matter. I am going to wait and see what the evidence actually produces. The reasons I have given for not disclosing the document to date are the only reasons that I would consider for such a course of action.

School buses

MS TUCKER: My question is directed to the Minister for Education and it relates to the government's existing free school bus scheme, which is available for children whose parents are on a social security pension or benefit. I am aware that there are some children who currently receive free bus passes who will not be eligible for a free bus pass under your new scheme because they live within the specified distances of 1.6 kilometres from a primary school or two kilometres from a high school. These children and their parents rely on bus travel to school. Otherwise they would not have gone to the trouble of getting a free school bus pass. While the children may be capable of walking the distance, there are safety and convenience issues for the parents that make this an unattractive option.

It also seems quite unfair that these low-income people are losing their free school bus travel when people who can afford the bus fares to distant private schools will now get this for free under the government's new scheme. Minister, will you give an undertaking that those low-income people who currently receive a free school bus pass will be able to keep it, even if they live within the distance criteria of your new scheme?

MR STEFANIAK: I will take that question, because I think we actually administer that scheme, unlike the free bus pass system which is largely under my colleague the Minister for Urban Services. Thank you, Ms Tucker, for that question. I understand there would be about 100 students in that category, and they are in years 3, 4, 5 and 6 because, if they are in high school under the free bus scheme for low-income families, which has been operating for many years in this territory, there is a 2-kilometre limit, and that is exactly the same as for the government's free bus scheme.

In terms of primary students, I understand that the limit under that scheme is one kilometre—and, of course, under the scheme we are bringing in and announced in the budget, which is comparable with the scheme in New South Wales, it is 1.6 kilometres. So about 100 students will be affected. We are currently looking at that to see what we can do in terms of those students. So that is something that the Minister for Urban Services and I are aware of and we are working through that.

MS TUCKER: I ask a supplementary question. Are you going to make sure, when you have found a way of accommodating the needs of these people, that you contact them individually? Are you able to do that so that they are informed about what you are going to do?

MR STEFANIAK: As we know who they are, I think it would obviously be important to find some way of ensuring that they are aware of what the situation will be. Obviously, I think it has been indicated to them that they should apply under the bus pass system, and that will all be taken into consideration. But certainly we would intend ensuring that each and every one of them knew exactly what the situation would be.

So thank you, Ms Tucker, we are aware of the problem and we are working through it, and they certainly will be contacted so that they are aware of what will be occurring. The scheme, as you know, comes into place at the start of September.

Williamsdale quarry

MR BERRY: My question is addressed to the Chief Minister and it relates to the Williamsdale quarry. Chief Minister, in the direction you signed to Totalcare, a couple of companies were mentioned—from memory, one was CSR and the other was Mitchell Mini-Mix—as being considered then as joint venturers. Pavement Salvage ended up being the joint venturer, but I raise those other companies because they, along with many others, will be buying product from the Williamsdale quarry.

Chief Minister, would you assure the house that each grade of product sold from the Williamsdale quarry is sold at the same rate to all purchasers?

MR HUMPHRIES: No, I do not think I can, Mr Speaker. I honestly do not know what they are selling the product for and I have no idea whether they would choose to sell at different rates to different people for various reasons. I would imagine that everybody who is in business chooses to sell at different rates at different times, for a variety of reasons. Sometimes you want to attract customers with a discounted price on the product, or you may have a relationship with somebody who is a large purchaser and, because of the volume, they get a lower price. So I am afraid I cannot, and nor will I make any direction to Totalcare to take into account any supposed need to make sure that everyone is paying exactly the same price.

MR BERRY: I ask a supplementary question. Will the Chief Minister assure this house that nobody gets product from the quarry cheaper than Totalcare and inform this house about any rebate scheme that exists in respect of certain purchasers, and the reasons for these rebates?

MR HUMPHRIES: If Mr Berry wanted this information, he should have put the question on notice. I do not know whether there are rebate schemes or not. Believe it or not, the government does not sit down and approve the price of each load of stone that comes out of Williamsdale quarry.

Mr Berry: Don't you know what goes on there? It has been a matter of interest.

MR HUMPHRIES: To you only, Mr Berry, I am afraid. You alone, apparently, are the person to whom it is of interest.

Mr Stanhope: Don't you get a briefing?

MR HUMPHRIES: Not at that level, Mr Stanhope. If you see these volumes that come down in our hands and you imagine that we have details in there about the price of—

Mr Berry: Take it on notice then. Mr Speaker, I raise a point of order.

MR SPEAKER: There is no point of order. The minister has indicated that he is prepared to take some of it on notice.

Mr Berry: That's fine.

MR SPEAKER: Sit down.

MR HUMPHRIES: Actually, I have not indicated that, Mr Speaker. I am not aware of any rebate scheme. If there is a rebate scheme, it is a matter for Totalcare.

Mr Stanhope: Will you ask for a briefing now?

MR HUMPHRIES: Well, what is the issue? I would get a briefing if there was some issue there, but what is it?

Mr Stanhope: There is a question you can't answer. That is the issue.

MR HUMPHRIES: If you want to ask ridiculously convoluted questions, the point of which is unclear, to prove that the government does not know what it is talking about, go right ahead, but it is not the line I would choose to run to get elected in October. I do not know why Mr Berry is interested in the amount that they charge for each particular load of stone that is taken away from Williamsdale quarry. But, if they choose to provide different rates to different people for commercial reasons, that is their business. I can assure you that the government has not said to Totalcare, "Give so-and-so a lower price because we like the cut of their jib," or something like that.

Mr Berry: Mr Speaker, I raise a point of order. Mr Speaker, that is me over here.

MR SPEAKER: Yes, unfortunately. Go on.

Mr Berry: Mr Speaker, I asked the Chief Minister to inform the house—

MR SPEAKER: Do not repeat the question, thank you. The Chief Minister is well aware of the question, thank you. Resume your seat.

Mr Berry: I don't think he is; I do not think he heard. We just want—

MR SPEAKER: Resume your seat.

MR HUMPHRIES: Mr Speaker, if Mr Berry has an allegation to make, let him make it, out in the open, in the public, so that we can hear what it is that he is saying. I do not intervene at that level of Totalcare's decision-making, and nor should any responsible minister in these circumstances.

Crime

MR HIRD: My question is to the minister for police, Mr Smyth. Is the minister aware of the report *Recorded Crime: Australia 2000*, published by the Australian Bureau of Statistics? Can the minister advise the parliament of trends in crimes such as burglary and motor vehicle theft?

MR SMYTH: Yes, I am aware of the report *Recorded Crime: Australia 2000* of the ABS. It is very important that people understand that it is for the calendar year 2000. The report does offer quite a valuable insight into how the ACT is performing relative to the other states and territories. The recorded crime statistics show that the ACT remained below the national average for 10 of the 15 recorded offence types, which included serious offences such as murder, attempted murder, manslaughter, driving causing death, assault, sexual assault, kidnapping, robbery, blackmail, and unlawful entry with intent.

Furthermore, the report indicated that ACT policing achieved some great outcomes last year, with the remarkable result when it came to car theft, for instance, of the rate being slashed by 12.1 per cent in the year 2000, thanks mainly to intelligent task force policing. That data is overshadowed by more recent data that the police force has been able to give me. It has advised that, for the period 1 July 2000 to 10 June 2001, stolen motor vehicle offences have decreased by an incredible 31 per cent against the corresponding period for the previous year. The police force has also advised that, over the same period, burglaries have decreased by 20 per cent.

The government realises that we need to do more work on crime and crime prevention. That is why there are a number of quite relevant initiatives, important initiatives, in this year's budget, including additional police for Gungahlin, an extra $1.5 million almost to maintain adequate levels of law enforcement, and another $246,000 for phase three of the family violence intervention program.

Lyneham tennis centre

MR CORBELL: My question is to the Minister for Urban Services. This morning, ABC radio carried reports that the deadline for the payment of outstanding creditors of Pacific Academy Sports Trust had been extended, apparently this time by Mr Hanna, to 29 June 2001. The initial deadline, of course, was set by the Chief Minister when calling in the development application and was 6 June 2001. That deadline was extended to 8 June 2001. All of those deadlines have passed without the outstanding payments being made to the creditors. In fact, the government has taken no action along the lines it announced when it first approved the application.

It was reported in the *Canberra Times* of 9 June that the minister saw no need to revoke the development approval. However, a spokesman for the Chief Minister is quoted in today's *Daily Telegraph* as saying, "The approval was conditional on the developer settling outstanding claims from contractors associated with stage one." Can the minister explain the contradiction between his statements that there is no need to revoke the call in and the statement of the Chief Minister of today that the approval remains conditional? What action, if any, does the government propose to take if the fourth, apparently self-imposed, deadline of 29 June is not met by Pacific Academy Sports Trust?

MR SMYTH: Mr Speaker, I am happy to give exactly the same answer I gave yesterday. If Mr Corbell had paid attention to what was said yesterday, he would realise that it is exactly the same question in another guise; a little bit of fairy floss around the edge does not change the content of the question. When the agreement was made, Mr Hanna said that he would make the payments by the following Friday—Monday to Friday, five days—but when it came to making the payments in terms of the acquittals

information was not available for other parties, such as ACT Tennis. I understand that those difficulties have been overcome. As I said yesterday, lots of people have worked very hard, working over the weekend, to gather this information, to audit it, to make sure that it is correct, and it has been presented.

Mr Dawes, on behalf of MBA members, has been receiving cheques from Mr Hanna, and other creditors have come forward. The condition still remains, as the Chief Minister has said, that all creditors must be paid.

MR CORBELL: I have a supplementary question, Mr Speaker. In relation to the government's proposal to revoke the development application if the apparently meaningless conditions are not met, will the minister table any legal advice he has obtained in relation to revoking the calling in of this development approval?

MR SMYTH: As the conditions are being met, as the payments have started to flow, as the—

Mr Corbell: No, they are not. You set a deadline and they have not been met.

MR SMYTH: Mr Speaker, the condition was that they would be paid in a week. People went away to work on achieving that condition and were unable to do so. Under Labor, if you do not meet the first condition, everything falls over; you do not put the future of the ACT first. I was approached by a large number of creditors who said to me, "Don't disapprove the DA because this is our only chance, we believe, to get our money back." We are working on their behalf.

Mr Stanhope: I take a point of order, Mr Speaker. The supplementary question was, quite specifically: "Will the minister—

MR SPEAKER: And the minister is answering it.

Mr Stanhope: He is not. He was asked, "Will the minister table the legal advice he has received?"

MR SPEAKER: Sit down, please.

MR SMYTH: Mr Corbell did ask what had been undertaken, and I am explaining that—

Mr Stanhope: No, he did not. How about the legal advice?

Mr Corbell: On the point of order, Mr Speaker—

MR SPEAKER: Sit down, Mr Corbell. I am tired of these questions being repeated and, if you do not sit down, I will warn you.

Mr Corbell: Mr Speaker, if you are unwilling to hear my point of order, I would argue that you are not behaving impartially.

MR SPEAKER: If you try to repeat your question, I will deal with you. I will now listen to your point of order.

Mr Corbell: Thank you, Mr Speaker. The minister was asked specifically about legal advice. I did not ask about the conditions of the approval. That is what he should be answering.

MR SPEAKER: Thank you. You may resume your seat. I call the minister.

Mr Berry: I take a point of order, Mr Speaker. I refer you to the standing orders, again. We have been through all of this before in a rather ugly turn of events and we might try it again.

MR SPEAKER: We have been through it many times.

Mr Berry: The answer to a question without notice shall be concise and confined to the subject matter of the question and shall not debate the subject to which the question refers.

MR SPEAKER: Standing order 118 (a) and (b).

Mr Berry: The standing order is pretty clear. I would ask you to instruct the minister to adhere to it. This nonsense about the minister answering in any way he likes is not on any longer.

MR SPEAKER: It has been since about 1989 and I do not intend to change it.

Mr Moore: Mr Speaker, on the point of order: Mr Berry actually quoted from the one for questions, not answers.

MR SPEAKER: Indeed.

Mr Moore: For Mr Berry, there is even a heading which says "Answers to questions without notice".

MR SPEAKER: Order! I suggest that we all get back to question time. The minister is concluding his answer. Just because he does not answer in the way that you wish at the beginning or, indeed, at the end is no business of the chair. We have been through this before time and again. Minister, do you wish to conclude your answer?

MR SMYTH: I do, Mr Speaker. The curiosity of all of this is that often the points of order take up more time than the answers to the questions and in most cases in this place the questions are longer than the answers. The reality is that the process is working. It is delivering payments.

Mr Stanhope: The reality is that you do not have legal advice.

MR SMYTH: If you would let me finish, Mr Stanhope, the reality is that the process that has been set in train is delivering. Cheques are starting to flow. The development can proceed. At this stage, I have no written legal advice. Advice was sought from PALM. The advice is that the minister does have the ability to revoke.

Mr Stanhope: Table it.

MR SMYTH: You are so busy not listening that you do not hear the answers.

Lyneham tennis centre

MR HARGREAVES: I have not had so much fun since the cat got in the washing machine. It has been wonderful.

Mr Hird: Where did your cat get, John?

MR HARGREAVES: It is coming right out of this hat, Mr Hird.

Mr Corbell: Table your advice, Minister.

MR SPEAKER: Mr Hargreaves, your question will not be heard unless you ask your colleagues to be quiet.

MR HARGREAVES: Will the government be quiet, please, Mr Speaker?

MR SPEAKER: It is your question.

MR HARGREAVES: My question is to the minister for sport. I have been here for 3½ years and have not asked him a question yet. Does the minister recall his announcement on 22 May last year of a major ACT government funding injection for a new tennis centre at Lyneham? Can he confirm that his announcement was of a government capital grant of $1.7 million to provide "international standard tournament facilities", including 15 European clay courts? A nod from the minister denotes assent, I take it.

Can he also confirm that his announcement foreshadowed that the first event to be played on the new clay courts in 2001 would be the Australian clay court women's open championships, to be followed by the men's clay court championships in April next year, each tournament worth a minimum of $100,000?

MR STEFANIAK: I do not quite remember the date. It may have been 22 May of last year, but it was certainly last year. I recall making that announcement. I think I made it at Lyneham. I understand that the clay courts are still being built and that for $1.7 million over two years we will end up with 15 clay courts and five Rebound Ace courts. I think the Rebound Ace courts have been built and the clay courts are either in the process of being built or are to be built. They will be a wonderful boon to tennis in not only the ACT but the region.

Mr Hargreaves: Clay courts?

MR STEFANIAK: Clay courts especially. I understand there are some in Hobart and some in Adelaide. The 15 at Lyneham will make us the clay court capital of Australia. I understand that Tennis Australia got Mr Hanna to run the tournament in January—I could be corrected—and that in some circles that caused some problems that my colleagues have mentioned already. We did have the Australian women's clay court

championship. That was an event that Tennis Australia was very keen to see take place. I recall talking to Geoff Pollard about that. We have had that for a number of years. There are also some men's events.

Mr Hargreaves, you are very keen to see facilities in your own electorate. I think that is most commendable, and I am always happy to see you show your interest in sporting facilities. This will make us the clay court capital of Australia, with all the potential that can flow from that. We have already seen one tournament, and I have mentioned others. It will give the 6,000-plus people in the ACT who play tennis some excellent updated facilities. There is great potential for masters tennis games and junior tournaments. All of those things will be enhanced by this development at Lyneham. Mass participation in tennis very much justifies the injection of government funds.

We have injected funds, and are proud of injecting funds, into a number of sports in the ACT. Hockey, for example, has been the beneficiary—and rightly so because they put in a lot themselves—of significant investments. We have invested money in the Raiders. We have invested money in the Brumbies. We have invested money in basketball, in the joint stadium in Tuggeranong.

Tennis, whist it had been the recipient of some grants through the sport and recreation program, which is usually announced in about November, had not had an injection of funds similar to that for other sports. Redeveloping the tennis centre with 20 extra courts will be a great boon to tennis in the ACT, with the obvious benefits of international tournaments that the clay courts will give.

MR HARGREAVES: I ask a supplementary question. Minister, given your appellation of the clay court capital of the world—

Mr Stefaniak: Of Australia.

MR HARGREAVES: Of Australia. I beg your pardon.

Mr Stefaniak: I said Australia.

MR HARGREAVES: You correct me; the clay court capital of Australia. Are you aware that the Tennis Australia tournament schedule for July 2001 to June 2002, of which I have copy, lists no Australian clay court championships, men's or women's, for Canberra or anywhere else? When the government gave its money, what guarantees, if any, did it seek to ensure that the proposed tournament schedule for the redeveloped centre would go ahead?

MR STEFANIAK: Mr Hargreaves, I think the government was told a number of events would be staged there. I would like to have a look at that document you have. You might like to table it. That would be nice. Mr Hargreaves, when the government assesses whether it goes ahead with its money or not, it looks at a number of things. As I indicated to you earlier, and as I think I indicated when I launched the courts—I accept that you are right—on 22 May 2000, it is all very well to get these wonderful events or maybe not get these wonderful events, but at the end of the day ACT tennis and south-east region tennis, and the 6,000-plus people in the ACT who play tennis, will have—bottom line—20 extra state-of-the-art courts they can use.

Mr Stanhope: Is the money being used to pay the debts?

MR STEFANIAK: Whether this wonderful development goes ahead or not is irrelevant to the issue of mass participation sport.

Mr Stanhope: The money is being used to pay the debts.

MR SPEAKER: I warn you, Mr Stanhope.

MR STEFANIAK: It would be wonderful if this great development occurred, because we will be paid back the full amount of the investment. If you are ever in government, Mr Hargreaves, I suggest you apply a little test to whether you grant government money. Always assume that Murphy's law is the relevant law. If something can go wrong, it will.

What is the bottom line? Some things may or may not happen. If the bottom line is that that money will go to the general community good, you will have better facilities for people who play tennis in Canberra—kids and older people playing in club competitions, territory competitions, state competitions, national competitions. If there is a real benefit in that, it is money well spent. I think the $1.7 million is money well spent for the sport of tennis in the ACT, regardless of what might happen with this development.

Already we have probably seen thousands of Canberrans benefit from the courts at Lyneham. They will further benefit when the full 20 courts—15 clay and five Rebound Ace—are completed.

Mr Hargreaves: I seek leave to table four documents, which are the proposed women's schedule and the proposed men's schedule, taken from the Internet today.

Leave granted.

Mr Hargreaves: I present the following papers:

> Tennis Australia—Australian Unit Tour—
>
> Proposed Men's Schedule—July 2001-June 2002.
> Proposed Women's Schedule—July 2001-June 2002.

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

Lanyon shopping centre

MR SMYTH: Mr Osborne asked yesterday whether a block of land was being rezoned. The answer is that the block Mr Osborne refers to, which is block 6 section 227 of Conder, is not the subject of a Territory Plan variation. However, the block does have a development application in to change the lease purpose clause to add shop and to remove some of the uses which generate parking—for example, child care, craft workshop, health facility and indoor recreation facility. The block has a commercial

policy and is part of the core of the Conder group centre. The application was lodged on 19 April 2001 and is currently on public notification.

Prime Television

MR SMYTH: In response to Ms Tucker's question yesterday, I would like to provide the Assembly with the following details about the package offered to Prime Television: in the latter half of 1999 the ACT held discussions with Prime about its intentions to centralise its operations for the introduction of digital broadcasting. On 24 November 1999 the ACT wrote to Prime offering it an assistance package to encourage Prime to locate its digital broadcasting operation in the ACT. The offer comprised relief from payroll tax for all staff in excess of 25 for a period of up to five years, to a limit of $1.25 million; a direct grant, at market value, of the land adjoining Prime's existing ACT facility to accommodate Prime's new digital operations; and a further $50,000 payroll tax waiver to cover the cost of Prime's incorporation in the ACT.

Mr Speaker, it should also be noted by the Assembly that this incentive package was negotiated not only to promote business growth in the ACT but also to ensure that the ACT retained over 40 positions which it otherwise would have lost if the digital centre had been located elsewhere. The successful negotiation of the package also provided for additional work force growth and the development of a high-technology industry which would have spin-off economic benefits for the ACT. Payroll tax is currently levied at the rate of 6.85 per cent, with a tax-free threshold of $850,000. On 1 July 2001 the tax-free threshold will be raised to $1.25 million.

Mr Speaker, Prime wrote back on 7 December 1999 indicating its acceptance of the offer. Finalisation of the deal was to depend on finalising matters such as Prime's timing for completing its digital facility, commencing digital operations and moving staff to the ACT. The direct sale of the land at market value took place in 2000.

Prime initially anticipated commencement of digital broadcasts at the start of 2001. This has been revised to July 2001. The Prime facility was completed in May and officially opened on 24 May.

The finalisation of the contract has been held up pending determination of a suitable start date for the five-year period of the payroll tax waiver. That start date has now been determined to be 1 July, subject of course to having the agreement in place. Under the established procedures for ACTBIS grants, no payments or tax concessions are made until a formal agreement has been finalised. The agreement is now in the final stages of development and, subject to clearance by the ACT Government Solicitor's Office, will be signed in the near future.

I might also draw to the attention of members that information in relation to all assistance packages negotiated under the ACT business incentive scheme is published in the Chief Minister's annual report.

Papers

Mr Humphries presented the following papers:

ACT Government Workforce Statistical Report—Second quarter 2000/2001 (31 December 2000).

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
Long term contracts:
Trevor Wheeler, dated 23 May 2001.
Gordon Davidson, dated 7 May 2001.
Allan Eggins, dated 11 May 2001.
Maxine Cooper, dated 22 May 2001.
Elizabeth Fowler, dated 3 June 2001.
Richard Clarke, dated 5 June 2001.
Philip Hextell, dated 4 June 2001.
Narelle Hargreaves, dated 23 May 2001.
Jill Farrelly, dated 23 May 2001.
Joseph Benton, dated 1 May 2001.
Bernard Sheville, dated 1 May 2001.
Temporary contracts:
Peter Gordon, dated 12 April 2001.
Elizabeth Fowler, dated 22 May 2001.
Gary Croston, dated 22 May 2001.
Tony Thew, dated 2 May 2001.
Helen Burfitt, dated 2 May 2001.
Schedule D variation:
Peter Gordon, dated 26 April 2001.
Geoff Keogh, dated 26 April 2001.
Allan Eggins, dated 22 May 2001.
Sue Ross, dated 22 May 2001.
Christine Healy, dated 3 May 2001.
Mandy Hillson, dated 26 April 2001 –

Race and Sports Bookmaking Bill 2001—Addendum to the explanatory memorandum.

Executive contracts
Statement by minister

MR HUMPHRIES (Chief Minister, Minister for Community Affairs and Treasurer): I ask for leave to make a short statement in respect of executive contracts.

Leave granted.

MR HUMPHRIES: Mr Speaker, the details of the contracts I have just tabled will be circulated to members. I would like to alert members, as usual, to the issue of privacy of personal information that may be contained in the contracts. I ask members to deal sensitively with the information and respect the privacy of individual executives.

Watson—review of Territory Plan

Debate resumed.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (3.24): Mr Speaker, block 1 section 72 and block 1 section 80 of Watson are part of an area in north Watson that was subject to a variation to the Territory Plan in 1994 under the Labor planning minister, Mr Wood. That was to change the land use policy from entertainment, accommodation and leisure to residential. That variation was subject to an ecological assessment.

These blocks contain yellow box trees and a few redgums in an open woodland structure. However, due to past uses over many years, the understorey of native grasses and shrubs has now degraded and largely been replaced by pasture grasses. The area has been assessed for its ecological qualities. The assessment found that the woodland no longer retained the ecological qualities of the yellow box/redgum grassy woodland ecological community which is declared endangered under the Nature Conservation Act 1980. The ACT Flora and Fauna Committee, comprising seven experts in ecology and biodiversity, has concurred with that assessment.

The eucalypt trees are very valuable. I think we all value the mature trees. The eucalypt trees may provide a temporary food source for the endangered regent honeyeater. However, this species is highly mobile and opportunistic in using flowering eucalyptus trees.

An action plan for this ecological community has been prepared. It is a good plan. Representative examples of yellow box/redgum grassy woodlands are protected in other parts of the ACT's nature reserve system, such as Mulligans Flat, Majura, Ainslie, Red Hill, Tuggeranong Hill and the Murrumbidgee River Corridor. This government announced that it would be adding about another 100 hectares of yellow box woodlands to the ACT nature reserve system. That is consistent with the strategic direction set out in the action plan. Nevertheless, the government does recognise the visual and habitat value of the north Watson trees as mature eucalypts and their significance to the Watson community, indeed to the wider community.

With that in mind, PALM has recently varied the Territory Plan under the defined land provisions of the land act to create two new areas of about five hectares of urban open space parkland. This parkland will protect the high-value, mature yellow box and redgum trees within section 72, Watson.

Mr Speaker, other significant trees in the area, as the government has said all along, will be protected through the provisions of the proposed significant tree register and by strict conditions for subdivision development.

Identifying this land at north Watson as urban open space has been chosen as an appropriate means of conserving the trees for their habitat value while still allowing some sympathetic residential development on other parts of the site. I recently wrote to the Watson Community Association to encourage them to apply for a grant through the bush care in the bush capital funding program to assist them with technical advice from

Environment ACT, to help them care for the two new parks and to help rehabilitate the previous Stirling Avenue reserve.

It is clear, I believe, that we have acted appropriately in protecting the significant trees in the area, both through the classification of some of the land as urban open space and through the interim tree protection legislation.

It was interesting to hear Mr Corbell—and I thank Mr Corbell for this—acknowledge that the ACT has a good record on the protection of these areas. The advice that led us to protecting these areas is the advice that says that it is appropriate to save five hectares as parkland but that the other areas are so degraded that they do not have the ecological values that Mr Corbell seems to ascribe to them. The government needs to look at the whole. It needs to look at developing our city in response to changing needs and the community's overriding wants.

The residential land in this site is proposed for release in the 2003-04. It will provide home buyers with choice in inner north locations. As I have said consistently, we will not go ahead until more work is done, because we need to make sure that we get it right. We need to think about how we provide more older persons accommodation for our increasing ageing population close to shops and communities where people already live and at the same time protect those parts of the ACT that we all value.

We also have to make sure that we use our infrastructure to its maximum benefit, ensuring that, as we have a thriving population, our buses are well used, our schools are well used and our local shops are well used, to support small business. We also need to ensure that young people who want to live in low-maintenance town houses in central areas, for instance, can be accommodated.

We have taken a considered approach, based on advice from experts within the department, who suggested that we should move the Gungahlin town centre, which we did. It is based on advice from experts who said that we should not build in the Jerrabomberra area.

Mr Corbell: You just give the same speech each time.

MR SMYTH: Mr Corbell interjects that it is the same speech. I am sure he does not want to hear again how much the government has done. What the government has done is quite significant, and you cannot hide from that fact. The government will continue to do what is appropriate.

The dilemma with Mr Corbell's motion is that it is another one of his reviews with a fixed outcome. Mr Stanhope in recent statements has said that they want honest, open, accountable government, but here we start with a review that already has determined the outcome that the Labor Party would like. So much for a review. It is hardly a review at all. The government is not afraid of a review. I have circulated an amendment which will propose that a proper review be done of the area to determine whether the area should be residential or whether it should be urban open space.

Ms Tucker also has an amendment that after the words "residential development" will substitute "and change to hills, ridges and buffers". Obviously there is some conflict about where it should end up, how it should end up and what classification it should end up under. So a review is an entirely appropriate way to go. But it should be a real review, not a Labor Party Clayton's review with a predetermined outcome.

The government would support a review. We have said all along that we would do further work before this land was released. That is why we have the land release program. We put it out years in advance so that people will know about the possible land release in future years.

With the small amendment I will move, the government will support this motion. We believe it is an appropriate way to go forward. I do not have any quotes from Mr Toyne as Mr Corbell did. I appreciate the words of Mr Toyne at the rally at north Watson. I was at the rally, and afterwards I told Mr Toyne what the government had done. I mentioned those things that really get into Mr Corbell's craw—the fact that we had put land aside; that we had protected whatever we thought was appropriate and worth saving.

One of the dilemmas is putting back into reserves land that should not be there. I talk to the rangers often. They say that many areas with no conservation values whatsoever should not be in the reserve system. If we add other areas, all we do is put an increasing burden on existing resources without making sure that we look after the other areas.

I sought clarification of some of the numbers that Mr Corbell used. I am told that the trees have not been formally dated but that some are at least 200 years old. We know this because they were there when settlers started moving into the area. I also asked how much yellow box was in existence at the time of settlement. The belief is that there was originally 32,000 hectares. About 8,000 hectares are left. Of this, 21 per cent is in reserves, 36 per cent in non-urban areas, 20 per cent in rural land use zoning, 14 per cent in broadacre and 9 per cent in urban land use zoning.

We have done the right thing. We have a process that leads to the decision. We have a team of experts who, independent of government, give advice. We make sure that we negotiate with the community. As Mr Corbell can testify, one day I happened to bump into him when he was looking at the east O'Malley site. We had said that we would put aside a certain amount of it. The community thought that was good but wanted a little bit more. I ended up there one Saturday morning to have a look at what was going on and ran into a group of the Friends of Grasslands and, having looked at the site, we negotiated on what it was appropriate to save. Again, a little bit extra land was then put back into the reserve system. Why? Because the government believed it was appropriate. We also believe that you should have a process, and we believe that the process we followed here—taking advice, doing the studies—is the way we should go about it.

Mr Speaker, I move the following amendment:

> Omit all words after "…Section 80, Watson", substitute "to consider whether or not to permit residential development or to revise the land use policy to Urban Open Space".

We hope that the Assembly will back an honest and genuine review of land use for this area—not, as proposed, a Clayton's review that has a predetermined, fixed outcome. It is hardly honest and open when you determine what will occur before the process starts.

The government is concerned about these woodlands. We believe they are very important. We understand our responsibility. We take it seriously. We can point to the amount of land we have saved from development or in respect of which we have changed the type of development. I table for the information of members a small map showing the five hectares we have put into the park to make sure that valuable areas worthy of protection are protected. I hope that the Assembly sees fit to have a proper review of this land use, not a Clayton's review as the Labor Party wants to conduct. I present the following paper:

Watson—Aerial photograph produced by the ACT Land Information Centre, dated April 2001.

MR KAINE (3.35): This is another one of those interesting debates like the one we had this morning. Although the government does not agree with the motion originally put forward by Mr Corbell, it is interesting that they now agree that some review is necessary. It is interesting that the government would not be supporting that review had Mr Corbell not put on the table today a motion that raised the matter for debate. You have to ask why the government did not undertake to conduct this review without being prodded by the opposition on the matter?

This is quite a controversial piece of land, and has been for some years. It was a matter of some public concern in 1995 that residential accommodation was to be built on this piece of land. There was a wide-ranging public debate. I asked a question about this particular piece of ground less than a year ago, and the responsible minister could not answer it. The now Chief Minister took over the question. He did not answer my question. My specific question was: is this land now up for residential development? Mr Humphries said he would go away and get me an answer, by which I assumed he meant he would take the question on notice. Here we are today, 12 to 15 months later, and I have not had an answer to that question, either from Mr Humphries or from Mr Smyth.

It is not surprising that the people concerned about that piece of land because of its unique environmental characteristics and the fact that it is inherently valuable in its present state want the matter reviewed. Maybe Mr Corbell was approached by the same people who approached me recently, the very same people who in 1995 had to argue that the land should not be developed for residential purposes then. At that stage there was a proposal to put something like 1,600 residential units—I am not sure of the number—in the general area where this piece of land is located. There was a long debate, and the number of residential units to go into that general area was significantly reduced as a result of that debate.

Mr Humphries at the time said, "There will be no further residential development in this area in the foreseeable future." My question about a year ago was: has the foreseeable future expired? There was a proposal to put a street in adjacent to the Prime studio. My question was: is this street being put in to enable residential development? As I say, I still do not have an answer to that question. The locals who have an interest in this piece of

land are obviously concerned that residential development is now contemplated, despite the present Chief Minister's statement not all that long ago that no residential development was contemplated in the foreseeable future.

No matter what sort of assurance of that kind the government gives you, residential development is never off the agenda until you excise the land and put it into such a category that it cannot be proposed for residential development. If that had already been done, we would not be discussing this today. Mr Corbell would not be forcing the minister into doing a review which he clearly does not want to do. He is doing it only because it is pretty clear that it is another case where perhaps the majority of the members of this place want the government to do something it does not want to do, so it has to come up with an alternative.

I do not particularly object to the suggestion coming now from the minister. I think that is something I could support. But it intrigues me that the opposition has to move a motion dealing with this piece of land before the government decides to do anything. We can only assume that if Mr Corbell had not moved his motion today there would be a proposal on the book some time in the next few months to put houses all over the land.

This motion has caused the government to pause about that and at least, to quote Mr Smyth's amendment, "to consider whether or not to permit residential development or to revise the land use policy to Urban Open Space". That should have been done without the necessity for this debate we are having today.

I am a bit concerned that you can never be sure, no matter what the government says, that they are serious about a particular undertaking. You have to keep giving them a prod along just to make sure that they have not changed their mind and now the thing is up for grabs once again.

I think it is reasonable, under the circumstances, that those people who have a concern about this block of land, and have had for many years, should once again be coming to the surface and expressing their concerns. They have no commitment from the government, apparently—no undertaking from the government whatsoever—that this land will not have houses all over it. The land does deserve more consideration than that, so I commend Mr Corbell for bringing forward his motion. It seems that it will at least prod the minister and the government into doing what they should have done without it.

MR RUGENDYKE (3.41): I seem to recall that there has been a fair degree of discussion about this block of land. I seem to recall driving past it and seeing some big old trees. Part of it seems to be less valuable environmentally. It appears to be just a paddock. Some sort of compromise has been discussed, if not made, over some residential development on some of the land. I think Mr Corbell's motion to completely bar residential, full stop, is not appropriate. I think it is wise to agree to the amendment put by the minister and to consider whether to permit residential development or whether it is appropriate to revise the land use policy to urban open space. I think that is fair enough. I support the motion, with Mr Smyth's amendment.

MR CORBELL (3.43): Speaking to the minister's amendment, Mr Speaker, let me put a very clear argument as to some of the misconceptions the minister has deliberately put forward in this debate. The first of those is his suggestion—

Mr Smyth: Excuse me, Mr Speaker. I have deliberately put forward no misconceptions in this debate.

MR CORBELL: There is no point of order. He has had his opportunity, Mr Speaker. The minister has put forward a number of misconceptions during this debate. If the minister is not happy with my assertion, he should know the appropriate form for addressing that. The first of his misconceptions relates to his argument that this is some sort of Clayton's review. Clearly the minister does not understand the provisions of the land act that allow the Assembly the opportunity to recommend that certain courses of action be followed in relation to the operations of the ACT Planning Authority, PALM.

The land act sets out three specific opportunities for the Legislative Assembly to recommend to the executive that certain things take place. They are encompassed under section 37 (2) of the land act and they relate to provisions in section 37 (1). Section 37 (1) says:

> The Executive or the Minister may give the Authority the following written directions:
>
> (a) directions about the policies and objectives it should pursue in the performance of its functions;
>
> (b) directions to review the Plan—

that is, the Territory Plan—

> or any specified part of the Plan;
>
> (c) directions about any other aspect of the performance of its functions.

There is no provision, if you follow strictly the wording of the act, that allows us to say that we recommend to the executive that the Territory Plan be changed to provide for certain things to happen. Instead, the act says that we can recommend to the executive that the authority be given certain directions to review the plan or any particular aspect of the plan. There is nothing in it that says we cannot say, "We believe the Territory Plan should be reviewed to provide for this effect." That is what we are doing.

The minister uses a very literal interpretation of the act to argue that we can only say that a review should take place, not that a review should take place to achieve certain outcomes. "Review" can be interpreted in a number of senses. They include "looking again", "taking a second look", "deciding on an alternative course of action". Those are all reasonable uses of the term "review". The minister's argument about the use of the term "review" is a deliberate misrepresentation of the Labor Party's motion and provisions of the land act.

Mr Rugendyke raised a couple of points in relation to the approach by the minister, arguing that it was a compromise. The government's position is not a compromise. Mr Rugendyke should know that the north Watson site extends pretty much from where Phillip Avenue finishes to Antill Street. The lower part of the north Watson site, as he will not see on the map that has been circulated by the minister, includes a large portion

of land which is simply degraded grassland, paddocks. It does not have any significant environmental value. I am very happy to concede that point.

This is land which is also set aside for development, and this is land which the Labor Party does believe should be developed. It is the upper portion of Watson that we have a concern about. As you will see from the photographic map circulated by the minister, it contains a significant area of remnant grassy woodland.

This is the area that we believe should not be developed. The lower area can and should be developed. We have indicated that publicly on the record previously. But members should reflect on the real significance of the site. Yes, it is, in many respects, just a bunch of old trees. But, as is recognised by leading conservationists such as Phillip Toyne, who I mentioned earlier in the debate, and other experts in the field, it is more than just a bunch of old trees. It is a remnant of the most endangered ecological community in south-eastern Australia. That is the point members should bear in mind when voting in this debate. This is a remnant of the most endangered forest type in south-eastern Australia. There is less than 5 per cent of the original pre-European settlement coverage of this forest left. Ninety-five per cent of this forest type is gone forever.

The national agreed target on the amount of each forest type that should be protected is 15 per cent. We cannot meet the target in relation to this forest type, because there is only 5 per cent left. Let me just put one other fact in members' minds. Of the 5 per cent that is left, less than 0.3 per cent is protected in reserve. That is an abysmally low figure. It is incumbent upon us to recognise that forest types such as that located at north Watson are of significant value and deserve to be protected from development.

If the minister for the environment was serious about protecting the environment of this woodland and assuring that it continues to function as an ecological community, he would act to protect the entire site. But he is not doing that. He is instead saying, "We will protect five of the 15 hectares and allow housing on the rest." He will allow housing amongst large old trees that drop limbs. Does that make a lot of sense to members in this place? Mr Rugendyke, would you like to live next door to a 200-year-old tree that drops limbs suddenly without warning? You would not. Yet the minister is proposing that that is what should happen on the majority of the site.

The government's position is illogical. I urge members to recognise that the most appropriate step is to protect the entire site and not to go for the Clayton's option, the minister's amendment.

MS TUCKER (3.52): I am pleased that Mr Corbell has put up this motion today, as this area does contain a very significant area of yellow box/red gum grassy woodland. I was intending to put up an amendment, but Mr Smyth has effectively blocked that amendment by putting up an amendment of his own. So I am now circulating an amendment in my name which will amend Mr Smyth's amendment. The function of that amendment is to raise the question of moving this area not into urban open space but into hills, ridges and buffer areas with a public land nature reserve overlay.

Mr Rugendyke said he thought the area looked like a paddock. I think Mr Corbell has answered that. It is the most endangered ecological community in the region. It is important for us to understand that if we have 5 per cent of an ecological community left

in the region we have a responsibility in the ACT to protect as much as of it we can to try to balance it out over the region. This may look like a paddock, but it is an ecological community of which only 5 per cent is left.

It is incredibly important that people understand. They may not think it is as exciting or glamorous looking as a forest, but there is life dependent on that ecological community. That life will become extinct if that ecological community becomes extinct. We have 5 per cent left in the region. We have more than that in the ACT, but we have to take responsibility for the broader region if we have an ethical approach to conservation. You cannot just look at lines on a map and say, "We are doing okay here." We have to take responsibility for the whole area.

Yellow box/redgum grassy woodland is a declared endangered ecological community. There is a difference of view about the form of the understorey, but I will talk to that later. Woodland was the characteristic vegetation covering 25 per cent of the Australian continent. However, since European occupation this woodland has been severely degraded because of clearing for farming activities. In south-east New South Wales there is only some 5 per cent of the original yellow box/red gum woodland left. The white box woodland has been practically wiped out. Unfortunately, little—less than 1 per cent of the remaining woodland—is protected. In rural areas it is suffering from tree decline because of drought, fire, insect defoliation and limited opportunity for regeneration.

Fortunately, in the ACT there are some significant patches of remnant woodland, but there has been much fragmentation of the original woodland ecosystem, because of clearing for farming and then urban development. The action plan for grassy woodlands states that the remnant high-quality stands of woodland in the ACT are about 25 per cent of the original woodland. A further 12 per cent of modified woodlands still have a significant tree cover but have a degraded understorey.

The government makes a big issue of the fact that the area does not meet all the criteria for being classified as a grassy woodland. But this does not mean that it has no ecological value and can be bulldozed. The trees still provide important habitat for birds and other species. Some 80 species of native birds have been observed in this area, including the nationally endangered regent honeyeater and five other threatened species. There is a positive correlation between bird species diversity and increase in size of intact areas. I am concerned that the five hectares the government wants to keep as open space is too small to maintain the current species diversity.

The Watson Community Association study noted that woodland patches of over 10 hectares that are within one kilometre of other woodland areas are preferable for maintaining existing bird species. This area is less that one kilometre from the Mount Majura woodlands, but it is not big enough to prevent the loss of bird species in the north Watson area.

The government also claims that it has already protected large areas of woodland. This is good, but we know that there is very little woodland left across the whole region, as I have already said.

Because of some fortunate historical and geographical circumstances, we have a greater proportion of woodland here than in the surrounding region. However, I do not think this means that we do not have to protect any more areas. On the contrary, I think we have a responsibility to make the ACT a form of land bank for remnant woodlands, to make up in a small way for the loss of woodlands in the surrounding region.

This area can be regenerated, and I believe there is significant interest in the Watson community to take on a landcare role in this area if given the chance, although it should not just be left to the local residents. Government needs to take the prime responsibility for the open space in Canberra. I do not think the areas already gazetted by the government for open space are large enough to protect the ecological values of this area. While it may be possible to keep some of the remnant trees outside of this area within a residential development, they will be quite isolated, incapable of regeneration and always subject to the threat of pruning or removal by developers and new householders. The government's tree protection scheme will not totally stop the clearing of the trees left in the development area.

As the amendment I was proposing to move to Mr Corbell's motion provided, the area should be declared a nature reserve incorporated into Canberra Nature Park. I am concerned that just designating it as open space will not give the area enough protection or sufficient management into the future. By designating this area public land, there will be an obligation on government to prepare a management plan for the area under the land act. This would not apply if the area was zoned as open space. The area needs to be managed carefully in order to rehabilitate it. I am concerned that if it is left as open space to be managed by Canberra Urban Parks and Places then it will not get the attention that it deserves. Ecologically, the area is a continuation of the woodland across Antill Street and the Mount Majura section of Canberra Nature Park, and it needs to be managed as such.

I move the following amendment to Mr Smyth's amendment:

> Omit all words after "residential development", substitute "or to change the land use policy to Urban Open Space or Hills, Ridges and Buffer Areas with a Public Land— Nature Reserve overlay.".

MR OSBORNE (3.59): I know that Mr Corbell and Ms Tucker have been attempting to catch up with me today. I am not exactly up to speed on what is happening here, apart from what has been discussed in the debate. In the last 12 to 18 months, I have taken a very conservative view on development, tree protection orders and all of those types of things. I am as concerned as anybody about ensuring that we get it right. One comment Ms Tucker made to me today was that there are 400-year-old trees there, and I said, "We have already saved them." Decisions of this nature need to be taken quite carefully.

I was concerned about supporting Mr Corbell's motion, given that I did not have a lot of information about it but, looking at Mr Smyth's amendment and Ms Tucker's amendment to it, I think it is quite reasonable that PALM conduct a wide-ranging review and that ultimately we make a decision based on that.

I will support the motion, with the two amendments. I think that is quite sensible. But, as I said, I have only had the information today to base my assessment on. However, I agree that we need to be cautious when making decisions of this nature. I am not an ecologist or an expert on this, but my understanding is that isolated trees in developments become susceptible to disease. The argument that the trees will be saved in the middle of developments is not a very strong argument. Nevertheless, I am open to something perhaps happening there one day, but I think that PALM does need to conduct a proper review so that we ensure that we make the right decisions. I will support the motion, with the two amendments.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (4.02): I need to clarify a few points. Mr Kaine said it was great that Mr Corbell was giving the government a prod. I might prod Mr Kaine's memory. He was part of the Assembly that voted for the variation to change this block of land to residential. But times change.

The government does not need a prod. We have a land release program that lists this block of land for the year 2003-04. It says that work has to be done before that happens. I think Mr Kaine knows that, from the smirk I am getting from across the chamber. I have said consistently that we needed to do further study to make sure we get it right, and that in the lease and development conditions we would protect the majority of the significant trees.

Mr Corbell said that you do not want to live under a 200, 300 or 400-year-old tree. The lease and development conditions are very important to make sure that we protect those trees and that we protect the residents that might live under them. The lease and development conditions, as Mr Corbell well knows, are a very effective, important tool in making sure we get the planning right.

The government is happy with Ms Tucker's amendment to my amendment to Mr Corbell's motion. There is clearly a divergence of opinion in the Assembly. We do not need a review with a fixed outcome but a genuine review to make sure that all the considerations are taken on board and that we get the best outcome for the people of Canberra.

MR CORBELL (4.03): I think Mr Kaine was right when he said what would have happened if I had not moved this motion today.

Mr Smyth: We would have done the further studies, as I told you.

MR CORBELL: Mr Smyth interjects, "I would have done the further studies." That response from the minister beggars belief, simply because this minister only says he is being a good guy when he is embarrassed into it. We have seen it time and time again. This is the same minister who refused to accept the petition from residents of Narrabundah concerned about redevelopment in their suburb until he suddenly discovered that I had agreed to do it instead. Then he made two quick phone calls, saying, "I am available. I am willing to talk to you." It is one thing for the minister to say he is the good guy, but it is another to judge him by his actions. It is only when there is a bit of adverse publicity around that Mr Smyth becomes a reasonable man.

Mr Smyth's amendment is an amendment the ALP will reluctantly support. Mr Smyth's proposal for the site, which is to protect only five hectares, is nonsensical and insincere. As Mr Smyth well knows, this area was going to be protected anyway as part of the original development proposal for the site. Mr Smyth well knows that back in 1993-94, when this development was first proposed, it had already been decided that the area he is proposing to protect would be urban open space. So he has not done anything new. He has just reinvented something which was always going to be there. It is insincere for him to claim that he is making some sort of compromise.

How logical is it to say that we will protect part of the site but then permit development in the rest of the site but in a way that still retains the trees, when we know that these trees are 200 to 400 years old and have the capacity to drop very large limbs? Are they the sorts of trees that we should be encouraging in a residential area? Would you provide for housing in close proximity to them? The answer is that you could not. We all know what residents of this potential subdivision would say when limbs started dropping. They would say, "This is a hazard to life on the property." And they would be right. So the trees would be removed, and Mr Smyth's purpose would be defeated. It is a nonsensical and insincere approach by this government.

It is important to reiterate what Mr Phillip Toyne said at the rally held earlier this year in relation to the need to protect the site. Mr Toyne said:

> In circumstances like this, you are talking about something that is so rare and of such value that no compromise is possible.
>
> It seems to me that these are the very circumstances in which governments are required to show leadership. They are required to say to developers and proponents of schemes around their jurisdiction, "some places are simply not available to you".
>
> If there was a planning decision to make that area available for housing, it has to be reversed.
>
> We now know too much to sacrifice this 20 hectares for a housing development that could be [built] somewhere else.

They are not my words but the words of Phillip Toyne, a leading environmentalist in Australia, a well-respected, authoritative and reasonable man who understands the very dire circumstances faced by ecological communities such as the one at north Watson. That is why the Labor Party argues that the site should be protected in its entirety as a woodland area.

There are opportunities for development. Development can occur on the lower part of the north Watson area, where there are no significant trees, where it is simply degraded grassland, where it is simply, as Mr Rugendyke put it, a paddock. That is a reasonable site for development. But to leave open the option of saying that part of this woodland site can be used for residential development is not, in our minds, acceptable. It is not acceptable when you realise that there is only 5 per cent of this forest type left in the world and that only 0.3 per cent of it is protected in reserve. It is not acceptable to say that we should compromise when 95 per cent of this forest type has gone forever. When do we say, "Enough compromising"? That is the question we should be asking ourselves today.

Whilst it is somewhat a vain hope of mine, I would ask members to support the original substantive motion, because it is the only proposal before you today that ensures the entire woodland area is not developed. That is the outcome we should be pursuing.

Ms Tucker's amendment to **Mr Smyth's** amendment agreed to.

Mr Smyth's amendment, as amended, agreed to.

Motion, as amended, agreed to.

Suspension of standing and temporary orders

Motion (by **Ms Tucker**) proposed:

> That so much of the standing and temporary orders be suspended as would prevent notice of motion No 11, private Members' business, relating to student transport and educational programs, being called on forthwith.

MR CORBELL (4.11): Mr Deputy Speaker, I would simply ask that Ms Tucker outline why she wants this item brought on now. As far as I am aware, Ms Tucker has not raised this matter with the opposition. I am surprised that she is calling it on at this time, without apparently any discussion with us. I am not sure whether she has discussed the matter with other members of this place, but I am not aware of her request to do this. It would seem to me that other members have business on the notice paper already, which they are anticipating dealing with before we deal with any other business.

This item certainly was not raised at the Standing Committee on Administration and Procedure procedural meeting yesterday lunch time. I am somewhat concerned that Ms Tucker seeks to bring this item on without at least flagging it with the committee, let alone talking to other members of this place prior to her moving the motion. It is the first I have heard of it and, quite frankly, for someone who talks about procedure, I can't believe she is doing this. So, unless Ms Tucker can climb to her feet and indicate why she wants to do this now, when she hasn't raised it previously, I don't think the Labor Party can support it.

MR RUGENDYKE (4.13): Ms Tucker did advise me this morning that she would seek leave to introduce this motion even though it is not on the daily program. I have agreed to allow that. I am happy to have this debate. She has liaised with me. That is my point.

MS TUCKER (4.14), in reply: I'm not quite sure, but I thought we communicated quite clearly to members that this was happening today. I thought my office spoke to everyone. If there was a misunderstanding with Mr Berry, I apologise. It is on the notice paper. I did speak to this in admin and procedure, but it was in a different form, which was then ruled out of order by the Speaker. So I changed the motion. We did in admin and procedure agree, Mr Corbell, when you think about it, that my motion would come on after your Watson motion. It was discussed. It was a different motion.

Mr Corbell: It is a completely different motion.

MS TUCKER: It is not a completely different motion at all. So, for that reason, I had to reword that motion. A copy was given to Mr Berry's office this morning. I apologise if Mr Berry didn't understand. Maybe that was a problem in communication from my office. But the point is that we agreed to have a discussion about this issue of school buses which I thought the Labor Party wanted to have as well. But who knows!

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

Leave granted.

MR KAINE: I was aware that Ms Tucker wanted to bring something similar to this on today, and I have no objection to debating it. But can it not be debated after notice No 6? Surely Ms Tucker's objective will be satisfied as long as we debate this before we adjourn today. I don't see any necessity to debate it right at this second, but I don't mind debating it before we adjourn at the end of the day.

MR BERRY: I seek leave to speak briefly.

Leave granted.

MR BERRY: I have formed the same view as Mr Kaine. I am quite happy to debate this and give an undertaking that we will stay here until we finish it. I think we should wait until we have dealt with all the other matters up to and including No 6. I must admit that I was contacted today. I feel as thought I have probably let Ms Tucker down to some degree because I didn't pay proper attention to the matter. I'm quite content to see the suspension of standing orders occur a bit later, after we have finished all the other debates. I don't have any difficulty about doing it, but I just think it should happen at the end.

MR DEPUTY SPEAKER: I have only one motion in front of me. It refers to "forthwith". Ms Tucker may want leave to change that to "later this day".

Ms Tucker: It appears that the majority of the Assembly would like to do it later; so I seek leave to withdraw the motion. I will do it later.

Leave granted.

Motion, by leave, withdrawn.

Food (Amendment) Bill (No 3) 1998

Debate resumed from 28 October 1998, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR MOORE (Minister for Health, Housing and Community Services) (4.18): The Food (Amendment) Bill (No 3) 1998 put forward by Ms Tucker, if passed, will require premises that sell ready-to-eat foods—restaurants, takeaways, sandwich shops, et cetera—to either wash the associated crockery or cutlery provided to the customer,

which includes takeaway containers, place the items in a recycling bin or recycle them in another way. That is the nub of the legislation that we have before us, which Ms Tucker seemed quite happy to put off until later rather than debate now.

A series of issues come up in this. First of all, it appears that no cost benefit analysis has been carried out for the scheme; it was certainly not part of Ms Tucker's introductory speech. Also, this is an area where it would be entirely appropriate for a business impact assessment to be carried out, and my understanding is that there has been no business impact assessment. We can see very early on that this would have a significant impact on business.

I would question whether consultation has been carried out at all on this piece of legislation, particularly consultation with those most affected—that is, the takeaway food shops and coffee shops, and so forth, around town. I would be very interested to have Ms Tucker indicate to us the level of consultation that has occurred on this particular legislation. It has been on the table for some time, so there is a possibility that those people would have been aware of it and able to look at it.

There are other issues that create major problems for this piece of legislation. First of all, the national competition policy agreement prohibits legislation that unnecessarily restricts competition. That legislation was signed off by Ms Follett when she was Chief Minister of the Labor government. This bill will restrict competition by placing a requirement on ACT businesses that does not apply to other businesses in Australia. So this is a raging set-up that puts a specific restriction on those businesses. There is a series of further problems with the bill, which is unfortunate because we can all understand Ms Tucker's intention. Whilst we would agree with the intention, its delivery is entirely inadequate, and this bill should be rejected because of that.

The national food safety standards, which were agreed by all Australian states and territories in July 2000, are very worth while. We have done a huge amount of work to try and get agreement on that and, unfortunately, this bill is inconsistent with it. It is also inconsistent with the intergovernmental agreement on food regulation reform, signed by COAG in November 2000, which commits the ACT and other jurisdictions to adopting national uniform food and food business regulation in Australia. Under our interstate agreements act, it has been circulated to other members that that agreement had been prepared.

The bill proposed by Ms Tucker is also inconsistent with the model food bill that the ACT agreed to adopt as part of COAG's intergovernmental agreement. There are a series of major problems with the legislation put forward by Ms Tucker, even though we recognise the intent behind it.

In accordance with the intergovernmental agreement, the ACT government is currently drafting a bill which is consistent with the national model food bill. The government's bill has as its primary goal, as does the current Food Act 1992, the provision of "safe and suitable" food to the ACT community. The bill put forward by Ms Tucker may impact negatively on food safety, in direct conflict with the goal of both the existing and proposed ACT food legislation. Our foremost concern should be food safety.

If a business opts to reuse items, many existing food premises would have major kitchen floor space constraints if they are required to install new sinks and new dishwashers. You only have to look at some of the small restaurants and cafes around at the moment. Even if they did have the space, the cost of industrial style equipment, along with its installation, is likely to be significant. The loss of space might impact on the ability of the business to keep the premises clean and tidy, which would result in providing harborage for vermin and food poisoning organisms. There are significant problems, and we have not had a business impact assessment of this well-intentioned but, unfortunately, poorly delivered piece of legislation.

If the business opts to recycle, BFI Canberra, Canberra's major recycler, are only capable of recycling a limited range of materials. Most food grade containers do not fall within that range. The company has indicated that any food contamination of recycled materials would render those materials unusable and they would have to be transferred to landfill. Once again, it is well intentioned, but the delivery is unlikely to work. The national food safety standards require used dishes, crockery and cutlery to be washed and then sanitised using chemical sanitisers and very hot water. Significant hygiene problems can arise, of course, if that requirement is not met.

There will be a significant cost to government in the enforcement of this legislation. Environmental health officers will have to spend a large amount of time ensuring that food businesses have upgraded their facilities in order to reuse crockery and cutlery in a hygienic manner, and they will have to continue to keep that monitoring process in place. Of course, the increased use of detergents and other chemical sanitisers would then have a detrimental impact on the environment, and one has to wonder at the balance of the damage to the environment. There has been no indication that the impact of that has been assessed.

The Greens have made the judgment: "We'll save the environment by making people reuse or recycle their equipment," and on the face of it that seems sensible. To do it requires the use of significant amounts of detergents and chemical sanitisers, because we have to have these standards in public food. The result of that would be a major impact on our waterways and our environment, so there are challenges there.

The Department of Urban Services Waste Management Unit's development control code for best practice in waste management in the ACT was developed to support the No Waste by 2010 strategy. New food businesses are required to provide details of how they plan to meet the performance-based criteria in the code. So the government is working with the businesses and the community to achieve a proper partnership approach in order to get the best possible outcome. What we hear from the Greens is, "Bugger that. We think there is something about the environment. Let's put aside all those things about consultation and so forth, because we've got a good idea and we're going to push it through." That is how this legislation appears to me.

We get better solutions to issues of health and environment when we have got people working in partnership to develop proper long-term solutions to an important waste problem. That has been identified by the Greens; it is in their bill. I emphasise once again that nobody—I presume—disagrees with the intention of the bill, which is to reduce the amount of non-recyclable material that is there, but it would create a series of major problems.

Mr Berry: I do. I reckon you should make it edible.

MR MOORE: I hope Mr Berry has an amendment ready because his solution is that we make the containers edible, which strikes me as being very sensible.

Mr Berry: You probably wouldn't be able to tell the difference!

MR MOORE: Given some of the takeaway food that my kids force me to eat, who would know, as Mr Berry says, the difference between the food and the container, anyway? That is yet another solution but, before Mr Berry puts it in a bill, I am sure he will do an appropriate amount of research and impact assessment of such a thing—

Mr Berry: Finding the flavours. I'll go looking for the flavours.

MR MOORE: And then we will see it there. I do not disagree with the intention of the Greens' bill, but the method is wrong. For that reason the government will be opposing it.

MR CORBELL (4.27): The intention behind the Food (Amendment) Bill (No 3) 1998 is an important one. The volume of waste that is generated by food outlets is considerable. It is perhaps the least regulated of the many waste streams in the territory in terms of our ability to reuse or recycle the material generated, and Ms Tucker rightly identifies this problem. It is important to note that Ms Tucker's bill focuses on the containers that are provided for people who are eating in an outlet, a food hall or a place such as that. It does not target the containers or packaging provided for people who purchase at a local fish and chip shop or a larger chain and take the food away. It is important to draw that distinction.

Mr Berry: You have to have a packet to put the packet in.

MR CORBELL: Nevertheless, the Labor Party does have concerns with the approach advocated by Ms Tucker on this occasion. The requirement to provide for recyclable or reusable implements and containers is one which we have concerns with—again, concerns not with the intention but the practicality of its delivery. On this occasion the Labor Party has concerns that the approach seems to be: we will legislate top down, and it shall be done. The reality is far from the case.

As Mr Moore has rightly identified, there is a range of serious implications for business in terms of its capacity to respond to this law, even with the 12-month transition period outlined in the bill. For example, the cost to business is not insignificant and neither are the potential impacts on the provision of space for washing or recycling activities. Those are concerns that are shared by the opposition.

Mr Temporary Deputy Speaker, the Labor Party will not be supporting this bill today. We believe there are better approaches to this situation than the one proposed in this bill. For example, the Labor Party would welcome the creation of industry waste reduction plans that targeted this particular waste stream and where arrangements, either mandatory or voluntary, were entered into with the industry affected. For example, there is a range of provisions in New South Wales industry waste reduction plans for a range

of packaging that would otherwise simply go to waste. In some instances, these waste reduction plans are agreed on by industry, so they act as a code, if you like, without a mandatory requirement. In other instances, where they are not necessarily uniformly agreed by industry, they are made mandatory.

We believe that sort of approach should be pursued here in the ACT. The government's Waste Minimisation Bill, which was introduced in the last sitting and which is to be debated tomorrow, provides the framework for the sorts of industry waste-reduction plans that we believe could address this particular source of waste in the territory. In our view, reducing waste and encouraging recycling and reuse is best achieved through a cooperative approach that encourages all of the participants in the waste creation process to look at how they are creating waste and how they can undertake steps to reduce the level of waste created. That is an approach we believe should be adopted in this case.

Mr Temporary Deputy Speaker, I foreshadow that the Labor Party will be supporting the Waste Minimisation Bill tomorrow, and it will do so partly because it provides a framework to industry for an approach to reducing waste. For that reason we cannot support this bill today. This bill is well intentioned but it is, in our view, unfortunately a case of top-down legislating that does not bring the key participants in the process with it in terms of actually getting the outcome we all want. I commend Ms Tucker for raising the issue, but its delivery, as Mr Moore said, is not one that can be supported.

MS TUCKER (4.33), in reply: Obviously, I am not getting support for this. Mr Moore is again worried about me not consulting. He does worry about that. Yes, we did send out copies of this bill to various industry members. We got a response from Kingsley's Chicken: they did not like it. We thought we were getting a response from one of the consultancy groups that were representing McDonald's and a couple of fast food chains, but they did not get back to us after we sent them the bill. Obviously, we were not expecting industry to be delighted with this proposal; we are working to an environmental imperative.

We did take into account business concerns, though, which Mr Moore seems not to understand. We put a year for phasing this in. Mr Moore might think that is not enough time—I guess we have a different sense of the critical nature of environmental change. I often hear from governments of both persuasions—Labor and Liberal—that the voluntary approach is the best approach. I am totally happy with working co-operatively with people and industry, and I am aware of what this government is doing working with codes. I am aware of the more novel national arrangement at the moment, which is that you can volunteer or you will be forced to work with regulations.

Even though industry never wants to be regulated, there is now a national acknowledgment that this issue is a little bit more urgent than a luxury item—you can do it if you want to. With the national approach, if you do not sign up to the voluntary agreement, you will have a heavy regulatory requirement and obligation. We did give a year for this. We did consider industry. We did not apply it as widely as we could have. We did not apply it to takeaway food sold by eateries. We did not apply it to prepackaged food such as sugar packets and drink bottles or to small items such as drinking straws. We gave the businesses 12 months to phase in these changes.

There are all sorts of potential creative solutions to this. We know that there are cafes and restaurants that use washable crockery and cutlery now. I was discussing the bus motion as Mr Moore was speaking, and I honestly did not hear him probably, but he seemed to be referring to some fears about health. If he is suggesting that this is somehow going to have a negative impact on safe food and providing food in containers, we know that people are reusing crockery now—they do that.

One of the real problems is that, in any voluntary scheme, when you have people who actually understand the problems of environmental waste doing the right thing, they are disadvantaged in the market by people who are not doing the right thing. That is why, with the national approach now to packaging and so on, the industry itself has acknowledged that they like a voluntary scheme, but if people will not do it, they have to be forced in a more onerous way to do it. They know that the people who are irresponsible will have an advantage in the market because it will be cheaper for them—although, if you did a cradle-to-grave analysis of the cost to our society of that cheap production, you would see that we are all paying now and in the long run for the so-called efficiency gained by people at the expense of the environment.

It is clear that I am not going to be getting support for this. I think I have put most of the points fairly clearly in my tabling statement, so I will not take up more of the Assembly's time. I will just say that the Greens will continue to push these sorts of initiatives in this Assembly as they will in other parliaments around Australia and around the world because we know it is a very important thing to do.

Question put:

> That this bill be agreed to in principle

The Assembly voted—

Ayes 2	Noes 13	
Mr Rugendyke	Mr Berry	Mr Moore
Ms Tucker	Mrs Burke	Mr Osborne
	Mr Corbell	Mr Quinlan
	Mr Cornwell	Mr Smyth
	Mr Hargreaves	Mr Stanhope
	Mr Hird	Mr Stefaniak
	Mr Kaine	

Question so resolved in the negative.

School league tables

MR BERRY (4.41): I move:

> That this Assembly:
> (1) opposes the Government's decision to report school averages on literacy and numeracy tests to parents because it will lead to the publication of school league tables;
> (2) rejects school league tables because they provide inaccurate and misleading information about school performance, lead to greater inequities in schooling and unfairly label some schools and their students and families; and
> (3) calls on the Government to abandon its proposals to report school results and to engage in further consultations with stakeholders on ways to improve reporting to parents and to increase Government accountability for improving educational outcomes for all students.

Mr Temporary Deputy Speaker, the motion deals with school competitions, or what are commonly called league tables, and it goes a long way to explaining my position in relation to this matter. The government introduced an assessment scheme into the school system, which is at the centre of the reasons for this motion.

This motion arises from the substantial opposition to the government's move to commence this sort of reporting in our schools. It seems to me that the government has some sort of infatuation with the marketplace, where everybody has got to be competing with everybody else. You have to know what everybody else is about so that you can compete. There is a difficulty with this approach in respect of schools. A lot of evidence in Australia and overseas—and I will come to that later—demonstrates that this will have a negative outcome and will impact badly on the education system.

It is clear that the education community is unhappy about this approach, and when you read all the work that they have done on it, it is not hard to see why. The May 2001 edition of *Feedback* from the ACT Council of Parents and Citizens Associations talks about school league tables and comments on the government's position. I will read some comments into the record:

> The first round of school results will be available later this year after literacy and numeracy assessments are conducted in all ACT government primary and high schools in August. All parents of students in these schools will be provided with their school average score for each assessment together with the system average.
>
> The Government says it will not publish league tables. It says that schools will not be permitted to use school results for marketing purposes or to publish their results in school newsletters. However, while reporting school results to parents, it is providing information which can be used—

and this is the crunch point—

> by others to construct and publish league tables.

It goes on to say, among other things:

> There is nothing to stop individuals or organisations from collecting school results from individual parents or through Freedom of Information (FOI) applications. Information on school results will not be formally protected from FOI applications as they have been for the last few years as Confidential cabinet documents.

I am picking items out of this article, Mr Temporary Deputy Speaker. It goes on to state:

> Another simple way to construct a league table of average scores would be to select a key strand in literacy and numeracy such as reading, writing or number for one Year level and use this as a 'proxy' measure of overall school performance.

The P&C council, of course, strenuously opposes league tables, and there are very good reasons for that.

Mr Temporary Deputy Speaker, I suspect it will be said by the government that we are being paranoid and overprotective. We cannot be overprotective as far as our students are concerned. There is just no way that we can be overprotective. They deserve the most strident protection from anything which will impact negatively on education outcomes.

There are a myriad of examples from overseas and Australia which illustrate the problems that arise from league tables. There have been difficulties with league tables in the United Kingdom. A brief dated June 2000 from the ACT Council of Parents and Citizens Associations entitled *The case against school league tables* goes to issues in the UK, and it is not hard to come to the conclusion that those sorts of things will happen here in the ACT if this sort of proposal goes ahead. The brief states:

> Comparisons of school results can further entrench inequities and social division in schooling. This has happened in the UK since the introduction of public league tables and in New Zealand with public reporting on the performance of individual schools.
>
> In the race for higher rankings some students and their families come to be seen as an asset to the school and others are considered undesirable because they are seen as a liability.

That is to say, kids who are bad performers are not wanted at the school because they affect the overall outcome of the school.

Mr Temporary Deputy Speaker, these are the most undesirable aspects of anything that can be described as a league table. The document goes on to say that this leads to replacing undesirable students with those who generate better test results and that replacing students is both easier and more certain of success on league tables than changing what teachers actually do. The document contains headings such as "League tables are misleading advertising", "The case against school league tables" and "Cheating by schools", and I will go to that issue. The document states:

> League tables are also misleading because rankings can be affected by cheating by schools. With public reputation and status at stake, schools have an incentive to obtain a high ranking on league tables by manipulating their results.
>
> One way is to provide students with the answers to tests. For example, there has been a spate of cheating incidents in the United States recently. In December last

> year, 47 New York principals and teachers were accused of giving students answers on tests that influence how schools are ranked.

This is where all of this is heading, and that is the most distressing aspect of the government's attempt to introduce this regime in our schooling system.

Mr Temporary Deputy Speaker, I am holding up a copy of a *Daily Telegraph* article of 8 January 1997. Members will see a picture of a class under the heading "Class we failed".

Mr Stefaniak: Mount Druitt.

MR BERRY: Indeed. The article stated:

> This is Mount Druitt High School's class of 96—the class that society and the education system failed.

It went to all of the details about this school and how its TERs were low.

Mr Smyth: And because it was published they then did something about it.

MR BERRY: The article went on to deal with how those low TERs affected the school. Mr Temporary Deputy Speaker, Mr Smyth was getting a little agitated a moment ago, and his body language suggested to me, "That is not what we are doing." The point, Mr Smyth, is this: the way that you are collecting the results and providing them to teachers leaves an opportunity for people to gather them and present them in the form of league tables from which comparisons can be drawn between schools.

Mr Temporary Deputy Speaker, this is an absolutely dangerous practice.

Mr Smyth: No, it is dangerous because it allows mediocrity.

MR BERRY: It is dangerous for students and it is dangerous for schools because it would cause a flight of students from schools, and if you cannot see that you are blind—you are blinded by your own ideology.

Mr Smyth: So you are willing to accept mediocrity.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! The Minister for Urban Services will come to order. Mr Berry, I would like to ask you to take note of standing order 42 that requires members to address the chair.

MR BERRY: Mr Smyth is blinded by his own ideology if he cannot see the danger that this would cause to our education system and our schools. Imagine a school which had a poor result because somebody astute enough to gather this information from parents put together a package which demonstrated in some way that the school was underperforming compared to another school. Imagine the parents' feelings about that school. Imagine the feelings of students if it was, say, a high school, and I will come to that issue because it is extremely important that we fully understand the impact of this. This is something that Mr Smyth does not seem to understand.

Mr Temporary Deputy Speaker, I refer to another article. The *Sydney Morning Herald* of 9 January 1997 had this to say:

> Students and teachers hit back yesterday over the low TER results at Mount Druitt High School, which were highlighted in a front-page media report.

I will read a few of the quotes from some of the students and some of the teachers. The article continued:

> But the school's principal, Ms June Richards, said she felt "humiliated" over a report in the *Daily Telegraph* highlighting the school's TER record—the highest score was 44.4.
>
> Sarah Chalmers, 17, who has just completed her HSC at Mount Druitt High says she got a bit weepy when she showed up to her part-time job yesterday and other young staff teased her by chanting "failure".

Well, why wouldn't you get a bit weepy if somebody did that to you? The article continued:

> "It was really embarrassing when people teased me," said Sarah, who wants to be a hairdresser.
>
> "But I wasn't aiming for a high TER. I want to start work and I've been really happy at school. The teachers have been really willing to help me, even after hours."

That is the sort of thing that can happen to kids. They can be branded when somebody has been astute enough to pull together all of these figures and draw conclusions about the performance levels between schools. The article also states:

> Shaun Juckes, 18, who starts an engineering course this week, said he was worried the controversy over the school's TER results would prejudice employers.

I think he meant employees—

> "People are saying, 'Oh, you guys are the dumb ones from Mount Druitt'," he said.

Young people can be cruel sometimes and this is what we want to avoid. He said:

> "But a lot of us didn't go for a high mark, we didn't need one."

That does not matter because the results are collected, these comparisons are drawn, and often people discriminate quite unfairly. The damage can be very permanent to a school. Imagine yourself as a parent entering your bright young student into, say, years 7, 8 or 9 at a high school and all of a sudden, because of the exposure of figures which have nothing to do with the quality of education for individual students, you see some ugly comparison between that school and another school.

Mrs Burke: What? How do you—

MR BERRY: I am glad that somebody asked, "Why?" I have been waiting for that question. Quite often, Mrs Burke, it relates to the catchment area of the school. If it is a low socioeconomic area, or if it has a high population of kids with a non-English speaking background and those sorts of things, you can end up with a low score result. You create major difficulties for schools if you report performances, say, between a school in a low socioeconomic area and one in a high socioeconomic area where students are better off economically. Of course there are going to be differences but you do not want those sorts of comparisons drawn publicly. If you do it ends up meaning that not only will the schools be disadvantaged but so too will the students. Also, students from low socioeconomic areas are not going to be able to travel to find a better school.

Mrs Burke: Free school buses.

Mr Smyth: Yes they will. Free bus transport.

MR BERRY: Mr Temporary Deputy Speaker, we get the smart alec interjection "Free school buses". So, in Mr Smyth's ideal world and marketplace, you provide a free school bus to take them to another school until their school collapses in a heap. How ridiculous can you be? This is the difficulty with the government: they do not understand, or refuse to understand, the implications of their actions. They are blinded by an ideological commitment to market comparisons.

This is a dreadful piece of work. It has the potential to destroy schools and it has the potential to destroy people. This government will say, "You are being overprotective." Well, they can say that about me. It is a badge I will proudly wear because students and our schools are worth being overprotective about, and that is why I support this motion.

MR STEFANIAK (Minister for Education and Attorney-General) (4.57): I listened to what Mr Berry had to say and I will agree with him on one thing: you cannot afford not to be overprotective of our students. You need to do that. You need to ensure that our students have the very best possible education. You need to do things that will ensure that if they need help they will get it, and that they will not fall through cracks and not be picked up by the system. Mr Temporary Deputy Speaker, that is why we test and that is why we report to parents. That is why literacy and numeracy testing has been so popular in the community.

Mr Moore: And Wayne opposed it.

MR STEFANIAK: My colleague, Mr Moore, interjected, "And Wayne opposed it." I am not quite sure about that but I certainly do not think he was overly keen on it back in 1997; indeed, nor was the Council of Parents and Citizens Associations, I seem to recall. We came up, I think, with a very good system and it has been reassessed.

In fact, Mr Temporary Deputy Speaker, I am a bit amazed to see that part (3) of Mr Berry's motion calls on the government to abandon its, I would say, very sensible proposals to report school results and to engage in further consultation with stakeholders on ways to improve reporting to parents, and to increase government accountability for improving educational outcomes for all students. That is exactly what we did last year.

500 parents who had children in government schools were rung by a professional organisation, Roy Morgan Research, and were asked a series of questions. They were asked to make comments on what they wanted to see and what improved reporting they wanted. Also, 138 written consultation pieces were received, and I will come to the results of those later. These sorts of things improve accountability. Accountability starts with the classroom teacher to make sure that what they are teaching hits the spot with the kids. We need to know whether some of those kids need more help, the teacher need assistance to improve, the teacher needs someone to come in to further assist those kids, the school is doing it right, the school needs further assistance, the department is getting it right, the government is getting it right in supervising the department or the Assembly is getting it right in supervising the government. All of those things are very important and that is exactly what we did last year.

I note that Mr Berry has had this motion on the table since 5 September. At that stage it was a general motion relating to league tables. Quite frankly, when I looked at the motion then I thought that I had a fair bit of sympathy with it and that the government could support it. But on 1 May he came in—maybe it has something to do with the *Feedback* article that he referred to—with a revised motion opposing the government's decision to report to parents school averages on literacy and numeracy tests because it will lead to the publication of school league tables.

I would say "rubbish" to the second part of that. In fact, as a result of an extensive consultation period, we have taken steps to ensure it does not do that, because a straight league table which says school A is ranked three, school B is ranked six, may well be somewhat misleading. That is not what this is about.

But the government certainly has decided to report to parents the school averages of literacy and numeracy testing. It has certainly decided to show parents, because they want it, exactly where the child sits in terms of the child's cohort at that school; where the child sits in terms of the ACT system average for that particular strand of literacy and numeracy; and where the school sits in terms of the average for the system. That is what parents want. Five hundred parents were phoned and gave detailed responses in relation to that.

Mr Smyth: What was the result?

MR STEFANIAK: The result was about 76 per cent. I will come to that. I think I have tabled the report on literacy and numeracy outcomes, but I will do so again for the benefit of members.

Mr Temporary Deputy Speaker, all government school children in years 3, 5, 7 and 9 are now assessed in literacy and numeracy, and parents, schools and students have received a special report on that.

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 STEFANIAK: Mr Temporary Deputy Speaker, I have indicated that community consultation was conducted in July and August of last year. I would indicate to members, if they are not aware of this, that there are five strands of literacy and five strands of numeracy reporting for years 3 and 5, and I think it is three strands for each of years 7 and 9. As I said, the consultation had two components: a discussion paper with 138 written responses, and 500 random telephone surveys of government school parents whose kids were in the relevant age groups. When one considers how many kids we had in our government system at that time, that is a very significant survey. You are probably talking about 10 per cent of the school parent population, so it is very accurate.

The respondents to the 138 written responses fell into one of several groups: the P&C associations and councils, school and district boards, community members, teacher groups, and professional associations. That consultation process indicated that some 75 per cent of parents wanted to receive information about school and system average scores. Parents were most interested in the written consultations and the results of their child compared with a benchmark or average. There was some support for changing the ways results were reported, and certainly the vast majority of those responses were against direct comparisons of schools in the form of league tables. So that is fine. Quite a number of the 138 respondents were teachers—and, as one would expect, these are people who are very interested in education and are actively involved in the system.

In the random telephone survey of parents the 500 respondents spoken to matched the criterion of having a child in an ACT government school. Eighty-five per cent of those respondents were aware of the program; 76 per cent of them were interested in knowing how their child's school performed in the assessment program compared with other ACT schools; and 77 per cent were interested in receiving information showing their child's results against a national benchmark.

Mr Temporary Deputy Speaker, I think it would be worthwhile to read into the record some of the results of the survey. I will do so and then table the document. I refer first of all to page 14. Some 14 per cent of parents volunteered that they were in favour of comparing results with the average result of all students in the same year at the same school. When asked directly how useful this information would be, some 76 per cent thought the information would be useful, and a smaller percentage thought it would not be of any use.

The respondents were asked about comparing the results with the average result of all students in the same year at all ACT government schools—in other words, how your student is going compared with the system average for that strand. Sixteen per cent of parents volunteered that one themselves. Again, some 76 per cent thought it would be useful, 37 per cent said very useful, 39 per cent said of some use, 10 per cent said of little use, and eight per cent said of no use.

Another question related to whether respondents were interested in information comparing schools' performances. It seems that these responses were very different to the responses to the written surveys which some of the professional groups participated in. When asked directly, some 76 per cent of parents expressed interest in information that showed how their child's school performed in the literacy and numeracy assessment program; 41 per cent were very interested; 35 per cent were interested; 12 per cent were not very interested; 9 per cent were not at all interested; and 3 per cent were neutral.

These, again, are very interesting results. Interestingly also, 59 per cent of parents who are teachers were interested in information which compared schools. Parents who were members of a P&C or school board also recorded lower than average interest in this type of information.

It is very interesting to see those results. Basically, 76 per cent want information so they can compare the schools; 76 per cent want information showing how their child stands in terms of the rest of the year group at school and how their child stands in terms of the rest of the year group on a system-wide average.

What did we do as a result of that? Because we do have some sympathy with the more sane points that Mr Berry raised in respect of how league tables can be misused, we are ensuring that students and parents are given information to indicate how their school is performing in terms of the system mean for those strands. That is useful information for a parent or a student. This does not lead to league tables. I think that, with the protocols that are put in place, it would be very difficult indeed for that to happen.

As someone who has grown up in Canberra and has been through our public school system, and as someone who knows, I would hope, the way in which people tend to operate, I think it would be almost impossible for someone to get results from parents in every one of our 68 primary schools and knock this information together. We need to remember that a lot of parents have only one kid at a time going through a certain level. We tested children in year 3 and year 5 and then we tested those in year 7 and year 9. As I said, I would think it would be very difficult to put this information together.

Mr Temporary Deputy Speaker, I think it is important that parents have information showing that, for example, their child's school was just a bit above the line in one year in terms of the system average for a couple of strands and the next year it was a bit below. They might like asking a few questions. They might ask, "Okay, what's going on here? Is there something that can be improved?"

The department has all that information. In fact, the department, and indeed the cabinet, get things that you could almost call league tables. The information goes through cabinet, and this is part of the 1997 protocols that were discussed with the P&C and other groups. But we think that at least parents need to know how their school is going against a system average, and that, Mr Temporary Deputy Speaker, ain't a league table by any stretch of the imagination.

We think it is important that parents know—and they want to know—where their student stands in their cohort group at the school in respect of each strand and against the cohort group ACT-wide. A vast majority of parents—76 to 77 per cent are pretty impressive figures—wanted that information. Mr Temporary Deputy Speaker, I table the report which I believe I tabled last year. I present the following paper:

> ACT Government Schools—Reporting on literacy and numeracy outcomes—Telephone survey—Final report prepared for ACT Department of Education & Community Services by Roy Morgan Research, dated September 2000.

Parents have a right to access information that will allow them to take part in discussions about the needs and programs of their school. If we go down Mr Berry's path, parents will not have that information. They will not know how their child is doing or how the school is performing. They will not know if there might be something wrong with the teaching methods. Their child might need some additional help; the school might need some additional help. Without this information they will be operating in a vacuum.

Parents are very interested in how their children are progressing. They are interested in standards. I do not know what Mr Berry is worried about. We have very good standards in this territory. We have seen from our testing program that the ACT is ranked, if not at the top, very close to the top. But usually we are ranked at the top in literacy and numeracy. At this stage we test only our government schools. We will see what happens when the non-government schools come on board, and I am pleased to see that that is happening. But apart from South Australia, where both government and non-government schools are tested, we compare ourselves with the other government school systems.

I think our government schools can take a lot of pleasure and pride from the standard. It is a good standard but it still can get better. We want to ensure that kids do not fall through the cracks. We want to protect our kids. If we do what Mr Berry wants, we will be operating in a bit of a vacuum. Parents will not know, the system will not know and students will not know. How is that protecting our kids? That is failing to protect them. Mr Berry's suggestion is the exact opposite of what we believe should be happening.

We agree that, as a result of consultation, parents and carers will receive more information on assessment results in the form of school and system averages and on the range of scores for each strand. That is really doing exactly what part (3) of Mr Berry's motion says we should be doing. We have consulted, we are responding and that makes everyone, including the government and ranging down to the classroom teacher, more accountable, as it should be.

There will be no reporting of aggregated scores that could be used to construct league tables. The government has deliberately limited the provision of additional information to ensure that such league tables are avoided. The decision to report school results to parents will help them understand their child's results in the context of the school and the system averages.

We have a draft policy and implementation guidelines for schools, which will be released shortly. There has been consultation and this work has been developed as a result of work we did last year. The results will be published in a purpose designed report and not in correspondence such as school newsletters. If the P&C councils are worried about it, I think they are totally overreacting. Mr Berry made mention of that and, yes, I think it is an overreaction. Schools will not be allowed to use their results for marketing or school comparison purposes.

Mr Temporary Deputy Speaker, having said that, the government is continuing the momentum on supporting enhanced literacy and numeracy outcomes for students. Every year we commit more than $10 million extra for literacy and numeracy programs, and this is over and above normal classroom support for teachers in the normal curriculum. All primary school teachers have now done training in four components—spelling, writing, reading and oral language—of the *First Steps* literacy program. Teachers from

across a range of curriculum areas in all high schools have participated in the writing component of *First Steps*.

During 1999-2000, as part of the literacy strategy, a number of primary and high schools with innovative programs were funded to provide training opportunities for teachers in other schools. The new reporting format is designed to add further value to the literacy and numeracy assessment process and it allows parents, carers and schools to assess how students and schools are achieving. These groups can then plan together accordingly to further improve the literacy and numeracy outcomes for our students, to further protect and enhance our students.

Mr Temporary Deputy Speaker, the government believes that the information to be provided to parents will enable them to monitor the progress of and achievement in their child's literacy and numeracy skills. It gives parents access to the sort of information that 76 per cent of them want. It probably does not go as far as a lot of them would probably want in terms of comparing schools with schools. I must say that only 7 per cent of them thought this information should be in the media. *(Extension of time granted.)* However, over 50 per cent thought parents and students should have it.

Obviously, if you gave parents and students straight league tables in respect of, for example, all 68 primary schools that were competing in every single strand, that might end up in the media. It would be like giving parents an open book. So I do not think it would be terribly practical. If that were the case, Mr Berry might well have a point. But that is not the case. We are giving parents the sort of information they want, short of league tables. The government is committed to the provision of educational services to provide all of our students with the opportunity to develop the highest possible levels of literacy and numeracy.

Mr Temporary Deputy Speaker, we saw earlier some not too marvellous results for year 9. In 1997, when we started testing, we saw that our year 3 students were not doing terribly well with writing. When those students were tested in 1999 at the year 5 level, the writing skills had improved immensely. The results were incredibly pleasing. That is the benefit of testing; that is the benefit of seeing how kids are going. You are able to determine what steps you need to take to improve the situation, be it improving classroom teaching, getting extra resources or extra programs—whatever. This was the first time our year 9 kids were tested. It is still not too late. It is probably not quite five to midnight for them—it is probably about a quarter to midnight. But at least steps can be taken this year in year 10 to help those kids.

We are seeing the benefits of testing. It is incredibly important that the parents have proper information. We are giving them a balance, but it is not league tables, as Mr Berry states. Funnily enough, we do have a league table in Canberra. Every year a graph showing the year 12 results indicates how schools are going. We do not have a huge number of government and non-government colleges. But the results generally show the quality of all of our systems of education. They certainly show the quality of education in our government system. I do not think this form of reporting, which has been around for years, has led to the end of the world. But we are not proposing even this sort of thing.

What we are doing is very simple. We are telling parents how their child is going in terms of that child's year at school and the system and how their school is going in terms of the system average for all schools across the territory. I think it would take an Einstein to make a league table out of that. So, really, Mr Berry is off with the fairies on this one.

Although Mr Berry is being rather glib in part (2) of his motion, I suppose one could have sympathy with some of it. But he wants us to go back to the Dark Ages and oppose ensuring that there are standards. He is opposed to parents being given information by way of proper reporting measures—information which they want. What does he want us to do—totally scrap all of this testing? How are we going to report to parents if we do not have testing?

Section (3) of Mr Berry's motion is totally counterproductive. We have already done the consultation with stakeholders on ways to improve reporting to parents and to increase government accountability for improving educational outcomes for all students. That is what we did last year and that is what we are putting into place this year with the protocols that I mentioned today.

Mr Temporary Deputy Speaker, I think Mr Berry's motion should be rejected by this Assembly. If we do not reject it, we will be doing exactly the opposite of overprotecting our kids. Under such a system we will not be too sure how our kids are going, it will be difficult for parents to be given information, and it will be difficult for anyone to take proper steps to ensure that our kids do not fall through the cracks. This is the very reason why literacy and numeracy testing was introduced in this territory and throughout the rest of Australia.

MRS BURKE (5.17): Mr Temporary Deputy Speaker, I would like to support the Minister for Education on this matter. We live in a world where we have been given a free choice, based on information to hand. I believe that Mr Berry's motion prevents parents from having that right to choose in an informed and open way. As Mr Stefaniak said, parents have a right to know how their child is performing as an individual, how their child is performing in relation to other students in their school and within the ACT, and how that particular school is performing. Why would anyone want to keep this information to parents a secret? Why would we deprive parents of this information? Open and accountable governments are not afraid to take such a frank approach.

Why would we not want to know what schools need help and what type of help that might be? I believe that teachers are a very professional body of people. This being the case, I would not have thought that they would take offence at parents knowing how their particular school is faring, and that their school will be helped when and where needed. I believe that in every profession there must be checks and balances relating to performance. There must be healthy processes to measure performance, and schools should not be exempt from this.

Does Mr Berry's motion mean that information will not be given to anyone? Surely not. This motion will only serve to allow a no accountability approach, and I therefore will be opposing it.

MR RUGENDYKE (5.18): Mr Temporary Deputy Speaker, I wonder why the motion is so complex and convoluted. I agree with part (2) of the motion. In fact, my report that Mr Berry refers to—*Educated Views: Feedback from Government School Communities in the Electorate of Ginninderra*—outlines my opposition to league tables. However, the three parts of the motion seem to be a bit back to front. Part (3) appears to create the capacity to generate league tables, or information that can be interpreted as league tables, and part (1) deals with the capacity to report. So the motion would probably make more sense if part (3) were read first, and then parts (2) and (1).

The government has not addressed a concern that I have about part (3) of the motion. The government has told us that league tables cannot be made from information that is collected. But the freedom of information aspect has not been addressed. My concern would be that a smart journalist could use the Freedom of Information Act to get enough information to work out a ranking of schools and capacity for—

Mr Stefaniak: It is a bit hard if that is cabinet-in-confidence, Dave.

Mr Moore: Under freedom of information, cabinet-in-confidence material is not available.

Mr Berry: What about the stuff at the schools?

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Rugendyke has the call.

MR RUGENDYKE: Thank you. I bring this up because it is quite easy to find information on the Internet. I typed in the words "league tables" and then "London" and it took 30 seconds for all the schools in London to be displayed. The information indicated that this school is better than that school, that this school is ranked here and that school is ranked there. I do not think that is the sort of thing we want to happen in our school system. So I am cautious about league tables, and I am cautious about the capacity for them to be generated by whatever means.

We are told that 76 per cent of people like the idea of being given this sort of information. Who would not say that they like the idea of being given plenty of information? But, Mr Temporary Deputy Speaker, let me put it to you that the people who are really concerned about the education of their children are the people who go to parent-teacher nights, P&C meetings and information sessions to find out how their student child is performing at school. Most people, I would submit, like to know how their children are performing but are not particularly interested in how they are being taught compared to schools on the other side of town or other schools in the area.

Mr Moore: The evidence is that 76 per cent want that.

Mr Stefaniak: But we are not even giving them that, though. We are just saying where their school is in terms of the system average.

MR RUGENDYKE: My point, Mr Temporary Deputy Speaker, is that parents who are concerned about the education of their children are able to find out how their child is going without the need for a ranking system of how they are performing within the school and between schools.

Mr Temporary Deputy Speaker, although I support the motion I was considering moving an amendment to perhaps soften it. I was considering amending part (1) by replacing the words "because it will lead" with "that are likely to lead". But that does not solve the problem because when you look at part (3) you can see that the simple capacity to create league tables means they can be interpreted by people in a way that might be detrimental to the school that their child goes to.

Mr Temporary Deputy Speaker, I will be supporting the motion because I think that league tables are not appropriate in our city and schools.

MR MOORE (Minister for Health, Housing and Community Services) (5.25): Mr Temporary Deputy Speaker, in the 12 years that I have been in this place, there have been very rare occasions that I have disagreed with the P&C Council, but on this particular issue I do disagree with them. There are a series of principles that we are dealing with here. It is interesting the number of times Mr Berry has pointed his finger across the chamber and talked about secrecy and openness of information, and the same applies to almost every member in this chamber. At some stage he said that the government should be open with information. "You've got information; make it available. The public can handle it. The public can make up their own mind. They can decide what they do and what they do not do with this information"—particularly the Canberra community.

In regard to putting out a very simplistic league table, though, I have to say that I agree with members. A simplistic league table that just ranks schools from one to 100 is extraordinarily limited. It does not provide the sort of information that anybody is particularly interested in other than in a very simplistic way, and it would be damaging. That information, to the best of my knowledge, does not exist, and I do not see any use for it.

Mr Stefaniak mentioned that the cabinet has seen—it is cabinet-in-confidence—a set of data that looks at each of those years, year 3, year 5, year 7 and year 9, where the testing has been done and that has been graphed across schools. There is nothing tricky about that information. That information is then compared against not only the territory but also the Australian average. As I recall, there was some information on how we compared nationally as well, and we do very well.

As for those who advocate open government, I have questioned them on why they would want to keep it secret. The argument Mr Berry has put is that you keep it secret to protect schools that are doing a bit more poorly than others. I have to say, "On the contrary. Why shouldn't parents know that and be able to put pressure on the government and say, 'What's going on with our school that it's doing more poorly? Is it the socioeconomic circumstances in which we live and, if that is the case, why aren't you putting more funds into our school? What have you, as a government, done about correcting that?'"

If it is a school where the socioeconomic circumstances suggest that you should be at this level and in fact you are way out of kilter with all the other schools at that level, one ought to say, "Well, is this good?" "Is this bad?" I think that is a reasonable thing to ask. If you consider that league table—if we want to put that language on it—terrible, I cannot understand why.

Ms Tucker, you have said again and again in this place that, if we have got information, we ought to put it in the open and allow people to make their own decisions. It is what we do with the hospitals. Again and again I table information. At almost every sitting I am tabling information about the people waiting: who is waiting, how long they have been waiting, the number of people on waiting lists, and so on. What are we frightened of in our school system? I can understand why a union

might be worried about this: it might reveal a teacher that is not doing so well or a group of teachers that are not doing so well.

Mr Osborne: It's really over now, isn't it? The marriage is over now, isn't it?

MR MOORE: Mr Osborne has indicated that the marriage is over You mean, with the P&C Council? Mr Morgan is up there, he knows my view. I happen to have a difference of opinion on this particular issue, and there is a huge range of issues that I agree with them on. On this particular issue I think the P&C Council got it wrong. It really is as simple as that.

I believe that people will be able to interpret the information that I have seen—there is nothing particularly tricky about it—and make very sensible decisions. But would it mean that schools close? I doubt it. Would it mean that pressure is put on the department to put more funds into one or two schools? Yes, I think it probably would. Would it show that most of our schools are actually doing extraordinarily well? Yes, it would show that.

Mr Berry: Not sure.

MR MOORE: Not sure? I am telling you—

Mr Berry: No, I am saying you are not sure on most of the other things. Would it lead to school closures? No, probably not.

MR MOORE: It has nothing to do with "not sures"; it has to do with the fact that ordinary people are capable of making sensible decisions when they have proper and full information in front of them. The thing about the London style league tables that Mr Berry talked about is that they are a very simplistic ranking. They talk about one small area of a school. A school is a lot more, and I understand that better than most, both after 17 years of teaching and having my children go through schools.

It is a lot more than a simple matter of literacy and numeracy. Of course, they are about a lot more than that, and so they should be. Parents know that and can take that into account. They still want the literacy and numeracy, but they also want the computing skills. They also want our kids socialised in a reasonable way in their schooling. There is a whole range of things that we expect of our schools, and these things can help us understand what is going on and how we can bring pressure on our schools.

I cannot understand what you are frightened of. The motion that Mr Berry put starts by moving that the Assembly:

> opposes the Government's decision to report school averages on literacy and numeracy tests to parents because it will lead to publication of school league tables.

So far it has not. We have been doing now it for now quite some time, and it certainly has not done so. The motion itself is fallacious and ought to be rejected just on that. The second point is:

> rejects school league tables because they provide inaccurate and misleading information about school performance …

Maybe league tables do, and maybe we are talking about something different. But the information that has been provided, which has been very carefully constructed from what happens in schools now, certainly does not provide misleading information about school performance or lead to greater inequities in schooling by unfairly labelling some schools.

We could all name one or two schools in this town that we consider at the lower end—certainly among our primary schools. None of us do it, but everybody in Canberra knows. Do you think that this is going to be any different? Maybe they will discover that that is not the case. Maybe what we will actually see is that something in particular is going on that will change that and we ought to say, "What's happening is good there. What can we learn from the other schools that are doing better?" The whole language of Mr Berry's motion is fallacious anyway.

Then we get to his third point:

> calls on the Government to abandon its proposals to report school results and to engage in further consultations …

Consultations have been going on since the process started five or six years ago. Further consultations no doubt will continue because Mr Stefaniak and his department are always consulting on these issues. But when we consult with people like the P&C Council—and we should continue, and I will continue to do it—that does not mean to say we take what they say as gospel, because sometimes they get it wrong. This is almost the only time I can remember, and it is only the one time.

Mr Rugendyke: I'll give you a couple more times.

MR SPEAKER: Order, Mr Rugendyke!

MR MOORE: The point on further consultation goes on to say that that would be on ways to:

> … improve reporting to parents and to increase Government accountability for improving educational outcomes for all students.

The most dramatic way to make government accountable is to know what is going on in those schools and to make them responsible for improving education outcomes for all our students. That is the part we all agree with. What we are interested in doing is improving education outcomes for our students. If we have the opportunity to do it, we should do it.

Finally, the disappointing part of this is that, in the system we have got here in the ACT, we do not have the non-government schools tied in, and we ought to be assessing non-government schools as well. Mr Stefaniak says they are starting to cooperate. I am of the view that, if they are not going to be cooperative—and I suppose it is for the next Assembly—legislation ought to be put in place to require it to be done in the same way as for government schools. If we genuinely believe in open government and if we genuinely want to be able to deliver the best outcomes for all the students in the system, let's be open about it. Let's see what is happening and let the community apply the pressure where it needs to.

MR OSBORNE (5.35): Mr Moore is proposing an interesting theory, and I want to pursue it a bit further. The main reason behind putting the figures out is to let people see what is happening in the schools so they can put pressure on the bloke who is being paid as education minister to do his job. It is an interesting theory. Let us take it a bit further with the police crime figures. Let's put them out and wait until it is a—

Mr Moore: We do.

Mr Smyth: We do.

MR OSBORNE: No. The reason they put them out is so that the people of, for example, Florey, have to put pressure on the police minister because the crime figures are so high. That is the only way the police minister will do his job. That is what you are proposing. The education minister gets paid money to do his job. He should be looking at these figures and saying, "We've got a problem; we've got to fix it." I have got no problem with you compiling the data, having a look at it and doing your job, but I think what it does is label schools. We all know that, nationally, the Liberal Party's policy is about looking after the private schools and giving them all the money.

I am a bit disappointed that it appears that this Liberal government—this minister—is quite content to label disadvantaged schools. He is paid as the education minister, and I think he should do his job. Community pressure should not be required to make him fix it. I think Mr Berry's motion is sensible. I, too, have had disagreements with the P&C Council and the education minister.

Mr Stefaniak: You ask why we do not publish league tables. You cannot get a league table that will list that—

MR OSBORNE: For once, listen to the debate. For once, I actually agree with them. You are paid to be our education minister. Look at the stats, do your job and fix it. Don't wait for the parents to approach you and say, "Our school's in crisis," to do your job. Why don't you listen to the debate next time?

MS TUCKER (5.37): The government has made much of the complexity of literacy and numeracy assessment as conducted in the ACT and the protocols it has established for reporting to parents on the literacy and numeracy outcomes in ACT government schools. Some members of the government claim to be against league tables, although Mr Moore has just appeared to become a champion of them and, also, I think Mr Smyth, when he said it was a good thing for Mount Druitt to have been exposed in the papers in that way

because then some action was taken. So, I guess he is also basically supportive of this public shaming response to inadequate support for educational institutions.

A very confused position is coming from members of that side of the house. Some members, like the minister, claim to be against league tables—the ranking of schools according to literacy and numeracy outcomes—as are the Labor Party, the Greens, the P&C Council, the AEU and countless educationalists. I won't spend much time in this debate justifying that position and explaining to everyone in this place, or putting on the record in detail, why I believe the publication and distribution of league tables is corrosive and destructive.

We are well aware of factors other than quality of teaching that would influence school scores: the socioeconomic background of the students, the incidence of disability and health problems in students and their families, the family history of positive engagement with education and the cultural and linguistic background of students and their families. Assessing the quality of education simply on the basis of literacy and numeracy assessment is ill informed, but that is exactly the problem.

Mr Stefaniak and others in the government confuse their stated intent with the reality. They are arguing that league tables will not be constructed from the reports circulated to parents. But, whatever the rules the government imposes, it is clear that informal league tables can be, and no doubt will be, put together once the reports are available. The devil, as always, is in the detail.

The government has said that it will not publish league tables itself, that it will not permit schools to use school results for marketing purposes and that parents will be warned of the dangers of giving too much weight to literacy and numeracy outcomes alone. Nonetheless, the information provided to parents will include scores on a number of literacy and numeracy strands for their children, an average score across those strands for schools and an average score for the government school system overall.

The government is correct to point out that it is hard to compare such complex assessments across individuals, let alone schools, and that the fabrication of accurate league tables would be extremely difficult. That is fudging the issue. The past few years of Commonwealth government and talk-back radio rhetoric has pushed a simplistic reading, writing and arithmetic agenda. However complex any real assessment may be, in the minds of many, reading is reading and writing is writing and, if people are interested in making comparisons, they will pick a strand that suits their purpose or their understanding or that has interesting figures and comparisons. It will not be hard for anyone to use reports on students from different schools to create de facto league tables ranking school performances relative to each other and to the system average.

Independent schools are to be brought into the same literacy and numeracy assessment regime over the next year. I can see no reason why those schools will not market themselves on the basis of school results, and that will further encourage odious comparisons. No amount of public statements warning parents of the danger of taking too simplistic an approach will redress the damage.

I do not believe it is a mistake; it seems to me that the government alone has driven an agenda of increased comparative reporting of students' literacy and numeracy outcomes. It is very much the agenda of government that school results be reported against the system average. The government appears hell-bent on facilitating an inaccurate and misleading comparison of schools in a manner that will disadvantage and reflect unfairly on schools performing the most valuable educational services in our communities.

Mr Stefaniak interjects that there was a survey. What is interesting about this survey is that to the open response question, 16 per cent of parents said they would like information that compared their child's results to students in the same year at all ACT government schools. However, when asked directly, 76 per cent said—as we are hearing from the government over and over again—that this type of information would be useful. This is going to the whole question of how you ask people questions.

It reminds me of the CIR debate we have had here and the question of CIR and deliberative polling. Mr Moore has made much of the fact that, if people are given full information, that is an important aspect. That is obviously an important aspect in any serious questioning of people. There was not, in the open question, nearly so big a response as there was to the more leading question, which was specifically giving them the answer.

The point is that, if full information is going to be given, going by the arguments we are hearing from the majority of members of this place, at least nine members of this place—I am not sure about Mr Kaine—have been convinced, through their consultation with the education sector and other people interested in equity in our society, that it is not such a simple question at all.

It is the schools that support and include students with the greatest social and educational needs who come from the widest range of backgrounds and maybe have the most issues to deal with in their lives that may not fare so well. Schools that not only deliver education of the highest quality in the areas of literacy and numeracy but also provide pastoral care for those in most need in their community are the schools that would suffer from such comparisons.

In addition, if they are relatively small schools, their results can easily be skewed away from the system average. I cannot imagine that the government and its staff are not aware of these implications. I can only presume there is an intention to undermine the viability of community schools and to sell the disadvantaged and the different down the tube.

There is another side to this government's obsession with a facile interpretation of freedom of choice. In this case, the government, despite protestations to the contrary, is doing all it can to allow parents, students and schools, when it suits, to interpret educational outcomes in an extraordinarily simplistic manner. It is encouraging them—with free school buses to boot—to shop around for schools that do best in reading and writing. It will further encourage the shift of middle-class, high achieving, academically focused students to private schools, which are in essence selective, and to those government schools that market themselves to the community in a similar way.

Mr Moore asks what we are afraid of. We are afraid of seeing an ongoing entrenchment of inequity and disadvantage in this society. Freedom of choice is basically about freedom for those who can afford the choice. This government has obviously decided that the people who will enjoy this freedom of choice are the people it wants to look after. I trust that the Assembly will take a wider view of its responsibilities and support this motion, in the interests of all Canberra people.

Mr Moore and Mr Osborne have responded quite well. Mr Moore has made the extraordinary argument that, if we have this sort of public shaming, the government will be forced to act. The government is apparently now claiming that it will listen to community pressure, which is very amusing, especially after the fiasco of the huge expenditure on free school buses.

Mr Moore also said that we have had this form of reporting for years and it has not led to league tables. We have had a different form of reporting. The discussion here is not about not allowing parents to know how their children are working. We had a different form of reporting, which the P&C Council did not oppose, as I understand it, although Mr Stefaniak seemed to think they did oppose it. They did not oppose the form of reporting that was in place then, the 60 per cent average.

Mr Moore was claiming that we had already had this form of reporting and that it had not led to league tables. But, as I understand it, that information was only given to boards and, although not commercial-in-confidence, it was definitely confidential information for the management purposes of that board. So it is not correct for Mr Moore to say that this proposal is—

Mr Stefaniak: There were parents on the board.

MS TUCKER: There were parents on the board? So now Mr Stefaniak is apparently implying that the parents on the board did not take the confidentiality issue seriously. That is fine; Mr Stefaniak can say that.

I know Mr Moore can put a good argument or tell a good yarn at any time and turn around later and laugh and say he did not mean it. But I find it hard to believe that he is seriously asking this place what we are afraid of. *(Extension of time granted.)* If Mr Moore really does not know what we are afraid of, Mr Moore needs to go back and look again at the whole debate and argument for not producing the kind of public reporting that creates a situation where you will see equity in our society further diminished. I know the Liberals do not care about that, but I thought Mr Moore did.

MR STANHOPE (Leader of the Opposition) (5.48): I will not speak for long on the motion. I think the case against school league tables has been made and made well. The aspect of the debate and the position of the government in relation to this that has concerned me the most is the lack of understanding of members of the government of the real impact the publication of these sorts of tables and this sort of information will have on some schools. I wonder where these members of the government have been over the period of their association with this particular community. I cannot believe that Mr Moore, after the speech that he made, can seriously be suggesting that he has any empathy with or understanding of the potential impact on certain schools in the ACT of the publication of league tables.

I have lived in Canberra for over 30 years, and I have brought up four children in north Belconnen. I have been associated with my school communities and my community all that time. Every parent who has brought up children in Canberra and who has a deep and meaningful association with their school and this community understands the enormously detrimental impact which the publication of this sort of comparative information will potentially have on some schools. There are schools that already suffer as a result just of the anecdotal evidence that circulates within the community.

I know of schools in Belconnen that have suffered dreadfully as a result of perceptions about how they perform that are generated within the community. The publication of this sort of information will compound the problem because there will always be a school which performs least well. I know and every parent that has been involved with a school knows what happens in those circumstances. We know what has happened to those schools in relation to which a perception develops.

It is precisely as the P&C Association say. Why do they say it? Because they know. They are reflecting the views of parents who take a deep interest in education, in schools and in their children. What happens is that the bright children leave. What happens is that the good teachers leave. And the problem is compounded. A school that has a perception of itself develop, for whatever reason, that is not—

Mr Moore: That is anecdotal evidence.

MR STANHOPE: Oh, anecdotal is not good enough for Mr Moore? It is not good enough that some of us actually take part in our community, listen to the parents, listen to our constituents and generally understand the problems. It is not good enough to pay some attention to who actually pays a price for the lack of understanding and this attitude: "If your parents are rich enough and you can afford to make a choice, you don't have to worry. If you don't like the school, send them to Canberra Girls Grammar or to some other good school." That is the attitude of this mob.

It does not focus on children from poorer or more disadvantaged households or communities that do not have that choice available to them, and it acts as a wonderful reflection of this It's-their-own-fault-type mentality—"Why don't their parents take them out and send them to another school?" We know it is true. I have seen it in relation to schools in Belconnen, so it is a fact.

Almost everything the P&C Council detailed in their submission on this issue reflects the truth of the matter: once a school establishes a reputation—and it will be compounded if it is formalised through a government program—the school will suffer even more. It will go downhill faster. It will lose that critical mass of good teachers, good teaching programs and children with a range of learning abilities and commitment that allow the school to provide the full range of educational opportunities that every single child deserves, irrespective of their background, their means, where they come from, their aspirations and the aspirations of their parents for them.

It is a retrograde and regressive proposal that we establish league tables. It is genuinely regressive and it disturbs me greatly to think that there are some schools and some people, who we can probably all easily identify, who will be targeted and especially disadvantaged as a result of going down this path.

The summary that the P&C Council has provided of this is absolutely true. It reflects my long-time experience of education here in the ACT that high ranking schools will select good students, whether deliberately or otherwise. The high ranking schools will select good students and reject bad ones. Any parent who has had a close association with a school knows it happens. It might not happen formally, but it happens.

The best teachers move to the high ranking schools. That is indisputable. You just have to look at the educational qualifications across schools and there is no doubt this happens. Separate schools develop for the well off and for the disadvantaged. There is no doubt that that happens. Low achieving students are ignored and, through being ignored and having their particular needs ignored, are further disadvantaged. They suffer disadvantage as it is and through this process are further disadvantaged, marginalised and pushed to the edge. The prospect of us printing and publishing league tables of all our schools is quite outrageous. This is genuinely regressive and an appalling thing to do to our schools and to our children.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (5.55): Mr Temporary Deputy Speaker, we have just had the most amazing speech from the Leader of the Opposition, a man with a law degree who said it is okay to be judged on anecdotal evidence. He says we know that it happens in Belconnen, but when you have the truth before you and you can actually get the figures out that would refute his anecdotal evidence—which he is willing for students to be hung out to dry on—

Mr Stanhope: What a goose!

MR TEMPORARY DEPUTY SPEAKER: Order! The Leader of the Opposition will come to order. Minister, you have the call.

MR SMYTH: When you actually have the truth that would stop that anecdotal evidence from driving a school down, you do not release it. This is the man who has said that they would have open and transparent government, that they would reform things. But when they are put to the test about putting out information that the government has at its fingertips so that the public can make their own decisions, they do not want to do it. You have to ask why they do not want to do it. It defies any logic not to allow people to understand what is going on in their education system. The reason lies in the example that Mr Berry started with when he referred to the article about the disaster of Mount Druitt High School in the late 90s.

Governments of both ilk in New South Wales knew what was happening at Mount Druitt. It was not until the facts were put on the table and it was revealed the state Mount Druitt High had got into—not what Mr Stanhope would tell you would happen: that it would get even worse—that the government and the community worked together to make Mount Druitt better. I have stories for later on of students that came into classes after that event that did better and better. The resurrection of Mount Druitt High School

was chronicled quite clearly—because there was an outcry that it had been allowed to sink so low. It was not until the facts—not the anecdotal evidence floating around in the ether—were revealed that something was done about a school like Mount Druitt High.

Mr Berry's motion talks about league tables. No-one in the government wants to release league tables. These are not league tables. This is what you get when you talk from a position of ignorance, when you do not understand what the data actually shows. It tracks these classes across the years and across the schools. You can actually see where classes are failing and where some schools do well in some years and poorly in other years. It highlights a problem and, if you know that you have a problem, you can go out and fix it.

But they do not want to fix it. They want to leave it quiet; they want to leave it secret. They want to allow students not to get the sort of education they want. They called us blinkered and ideological. It is those over there who are blinkered and do not want to show up. It is those over there who are blinkered and take a simplistic approach. On every occasion they twist, they misrepresent, they assert and they weave little stories. But they will not face the facts. For a start, they have not seen these results in toto. Let's make it quite clear that no private detail is ever released. It is given to the parents and no one else gets it. There is no individual detail; individual privacy is respected.

Mr Rugendyke thought it was illogical to release this information about where your school might be. Can I say that, yes, you might be happy with your school because you think you are getting a good service. But until you have got something to compare it with, how do you know you are getting the best service that you can get for your child in terms of education? Surely that is what this is about: trying to achieve the best education we can give our students. They deserve it.

There was this fear raised that it might affect the small schools. It is really curious: when you look at the charts across the years and across the schools, the small schools do well in some cases and poorly in others. Schools in middle-class or well-off areas do well in some cases and less well in others. So you have to look at the individual schools to make sure you are getting it right, and this data provides that opportunity.

What we have from Mr Berry is half the case. He did not tell you what happened after those facts became clear. You have to look at what happens here in the ACT. The year 12 rankings have been released, and it has not led to the wholesale wiping out of colleges that Mr Berry would have us believe might happen. That is what you get when you have a simplistic approach to this issue. That is when you take vital and informed data, create a simplistic emotion and call it league tables. We have never called it league tables. Those are their words. They are driving an agenda here; they are political; they are ideological.

Mr Stanhope: Everybody calls them league tables, you goose!

MR SMYTH: We have never called them league tables.

MR TEMPORARY DEPUTY SPEAKER: Order! The minister will resume his seat. The house will come to order. The Leader of the Opposition was warned today by the Speaker.

Mr Stanhope: Was I?

MR TEMPORARY DEPUTY SPEAKER: You were, sir, and I do not want to make history. As for calling someone a "goose", I think that is unparliamentary. I ask you to rise and withdraw the words.

Mr Stanhope: Mr Temporary Deputy Speaker, heaven forbid that you might be making history here! On a point of order, Mr Temporary Deputy Speaker: explain to me why "goose" is unparliamentary.

MR TEMPORARY DEPUTY SPEAKER: I think that it is.

Mr Stanhope: I would appreciate your wisdom and your direction on this.

MR TEMPORARY DEPUTY SPEAKER: I would ask you to withdraw the word.

Mr Stanhope: I withdraw the word.

MR TEMPORARY DEPUTY SPEAKER: I thank the Leader of the Opposition.

MR SMYTH: That is the sort of interjection you make when you have not got a case. This is another motion in favour of secrecy: keep it quiet. Why don't they trust the ACT population? It is the best educated population in the country. Why don't the opposition trust them to take in these facts and understand for themselves. What is it they are afraid of? They try to present this as some sort of ideologically driven notion that the Liberal Party is much in favour of. But when you actually see these charts and these facts, it is not a league table. I do not see how you can create a league table out of them. They are not scary. What they do is allow you to identify where the system is falling down.

Mr Kaine: How about you give us a set so we can make our own judgment?

MR SMYTH: Surely we should be using that information. You talk about making your own judgment. When they asked the parents, 76 per cent thought this information would be useful. They wanted to see this information; they thought they had a right to know. Yet the secretive Labor Party, once again, is standing in the way of people finding out more about how the school system is affecting, changing and educating their children. The second point in Mr Berry's motion is:

> rejects school league tables because they provide inaccurate and misleading information about school performance …

Mr Moore: Maybe league tables do.

MR SMYTH: Maybe league tables do. We are not talking about league tables. As Mr Moore said, the sentence goes on to say that league tables:

> lead to greater inequities in schooling and unfairly label some schools and their students and families.

According to Mr Stanhope, that is already happening, and it is happening because rumour and innuendo are being allowed to rule instead of our being allowed to say where these schools have strengths, where they have weaknesses and what we will do as a community to help them make up for their weaknesses and build on their strengths. What is it they are afraid of?

The third paragraph of Mr Berry's motion is:

> calls on the Government to abandon its proposals to report school results and to engage in further consultations with stakeholders …

But we are engaging with stakeholders; we do talk to them. We did a survey to find out how effective they thought this was, and the overall result, which the Labor Party just ignore, that 76 per cent of parents surveyed thought the data was useful and they would like to have it indicates how out of touch the opposition are.

We have been out there listening to the community on this. We have been talking to them, we have done the surveys and we have looked at what the community has said to us. I do not think those opposite have even read the report. If they have they simply choose to ignore it, as they always do, because it does not support their case. And they are very good at that. When data is put before them that does not support what they want, it is flawed or we got the process wrong.

Here is a process that is working well. Here is a process that is helping us to address some of the inequities in education. Here is a process that allows us to help build up education in some schools where it has not been so good as in others. Why? Because we had the data. Why? Because we have got the wherewithal to do it. Why? Because this government has increased education funding every year—independently audited by KPMG. This government has honoured its commitment to give education a high priority and has put more money into education every year, unlike those opposite.

We have been able to do so because we have recovered from the $344 million debt they left us. Our priority is education and health, and that is where we are putting the money. When we put that money in and find out where the systems are falling down, we can fix it. That is what we are doing. We are working on that very hard, and we will continue to work on it. Why? Because it is important. Why? Because the community told us that is what they want. Why do we know that? Because we are out there listening, unlike those opposite with their blinkers on and their hearing aids turned off who do not want to hear what the community say on this.

Go and look at the results; go and look at the data. The community is overwhelmingly in support of having this information available so that they can make their own judgments. Surely we trust the public to make their own judgments based on data presented to them.

MR BERRY (6.05), in reply: There are none so blind as those who will not see, and I think that applies to Mr Smyth's effort. Mr Smyth was the interjector who said earlier in this debate, "If they want to leave their schools, we'll give them free school buses to go to another one." That is the ideology that worries us—

Mr Smyth: It's interesting that you see Canberra Girls Grammar as a good school. Can't you nominate a government school that you think is better?

MR BERRY: and gives us great cause to be concerned about your understanding of the issue.

MR TEMPORARY DEPUTY SPEAKER: Order! I ask the house to come to order, and I compliment Mr Berry for using standing order 42.

MR BERRY: Thanks for the compliment, Mr Temporary Deputy Speaker. It was said earlier in the day that we have got the safeguards. Mr Stefaniak pointed out, "No trouble. We've got the safeguards. This information won't get out." I do not know about that. I went out to Revolve, at the tip, and brought boxes of it back to the Assembly and shredded it. Guess what I found in it? Mr Corbell's records. And you reckon you have got the security to prevent this sort of information getting out. I found it at the tip. I paid five bucks for it. I picked up private information there on hundreds of kids, and you reckon you have got the system to control all of this. You have to be kidding.

A lot of weight was put on the survey that was conducted by the department. Picture yourself as a parent, just after dinner; you might have had a beer. Somebody rings up asking you a range of questions. They do not tell you anything about league tables, of course, the hazards that are created by them, what happens to schools and the problems they have had in England, the US and all those places as a result of them.

They do not tell you about the P&C Association or any of that stuff. But they ask you this question: how important is it that you receive information showing the percentage of students from each ACT school who achieved higher than the national benchmark in literacy and numeracy—is it very important, important or neither important nor unimportant? I reckon most parents would say, "I think that's pretty important." Of course, they would say they think it is important. They do not know what it is in the context of. This was a questionnaire that was going to give you the result you wanted. It could not help but give you the result you wanted.

Mr Stefaniak: You don't like the result, Wayne. That's all. I am sure you would be saying exactly the opposite if—

MR TEMPORARY DEPUTY SPEAKER: Order! The Minister for Education will come to order.

MR BERRY: One of the graphs in there shows that 93 per cent of people do not want this information to get into the media. So they put in place a system where even somebody who is only mildly astute, only mildly switched onto these issues—perhaps somebody like Mr Smyth—could make 50 phone calls and find out from a range of parents in various schools what their school's standing is. And all of a sudden, we have got a newspaper story: this school is better than that school and better than that school, and so on.

That is when the rot sets in and, once it starts, you cannot stop it. That is why we need to be overprotective about this issue right from the word go. It is the infatuation the government has with the open market and competition among institutions—schools, it

seems. Mr Smyth's contribution to the debate is: "Why shouldn't we have it out in the open? Then everybody will know." The reason we do not have it in the open is that we do not want headlines like "Class we failed". Mr Smyth said that it is okay now; they have fixed it as a result. What about the souls who were tortured as a result of this? Perhaps you were not here earlier, so I will read this again.

> Sarah Chalmers, 17, who has just completed her HSC at Mt Druitt High says she got a bit weepy when she showed up to her part-time job yesterday and other young staff teased her by chanting "failure".

Why wouldn't you get a bit teary? That is the sort of thing we are trying to stop. You do not seem to understand the gravity of what the government is attempting.

The motion is quite okay; it deals with all the issues. I do not need to go on and make the case again and again. It has been made over and over. I thank those members who have declared their support for this motion. I know that, if the Assembly carries it through, we will have a better education system as a result, one that is less open to the dangerous outcomes there will be if we proceed down the path the government has set itself. Thank you, members, for supporting this motion.

Question resolved in the affirmative.

Postponement of orders of the day

Ordered that notices Nos 7 to 10 be postponed until a later hour.

Student transport and educational programs—proposed independent comparative analysis

MS TUCKER (6.15): I move:

> That:
> (1) this Assembly calls on the Government to conduct an independent comparative analysis between increased expenditure on (a) student transport; and (b) educational programs, in:
> (i) achieving educational outcomes for students from all socioeconomic groups;
> (ii) ensuring the viability of Canberra's local school system; and
> (iii) targeting disadvantaged students;
> (2) the analysis be informed by consultation with stakeholders in the education system and the expertise of relevant Government departments;
> (3) the analysis be completed and the report be tabled in the Assembly by 23 August 2001.

Members, this motion is about the budget initiative of the government to spend $27 million on free school buses. Basically, what we know from this government's processes is that this is a first glance budget, and it is a first glance government. At first glance free school bus travel for all students may look good to a lot of Canberra people, like at first glance information comparing students across the system may look useful, but once you actually look at the issues you realise it is a very unwise public policy.

I do recognise that for some parents across Canberra the saving on school bus transport will be significant. I am well aware that parents may send their children to schools across the other side of Canberra. I can understand why such people may like the government for this proposal and why it may make a difference to how they vote in the next election. But when it comes to education it is the responsibility of government to ensure that above all else there is a viable comprehensive public education system in place which delivers a high-quality education for everyone in the community regardless of their socioeconomic background or ability. The ACT government's proposed scheme to make out of area school bus travel free to all students would tie up significant but undetermined expenditure indefinitely.

In answer to questions from the Estimates Committee it became crystal clear that the ACT government was not responding to any expressed community desire or need, asked for no advice on the issue whatsoever from its own department of education, offered no opportunity for key stakeholder or community groups to comment on or respond to the proposal, gave absolutely no consideration to the potential outcomes of an equal expenditure directly targeted at education, has no idea of the likely impact to school enrolments that this proposal may have, has no hard costings of the ongoing expense of this scheme, and has no analysis of who in particular will use and benefit from the free school bus program and who will be disadvantaged by it. It is not good enough to say that there was no research or analysis or understanding simply because it was a cabinet decision, because it was one of several promises made 6½ years ago, and because it seemed like a good idea at the time.

The government has a duty to understand as best it can the impact or consequences of its actions and to accept responsibility for them. The duty of government is to govern for all of society. The duty of government is to offer leadership and vision for a community, not simply to plumb the market in search of votes. This is a government which has abandoned its duty. Unfortunately, I do not believe that this government consists of people who are totally unaware of the impact of their decisions, and I do not believe that the government has acted on impulse, thoughtlessly or carelessly.

Of course this government was aware that the introduction of a free school bus scheme would be opposed by the P&C Council of the ACT and the ACT Branch of the AEU. I imagine the government was also aware that the Catholic Education Office would at best or worst be equivocal about the scheme. On the other hand I have absolutely no doubt that the government was confident that the independent schools would support them.

Obviously the government holds the view that its best chance in the next election will be if it can create division, if it can pit some against others. This scheme could undermine the viability of community schools and by doing that it is having a very important negative impact on the very function that we should all value about having universal access to high-quality public schooling, and that is the social equalisation that such a system brings about. In Australia we do have this idea of a fair go for all. It is not a mythological approach. It is an ethos, isn't it. It is an Australian ethos—a fair go for all.

That fair go for all concept is based on the notion of equity, and equity is something which is not being put into social policy goals at all. Equity should be at the centre of any social policy approach, and it is lacking from this government and most liberal

conservative governments. This free school bus scheme offers nothing to families who send their kids to neighbourhood schools.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! I would like to give guidance to the speaker in respect of standing order 59, anticipating discussion. I would ask the member to be aware of that standing order.

MS TUCKER: This free school bus scheme offers nothing to families who send their kids to neighbourhood schools. It offers nothing to families whose kids move on to their nearby high schools. It makes it easy, on the other hand, for kids to travel further to government and non-government schools across town. It supports a continuing and destructive competition between government schools. It provides an encouragement to families to send their children to private schools.

This free school bus scheme builds on this government's policy of creating a two-tiered education system. Middle-class aspiring high achievers are encouraged to shop around for the best their money or our money can buy, increasingly in the independent school system but also in those better resourced and better located government schools, while kids from families without a history of educational achievement and kids from families that are socially isolated, economically disadvantaged or dysfunctional are simply left behind. Children who have a disability are also not going to be faring so well.

Compared to $27 million to facilitate this shopping around, we look at an almost equal amount on initiatives in education. I see and acknowledge that the government has put some money into education in this budget, with the reduction in class sizes and the adolescents program, which from memory was $900,000-odd, and the $800,000 for students at risk. But the point is that this amount could have been doubled if this free school bus scheme had not been initiated.

The only argument put by government in the Estimates Committee was that it supports the notion of freedom of choice, but freedom of choice, as I have already said today, is a spurious argument when it fails to take into account the real complexities of people's lives, and in particular the relationship this notion of freedom of choice has with growing inequity in our society. For some people even getting to school is a real achievement. For some people the disadvantages of their living situation, their health, the relationships they have grown up with or are trapped in, and their own experiences of life militate against the free choice of the more affluent or fortunate.

The question in essence is who gets to choose and how real are their choices. Equality of opportunity, fair and equitable outcomes in education, as in health and all other basic social services, do not come from everyone simply having freedom of choice. They come from the universal provision of accessible and high-quality community and government services that are well resourced and responsive to need. Unless the basic issues of access and equity are addressed across society, freedom of choice is simply code for the rights of the privileged to look out for themselves.

It is also worth considering how key stakeholder groups would spend this $27 million, given the freedom of choice to do that. The AEU has pointed out that $27 million would lower class sizes from kindergarten to year 3 to 21, the years most critical in terms of giving kids at risk the best chance of success, and the rest of primary and high schools

reduced to 25. It also made the point that $27 million could give the education department's central office the resources to support schools across the system and fund a quality education program for all students at risk.

The Secondary Principals Council has provided its own preferred expenditure of that $27 million, given the freedom of choice, and targeted increased counselling, additional staffing for students at risk, additional staff to assist students with special needs, increased information technology funds, equity funding and reduced class sizes. The Catholic Education Office has made it clear that in its view the provision of educational resources within the budget should address—

Mr Moore: I take a point of order, Mr Temporary Deputy Speaker. I have looked at the motion and, although I do not see the motion necessarily anticipating discussion, almost everything that Ms Tucker is saying I think does anticipate not only the budget but also the bill that was tabled by Mr Berry today. I think the two are together. Having listened to this much of the debate, I have to say I think the motion is out of order.

MR TEMPORARY DEPUTY SPEAKER: I did warn the member earlier, gently, in respect of standing order 59, anticipating discussion. Now that the matter has been brought to my attention by the leader of the house, I would have to uphold the point of order.

MS TUCKER: May I speak to that point of order? My motion is that this Assembly calls on the government to conduct an independent comparative analysis between increased expenditure on student transport and educational programs. I am speaking to the reason why we need to see a comparative analysis of those two potential ways of spending public money. That is the motion on the notice paper.

MR TEMPORARY DEPUTY SPEAKER: Ms Tucker, I am not taking exception. I do not think the point of order raised by the leader of the house is in respect of your motion. It is the words that you are using in your oral submission to the house. If you read standing order 59, and I did caution you earlier, you will see that you are anticipating discussion on the matter that is to come before the chamber.

MS TUCKER: I thought I was putting up arguments that they need to research. Okay, if you do not want me to talk about the particular money, I can still argue for the need to research.

MR TEMPORARY DEPUTY SPEAKER: Well, that would be helpful to all.

MS TUCKER: Thank you. Okay, I am happy to do that. Basically, what I am saying is that every member of this Assembly, as I understand it, does see a very strong need to be careful with scarce dollars that we have available to us as an Assembly. We do care about education and we want to work out the best way to spend money. We are interested in knowing whether we can improve education outcomes for students from all socioeconomic groups. We are all interested in that in this Assembly. We are also really interested in ensuring the viability of our local school system, I thought. This motion is asking that we do look really carefully at the social implications of various ways of spending money, particularly on transporting people. We are also all very interested in targeting disadvantaged students, I thought.

So what I am asking for in this motion is that we actually do ask the government to do some work to provide a substantial rationale for their public policy approach to education and transport. We are asking also that that work be done in consultation with the community because, as we know, they have not done that at this point in time. We also know that this government has a consultation protocol which it used to be proud of. Maybe that is not the case now that Mrs Carnell is not here. She used to be proud of it. I remember the launch well and I supported it. It is a good document. So I am sure that members of this Assembly agree that we need to see proper consultation with the community before we come up with these sorts of social policy initiatives. For that reason I am asking support of the Assembly for this motion. All this motion is doing is asking government to support its public policy with some kind of analysis.

MR SMYTH (Minister for Urban Services, Minister for Business, Tourism and the Arts and Minister for Police and Emergency Services) (6.26): Mr Temporary Deputy Speaker, Ms Tucker asks that we support our policy by some sort of analysis. It is curious. I wonder if she is now heralding a new era in policy release in the lead-up to the next election when she will put out her policies. She will ask the public to comment on them. She will do an RIS and probably do a BIS, gather the consultation together, and then, before she presents her policies for election she will confirm whether or not she will carry them out.

Mr Temporary Deputy Speaker, political parties go to elections with policies. They ask people to take them at their word. When we reformed the bus service in 1998-99 the constant chip and gibe across the house from Mr Hargreaves was: "What about your free school buses? When are you going to implement that?" Now, suddenly, we are in a position to implement that. Through good financial management we have made up the $344 million debt that Labor left us. Now that we are in the position to do it we are told it is just a glib vote-buying policy.

Well, we took that policy to the electorate. The electorate would have considered that in the lead-up to the 1995 election and it is one of the policies they elected us on. When politicians go out there the fundamental complaint that we often get is that politicians do not keep their word. Here we are attempting to keep our word, now that we are in a position to do so, and what do we get from those opposite? They say, "Oh, don't do it. This is a terrible waste of money." They want more research; they want more consultation.

I think we had some really effective consultation. We have gone out to the electorate. We have posted to every family in this territory. We have sent out with their schoolchildren an application for one of these free school bus passes. What have we got? I understand we have now got about 16,000 applications. That is more students who want a free bus pass than use the buses at the moment. If you want accurate consultation, we have been out there talking to the community and the community have said to us that they want this.

Mr Berry: No, you have not. Show me the survey.

MR SMYTH: Mr Berry says, "No, you have not." We put this promise on the table six years ago. We took it to an election.

Mr Berry: That's right, and forgot it because it was unaffordable.

MR SMYTH: It was unaffordable because we were $344 million in debt because of bad mismanagement on the part of the government you were part of, Mr Berry. Mr Berry said, "You knew you couldn't afford it." Of course we could not afford it. You had left the cookie jar empty and you put next week's groceries on the bankcard. Mr Temporary Deputy Speaker, Mr Berry is condemned by his own words when he said, "You couldn't afford it." Of course we could not afford it if there was no money to spend. But through six years of hard slog, through six years of good financial management, we have got the budget into a position now where we can afford it.

Ms Tucker says, "Oh, you can't do this. It's the end of the community school. People will pick and choose and they will go elsewhere." Mr Temporary Deputy Speaker, I am overwhelmed by the amount of criticism for this system in New South Wales. How many schools in New South Wales have closed? Name one. How many schools in New South Wales have closed because of a free transport system in that state? I do not think anybody could name one. I am not aware of any. Somebody tell me how many schools have closed.

What has happened in New South Wales? The public have told New South Wales governments of both persuasions that they like it. They like it that much they want it improved. They want more. Why? Because the public saw a benefit to it. What does it do? It frees up money for families to spend on uniforms, on school books, on lunches, on other educational things. It actually takes money and gives it back to the community so families can spend that money as they see fit.

What is wrong with that, Mr Temporary Deputy Speaker? Nothing, I would suggest. But those opposite have to be negative about everything. If my memory is correct, I cannot recall too many initiatives of this government that they have supported over the six years that have contributed to our success in making up for their failures as financial managers in the last Labor government. I cannot remember one where they have supported us. They have stood in the way of everything that we have done that has put this government and the territory into the black, that has reduced unemployment, that has seen rising retail sales and that has seen the overnight stays at hotels go up. These are the initiatives that this government has carried out that they have opposed. They oppose this one as well.

Ms Tucker then wants us to do some very complicated comparative analysis of two different things. Are there benefits to be derived from putting extra money into education? Yes, there are. That is why in this year's budget there is $91 million worth of extra spending for education over the next four years. How did we get to do that? Good financial management. Why do we do it? Because we understand the importance of education. There are $40 million worth of new education initiatives over the next four years in this year's budget, and we can do that because we listen to the community, we balance the books, and we know that this is what the community wants. It is the same with the free bus travel.

MR TEMPORARY DEPUTY SPEAKER: Order! Minister, I had to warn the earlier speaker under standing order 59. I also would like to bring that to your attention.

MR SMYTH: Thank you, Mr Temporary Deputy Speaker. We want to implement this because it is a promise that we have made. We want to implement this because we see the benefit of this to people who choose the sort of education for their children that they want. We wish to do this because the community has told us that they want it. We have got 16,000 applications that say that the community thinks this is an important initiative.

We have done the work. ACTION has worked very hard. Education has worked very hard to get out and distribute the information to the community. The community has returned that information in droves. I tell you, Mr Temporary Deputy Speaker, that we have got the word back from the community that they are right on side. We expect more to come. The next round of applications is being collected by ACTION, and we expect to get even more from it.

Mr Temporary Deputy Speaker, there is no point to a comparative analysis of transport versus education. They are different subjects. We all understand the need to put more money into education. That is why we have. Contrary to the assertions of those opposite that we have not kept our promise, the minister has a report that says, yes, we have kept our promise and we have increased education spending every year in the term of this government. That is why we have put in another $91 million this year. That is why we are putting money back into the pockets of ordinary families so that they can spend it on things like educational requirements, books, uniforms, whatever it is that they choose to spend it on. On 3 September we will introduce this new initiative, and that is why we will oppose this motion.

MR HARGREAVES (6.33): Mr Temporary Deputy Speaker, I rise to support Ms Tucker on this motion, but predominantly to respond to some of the comments made by the minister. Sometimes I get blown away by the minister—

Mr Berry: If you respond to him, though, you just encourage him to give you more of that bullshit.

MR TEMPORARY DEPUTY SPEAKER: Mr Berry, Mr Hargreaves is on your side.

MR HARGREAVES: Yes, I know. Sometimes I am absolutely staggered by this minister's lack of understanding. Mr Temporary Deputy Speaker, this minister starts throwing numbers around like confetti. He talks about 16,000 applications. This government is putting a carrot out there. Those people are not going to say, "Oh, er, even if it comes in, what do I do? What do I do? It is something for free." Of course you are going to get some applications. To start using that as a justification for your own ends is a tad ingenuous though.

On top of that, the minister talks about 16,000 out of 60,000. That is 25 per cent. What about the other 75 per cent? I will tell you where the other 75 per cent are, Mr Temporary Deputy Speaker. They are inside the 1.6 and 1.9 zones. That is where they are. They are not going to get anything out of this. Not one razoo are they going to get out of this. The people who are going to get the $400 worth of benefit are the people who have to travel beyond the 2k zone for high school students and above 1.6 for primary students.

This is not creating a choice for families at all. This is creating two classes of people who are attending our schools. People in the same street will be treated differently. That is just an abject nonsense and it is an insult to people out there.

This minister is the person who said just this very minute that they have got $40 million worth of educational initiatives out there because they have listened to the community. Listened to the community, my foot, Mr Temporary Deputy Speaker. I think this particular initiative was mentioned in the Estimates Committee report that we brought down, and it was one of the issues with which you and your colleague did not disagree. I am taking it that we all understood this bit. The one single criticism about this thing was the lack of consultation on this initiative. Nobody asked the P&Cs. Nobody asked the school principals. Nobody asked the parents and the families. What happened? These people dredged it up, dusted it off and put it out there. There was no consultation with the education community whatsoever.

Mr Moore: It was a policy.

MR HARGREAVES: I hear the Liberal minister for health over there saying you do not have to tell anybody because it is policy. What abject rot that is when something is buried as deep in Tutankhamen's tomb as this thing has been. You dredge it out, dust if off and bring it back.

Mr Moore: You raised it again and again. You always used to interject and say, "What about the school buses?"

MR HARGREAVES: Mr Temporary Deputy Speaker, would you ask the god puppet opposite to give us a chance, please? This initiative is ill considered and ill thought out. Furthermore, if it was such a great idea, why didn't the government go out there and have community consultation on it? I say it is about as good as their consultation on the prison at the minute. It is absolutely appalling.

This is a grab for cash. It is just a way of saying to the people out there in the community, "Listen, we are going to give you $400 and you are going to be a lot better off. But don't ask the bloke next door because he might not be getting the 400 bucks." Real time dialogue should be had with the schools, the parents and citizens and the parents and friends. He is pointing. Do you want me to point him out?

Mr Moore: No, you are right. Go on.

MR HARGREAVES: Talk with the parents and friends, and talk to the teachers.

MR TEMPORARY DEPUTY SPEAKER: I ask the member to heed standing order 42 and address his remarks to the chair.

MR HARGREAVES: With absolute pleasure, Mr Temporary Deputy Speaker. I will desist from being helpful henceforth. If these initiatives are indeed educational ones, why don't we talk to the educational community? Nobody is better placed to talk about educational outcomes for the kids than the parents. Nobody. Every kid is different.

We have people attending a government school in Torrens. There are about 37 of them from the suburb of Conder. The reason they are attending the primary school at Torrens is because they happen to perform well in the traditional method of classroom approach. They have been tried in Gordon and at Charles Conder, which is the open plan process, and these kids do not respond to that. Rather than spit the dummy and complain bitterly, the parents have negotiated a transfer from the school to Torrens. Naturally enough, you would think that these parents, whose kids are now well and truly over the 2K zone, would be absolutely chuffed about the new free bus school system, and indeed they were. Five out of the 37 are from the one family.

But what they really wanted, in fact, was to maintain the choice of educational institution for their kids and have their own bus service from the Conder shops to the school. They didn't want it free, necessarily. They just wanted to have that one go there. When I put to this gentleman, "Do you want your services inside or outside the school gate?" he said the whole reason for doing what he did was the educational outcomes for those kids. He was more concerned about getting a dedicated bus to pick the kids up from Conder and take them to Torrens, which is in the same zone anyway, so the zonal system did not matter, than he was about the free bus system, knowing that he would still have to pay his five fares.

He also said to me that if the amount of money that was going on the free bus system was to be applied to bringing the class sizes down in the schools his kids were attending—I think the youngest one was in about grade 4—he would give the local primary schools another shot. That is what this guy said. If we had the money going in to reduce the class sizes to, say, grade 6, three of his kids would be having another shot at their local school, the Charles Conder primary school.

This minister is disingenuous about the whole thing. He has not consulted anybody. He has consulted tea leaves and a 1995 piece of parchment he got out of Tutankhamen's tomb. He dusted it off and said, "We will try to bribe the electorate." Well, it does not wash at all, Mr Temporary Deputy Speaker. I think I have had my spray. I support Ms Tucker's motion, and I look forward to the eloquence of Mr Moore.

MR MOORE (Minister for Health, Housing and Community Services) (6.41): In order to explain my attitude to this extra research that Ms Tucker is asking about, I have to give some background to my view on the issue. There are two possibilities on how I handled this in cabinet. One is that I went in there and said, "This is a really good idea. You guys made promises. You should be keeping your promises and that is all there is to it." That is one of the possibilities. The other possibility is that I went in there and vigorously argued, as I had publicly in I think 1995 and 1997, that this is a bloody stupid idea and the money is better spent elsewhere. It does not matter which of those arguments was put. If I argued the way I did and the outcome was that I was outvoted in a budget matter, the government is entitled to its budget and I support the budget.

Whichever way it is, I support the government's right to have their budget and to put the initiatives in their budget. I have done so, whether on the crossbenches there or here, with the one exception which, as I said earlier today, I consider a mistake.

Mr Berry: All of a sudden it's a mistake.

MR MOORE: We talked about that earlier in the debate today. You would have done well to be here, Wayne. It seems to me that the research that Ms Tucker is asking for is a futile and inappropriate exercise. Whenever a party, whatever the party, goes to the electorate and says, "We promised to do deliver something," in this case school buses, and then they say, "However, we now have to do all the research," the electorate will be even more cynical than it is now. The electorate will say, "Oh, yes, you are going to do all your promises, but after you have gone through the election you are then going to do the research and see if it is a good idea or a bad idea." Sorry, that does not hold water. What would happen is that political parties would be even more on the nose than they are at the moment.

The same would apply to anybody who stands for election and becomes a politician. That basically is what would happen. If you say, "This is what I intended to deliver but we cannot; I am just going to do some more research and then we will see what the outcome is," then clearly the attitude of the electorate will be much more cynical even than it is now. That choice is not available.

Once the government has made its decision within a budget context, as much as I know that Mr Berry and Ms Tucker would like to delay it, it is an entitlement of the government, in a way consistent with the debate we had earlier today on Mr Rugendyke's bill. What is the right of the executive? The clearest right of the executive is to have its budget and to take responsibility for the expenditure of the money. Consulting on that first is fine, and how they want to go about it is interesting.

The Labor Party said, "We are not even going to do a draft budget process. We are not going to consult on our budget. We are going to bring it down and tell you that is what it is." They are entitled to do that as an executive if that is the way they want to approach it. But the crunch is that once they have made that decision, once they have put their budget on the table, they are entitled to that budget. That, I think, is the fundamental point here.

Attempts to delay this, or put it off, or change it, as have been made by a bill that Mr Berry tabled this morning, or by this approach that Ms Tucker has taken, interfere with their do that and are inappropriate. Motions like this simply ought to be rejected. That is the most important reason why.

MR RUGENDYKE (6.45): I apologise in advance, Mr Temporary Deputy Speaker, for breaching standing order 59 because, quite frankly, sir, I cannot speak to this motion without doing so.

MR TEMPORARY DEPUTY SPEAKER: Well, as a member of this chamber—

MR RUGENDYKE: No, I have to continue. Don't put a stop to my speech because that would be inappropriate too. I have said a couple of things in this budget process, which is what we are talking about. As Mr Berry has half pointed out in the report I wrote to the minister, in a sense I disagree with free buses. If I were in that position I would probably spend the money, the $27 million that is in the budget, on something other than free buses. But that is not my call.

MR TEMPORARY DEPUTY SPEAKER: Order! You are in breach, Mr Rugendyke. I ask you now—

MR RUGENDYKE: No, I have to continue.

MR TEMPORARY DEPUTY SPEAKER: I am asking you, or I will have to sit you down.

MR RUGENDYKE: No.

Mr Moore: Use the word "research".

MR RUGENDYKE: No.

Mr Moore: That is what it is about. It's research.

MR RUGENDYKE: No. This is about the budget.

MR TEMPORARY DEPUTY SPEAKER: No, Mr Rugendyke.

MR RUGENDYKE: This is about the budget.

MR TEMPORARY DEPUTY SPEAKER: The standing orders are there for all of us.

MR RUGENDYKE: The other thing I said in the estimates hearings is that I will not be part of any political stunt that comes out of the estimates hearings processes, and this is all that this motion can be described as. The $27 million in the budget is something that the government has decided to spend. I have said that they are entitled to spend their surplus as they see fit and be judged by the electorate.

Mr Berry: That is good. I like that. I am happy about that. I am happy you have that position because that sets you—

MR RUGENDYKE: Mr Berry does not like what I have just said because I have corrected his half truth earlier.

Ms Tucker: I take a point of order. Look, I do not know what is going on here. I listened to your ruling on a point of order. You have just been ignored totally by a member. Now, that is fine if that is how you want to run it, but then do not tell other people that they have to listen to standing orders. He is blatantly refusing to take any cognisance of what you said.

Mr Moore: On the point of order, Mr Temporary Deputy Speaker: I think what Ms Tucker probably missed was that Mr Rugendyke is following on from the thrust of the argument that I put, the thrust being is it necessary to do this research if, indeed, there is a fundamental principle about supporting a budget. What Mr Rugendyke was arguing is that fundamental principle of supporting a budget. That is what the arguments were. I think he actually is consistent with standing orders, unlike the approach that Ms Tucker took earlier.

MR TEMPORARY DEPUTY SPEAKER: Order! The chair acknowledges and upholds Ms Tucker's point of order. Mr Rugendyke, at the beginning of his speech, stated that he was going to breach standing orders. Mr Rugendyke, you will come to order. You will address the house and not breach standing orders, or resume your seat.

MR RUGENDYKE: On the point of order, Mr Temporary Deputy Speaker, I would submit—

MR TEMPORARY DEPUTY SPEAKER: No, I have ruled on the point of order. Are you raising another one?

MR RUGENDYKE: Well, I will raise another one. I do not know which one but I would submit that if it is not possible to speak to a motion without breaching the standing orders then the motion ought to be ruled out of order.

MR TEMPORARY DEPUTY SPEAKER: The motion is not out of order, Mr Rugendyke. On your point of order, you have a method, if you wish, to change standing orders, but, as they stand at the moment, the chair acknowledges that you are in breach. I have upheld the point of order raised by a member of this house. You will either address the house without breaching standing orders or resume your seat, Mr Rugendyke.

MR RUGENDYKE: Mr Temporary Deputy Speaker, I will read the motion. It says that this Assembly calls on the government to conduct an independent comparative analysis between increased expenditure on student transport, which is what the government wishes to do with their budget, and educational programs, which is what the opposition would like to see the $27 million in the budget spent on.

Mr Berry: And you would too, except if it takes—

MR TEMPORARY DEPUTY SPEAKER: Mr Berry, Mr Rugendyke has the call.

MR RUGENDYKE: The $27 million in question is the central part of the motion. We must be agreed. This is about the budget.

MR TEMPORARY DEPUTY SPEAKER: Resume your seat, Mr Rugendyke. You are out of order. I call Mr Berry.

MR BERRY (6.51): Thank you, Mr Temporary Deputy Speaker.

Mr Moore: Look at the time. Shouldn't we adjourn now and do this on Wednesday?

MR BERRY: We can put the motion now if you like. We will support the motion. Just put it. I am happy to resume my seat if you want to put it now.

Mr Moore: No. That is not what I said. You agreed that we break at seven o'clock.

MR BERRY: I will move that the question be put.

MR TEMPORARY DEPUTY SPEAKER: You are entitled to do that.

MR BERRY: I move:

> That the question be now put.

Mr Stefaniak: No. Don't be silly. I want to talk on the bloody thing.

Mr Moore: The Speaker can overrule the gag.

MR TEMPORARY DEPUTY SPEAKER: I know I can overrule it. I am well aware of that. Mr Berry has moved that the question be put.

Mr Stefaniak: I take a point of order, Mr Temporary Deputy Speaker, if you can overrule the gag. There are quite a few people who want to talk on this.

MR TEMPORARY DEPUTY SPEAKER: The question has been put and the chair acknowledges it. Bearing in mind that standing order 59, in particular, has been breached this evening by numerous speakers, I accept the motion from Mr Berry that the question be now put.

Question resolved in the negative.

MR TEMPORARY DEPUTY SPEAKER: The question now is that the motion be agreed to.

MR BERRY: Well, I will speak to it in that case. Mr Temporary Deputy Speaker, I am happy to speak to this motion. This motion goes to the issue of the amount of research that has been done in relation to educational matters as they compare to transport. We know from the Estimates Committee that the government has done no work on assessing the educational effect of transport systems. That was put to us. That was evidence that was transmitted. I do not intend to anticipate any debate about the Estimates Committee report. I merely want to say that that evidence was adduced during the course of proceedings before the committee. The government not having done any work in relation to this matter, it seems reasonable to me to ask them to do something, so that we have an idea and so that we have some confidence that they know what they are doing.

I heard somebody say a little while ago, and it was permitted by you, Mr Temporary Deputy Speaker, that the government had made a promise to provide certain transport systems in the ACT at the last election. Well, it did not. The government did it at the 1995 election and forgot it. It dropped right off the radar screen, absolutely forgotten, until just recently. It was not promised at the last election. Unlike the Belconnen pool—the Belconnen pool has been promised at two elections and will be promised at a third election—this one was only promised at one and was then forgotten.

Let us stop deluding ourselves. This thing came out of the blue. There was no election promise, no consultation and no work. The point I am trying to make is that there ought to be a bit of work about what the issue means to education, and the government does not want to do it. We are happy to support the motion that sees that this sort of work will be done. It would be preferable for me, at least, to see some support for this approach because at least then the work would be done. There has been no promise.

Mr Moore relied on this fallacious argument that because a promise was made at the last election, a promise which was not made, then the government has a right to do what it likes. Well, Mr Moore has been misled, and perhaps we might win him over. I can see that I am starting to win on Mr Rugendyke. He is coming my way. I can just feel it. He now knows that a promise was not made and that the community has been misled. With a little bit of research, he will confirm that, and I am sure he will even be warmer to the ideas that I am putting to him on this matter.

Mr Temporary Deputy Speaker, I think the work ought to be done. I cannot see any reason why the government is shirking its responsibility in this respect. There has been no promise, there has been no work, and I think the motion ought to pass.

MR KAINE (6.55): Mr Temporary Deputy Speaker, I have been listening to the debate with some interest. I found it rather amusing that we got into a debate on whether or not we were in breach of the standing orders. When you read the motion that is before us, there is no question of any breach of standing orders. This motion does not question the government's right to spend the money. Indeed, until the budget is passed there isn't any money anyway.

This motion has to do with whether or not the government spends the money in light of some informed position, or whether it just spends the money. What Ms Tucker is attempting to do here is to ensure that there is some investigation into the end result of spending the money, not whether the money is going to be spent or whether it is not; she is not questioning that.

I think the debate has pretty well established that the government, in seeking to put this amount of money in the budget, did so on the basis of a promise it made six years ago. It has been pretty much established that they did this without any groundswell of public opinion asking for it, and without seeking any particular input as to whether it was a good thing to do or not. They did it because they felt obliged to do so, having made a commitment six years ago.

I do not take exception to that, but I think Ms Tucker has a point. Since not much consideration has been given and not much input has been made to the government on the question of whether the money should be spent or how it should be spent, I think it is not unreasonable that she should ask that the government spend the money from an informed position, if they are going to spend it at all. That is what this motion is about. It is not a question of whether we are prejudging a budget decision or anything else. We are doing nothing of the kind. That decision will be made next week when we get to debate the budget, and I presume the budget will go though with the money still in it. I have not heard any indication from anybody that they are going to move to remove the money from the budget.

I think Ms Tucker's motion is an eminently logical one. I know it is one that will not appeal to the government. It is asking them to do a bit of work that so far they have neglected to do, so they will not particularly want to do it

I think you cannot argue the point about whether the motion is legitimate and whether or not it should be debated now under the terms of our standing orders. I do not think they are questions that are in issue here. If we take Ms Tucker's motion at face value and what it is asking the government to do, it is not a matter affecting the budget in any way. It does affect how they spend the money. It actually means that it stays in the budget. I think it is a sensible motion.

I do not know why Mr Rugendyke came into conflict with the authority of this place over whether or not it was outside the standing orders. I think that is totally irrelevant. I agree with the notion that we should vote on this and get it over and done with. We have about three minutes before seven o'clock.

MR OSBORNE (6.58): This issue about school buses is an interesting one. I do not consider the proposed spending on school buses to be educational spending. It is a form of tax relief, just as the reduced rego fee is a form of tax relief. There are a lot of things in this budget on which I think the government have got their priorities wrong. I have said quite publicly that I think that $27 million—

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Osborne, the motion is not contrary to standing orders, but you are foreshadowing a debate and I am reliably informed that you are in breach of standing order 59.

MR OSBORNE: All right. I will speak to this motion. I look at this motion and it seems to me to be about public transport, which is about the school buses.

Mr Rugendyke: It is in the budget.

MR OSBORNE: That is in the budget, but I may be wrong. That is my reading of the motion. It refers to a comparative analysis between increased expenditure on student transport. They are not giving money to mums and dads to get free petrol. There are no trains. It can only really mean school buses. So how am I out of order?

The point I want to make, Mr Temporary Deputy Speaker is this: this is the government's budget. If they choose to spend the money that way, regardless of whether I agree or not, that is their prerogative. I think the money would have been better spent on reducing class sizes and things like that, or more police, or more money for rehabilitation. There are lots of things like that, Mr Temporary Deputy Speaker. I think to link it specifically to education is just not correct. It is just not correct.

Ms Tucker: Okay. That is two minutes.

MR OSBORNE: It is not two minutes. It is a minute and a half.

Ms Tucker: And you have broken the standing orders.

MR OSBORNE: Rule me out of order, I dare you, because I will argue with you. The money that is being spent on the free school buses has come from the surplus, and that is a decision this government has made. That is the general consensus of this motion of Ms Tucker's. I will sit down.

MR STEFANIAK (Minister for Education and Attorney-General) (7.02): Just very quickly, I think Mr Osborne does make a very valid point.

Members interjecting—

MR TEMPORARY DEPUTY SPEAKER: Order! The Minister for Education has the call.

MR STEFANIAK: Very briefly, I think he makes a valid point. This is about student transport and she confused it with education programs. What is the point?

Question put:

> That **Ms Tucker's** motion be agreed to.

The Assembly voted—

Ayes 6		Noes 7	
Mr Berry	Ms Tucker	Mrs Burke	Mr Smyth
Mr Hargreaves		Mr Hird	Mr Stefaniak
Mr Kaine		Mr Moore	
Mr Quinlan		Mr Osborne	
Mr Stanhope		Mr Rugendyke	

Question so resolved in the negative.

Adjournment

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

> That the Assembly do now adjourn.

Assembly adjourned at 7.04 pm