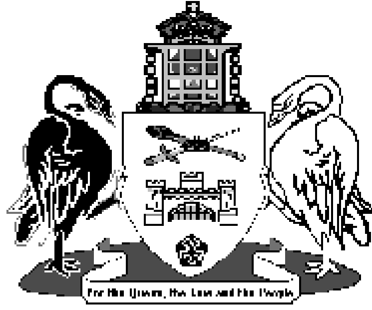

DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

10 December 1991

Tuesday, 10 December 1991

Petitions:
- Retailing of new goods 5755
- Euthanasia 5756
- Marijuana 5757

Questions without notice:
- Employment 5757
- Gifted and talented children's programs 5759
- Government letters and fridge calendars 5759
- Sports facilities coordinator 5762
- Training and development options for women 5762
- Electricity purchases 5763
- President Bush visit - police costs 5764
- Elective surgery 5765
- Payroll tax 5765
- Land tax 5767
- Government Service - staff reductions 5767
- Federation Square - traffic arrangements 5767
- ACTION buses - school hire 5768

Subordinate legislation and commencement provisions 5768
Gambling (Matter of public importance) 5769
Proposed variations to Territory Plan 5775
Scrutiny of Bills and Subordinate Legislation - standing committee 5793
President Bush visit - police costs (Ministerial statement) 5794
Appropriation (Amendment) Bill 1991 5794
Administrative Decisions (Judicial Review) (Amendment) Bill 1991 5794
Air Pollution (Amendment) Bill (No 2) 1991 5798
Territory Owned Corporations (Amendment) Bill 1991 5803
Motor Traffic (Amendment) Bill (No 2) 1991 5814
Gas Levy Bill 1991 5821
Taxation (Administration) (Amendment) Bill 1991 5827
Postponement of orders of the day 5828
Fire Brigade (Administration) (Amendment) Bill (No 2) 1991 5828
Superannuation (Legislation Assembly Members) Bill 1991 5831
Air Pollution (Amendment) Bill 1991 5853
Water Pollution (Amendment) Bill 1991 5854
Lakes (Amendment) Bill 1991 5856

Tuesday, 10 December 1991

MR SPEAKER (Mr Prowse) took the chair at 2.30 pm and read the prayer.

PETITIONS

The Clerk: The following petitions have been lodged for presentation, and copies will be referred to the appropriate Ministers:

Retailing of New Goods

TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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

A. We are retailers or proprietors of retail premises in the Australian Capital Territory.

B. Our retail premises are located in planned shopping centres and we pay directly and indirectly various statutory charges and levies in association with our business.

C. Recently halls, exhibition centres and showgrounds in the Australian Capital Territory have been used to retail goods in circumstances where the retailing was not incidental to a fair or exhibition. The halls, exhibition centres and showgrounds are not planned for use as retailing centres. They are public premises, not attracting commercial rates. Legally such sites may only be used for various public purposes, which do not include pure retailing.

D. Retailing in halls, exhibition centres and showgrounds entails payment of lower rates and operating costs compared to retailing from established retail centres. Consequently, such retailing deprives the planned shopping centres of custom and tenants, and is detrimental to taxpayers in the Territory. Those of us who sell carpets, whitegoods, leather goods and various other goods have

already suffered great financial loss as a result of the retailing to which we refer. If the practice continues many established retailers will be driven out of business.

E. There is a gross oversupply of retail commercial space in the Territory. The use of halls, exhibition centres and showgrounds as retailing space seriously worsens an already unsatisfactory situation.

Your petitioners therefore request the Assembly to:

immediately use your powers of enforcement of Territory laws and lease purpose clauses to prevent the retailing of new goods from halls, exhibition centres and showgrounds except to the extent that such retailing is incidental to bona fide fairs and exhibitions.

By **Ms Follett** (from 385 residents).

Euthanasia

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

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

* That euthanasia ignores the fundamental value of every human being.

* That the mere legalisation of euthanasia would put pressure on the handicapped, aged and terminally ill members of our community to kill themselves, or to be killed, so as to not be a "burden" on their friends and families.

* That experience in the Netherlands demonstrates that acceptance of so called "voluntary" euthanasia leads to the adoption of involuntary euthanasia.

Your petitioners therefore request the Assembly to reject any move towards the legalisation of euthanasia in the ACT, and to provide for the establishment of a hospice as an expression of the Assembly's true concern for the welfare of the aged and terminally ill of our community.

By **Dr Kinloch**, **Mr Humphries** and **Mr Kaine** (from 133, 188 and 123 residents, respectively).

Marijuana

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

We the undersigned understand that the Legislative Assembly for the Australian Capital Territory is considering the introduction of legislation to decriminalise possession and use of marijuana. How such a move could even be considered is beyond comprehension having in mind the ravages of alcohol and tobacco in the community and the current efforts to "depopularise" them.

History has shown that marijuana has proved to be a terrible scourge wherever used. Many eminent researchers world wide, such as Gabriel G Nahas (author of "Keep off the Grass") have produced a great deal of well documented evidence condemning the drug. It produces loss of will power and a gradual disintegration of personality, ultimately leaving an empty shell. Cell damage is another of its vicious side effects.

We respectfully implore you to reject any move to make marijuana available to the public under any circumstances.

Your petitioners therefore request the Assembly to ensure the present legislation be more vigorously enforced and your petitioners will in duty bound ever pray.

By **Mr Kaine** (from 50 residents).

Petitions received.

QUESTIONS WITHOUT NOTICE

Employment

MR KAINE: I would like to direct a question to the Chief Minister and Treasurer, following the recent release of the ANZ Bank's monthly job vacancies statistics, which show that job vacancies have taken a marked fall. I will just quote from Ian Davis in the *Canberra Times,* who says:

> Job vacancies are usually regarded as one of the earlier indicators of economic trends.

In other words, the suggestion is that our economy is taking a nosedive. In light of that, does the Chief Minister and Treasurer believe that her budget is contributing in any way to the creation of jobs in the ACT? If so, how?

MS FOLLETT: I thank Mr Kaine for the question. To answer the last part of Mr Kaine's question first, yes, I do believe that the budget which this Assembly has now passed is helpful in terms of the ACT's economic outlook and, indeed, in the creation of jobs. As members know, the budget contained a significant amount of money specifically for the creation of jobs for young unemployed people and for women wishing to re-enter the work force. So, there is that specific action taken within the budget, directed at getting those people back into the work force.

It is worth saying also that a balanced and responsible budget, such as the one that the Government has achieved and the Assembly has passed, is good for the ACT economy. The fact that we have reduced the ACT's debt burden in that budget is a good step, not just for the current circumstances but also for the future. Also, the fact that we have avoided new borrowings, I think, is very significant in looking after the welfare of the ACT economy.

Nevertheless, I take Mr Kaine's point about the figures released by the ANZ Bank. Of course they are of concern. Nobody would pretend that they are not. I think the article indicated my general view that the recession is catching up with the ACT and that this may be an indication that that is the case. I do not think that anybody in this Assembly would want to pretend that the recession has bypassed us, but it is a fact that the ACT has tended to weather the recession somewhat better than a lot of the States and Territories. Any casual observer looking in the back sections of the *Canberra Times* could note that there are fewer jobs being advertised - there is no doubt about that - and I suspect that the ANZ Bank's figures reflect that general situation.

But I am advised that the ANZ monthly figures perhaps should be treated with some caution, and that is for two reasons. Firstly, the figures are not seasonally adjusted and, secondly, the figures, I am told, do not take fully into account the public sector vacancies which are not advertised in the newspaper. As I said before, the effects of the national recession on the private sector have perhaps been no less severe in the ACT than elsewhere; and, of course, in the ACT the public sector provides a very valuable cushioning effect for our economy.

To conclude, as I say, on the whole, the ACT's economy does tend to continue to perform rather better than elsewhere; but it would be a mistake to think that the recession had passed us by. It clearly has not, and I think that the ANZ Bank's figures are some indication of that.

MR KAINE: I ask a supplementary question, Mr Speaker. It was a very comprehensive non-answer. Perhaps the Chief Minister can tell us, in round figures, how many jobs she expects her initiatives will create in the ACT in this fiscal year.

MS FOLLETT: Mr Speaker, I would have to go away and add them up - and I am quite prepared to do that - because we would have to work out, from the new policy proposals that I spoke of earlier, how many people had actually been put into employment or training as a result of those initiatives. Also, of course, we would have to look at the effect that the capital works budget had had on ACT employment. As I say, I am willing to do those sums for Mr Kaine and I will present him with the results as soon as I am able to.

Gifted and Talented Children's Programs

MRS NOLAN: Mr Speaker, my question is addressed to Mr Wood in his capacity as Minister for Education. I refer the Minister to programs in ACT schools for gifted and talented children. I ask the Minister: What is in place in relation to gifted and talented children? Also, as a result of budget constraints, have any positions been cut in relation to the special needs of those children?

MR WOOD: Mr Speaker, I would maintain that all schools maintain programs for gifted and talented children. It is the aim in schools to extend every child, to see that they work to the limit of their capacity. That is the broad aim of all our schools. Certainly, when I was teaching in those schools that was my task, and that is, I believe, the task of all teachers in the ACT.

Some schools set out to give specific emphasis to programs for talented and gifted children. Lyneham High School is one example of that. Other high schools also give particular feature to such programs. There is a little concern, from time to time, that they should not unduly emphasise elitism; but we accept that they can give that particular focus to students in need, in terms of their intellectual capacities. The Lyneham High School program and at least one that operates in Tuggeranong Valley do that well.

I am not aware of any changes as a result of staffing changes or budget cuts. I am not aware whether there is any advisory mechanism that operates. It is my understanding that the budget cuts were removed from classrooms. If you have any particular information, you could apprise me of it and I will have a look at it.

Government Letters and Fridge Calendars

MR HUMPHRIES: Mr Speaker, my question is directed to the Chief Minister. I refer to the letter sent by the Chief Minister to North Canberra residents advising them of the opening of the Ainslie Transfer Station, which cost the taxpayer $1,340. I refer also to fridge calendars

circulating in the Belconnen area, bearing the name of the Deputy Chief Minister, and also funded, apparently, from the public purse. I ask the Chief Minister: How many times does her name need to appear on such literature before it constitutes electioneering self-promotion? Will she issue guidelines to curtail the abuse of publicly funded literature promoting the names and photographs of her Ministers?

Mr Berry: Are you suggesting that that was abuse?

MR HUMPHRIES: I am.

MS FOLLETT: Mr Speaker, I thank Mr Humphries for the question. I can understand Mr Humphries' embarrassment over the whole issue of the Ainslie Transfer Station. I can understand the embarrassment of the then Minister who made the extremely foolish and thoughtless decision to close the Ainslie Transfer Station, completely flying in the face of the needs and the express wishes of the people in that local area, and involving the local people in both inconvenience and additional expense in having to visit other tips and having to make other arrangements for their recycling needs.

It was, as I say, a decision that involved the people themselves in considerable expense; but obviously you do not care about that. It was also, of course, one of the issues on which I have had constant representations ever since the Alliance Government closed the transfer station. I take the view, and my whole Government takes the view - - -

Mr Humphries: Mr Speaker, I raise a point of order. Ms Follett has been speaking about the question of closing or opening the Ainslie Transfer Station. My question did not actually raise that issue. It raised the question of literature sent out about that issue and other issues promoting herself and her Government's Ministers.

MR SPEAKER: Mr Humphries, that is not a point of order. Please proceed, Chief Minister.

MS FOLLETT: Thank you, Mr Speaker. My Government takes the view that people have the right to know about issues that are important to them. Given the number of representations I have had on this matter, I believe that it was only fair and appropriate to let people know what was going on. As Mr Humphries said, the cost of letting them know was $1,334. I would like to advise Mr Humphries that that worked out at just under 9c per household in the area affected - in other words, much cheaper than sending them a letter. If you add to that the fact that we got the front page of the *Canberra Times* thrown in for nothing, I think it was quite good value.

Mr Connolly: Thank you, Mr Humphries.

MS FOLLETT: Thanks to Mr Humphries. It is the fact that the people in that area needed to know that the arrangements had been changed. It is the fact that it is one of the issues that have concerned them most, and I took the view that they ought to be informed on what action the Government was taking about that.

In respect of the fridge calendars, I presume that Mr Humphries refers to a fridge calendar that advised the Belconnen residents that Calvary Hospital was offering accident and emergency care on a 24-hour basis. Again, I take the view that people needed to know that. It was a large change in the provision of services in their area, and they had to know about it. Obviously, that information was provided by way of a fridge sticker so that people would keep it to hand. We do not want them putting it out - - -

Mr Kaine: With Wayne's picture on it.

MS FOLLETT: Mr Speaker, Mr Kaine interjects that it has Mr Berry's picture on it. It does not. It includes the name of the Minister for Health and his contact number - something that we did not often see from any member of the previous Government - and, again, I say that that is because it is information that people have a right to know and that we, as a government, are happy to provide them with.

MR HUMPHRIES: I ask a supplementary question, Mr Speaker. The Chief Minister misses the point of my question entirely. I do not object at any stage to information about government decisions going out. The question I am asking her is about promotion of Government Ministers in the course of doing so. I ask the Minister why the Department of Urban Services could not have sent information, in the usual format, advising that this change had occurred; or why the Department of Health, or the Board of Health, could not have sent literature of this kind - not advertising Ministers' names and photographs, in some cases, and not providing for electioneering. I ask the Minister: How many times does her name need to appear on literature before it constitutes electioneering, and will she issue guidelines to stop this from happening in future?

MS FOLLETT: I do not concede that this in any way is electioneering - any more, for instance, than was Mr Kaine's picture appearing on the seniors card applications and information during the time that he was responsible for that area. I have written to party leaders concerning what provisions might apply during what I would regard as the caretaker period. I have heard from two leaders, but not from the Liberal Party leader. I look forward to hearing their views on the arrangements, which I think are very reasonable.

Sports Facilities Coordinator

MR COLLAERY: Mr Speaker, my question is addressed to the Minister for the Environment, Mr Wood. I ask Mr Wood whether he was consulted on, or in any way aware of, the secondment of Mr Peter Conway to a senior position in his department for six months - someone who, on Mr Berry's statement of 5 December, has the principal task of developing and facilitating liaison arrangements with sport and recreation organisations.

MR WOOD: Mr Speaker, the sport area is divided between the Minister for Sport, Mr Berry, and me. The bureaucrats work in the Department of the Environment, Land and Planning; but Mr Berry very effectively administers sports policy and all matters relating to sport. It is an arrangement that suits me fine. I would think that the question you ask is predominantly, in any case, a public service matter and not one that would normally come to my attention.

Mr Collaery: Just answer the question; were you consulted?

MR WOOD: I think you have your answer. I would not seek consultation on that matter.

MR COLLAERY: I ask a supplementary question, Mr Speaker. So, I take it, Mr Wood, that, although Mr Conway is responsible to the secretary of your department, on Mr Berry's advice of 5 December, you were not consulted about his "secondment" to a highly paid position in your department?

MR WOOD: You are a bit slow to cotton on, Mr Collaery. I thought I had explained it. I am not consulted on a very large number of matters - in fact, all the matters that Mr Berry so well deals with in sport. If you want me to list them all, I can take you through them. There is a very large range of matters, from the Tuggeranong pool to all sorts of other matters. I repeat: Mr Berry deals with those matters, he deals with them well, and I would not seek consultation.

Training and Development Options for Women

MS MAHER: My question is addressed to the Chief Minister. I believe that the consultancy report on the review of training and development options for women in the ACT was finalised some time ago and passed on to the Minister a couple of weeks ago. Does the Chief Minister intend to make the report public? If so, when; and, if not, why not?

MS FOLLETT: I thank Ms Maher for the question, Mr Speaker. It is not a matter on which I have any information with me in the Assembly today, but I will certainly make inquiries about it and provide Ms Maher with an answer.

Electricity Purchases

MR JENSEN: Mr Speaker, my question is directed to Mr Connolly in his capacity as Minister with some responsibilities for ACTEW. Minister, the ACT is currently purchasing its electricity from outside of the ACT, as we know. Some 30 per cent is generated by the Snowy Mountains hydroelectric scheme and the rest is from several power stations, mainly in New South Wales, although there is some coming in from Victoria. I wonder whether the Minister can advise on what basis ACTEW considers that the cheapest option is to purchase power rather than seek some means of generation locally.

MR CONNOLLY: I thank Mr Jensen for his question. It would be a massive capital investment for the ACT to set up a local generation plant involving hundreds of millions of dollars of borrowed money. ACTEW effectively wholesale purchases electricity and passes it on to consumers. What ACTEW is doing is, in fact, what will become more the pattern in south-eastern Australia particularly as we move to the integrated grid. The pattern of even States such as New South Wales and Victoria generating solely in-State capacity and having to have a sufficient surplus capacity for emergencies will be a thing of the past soon, as we move to that integrated grid.

The ACT is represented on the national grid management strategy to develop those works. So, I have no plans for a generation capacity in the ACT and nor does ACTEW because, on its advice, it would be far more expensive and would go against the trend in Australia for an integrated grid management.

MR JENSEN: I ask a supplementary question. Based on that answer from the Minister, is the Minister therefore not aware that there is now some technology which would enable the generation of electricity via the water system in the ACT through the delivery of water from dams outside the ACT into the ACT area, and that using that technology would enable some electricity to be generated by that process? If the Minister is not aware of that, will he undertake to have a look at that issue with a view to seeking to reduce the amount of electricity that we have to purchase from outside? I was not talking about big power stations, Mr Connolly.

MR CONNOLLY: I see - lots of little power stations. They could all be named after members of the Labor team, but we would need probably 11 or 12 of them after the next election. I will certainly ask for some advice. The ACTEW board contains a number of people with expertise in electricity and energy management matters. Dr Saddler, who is a noted energy expert, has recently been appointed to the ACTEW board, and I am sure that they will keep these things under review.

President Bush Visit - Police Costs

MR STEFANIAK: My question is addressed to Mr Connolly in his capacity as Minister for police. He does look like John Cleese, actually, when he leans on his chair and answers a question. My question relates to the forthcoming visit of President Bush and Senator Tate's - or Senator Tate's office's - apparent insistence that the ACT is going to be asked to foot the costs of that particular visit, in terms of the supplying of our police. Will the Minister please advise whether, in fact, the ACT is going to be up for some money in relation to providing police as security for President Bush's visit in Canberra? Secondly, will the Minister also confirm that, regardless of what happens in relation to the cost of President Bush's visit in the ACT, the police operational capacity, in terms of providing their service to the ACT community, will not be further diminished by any costs that we might have to bear as a result of that visit?

MR CONNOLLY: Certainly, the ACT Government is concerned that the ordinary community policing function does not suffer because of things like either the Aidex demonstrations or the Bush visit. The Bush visit is purely a national visit. President Bush is a guest of the national government. He is in Canberra to meet with the Governor-General and the Prime Minister and, I think, to address a joint meeting of the Federal Parliament. No part of his itinerary involves a visit to the ACT. He is not our guest; he is the Federal Government's guest. I would expect the Federal Government to absorb some of the cost, or the additional cost, of his being here.

I would expect that, while he is in town, a lot of AFP members will be directed to duties involving his visit and, to the extent that they are performing their ordinary functions and overtime is not involved, that does not cause any problem. I expect that we will have to make that degree of contribution. But, to the extent that other AFP members come to Canberra from other AFP regional commands and to the extent that there is extensive overtime work, I would expect that the Federal Government ought to bear that cost, as Mr Bush is the Federal Government's guest.

I would remind the house that the Australian Capital Territory's agreement with the Commonwealth - the so-called policing contract - basically says that we provide a set sum of money for policing services, and the sum of money this year is $53.4m. For $53.4m we get the service and we, in effect, write the Commonwealth a cheque on a monthly basis. If there are additional costs, the Commonwealth effectively has to bear them. If it wants more, it will have to come and seek more from us, and I can assure Senator Tate - as I have publicly - that we would not be paying any more than the $53.4m that we are contracted to pay.

Elective Surgery

MR HUMPHRIES: Mr Speaker, my question is addressed to the Minister for Health. Can the Minister confirm to the house that there will be no regular elective surgery at Woden Valley Hospital between 20 December this year and 28 January next year?

MR BERRY: Mr Speaker, Mr Humphries would well know that in the Christmas period there is a general slowdown in the provision of hospital services. This is for a number of reasons - doctors go on holidays; nurses go on holidays; people who want elective surgery elect not to have it over the Christmas break because they want to be in a position to enjoy Christmas.

That practice will continue, because there is no reason to adjust it; but it is true that the Board of Health will be taking advantage of that Christmas period in savings terms because it is a time when the hospitals wind down. So, it is true that over the Christmas break there will be the normal winding back of services in the hospitals. I am just trying to look for some more information on it which might be of some help to you, Mr Humphries.

Mr Humphries: Look under "hospital services". That is where it usually used to be.

MR BERRY: Yes, that is right. All I can say is that that customary period of close-down will occur again, and the Hospital Board has indicated that, where more savings can be made over that period, they will be made.

MR HUMPHRIES: I ask a supplementary question, Mr Speaker. I am greatly relieved to hear the Minister refer to the normal winding back of hospital services and the customary period of close-down. Since that period is normally and customarily only three weeks, I take it that the Minister is confirming that there will not be a shutdown right until 28 January next year?

MR BERRY: I have answered Mr Humphries' question. I told him that the board would be taking advantage of the customary close-down period to make extended savings if that is possible.

Payroll Tax

MR COLLAERY: My question is addressed to the Chief Minister in her role as Treasurer. It relates to payroll tax issues. I note that the Chief Minister is corresponding with representatives of industry, and I am aware of discussions between industry and the Treasury. I ask the Chief Minister whether she intends to bring in some

amendments to the Payroll Tax Act before the house rises, to deal with the anomaly concerning some of the subcontractor issues that the Chief Minister is aware of - and not the apprenticeship issue. I ask whether her Treasury has made an assessment of the potential cost of giving that concession and whether she is prepared to entertain an argument that the loss of revenue, which perhaps could be up to $600,000, could be offset by the licensing of subcontractors, as is carried out in New South Wales and not, except for plumbers and electricians, in this Territory.

MS FOLLETT: Mr Speaker, as Mr Collaery says, I have met with industry representatives and have been in correspondence with them over the question of payroll tax and particularly the issue of the service contract provisions which are affecting payroll tax. I think it is correct to say that, at the moment, I still have that matter under discussion, under review; but I do not think it is appropriate for me to be called upon, as Mr Collaery appears to have done by way of a question without notice, to announce my intentions in that regard. I certainly do not intend to do that.

I think all members should bear in mind that, whilst the issue has been raised largely within the construction and housing or building industry, it has, of course, much wider ramifications throughout all industries, many of which use service contract arrangements and many of which are involved in partnership arrangements. It seems to me that, if any change were to be made purely for the benefit of the housing, construction or building industries, certainly that wider application is something that would have to be taken into account and costed against the ACT revenue.

I do not intend to answer the specifics of Mr Collaery's question, because it is largely hypothetical. It calls upon me to announce matters for which there is no basis for a government announcement. I think I should leave it at saying that I have the matter still under review, and, if at some stage there seems to be a need to change the existing provisions, that would be the time that I would make an announcement. But I have, currently, no such intention.

MR COLLAERY: I ask a supplementary question. I thank the Chief Minister for her comments. I ask the Chief Minister whether she is aware of the actual sum currently raised by the assessment of those service contracts. What part of the, I think, $85.1m that is achieved from payroll tax itself relates to the service contracts?

MS FOLLETT: No, I am not aware of that. We could attempt to find that out. I think it might be a difficult sum to do, but certainly I could have the Revenue Office do some calculations on it and get back to Mr Collaery with the answer.

Land Tax

MRS NOLAN: Mr Speaker, my question is also directed to the Chief Minister in her capacity as Treasurer. I refer her to the one per cent land tax that her Government introduced in relation to residential rental premises. What work was done by your Treasury in relation to any threshold that could have been introduced, and what revenues would have been raised had the threshold been introduced at $10,000, $20,000, $30,000, $40,000 or $50,000 on the unimproved capital value?

MS FOLLETT: I presume that Mrs Nolan just wants the answer off the top of my head, Mr Speaker.

Mrs Nolan: No, I am aware that you will not be able to give it to me; but I hope that I can - - -

MS FOLLETT: Having had Mrs Nolan's advice that she does not want the answer off the top of my head, I will take that question on notice and get back to her with an answer as soon as I can.

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

Government Service - Staff Reductions

MS FOLLETT: Mr Speaker, I have an answer to a question asked of me by Mr Duby last week. Mr Duby's question related to people who have been notified that they are potentially surplus officers. Mr Duby asked for a list of the numbers of people who received such notification. Mr Speaker, I have a fairly lengthy answer to that question, together with a table at the back which provides a list of positions that have been identified to date as potentially surplus - and I stress the words "potentially surplus". I would like to stress that the figures are subject to detailed union consideration over the next month. Nevertheless, I table the answer for Mr Duby, and I seek leave to have it incorporated in *Hansard.*

Leave granted.

Document incorporated at Appendix 1.

Federation Square - Traffic Arrangements

MR CONNOLLY: Last week Mr Jensen asked me, in relation to access to Federation Square, why sufficient merging provisions were not made and what action was being taken to address the problem. I am told that my engineers have gone and had a look at that. They tell me that an acceleration

lane has not been provided for traffic turning left out of O'Hanlon Place onto the Barton Highway as the good sight distance available to drivers turning out of O'Hanlon Place allows drivers to enter the Barton Highway safely from a stationary position. The intersection design is in accordance with accepted traffic engineering practice for wide median transport on rural roads, particularly taking into consideration the change in speed environment at the intersection. As with all intersections in new locations, it will be monitored and if there is any problem it will be rectified.

ACTION Buses - School Hire

MR CONNOLLY: On 26 November Mr Humphries asked me a series of questions about the maximum number of children that ACTION permits to be carried on buses hired by schools. The numbers have previously been given, but the issue that Mr Humphries was looking for, I think, was whether children are allowed to stand. I am advised that for trips within the urban areas children are allowed to stand. So, for schools wishing to charter a bus for a trip within the urban area of Canberra, the maximum number on the bus would be 65; that is, 42 seated and up to 23 standing. But, for charters in the non-urban areas - that is, longer distance charters - it is required that every child have a seat.

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
Papers

MR BERRY (Deputy Chief Minister): Pursuant to section 6 of the Subordinate Laws Act 1989, I present the following subordinate legislation in accordance with the schedule of gazettal notices for regulations, declarations and commencement provisions:

Associations Incorporation Act - Associations Incorporation Regulations -

No. 31 of 1991 (S140, dated 3 December 1991).
Notice of Commencement (S140, dated 3 December 1991).

Door to Door Trading Act - Door to Door Trading Regulations - No. 32 of 1991 (S140, dated 3 December 1991).

Stock Diseases (Amendment) Act - Declarations (2), Section 11(1) and Section 11H(1) (G48, dated 4 December 1991).

GAMBLING
Discussion of Matter of Public Importance

MR SPEAKER: I have received a letter from Dr Kinloch proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> Problem gambling and the need for counselling and rehabilitative services.

DR KINLOCH (3.05): I thank members of the Assembly for being willing, at this very late date in the history of our First Assembly, to listen to my comments on this topic. It is a topic which relates to problems in my own life, problems I have never tried to disguise. They are painful matters which, however, have helped me to work in this area, and perhaps have even been part of my own rehabilitation - a rehabilitation, however, which from time to time has been sorely tested. But that is enough about that.

A week or so ago, Sir Laurence Street reported on the proposed gambling casinos in New South Wales. He drew attention to the increased numbers of problem gamblers that would be generated by such casinos and called for the introduction of remedial facilities to take care of the individual, family and social problems which would follow. Such recommendations have been made in connection with a number of political entities, both in Australia and elsewhere; but, as far as I know, nothing has been done about them. My concern today is that the ACT should no longer merely talk about remedial facilities, but should act on recommendations made long ago, and now heed Sir Laurence Street's very recent advice.

Recommendations along these lines were made by the select committee of this Assembly in its report of July 1989 - almost 2 years ago. That committee, chaired by Mr Humphries, included Mr Duby, Mr Jensen, Mr Stevenson and Mr Wood. Their very first recommendation was as follows:

> that the ACT Government adopt as a matter of policy the urgent implementation of the Social Impact Survey recommendations relating to the epidemiological studies and the establishment of counselling, referral and education services.

And now, please note the second part of that recommendation:

> such services be established irrespective of whether a casino is approved.
>
> a proportion of total Government gambling revenue be dedicated to the funding of such services.

The social impact survey being referred to is the Caldwell report, "Casino development for Canberra: social impact report", Commonwealth of Australia, 1 July 1988. That 1988 report was unequivocal in recommending that a service for excessive gamblers be created in the ACT. Much of the report I then found to be either incomplete or unsatisfactory, and I have commented on that elsewhere.

In December 1991, those flaws in the report are even more obvious; but the report had one section with great merit. That section was authored, for the most part - I think there is no doubt about this - by Professor Mark Dickerson, then of the Psychology Department of the ANU and now a professor in the Psychology Department in the University of Western Sydney. His book, *Compulsive Gamblers,* 1984, is one of the standard handbooks worldwide on the subject. He and his partner used to conduct clinics here in the ACT for compulsive gamblers and he is one of the joint founders of the National Association of Gambling Studies. I was involved with him in that enterprise.

The report is at its considerable best precisely at those points at which not only adequate but excellent research has already been done, much of it by Professor Dickerson. Much of it obviously reflects much previous research, not only by members of the study team but also by other investigators. It is obvious from the text, the quoted evidence, the careful analysis and the bibliography that there are several areas about which the team are not only experts but the best experts in Australia in their respective fields, especially on existing and well-established forms of gambling. I was most favourably impressed with the section on excessive gambling.

It is clear that compulsive or excessive gambling, or addictive gambling, is already a considerable problem in the ACT, and that newly introduced forms of gambling would make that problem worse. As the report stresses:

> This predicted impact of a casino has never really been in dispute.

The report rightly recognises - on pages 49 to 52 - the great difficulty in accurately determining levels of excessive gambling. The estimates vary - and I think these figures should be carefully observed - from a notional 752 - he is very specific - to a guesstimate of 5,000 gamblers in Canberra who are already at risk. That was in 1988. I wonder what that figure would be now. I wonder what the real figure is. Might that just disguise the real figure? It will therefore be of considerable concern to Canberrans to learn that:

> ... it has been estimated that, on average, each excessive gambler causes some significant harm to ten other people in his or her life.

That is on page 37. The present effects of the present levels of gambling, therefore, reach anywhere from 7,500 to 50,000 people in the ACT, and that is without a casino. And that is without considering the overall social effect of overall gambling. I will be referring to an article on that later.

Obviously, it is nearly impossible to predict what the effect of the possible introduction of a casino would be; but the study team cautiously agrees that there would be some increase, including "some new gamblers", but that this increase might be "relatively small". That is on page 55, to be fair to the report. The team considers that estimates of welfare agency problems may have been exaggerated by some opponents of the establishment of a casino, but this appears to be a matter of dispute.

I would argue that these new compulsive gamblers, or addictive gamblers, may be relatively few - for the sake of argument, let us say 100 to 200 - but on those people the effect would be disastrous. It would be disastrous for them, their families, their businesses, their partners, their overall social circumstances. In commenting on this informative and well-presented part of the work of the study team, I note in particular the strong recommendation:

> ... that a service for excessive gamblers be established in the ACT by direction from the Minister on an experimental basis.

It was partly from this part of the report that our own select committee took its cue. Obviously, given the present levels of excessive gambling in the ACT, there is already a need for such a service. It should be put in place as soon as possible, not to prepare for any proposed casino but to deal with existing problems.

So, now, almost three years into this Assembly, I very patiently ask, in these concluding hours, that the recommendation of our own select committee 2 years ago be honoured, with or without regard to any announcements which may be made this week or next week about a casino or casinos.

In these brief moments, I am not going to go into further detail - I know how precious the time of the house is - but I would commend to all members, and, indeed, to all Canberrans, the *Bulletin* of 6 August 1991. It was extracted by our team of people on the fifth floor who give us those excellent news reports each day. You have it there, but I think it would be very useful indeed to look at it directly. It is the cover story called, "Gamblers Incorporated. How Australia's $27b mania is growing and hurting you even if you don't bet". That is to say, this particular story is about the overall impact on Australia as an economy, as a culture. It is not only about the effect on individuals, although much of the article does deal with such individuals, and those are very dramatic and awful stories.

I would ask you to note that, in particular on page 84, there is actually a reference to the Caldwell report and to the debate on the proposed casino in Canberra, noting that a community which legalises gambling has a responsibility to care for those it harms. I quite agree that the individual gambler harms himself. I, in times past, have harmed myself. But one has to be concerned about what happens to not only that person - and that is surely a problem, a problem which, by the way, often is not recognised by the very person who has the problem - but also that person's surrounds; all to do with his work and family and society. I believe that that is explained very well indeed in that excellent article.

I want also to draw the attention of members, as we think about this problem of excessive gambling, to a pamphlet which I picked up very recently while our Select Committee on Hospital Bed Numbers was visiting the New South Wales Health Department. I noticed that not only has Sir Laurence Street commented on these new social needs within New South Wales, but also the New South Wales Department of Health - if I may draw this to the attention of Mr Berry - is active in trying to deal with the problem of excessive gambling in New South Wales, and surely the culture of the ACT is not so different from that. I think that we can learn from our cousins and neighbours in New South Wales, as often is the case.

I hope to get copies of this pamphlet called, "Do you know someone whose gambling is out of control?". It gives treatment centres, including a number of hospitals, and there is, in Sydney, one of the main centres for the National Association of Gambling Studies and the centre for the treatment of people suffering from compulsive gambling. Furthermore, the branches of Gamblers Anonymous are very active in New South Wales. So, I ask that at this late stage we listen to Sir Laurence Street and that we observe the very considerable research that is at the back of the need for centres for compulsive gamblers. I commend this matter to the Assembly as a matter of public importance.

MR BERRY (Minister for Health and Minister for Sport) (3.17): This issue, of course, is a very important one for Dr Kinloch from a personal point of view. As is often the case with these matters, one can have a clearer view on the issue if one is personally affected, but at the same time one can have a view which might not suit the community as a whole because of that personal involvement.

The social impact study of the Civic section 19 redevelopment and casino recommended that a community-based counselling service for excessive gamblers be established, and that responsibility for research and data collection on the nature and problems of gambling in the ACT be assigned to an appropriate agency. The Assembly's Select Committee on the Establishment of a Casino, Mr Speaker, accepted these recommendations and itself recommended that:

> the ACT Government adopt as a matter of policy the urgent implementation of the Social Impact Survey recommendations relating to the epidemiological studies and the establishment of counselling, referral and education services.
>
> such services be established irrespective of whether a casino is approved.
>
> a proportion of total Government gambling revenue be dedicated to the funding of such services.

In attempting to assess the current incidence of excessive gambling in the ACT, the study team applied various study techniques, with varying estimates ranging from 752 to 5,000 for persons considered to be at risk. The evidence provided to this study team from various welfare and counselling agencies in Canberra could not estimate the size or the extent of the problem in the Canberra population as a whole or as a proportion of the clients served by a particular agency.

When assessing the possible impact of a casino and the level of excessive gambling in Canberra, the study team concluded that there will be an increase in excessive gambling and related problems, but that the increase will be relatively small. The study team expected that welfare agencies, notably Lifeline and CARE - both agencies receive government funding of one order or another - would be sufficient to cope with increased demand. It is not expected that the increase in demand would be of sufficient numbers to make the new demand readily assessable. The study estimated an 11.4 per cent increase in excessive gamblers, or 86 individuals, should a casino be established.

As indicated in the first Follett Government submission to the select committee, the Government acknowledges that there are no services specifically available in the ACT for excessive gambling problems, but this Government is committed to taking a positive and sympathetic approach to developing a strategy to address this important issue.

Mr Speaker, it really comes down to the problem of identifying when the need is so significant as to require a movement in policy. As I have said, the Government is committed to taking a positive and sympathetic approach at a point where it is considered most necessary. However, Mr Speaker, the development of a counselling service will be considered in connection with the establishment of a casino.

MR HUMPHRIES (3.21): I will make a brief contribution to the debate. I was the chairman of the committee that Dr Kinloch has referred to and which did indeed recommend that the ACT Government adopt, as a matter of policy, the implementation of the social impact study which advised the then Federal Government that counselling and referral services relating to gambling ought to be established.

Mr Speaker, the committee I chaired looked at this issue in some depth. It was able, as I think Mr Berry has indicated, to quantify quite precisely, perhaps overprecisely, the number of people expected to slip into an excessive gambling mode because of the advent of a casino in the ACT. The number was 86. We then went on to recommend that there be an upgrading of services. We also indicated that that upgrading of services should occur irrespective of whether a casino was approved.

Of course, Mr Speaker, I was also a member of the Alliance Government which took office a few months later and which considered this very question as an issue for new budget initiatives at the time of the Alliance budget preparations in 1990. I have to say that it is always difficult to pursue all matters that are considered to be good ideas at one time. All matters at once is a difficult proposition. We certainly found that to be the case when we were formulating our 1990 budget. Dr Kinloch, of course, was part of the Alliance Government and, as I recall, was an advocate for the recommendations of the committee that I had chaired the previous year.

However, Mr Speaker, it was not possible, in the light of the money available to the Alliance Government and the budget constraints that we operated under, to pursue that proposal at that time. It was decided, as I recall, by the Alliance Government that there should be a consideration of this issue afresh in the event that the casino which gave rise to that recommendation was to be established.

That remains my personal position, Mr Speaker. I believe that a casino in the ACT would guarantee the need, the demand, for such a service, and I believe that it would be important, indeed imperative, for an ACT government which oversaw the establishment of a casino at the same time to consider the establishment of those gambling services. I have to say, though, that I think the decision we made in 1990 not to proceed with gambling services before a casino was established was perhaps an unfortunate but necessary decision to be made in the circumstances, given the ACT's lack of resources.

Of course, it is proposed that the casino will generate considerable public revenue in the way of a premium for the allocation of the site for the construction of a casino and also from taxes on gambling which would be generated by that activity taking place. I believe that it is important for any government which administers those revenues to take some steps to provide for the use of those moneys in responding to problems which clearly are given rise to by the establishment of that revenue-producing activity in the ACT.

Clearly, people will experience difficulties because a casino is present in the ACT, and those people need to be looked out for. I think that a service of the kind we are discussing, the kind Dr Kinloch refers to, is the most appropriate way of doing that. I do not believe, and the committee I chaired did not believe, that the establishment of such services ought to be a prerequisite for the establishment of a casino. Indeed, we indicated that the establishment of those services was independent of the casino. I think, Mr Speaker, that we must ensure, in the long run, that we balance the services with the demands as they arise.

It would be appropriate, now that we are coming, I assume, to a decision, in the near future, on the establishment of a casino in the ACT - at least that is what we are all expecting - to have some in tandem decision making process at least commenced to deal with the other issue of a counselling service. I would expect the Government at the same time to be able to give some indication or some advice, when it makes an announcement on the successful tenderer for a casino, to the Assembly or to the general public about what it sees as the process for considering the need for counselling services. I certainly think that that decision should not be left beyond the actual establishment date of the casino. We need to have ourselves well positioned to ensure that we do not let those people who are adversely affected by a casino fall by the wayside and become the victims of gambling in our community.

MR COLLAERY (3.27): I rise briefly to endorse the comments of my colleague Dr Kinloch, and to similarly share his wish that the Territory, which spends many millions of dollars on gambling every year, should be able to afford a gambling counselling service, perhaps connected to an existing community service agency. I am sure that Dr Kinloch is not implying that those who work in this area are in any way deficient at the moment. Many of us know people who work in that area and who counsel people. I am sure that those services would be welcome, particularly if they are connected to the excellent debt counselling services, such as CARE and others in the community.

PROPOSED VARIATIONS TO TERRITORY PLAN

MR JENSEN (3.28): Mr Speaker, I seek leave to move two motions, one being to reject the proposed variation to the Territory Plan relating to block 17, section 609, Theodore, and the other being to reject part of the variation to the Territory Plan for the Gungahlin suburbs of Amaroo, Casey, Harrison, Ngunawal and Nicholls.

Leave granted.

Motion of Rejection - Gungahlin Suburbs

MR JENSEN: I move:

> That the proposed variation to the Territory Plan for the Gungahlin suburbs of Amaroo, Casey, Harrison, Ngunawal and Nicholls, tabled on 26 November 1991, be partially rejected by omitting:

(a) the words "identifying these suburbs on the plan as 'Defined Land', and by" in lines 4 and 5 of the Introduction on page 1 of the Schedule;

(b) the words "'Defined Land' (under the Interim Planning Act 1990)" in the legend to Figure 1 at page 3; and

(c) the words "of 'defined land'" in the subheading at the base of Figure 1 at page 3.

The arguments for and against were discussed at length in the Assembly last week and I therefore do not propose to run these arguments again at length this afternoon. Members can refresh their memories by referring to pages 35 to 48 and 81 and 86 of the proof *Hansard* for Tuesday, 3 December, where these matters were discussed. However, I think it is important for some of these points, as they relate to Gungahlin specifically, to be raised again this afternoon.

Mr Speaker, today is the last day for a decision on these variations. The unplanned sitting last week advanced the process by three days; otherwise we probably would have been looking at the last day being one day next week. I guess the important thing to remember is that, unless this aspect of the variation, which is the one that relates specifically to those aspects of defined land, is deleted from the approved variation that was signed by the Government on 26 November, the community effectively will have no right to have a say in the final shape and make-up of the suburbs, because that is what the defined land process is all about. Unfortunately, what has happened with the process of defined land is that we are tending to use a sledgehammer to crack a nut.

I appreciate the need for an ability to quickly process minor changes to variations to roads, et cetera, as they often arise during the process of development, particularly in relation to a private sector development, because of problems associated with land forms that were not identified at the time or some minor issues. I seem to recall in the case of Theodore recently that after a suburb had been identified an Aboriginal site was found in the area. There is a requirement to make a policy plan change to excise that area and put it into an area of open space.

I think it is important, in those sorts of circumstances, particularly in relation to roads, to provide a situation whereby changes can be readily made without long-term reference. That is where I think the process of defined land, as identified in the legislation, is probably appropriate. That is the way it should be used, by virtue of a *Gazette* notice, et cetera, with a period of 21 days' notice. I do not have a problem with that and I think people will generally accept that as a sensible view.

However, we now come to more substantive issues related to problems associated with defined land. For example, members should look at the documentation provided to us in relation to Gungahlin and the suburb of Amaroo. Amaroo is figure 6 on page 15 of the documentation approved by the Government. Two areas there, Mr Speaker, are shown as being available for community facilities and/or residential. I say again, community facilities and/or residential. In Ngunawal South, for example, the option is between a local centre and/or residential. Ngunawal North has an area identified as either a government primary school site or residential.

These are not minor changes to the process, Mr Speaker; these are major changes to the future layout and development of this area. Bear in mind that we are talking about some 8,000-odd blocks which are going to be put off over a period of some years - probably a minimum of four years, but maybe up to five years - so it is not that there is insufficient time for these decisions to be made. But at the moment, in accordance with the legislation that we have at the moment, the Interim Planning Act, or, as at 2 April when the Land (Planning and Environment) Act takes over, there is no further process by which the community can become involved in the future location of facilities in that area.

The potential land use in the area is difficult to read on the documents as it appears that some six areas have these sorts of uses. I am referring to page 3 of the document. You have to look very carefully, because it is not in colour, it is in tones, to work out which areas have these and/or capabilities.

What I am saying, Mr Speaker, is that we can understand the need for flexibility on roads, but these plans allow for major and fundamental changes to the make-up of the suburb, particularly in relation to community facilities and/or public open space, without any requirement for any further consultation. Bear in mind that some aspects of the school site, for example, would normally be identified as open space for that particular suburb.

If we do not pass this disallowance motion today we will have effectively handed over to the bureaucrats within the Planning Authority the final form and content of six suburbs in Gungahlin and the eventual development of the land. We believe that it is appropriate not to disallow

the whole of the variation; we believe that it is probably appropriate to allow this to go ahead in the form that it is in, but we are proposing to take out those aspects of the document that relate to and identify defined land. This will mean that the normal process of Territory planning variations that should apply will be able to apply as these suburbs develop, and as we see the need.

This will enable the community to decide whether there should be a school at Ngunawal, whether there should be residential or community facilities, whether there should be a local centre in the suburb of Ngunawal South, for example. All these sorts of issues, we believe, are issues that should be raised by the community and with the community, and if we allow this defined land process to go through we lose all that opportunity.

Mr Speaker, as I said, we are not seeking to stop this proposal as it is. What we are seeking to do is to allow the community to have its final say in the evolving plan and the implementation plan of these areas. All we have, in fact, is six basic planning principles that the defined area has to work around. There is no appeal. There is no community consultation or no community involvement in the process of finally working out the implementation plans for these areas. There is no community consultation required. All we have is the basic planning principles.

It would seem to me that any lawyer worth his salt could argue that the planning principles as they apply here are pretty broad; that basically you can do anything you like within those planning principles, within reasonable bounds. But there is no clear indication as to what the final form might be. On that basis, Mr Speaker, rather than continue to labour the point that is being made again and again, we seek to have those aspects of this planning variation that relate to identifying the area as defined land removed from this document, to allow the normal process of planning and development to take place. After all, 8,000-odd blocks are going to be released over a long period.

It will also provide some breathing space while people sit down around the table and discuss this issue of defined land and its use. Maybe, between now and when we start taking this into account, we can come up with a process by which the implementation plans and further development can be identified. By voting against this today we will close off forever the ability of the community to become involved in the finalisation and the relationship of the detail of the plan and the suburbs of Gungahlin with the community. We are talking about a period of time and views will change, as we have seen in the ACT already. We expect it to happen in the future.

MR MOORE (3.39): Mr Speaker, like Mr Jensen, I do not propose to go over the area of defined land, which is something that we debated at length last week. That would be an inappropriate way to waste the Assembly's time. However, I think that the fact that the defined land concept here is preventing further discussion lends itself to the view that Mr Jensen's amendment to the draft variation ought to be supported rather than allowing this variation to go through in its entirety.

One area that becomes most important is reflected in the statements by the Conservator of Wildlife. The Conservator of Wildlife, on page 5 of the variations, pointed out:

> ... the striped legless lizard, Delma impar, which is listed by CONCOM (Council of Nature Conservation Ministers) as a nationally vulnerable species occurs in this area.

When you go back to the planning principles that apply to the area and you look at the boundary hills, internal ridges, the water protection system, the development of suburbs, the bicycle and pedestrian systems, the road system and the subdivision design, you see that those principles do not take into account the protection of this aspect of the environment. It seems to me that a range of community groups would like to be in a position to comment on the protection of a species which is accepted as nationally vulnerable. It is entirely appropriate that a system be in place to ensure that these sorts of comments can be made and taken seriously.

The Conservator of Wildlife has stated that before any development occurs in the suburbs he refers to as H and W - they refer specifically to Harrison and Casey - studies do need to be undertaken. I quote:

> These studies will be directed at establishing the significance and quality of the habitat and the viability of preserving isolated patches of habitat.

At this stage we do not have those studies and there is not time for public comment on them. It seems to me that if this Assembly allows this variation to go ahead in this form there will be no chance for public comment on those studies and on the various strategies that are put into place, and I think that is an inappropriate way to go. Mr Jensen, by his proposed amendments to the variation, seeks to allow time for the community to comment.

Allowing the community to comment on an issue like the striped legless lizard is a very important part of our understanding of our environment and of all the associated environmental issues. It seems to me that we need to take action now, not to disallow the variations as a whole but to disallow, at this point, the defined land concept so

that there is still time for the community to comment on these sorts of specific issues. It is something that needs to be done. I urge members of the Assembly to take particular care in playing their role in protecting the environment.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (3.44): Mr Speaker, I thank the two previous speakers for their comments and I will join in briefly on the argument that we had last week. I note the concern about the defined land concept and I can only say again, as I did last week, that it is a system that will work. It is not a matter that has to be taken on trust, because there are very strong requirements written into the legislation to ensure that the interests of the community are well and truly protected. The principles in the plan concerning defined land are just one control that is held by the Government over what proceeds.

Mr Jensen seems to think that the ACT Planning Authority and its somewhat new independence is not a factor in this at all, or that the Minister has no responsibility, or, further, that there is no continuing debate in this Assembly and in the community as matters proceed. The defined land process, it is true, has a greater measure of flexibility than existed in the past at the very end stage. That is a provision that is generally supported. My recollection is that when it was first raised in this Assembly it was universally supported. Some people have modified their view since then.

There are sound reasons why it is desirable for a little flexibility - I use the word "little" because that is what it is - to be allowed as development proceeds. It is the case that repeatedly, as subdivisional work is undertaken, when the dozers are on the site, better provisions can be seen. They have to be agreed if there is a change; they have to be agreed by the ACT Chief Planner. I think that we have very effective safeguards.

Mr Jensen wants to omit that power. He wants to believe that the original proposal, the draft variation when it goes out, does not have the policies and the principles that are clearly established and which cannot be changed, which must be met as development proceeds.

Mr Speaker, Mr Moore made some comment about the legless lizard. I might have something more to say about that in a day or two because some preliminary assessment of the incidence of that important little creature has just about reached its completion and I might be able to comment further; but I can say at this stage that I think our anxieties in this respect can be allayed.

MR JENSEN (3.47), in reply: Are there no further speakers? Mr Kaine is not speaking? All right. Mr Speaker, in summing up the issues that were raised in this debate, let me reiterate for the benefit of members the process for variations in relation to defined land. I quote from section 25 of the Interim Planning Act 1990. It says:

(1) Upon approval of the subdivision of a parcel of defined land, the Authority shall, by notice or notices published in the *Gazette,* vary the Plan to specify the purposes for which that land may be used.

(2) A notice under subsection (1) in relation to a parcel, or part of a parcel, of land shall include a map of that parcel or part showing the purposes for which identified parts of that land may be used.

It then goes on to say that the variation of the plan is to be consistent with the relevant subdivisions, any conditions, et cetera, and the principles and policies specified in the plan for the development of the relevant defined area. What we are really talking about, Mr Speaker, is the principles and policies that are defined on that single page of the proposal for Gungahlin. The Act goes on to say, and I think this is probably the key:

> A variation of the Plan under subsection (1) takes effect from the date of its publication in the *Gazette,* or from such a later date as is specified in the notice under that subsection.

Once again, I reiterate, what we are seeking to do by allowing this process to continue is to allow, by gazettal notice, the change of a very large area from community facilities to residential.

If, for example, one of the school sites, say Holder Primary School, had been declared defined land, it would have been a simple matter for an ACT Executive, by a *Gazette* notice, to declare that area residential if in fact there was a policy plan saying that it was community/residential as had been proposed by the previous planning Minister. That is the sort of thing that I am talking about. Just by a simple *Gazette* notice you can make this very important change. By a simple *Gazette* notice you can change an area from community facilities through to residential. Effectively, you can wipe off a school site, and all the relevant aspects of open space that go with that for the community, by the stroke of a pen and without any process or means of appeal whatever. It is all to do with the Executive. This is the reason why we are concerned about it. This is why we are seeking to have this particular process delayed for a moment while people sit down and work out a much more equitable process by which the minor variations can be done but the major variations can be dealt with by the proper process of planning variation community consultation.

Mr Wood referred in his comments to strong controls about this in the legislation. I am afraid, Mr Speaker, that I have not seen the strong controls that Mr Wood is talking about. I have just given you an indication of what those "strong controls" are. Strong controls? What a lot of rubbish. There are no strong controls. There is no review by this Assembly. It is not even a disallowable instrument; it is a statement in the *Gazette*. Quite clearly, Mr Speaker, any statement about strong controls is a lot of nonsense and a line that Mr Wood is seeking to promote within this Assembly.

I am disappointed about the line taken by Mr Wood on this. I think that deep down he may have some concerns about the issue of defined land and its future; but he is not prepared at this stage to make the necessary changes or seek to review, in a sensible, open, consultative way, the changes that are required. On that basis, Mr Speaker, I can say that I am disappointed in the attitude of Mr Wood. I commend this motion to the Assembly and trust that it will obtain majority support.

Question put:

> That the motion (**Mr Jensen's**) be agreed to.

The Assembly voted -

AYES, 5	*NOES, 12*
Mr Collaery	Mr Berry
Mr Jensen	Mr Connolly
Dr Kinloch	Mr Duby
Mr Moore	Ms Follett
Mr Stevenson	Mrs Grassby
	Mr Humphries
	Mr Kaine
	Ms Maher
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

Motion of Rejection - Theodore

MR JENSEN (3.56): I move:

> That the proposed variation to the Territory Plan relating to block 17, section 609, Theodore, tabled on 26 November 1991, be rejected.

Mr Speaker, at the time that this draft variation was put before the community, back in October this year, there was some concern about a number of issues. The first issue related to a change from single residential to multi-density within an area that would allow two-storey apartment buildings as opposed to the single-storey houses that had been developed.

It is true that in that area it is possible for people to build two-storey homes. But what has happened is that the majority of the people in that area, including the unit development on block 16, have constructed single-storey dwellings. So, the nature of the suburb has been to retain it as a single-storey area.

The proposal put forward in the variation, leaving aside its content and the amount of information that was provided, is for a number of four by two-bedroom two-storey townhouse developments and 16 one-bedroom two-storey units, all in one location. Basically, we are talking about a large concentration of public housing, particularly public housing of the single bedroom type.

It would appear that in the past approval had been given for standard residential on this particular block. In fact, the person who owned it had sought to develop a cluster development but had not been allowed to turn it into medium density and handed the block back to the ACT Government. Subsequent to that, the ACT Housing Trust purchased this block, knowing full well that it had approval for only single residential. Presumably, they thought that they could slip through a variation to the Territory Plan to enable them to construct this sort of facility on that site.

What we are talking about, Mr Speaker, unfortunately, is a smaller version of a Melba flats type of situation, with a concentration of small public housing in an area that, quite frankly, does not have the sorts of community facilities that are required to back up the sorts of clients who would be moving into that suburb. So, there is that issue that was raised at the time as well as the concern about the bulk and the size of the proposal and its effect on the existing residences. Quite frankly, they saw it having a major effect on the property values within their area.

Let us be fair and realistic about this. When they bought their houses and their land it was quite clearly single residential. They bought it and they knew that it was going to be single residential. All of a sudden, out of the blue, came this proposal, with the ACT Housing Trust purchasing this land with a view to seeking to quickly upgrade it.

I accept and acknowledge that the ACT Housing Trust has a problem in providing these sorts of facilities; but I suggest to members that Theodore, which is a southern suburb of Canberra, is not the appropriate location for

that large concentration of public housing. It is much more appropriate to spread such housing concentrations in areas that are much closer to community facilities, particularly the health and welfare facilities that are provided around some of our bigger group centres or town centres, rather than out in the suburbs.

There is no problem, I would suggest, with a nice cluster development of public housing on that block. If the policy plan for that area had been allowed to remain as it was, the Housing Trust, I would suggest, would have built a number of houses and there would not have been a problem. It would have gone ahead smoothly and no-one would have been any the wiser or would have had any problems. It was the attempt to increase the density of this area that was the problem.

As a result of this proposal some 25 submissions were made to the ACT Planning Authority. Unfortunately, one of the major concerns I have is the information that was provided to the Executive about this proposal. The first page of the submission of the draft plan to the ACT Executive for approval says, in the third paragraph:

> On 9 October 1991 the ACT Planning Authority released a draft Variation (Annex B) for public comment. 22 submissions were received by the Authority and of these, 19 supported the Draft variation.

Mr Speaker, frankly, that is incorrect; it is wrong. Not only is it wrong; it is totally and absolutely wrong. It is completely the opposite of the facts.

Mr Kaine: It is either wrong or it is right, Norman.

MR JENSEN: Well, this one is really wrong, Trevor. On page 2 of annex C we see paragraph 4, which is headed "Summary of Comments". It says:

> There were 25 responses received commenting on the draft Variation to the Territory plan.

Let us not worry about three responses one way or the other; I am not going to argue about that. However, at the bottom of the page it says:

> Twenty-four respondents did not support the draft Variation.

For goodness sake, what is going on here? We have a recommendation to the Executive that says that 19 out of 22 supported it; but the facts are, quite clearly, that 24 out of 25 did not support it. On that basis alone it would seem to me that the document is a flawed document. This was signed by the Chief Minister, Ms Follett, and the Minister, Mr Wood. This is another one that did not get a date on it; Bill must have forgotten to date a couple of them. So, there we have a major problem.

On what basis did the Government make its decision, when quite clearly there was some contradiction in terms? To be fair to the ACT Housing Trust and the Planning Authority, there were some changes made to the proposal put forward when the final document was tabled in the house. I have here a copy of a preliminary draft scheme only which provides for eight two-bedroom flats in a two-storey context and a number of single-storey two-bedroom and three-bedroom houses around the edge in accordance with the implementation plan at figure 2. That is fine; the scale is probably not quite as bad as what was originally proposed, but we are still perpetuating the problem - we still have a large concentration of public housing in a suburb that does not have the sorts of facilities that are necessary for this sort of operation.

I also want to refer to a couple of other points that were raised by the community. I might add, Mr Speaker, that I was present with representatives of the community at meetings between the Housing Trust and the Planning Authority, at the request of members of the community who came to seek my assistance. They have presented a submission which I believe all members received a copy of today.

I have already commented on the problem associated with wrong information. The residents seemed to get the impression that it was going to go ahead anyway; that whatever they said did not really matter and that their concerns about safety, residents' welfare, property values, lifestyle and landscape issues, et cetera, were not going to be considered by the planners at all. The general impression they got was that it was a fait accompli.

I admit that there was an attempt by the Housing Trust to take the representatives of the community around the area and look at some other developments. We had to make a couple of phone calls because initially they were prepared to make those visits only during working hours. After a quick phone call to the Minister's office it was decided that it was probably appropriate for these visits to take place after working hours when the representatives of the community had an opportunity - the majority of them are working - to look around some of the other developments in that part of Canberra. I will say thank you on behalf of the residents to the Minister's staff for finally agreeing to those visits.

But, quite frankly, Mr Speaker, I do not believe that that has allayed the concerns of the residents because we are still looking at a rather large concentration of Housing Trust developments in an area not close to facilities. It is not near Erindale, for example. All the sorts of facilities that you need for a public sector housing development are provided at a location like Erindale, so it is quite appropriate. You have doctors, you have dentists,

you have it all there; but you do not have those sorts of facilities in Theodore. They are not available. So, I think it is totally inappropriate to have that sort of development in that area.

Another area of concern is problems associated with traffic flow on Tewksbury Circuit. The residents were concerned that with this sort of increased development there would be many more vehicles on their streets. There was an argument for the traffic to come in off Lawrence Wackett Crescent, but I have some sympathy with the suggestions by the people from the traffic section about why it may not be appropriate for that access to take place. I will say that further up, on the other side of Yamba Drive, there are residences that come out on to the other part of Lawrence Wackett Crescent. I am not quite sure whether that may need to be looked at again. So, there is that issue.

I think the final issue of concern on the part of the community, on the basis of information provided to us, although it is only an indicative diagram, is the size of the development. There seem to be very small facilities being provided in that area. So, not only do we have a combination of small two- and three-bedroom units but also we have a quite large concentration of them. I think it is more appropriate to spread them around much closer to facilities.

I have already made the point about access to shops. The nearest shops and medical services are about 25 minutes' walk from the area. That might be fine for someone like me who is pretty fit and agile; but for a mother with a couple of babies in a pram it is not really appropriate, I suggest. That is a problem. The buses do not directly access the area or nearby areas. People without their own transport, particularly people in these smaller public homes, would not necessarily have facilities to enable them to access, say, the Chisholm group centre or the Tuggeranong town centre as readily as they may have if these facilities were located closer to a place like Erindale or the Chisholm group centre or any other similar group centre on the north side. So, this is a problem that I think we have.

In the past, Mr Speaker, we have had problems with public housing and we do not seem to have learned about the problems associated with concentrating these groups of people in one location without proper facilities.

Mr Wood: What groups of people are you talking about?

MR JENSEN: I am talking about people who are using public housing.

Mr Wood: Are they somewhat different from other people?

MR JENSEN: No, they are not; but, when you get a concentration of them without facilities and they have to draw on our welfare system, there is not much point in having the welfare system hundreds and hundreds of yards away, Mr Wood, when they are the sort of people who are going to draw on them much more often.

Mr Wood: That is rather a slight.

MR JENSEN: Well, it may be, Mr Wood; but I am suggesting that you remember the problems associated with this that we had in Melba. They are some of the reasons why we had those problems and that is why we have had to break public housing down into smaller groups within our community.

Mr Wood: Like this; much smaller groups.

MR JENSEN: No, I am sorry, Mr Wood; that is not small. That is not small and it is a long way from - - -

Mrs Nolan: There is a social cost in this, Bill. It is too far out.

Mr Wood: Will you tell me how many units there are in this?

Mrs Nolan: Twenty-four.

MR JENSEN: There are to be 24 units, Mr Wood, in an area like that. There are about 16 units in the block next door, single-storey, three- and four-bedroom homes. I think, Mr Wood, that unfortunately we are talking about a need for the Housing Trust to learn the lessons of the past and not continue to put these places so far out into the suburbs where there are no facilities. That is the point. There are no facilities out there to support them. You need to go and have a look, Mr Wood. You need to find out how far away they are from basic facilities. I think the majority of these people do not have ready access to second cars or first cars. This is the problem.

Mr Wood: What about Conder?

MR JENSEN: Yes, Mr Wood, there are similar problems. In fact, my colleague Mr Collaery, when he was Minister for Housing, gave instructions that no public housing was to go out in that part of Canberra, for the very same reason that I am providing to you now. That is why, Mr Speaker, it is inappropriate and that is why the community felt concerned.

The other day at a meeting Mr Wood said, "I want selfish arguments; I listen to selfish arguments". One of the arguments that I have already given relates to property values. There will be a decrease in property values.

Mr Wood: Why?

Mrs Nolan: That is not a fair argument.

MR JENSEN: Mr Wood said that that is the sort of argument he wants. I have passed that on to him.

Mrs Nolan: You defeat your own argument.

Mr Kaine: You just blew your own argument.

MR JENSEN: Mr Wood said that he wanted those arguments. Some people have put that, but not all of the people, because they are concerned about the community in which these people have to live.

MR SPEAKER: That is the end of your time, Mr Jensen.

MR KAINE (Leader of the Opposition) (4.12): Unlike Mr Jensen, I do not intend to use every second of my 15 minutes to speak. Mr Jensen goes over the top sometimes. He talks himself into it, as I have said before, and then he talks himself out of it. That is just what he did, because he could not stop. He got to the point of saying that there is going to be a reduction in property values and therefore it should not be done.

Mr Jensen always takes the most extreme case. What we are talking about here is not a Melba flats situation. We are talking about 24 units. Sixteen of them are townhouse units or garden apartments and only eight of them are flats. How anybody can say that this is a high concentration, a high density, I simply do not understand. It is not that. It is not that in any sense. So, I find no difficulty with the proposal from that point of view.

The people who have complained - I have a copy of the same letter that Mr Jensen has got - tend to argue against themselves. In one place they make the argument that Mr Jensen tries to put so forcefully, that is, that it is a 25-minute walk to the nearest facilities; but just before that they make the point that there are going to be between 100 and 150 additional traffic movements. There are only 24 units. One can only assume that to get 100 traffic movements a day they are going to have two cars apiece and they are going to go in and out all day. If they have that number of cars, there might be the odd family who has transport difficulty; but it is not going to be a very great problem, except for the odd one.

Then they argue, having said that there are going to be 100 to 150 traffic movements, that there is going to be on-street parking which is going to cause difficulty. Each one of these units has its own parking and its own garaging, so there is not going to be any on-street parking. The problems that the people present here in terms of the traffic movement are imaginary. There is not going to be any such problem.

Another argument that is advanced is that because they are 25 minutes' walk from facilities - that is debatable - it is difficult to comprehend the decision to locate units in this area. That argument applies to any house, any residence, anywhere. If it is 25 minutes' walk from facilities, according to this argument, we should not be building any residential units there at all. Even in the case of those that are not Housing Trust ones, there are going to be some people moving in who do not have a motor car, or, if they have, they have only one which dad will drive to work, and mum will have to walk down to the shops with the kids in the pram. But that is no greater argument against putting Housing Trust people there than it is against putting any units there.

Mr Jensen: They have an option. They have a choice.

MR KAINE: Not everybody has a choice. That is a false argument. There are some on the lower end of the income scale who have to buy where they can afford it, and that is usually on the outskirts of town and it is most likely right next door to these units because these are, by Mr Jensen's argument, right on the outskirts of town. So, I am not impressed with his argument.

There are a couple of points made in this letter for which I have some sympathy, and I am waiting for the Minister to deal with them. One has to do with the conflicting information that appears to have been provided to the Executive. I assume that the members of the Executive are reasonable people and that they would have noted that and clarified the matter before they made a decision.

The other point is one which very often is brought up in these cases, and that is that the community voice was not heard. It is the same complaint that was made in connection with Forrest bowling club. I accept that there is a bureaucracy and to the person out there in the street it can sometimes appear that their voice is not being listened to and it is not being heard. That is not always the case. But I would be interested to hear what the Minister has to say in connection with that particular criticism. I am afraid, Mr Speaker, that Mr Jensen's attempt to forcefully put the arguments that he tried to put was not very convincing to me and I do not accept them as arguments for opposing this particular development.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.16): Mr Speaker, I think this motion is somewhat an overreaction to the events; but let me say that I think it is a good debate because, if we put it into the context of the things that Mr Jensen said when he was debating the planning legislation last week, and again today on a previous motion, it shows that everything comes back to this Assembly. Do not forget, Mr Jensen, that we have written into that planning legislation the deemed disallowance provisions.

Mr Jensen: Well, partial deemed disallowance.

MR WOOD: Quite deemed disallowance, Mr Jensen. So, this debate is a good example of how systems are going to work. Between the letter and Mr Jensen, there are five issues I should respond to. The first one is a significant one of apparent and clear misleading information in the material provided to the Executive. There was an error, and the Planning Authority acknowledges that, in one of the documents it submitted in relation to this variation.

The authority's summary of responses received, prepared under subsection 18(2) of the Interim Planning Act, was an accurate reflection of the submissions received. Any reasonable interpretation of the total documents would have revealed an honest mistake. The document in question is not a statutory document; nor is it a mandatory obligation of the Planning Authority to provide the information.

The error occurred in additional information provided by the Planning Authority to the Executive. What happened was that a comment for a Weston variation, the Mirinjani Nursing Home, was punched into an additional piece of paper relating to this variation. That was an honest mistake on the part of the Planning Authority. It was not one that was a particular part of the decision making process, unfortunate as it was.

When I looked at the documents I read through all the material before making my recommendation to my colleagues, and, assessing the full impact of all the documents, as I did, it was clearly a variation that should have proceeded, and I think the debate today will show that. I am sorry that that mistake occurred. It was unfortunate. It was a genuine error of slippage from one thing to another, but I repeat that the overall impact of the major part of the documentation clearly supported the variation.

Mr Jensen claimed that residents' suggestions and concerns have been ignored. I have to say that that is not the case. I think that this variation attends to the concerns of the residents. The proposal that you now see in front of you is a rather different proposal from that which was first put out. I commend the residents for their attention to this; I commend the Planning Authority for their attention to those residents. I believe that as a result of the consultation, of which Mr Jensen was a part, and maybe Mrs Nolan - I do not know whether she was concerned; I know that she has an interest in that area - this has been changed considerably. That meeting was held about a month ago.

Arising from that, the ACT Housing Trust has prepared an alternative development scheme for the site which provides for a majority of single-storey dwellings in line with residents' objections to two-storey houses. Bear in mind that the residents themselves could have two-storey houses - they are quite entitled to that - although I

understand that the predominant style of house round there is single-storey. The response to that objection by the residents has been for the Housing Trust to put single-storey housing on the outside edge of this area. So, there has been a clear and appropriate response.

It still would have been quite appropriate, I suggest, had they put up two-storey housing on the edge of it because it is quite open to that level of housing. But that has not happened. The residents' views were accommodated. To my knowledge, copies of the revised scheme were distributed to residents and no adverse comment was known by the Planning Authority.

Mr Jensen has also raised a problem of increased traffic in parts of Tewksbury Circuit. Mr Kaine made the point about that and I do not think I need to say any more. I would not think that 24 units would develop the sort of traffic that it was proposed would happen.

Mr Jensen: It is a very narrow street.

MR WOOD: That is right; we know that. Certainly, there will be some increase in traffic. That is unquestionable. But I do not think it is going to be excessive.

Mr Kaine: It will be mainly prams.

MR WOOD: Mainly prams? That is an interesting point that Mr Kaine raises. The main thrust of Mr Jensen's argument appears to be that we are putting some rather poor and deprived people into this totally unsuitable area. We are providing them with carports. I have no doubt that they will have their cars. They will have their prams because these are, in part, two- and three-bedroom units and some single bedroom units, but there will be families moving into those places. So, yes, Mr Kaine, there will be prams and they will have to find somewhere to park them. No doubt they will be the folding variety.

It is this question of the sort of people that are going to be there. Mr Jensen has in mind a ghetto of some sort. There are 24 units here. The people who live in them, I have to say, Mr Jensen, will be indistinguishable from their neighbours. They will be the same sort of people; they will not have three legs or six ears or something like that. They will have the same needs as the people who live next door to them. They will have the same needs and I would expect that they will have the same resources.

A bus passes down Lawrence Wackett Crescent, I think it is, which is the place immediately behind them. They will just walk out the back and there will be a bus stop there somewhere, I expect, for them to catch a bus to the shops - the shops that are not there at the moment.

Mr Jensen: On the other side of the road.

Mr Connolly: We will change the way we drive buses and drive them on the right-hand side of the road.

MR WOOD: The buses do come back again. We have a problem there, it seems.

Mr Jensen: But the weight of facilities is on the other side of the road.

Mr Connolly: We will build a bridge.

MR WOOD: No, I think Mr Jensen will want an enclosed escalator or something to accommodate it. The provisions are there. They will have exactly the same use of these community facilities as anyone else in the area. Mr Jensen seems to think they are miles away from anywhere. The shops will not be opened, I believe, until 1993; so they are going to suffer the same deprivation of shops that everybody else does until that area - - -

Mrs Nolan: Yes, but then, when you build them, the other people do not want them.

MR WOOD: I cannot respond to that, Mrs Nolan. What will happen is this, as I look at the map: If these people have to walk to the shops, if they want to walk, they have the trouble of crossing the street that concerns Mr Jensen; then they walk over the playing fields and past the school to the shops. It seems to be a mammoth job that they should do that.

Mr Kaine: The next thing you will want to do is build houses on the playing fields. We know you.

MR WOOD: No, that was your stunt. We were never going to do that. Mr Jensen, I really do not think that you have grounds to reject this variation. But let me say this: You did have the ground and you did have the right to intervene with residents to see that there was a better development there, and I commend you for that. Having done that, having achieved a satisfactory result, I believe that that is where it needed to stop, and I do not think we need this proposal today.

MR MOORE (4.26): I want to make a couple of comments. It seems to me that if ever there was a disallowance based on a NIMBY ground this would have to be it. What mostly came out in Mr Jensen's speech was the notion of some concept that public housing and people in public housing are in some way different from other people. I think this is a perfect opportunity to integrate some public housing with some private housing, and it is an appropriate way to do it.

The Housing Trust has been most careful to take into account the concerns of the residents about the way they are constructed, as indeed the Housing Trust tends to bend over backwards to do. I think it is an appropriate time to give them credit for that. It was only on the weekend that I was reassuring somebody else looking at a Housing Trust development - this is something that I will discuss with the Minister later - that the Housing Trust will take into account their concerns and will bend over backwards to see what they can do.

Mr Deputy Speaker, I think that this variation is a very positive thing. It is a contribution to the community. It ensures that we do not have all public housing concentrated around Erindale Centre, as Mr Jensen would seem to want. It will keep public housing mixed in with private housing, as has been done almost right throughout Canberra with great success. We do not have the ghettos that Mr Jensen talked about, with the exception, of course, of Melba Flats which this Assembly as a whole - as I recall, without any dissent - agreed ought to be removed. That was when Mrs Grassby was Minister. But this is a very different situation and I think that it is a variation that deserves our support.

MR JENSEN (4.29), in reply: Mr Deputy Speaker, I note the comments of the members. I think it is important, as Mr Wood has said, to make some comments very briefly and to thank, on behalf of the people involved, the officers of the two departments who attended the discussions with the residents. Just to get the facts on the record, I was requested by the people who raised this issue to seek to make this change in the Assembly today, and that is what I have done.

Question resolved in the negative.

SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
Report and Statement

MRS GRASSBY: Mr Deputy Speaker, I present report No. 22 of 1991 of the Standing Committee on the Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement on the report.

Leave granted.

MRS GRASSBY: The report I have presented contains the committee's comments on six pieces of subordinate legislation and 15 Bills and two government responses. I commend the report to the Assembly.

PRESIDENT BUSH VISIT - POLICE COSTS
Ministerial Statement

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services), by leave: Mr Deputy Speaker, I sought this leave in order to advise the house of developments in relation to the policing of the visit of US President Bush to Canberra that is imminent. I have spoken this afternoon with Senator Tate, who has advised the Senate that it is now the Commonwealth Government's view that as this is a national visit it will be paid out of the national component of the AFP, and the Commonwealth will bear the costs of this visit rather than the ACT. I consider this to be a significant achievement for the ACT and a significant victory for this Government. It is very pleasing that the Commonwealth has listened to our views and has changed its mind.

APPROPRIATION (AMENDMENT) BILL 1991

MS FOLLETT (Chief Minister and Treasurer) (4.31): Mr Deputy Speaker, I present the Appropriation (Amendment) Bill 1991. I move:

> That this Bill be agreed to in principle.

This amendment Bill is related to the establishment of Totalcare Industries Ltd as a Territory owned corporation from 1 January 1992. The Bill adds a provision to the Appropriation Act to ensure that funds appropriated to the Department of Health to pay for services provided by Totalcare Industries can be paid to Totalcare Industries Ltd after 1 January 1992. This is an administrative amendment only. I now present the explanatory memorandum for this Bill.

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

ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) (AMENDMENT) BILL 1991
Detail Stage

Clause 1

Debate resumed from 21 November 1991.

MRS NOLAN (4.33): Mr Deputy Speaker, this Bill, as I understand it, was held over with a view to it not proceeding until the planning legislation was in place. If I recall correctly, I made some comments very briefly when it was debated in the in-principle stage. As I understand it, it was left there until the planning legislation had passed. I have absolutely no problems with supporting this amendment Bill, and I commend it to the Assembly.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.33): I take this opportunity to explain a brief amendment that is being circulated. Officers have been looking at this legislation in line with the package that was recently passed. A minor drafting improvement has been proposed. The amendments to section 3 of the principal Act give a right of appeal in relation to prescribed decisions, and it was expected that, by regulations, the appropriate type of disputed decision would be prescribed.

It has been felt that it would be more consistent with the other drafting of the Act and the principal Act if we were to say in the Act which decisions this applies to. I am proposing an amendment to omit "prescribed decision" and substitute "decision made under the Land (Planning and Environment) Act 1991 or the Heritage Objects Act 1991" so that it is clear on the face of the Act which decisions we are talking about rather than using the drafting technique of a prescribed decision and then having to go to regulations to find which decisions are prescribed. It is an amendment for greater clarity.

Clause agreed to.

Clauses 2 and 3, by leave, taken together, and agreed to.

Clause 4

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.35): I move:

> Page 2, line 13, proposed subparagraph 3(4)(a)(iii), omit the words "prescribed decision", substitute "decision made under the *Land (Planning and Environment) Act 1991* or the *Heritage Objects Act 1991"*.

This clarifies what decisions we are talking about and locks it into decisions under the Land (Planning and Environment) Act and the Heritage Objects Act rather than relying on a prescribed decision and subsequent regulations.

MR COLLAERY (4.35): We support that amendment. Mr Deputy Speaker, I wish to take the opportunity to point out to members that this decision of this Government and the former Alliance Government adopts, if you look at the Act, a situation whereby a person who considers a decision or conduct to be contrary to law may apply for a review of the decision or conduct. That means that the person only has to consider that the decision is wrong. That formulation

was adopted in preference to the words "any person". I know that Mr Moore was interested in that view when we were discussing the planning legislation and we adopted the words "to consider" because we thought that language was more in keeping with, as the then Law Office advised me, the person aggrieved test, which is the normal basis for determining standing under the Act. Further, it serves to emphasise that review under the Act is on questions of law and does not go to the merits of a decision.

I just want to add a couple more points. Whilst this Bill before the house, which we support, widens standing under the planning and land use package, it should be noted that the costs in any legal action are normally paid by the unsuccessful party. That differs from the section 11A City Area Leases 1936 application situation, where sometimes the applicant would still be ordered to pay the costs of an objector with a well-founded case. That followed a decision of the ACT Supreme Court.

In relation to the situation after the package comes in, that will not necessarily apply. In fact, costs under the Administrative Decisions (Judicial Review) Act normally go according to the principle of the unsuccessful party paying the costs. That is an issue that needs to be faced, and I am sure that Mr Moore would have some comment on it. I do remind the house that we are coming back to the mainstream, as it were; but at the same time we need to be aware that at times the potentiality for costs in the Supreme Court, or formerly, under this legislation, the Federal Court, is a great disincentive to people seeking a review.

What this Bill does is to give the widest standing in Australia, in effect, in the planning situation. At the same time the minus is that at this stage, unless a subsequent Supreme Court sitting on a matter under this Act were to decide to adopt the other standard that we had, costs would go with the event. There is the beginning of a disincentive there and that may reconcile a lot of developers to the view that this very wide standing will not be too intrusive into their activities. I point out that that issue no doubt will be hotly contested in due course.

I commend the Bill to the house. The question of costs in well-founded but technically deficient claims is one we should always be conscious of because review under this Act is on questions of law and not merit. You can have a lot of merit in your case and lose on your law, and in losing on your law there is often a strong begrudging of costs when the unsuccessful applicant applies. This legislation has very wide standing. At the same time, those seeking to apply under it will need to consider very carefully that it is an application on a question of law. It is not merit review; that is to take place in the Administrative Appeals Tribunal under other collateral provisions in the planning legislation.

MR MOORE (4.40): Mr Deputy Speaker, I would like to continue on from the issue Mr Collaery raised. It is very easy to underestimate just how significant the disincentive is under a Supreme Court or Federal Court case where costs can be awarded against an objector. The disincentive really is of such a significance, I believe, that it will mean that there will be very few people who will actually take advantage of what is a quite broad opening of appeals.

It is ironic, in a way, that on the one hand we open appeals in this way and yet we close them off in the way we did with the planning legislation we put through last week. One has to question why it is that such appeals can be opened if it is not just to go to the benefit of the applicant. That certainly does appear to be the case because, whilst the developer is working on a business situation and can put aside so much money for these sorts of things, it will be almost impossible for an objector to be prepared to put themselves into a position where they might be up for not only their own costs but also the developer's costs. If we go back, for example, to the *Canberra Times* site, there were claims of it being in the order of $4m in terms of delay, and that sort of figure would be an incredible disincentive.

It is an appropriate time, I think, for me to raise the issue of an action that was brought by Trevor and Joan Lipscombe of Barton with reference to some aged persons units. They argued and demonstrated that a building controller acted unlawfully in approving APU plans and issuing a demolition permit. In spite of their ability to prove that, it seems that damages were awarded against them. Whilst I am aware of the results of the particular case, on the surface it appears entirely inappropriate that that should have been the case. My understanding is that it was actually the ACT Government that went for costs against people who were testing the system, and that seems entirely inappropriate.

In fact, I will take this opportunity to call on the Attorney-General to look into that case and brief me on the outcome. It seems to me that people have the right to appeal and the right to object and the right to this sort of judicial review without having to pay the sorts of costs that are associated with that, particularly when they are associated with the Government. That strikes me as being entirely inappropriate. Whilst I will support this legislation, I guess that what I am doing is flagging the issue of costs and saying that this is something that, as an Assembly, we will need to take up within the next 12 months.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

AIR POLLUTION (AMENDMENT) BILL (NO. 2) 1991

Debate resumed from 21 November 1991, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

MR COLLAERY (4.45): This Bill is supported by the Residents Rally. It is a welcome amendment to the air pollution legislation in the Territory. Members will recall the recent furore about lead in petrol and the successful campaigning on that issue by a certain prominent radio journalist in this town.

The Bill seeks effectively to bring the mechanism for notification and surveillance of potential offenders into a more workable form. It is my understanding that this legislation provides for an easier method of dealing with not only those who sell or distribute leaded petrol but also those who have it in their possession.

Members will recall that the Scrutiny of Bills Committee made some slight comments on the Bill in relation to whether a vendor would be strictly liable in certain circumstances. I believe that that has been attended to by the foreshadowed amendment to be moved by the Minister. That effectively deals with the strict liability problem that occurs at proposed new paragraph 42E(1)(b).

The subject is very important to the community. I was surprised some months ago to learn that there is at times quite a variation in the lead content of different deliveries. Although the figures are minute in real terms, there are variations there. I believe that the environmental protection authority in the Territory does a very good job and is very closely attuned to the community's interest in the subject of pollution.

I must be less complimentary of the Australian Institute of Petroleum which, as we well recall, dug in on this issue. It took a sort of a ministerial showdown between Mr Duby and I and representatives of that institute to bring about change in terms of the distribution of petrol that had a lead content. It turned out that there was one refinery in Sydney that for a long time had supplied lead-free petrol and another refinery had not, and the authority, in effect, was effectively covering up for one of the refineries which had not modernised and altered its procedures to take into account the community reaction. I regret to say that the offending distributor was Shell and it was a government contracted party, as well, in this Territory. So, on the Socratic notion of whether we were being exemplary, we failed. Certainly, that is being cured.

This legislation is welcomed. I am sure that Mr Jensen would have wanted me to say that the lead content issue is extremely important in Tuggeranong. I bet it was, or is. Certainly it is a relevant issue in the siting of structured car parks.

Mr Kaine: It is only relevant in Civic, as far as I know.

MR COLLAERY: It is a relevant issue in the siting of structured car parks particularly, I say to the Minister, because the high lead levels have been found traditionally in the city, as Mr Kaine quite properly interjected, particularly in Barry Drive in Turner at various times. There has been effective monitoring of those matters by the environment protection authority. But I say to Mr Wood that one should not disregard the fact that many of us are driving old cars. I know that Mr Berry has the oldest car in this Assembly. It is a very old car. It is a very very valuable car, probably; but it is a very very old car.

Mr Berry: It is not a very very valuable car; it is just an old one.

MR COLLAERY: Well, there you are.

Mr Kaine: It only consumes petrol with 0.84 lead content.

MR COLLAERY: Yes, it comes from the prewar guzzling era. But be that as it may, I think the Government needs to think about the siting of high-rise parking places, bearing in mind that there seem to be - and this is anecdotal only - many more older cars on the roads in the Territory now compared with five years ago. That is not just a product of time passing; it seems that economic circumstances are meaning that people are holding onto cars that they might earlier have disposed of. That, of course, is delaying the anticipated run-down in the use of leaded petrol. I believe that the Minister needs to consider this issue, were he minded to proceed with his draft variation to site a three-storey car lot in the sanctified reaches of Manuka near the church property there.

Mr Wood: It is not three storeys. It is two levels.

MR COLLAERY: Mr Wood interjects and says that it is only two storeys. I believe that it could easily grow legs and become three in no time. I do not know whether I am referring to the parable of the loaves and the parking structures, but I believe that anything could happen there if it proceeds. We need to be conscious of lead contents around parking stations.

MR KAINE (Leader of the Opposition) (4.52): I do not intend to get into car parking spaces in Manuka because I do not think it is relevant to this Bill. What this Bill does, and I thought that Mr Collaery would have made this point very strongly, is implement an Alliance Government policy. It was another one of the Bills that were coming down the pipe when we lost government and it has taken six

months to get here. This flowed from the high concentration of lead that was polluting the atmosphere in certain parts of Civic Centre, not in Tuggeranong, and is the cause of some concern, as it is elsewhere in the world. That is not to say, of course, that we do not have some concern for the lead content polluting the atmosphere right across the ACT.

This Bill makes the sale of country grade, high lead concentration petrol illegal in the ACT, except when the Minister has to issue a waiver for some emergency. I presume that that would apply only if there was no other petrol available and they were going to ground the whole ACT Government fleet or something. So, it is a fairly straightforward amendment. It has the support of the Liberal Party, as it did when we were in government. I commend the Government for bringing forward yet another piece of our legislation.

MR JENSEN (4.53): Mr Deputy Speaker, I will be brief.

Mr Wood: Your speech has been given.

MR JENSEN: No, it has not.

Mr Kaine: He is going to say it again and he is going to use up 11 minutes and 35 seconds, or whatever is left.

MR JENSEN: No, I am not. One of the main factors we have to consider in relation to any legislation relating to pollution control is ensuring that the Environment Protection Services are properly funded to carry out the monitoring that is required in this very important area. I think that has been a problem in the past. I think we need to look at not just the issue of lead in petrol but also general air pollution. In view of the risk of being accused of speaking off the subject, I will not go down that path today.

As Mr Kaine has already indicated, my colleague Mr Collaery was probably too shy to make any comments about the role he and Mr Duby played in exposing the fiction put about by the oil companies about lead levels in the ACT and their inability to provide city grade petrol for the ACT. I think the oil companies very quickly found during the negotiations that those two Ministers were not prepared to be walked over by the big companies. They argued their point very strongly.

I seem to recall the oil companies saying, "We cannot provide you with city grade petrol; we do not have enough of it". When a piece of paper was put on the deck saying, "You have; here are your figures for the last X months and you have been producing so much city grade petrol that you do not know what to do with it", it took the wind right out of their sails. That was one of the reasons why the oil companies very quickly toed the line, so to speak, and dragged themselves kicking and screaming into the twentieth century in relation to lead levels in the ACT.

I am pleased to see that the current Minister has finally taken up the cudgels left by my colleagues Mr Duby and Mr Collaery. I trust that he and his colleague Mr Wood will ensure that sufficient funds are provided to enable proper monitoring of the lead levels in the air, particularly in the Civic area.

MRS NOLAN (4.56): Very briefly, I must say that I do welcome this amendment Bill. It has been some time coming. I would have thought that it would have arrived before us before this, but at last it has been placed before us and I am sure that it will have universal support. All parties and members in the Assembly, I am sure, will be supporting it.

The only concern I have is in relation to the penalty clauses. I issue a caution perhaps, in terms of government legislation, about the different sorts of figures that are now creeping in in relation to amounts for penalties. I would hope that there is a little more coordination done in relation to penalties. Perhaps this is one area that could have been looked at a little more closely. I support the penalties in their current state, but I suggest that the Government take it on board and look at a much better way of collating those penalties and seeing just how relevant they are in terms of all the legislation that is currently available. I support the Bill as it is before us.

MR HUMPHRIES (4.57): Mr Deputy Speaker, I also welcome the Bill and note that it caps off a trend in the ACT towards better levels of breathable air. We have had evidence that the lead levels have been reducing over a period in the ACT, and that has been very welcome. I have to say that when I was Minister for Health I was questioned on several occasions by a particular journalist to whom Mr Collaery referred about the levels of lead in the atmosphere in the ACT. A case was made, based on one occasion in Civic and one occasion in Woden when lead levels did exceed national air quality guidelines, that somehow the ACT had a problem. I was not convinced that the ACT did have a problem. I believed that through the effluxion of time more than anything else, and through the affluence of the ACT and the purchasing patterns of our citizens, we would have seen a very steady but very marked reduction in lead levels in the ACT.

This Bill deals with one aspect of lead levels, and that is the high lead content in leaded petrol. I think that the agreement that the Alliance Government was able to reach in May of this year with the Institute of Petroleum was a welcome step towards ensuring that that trend downwards was going to continue and not be reversed. It is worth bearing in mind that at all stages we were negotiating on a matter on which the ACT had relatively little leverage. It is the case that the ACT has been seen as a somewhat poor cousin by petrol companies. Often we missed out when other places in Australia, perhaps nearer to major ports such as Sydney and Melbourne, were catered for. We were left to one side.

It is worth remembering that the leverage that we tried to exercise in those negotiations last year and this year is still, in a sense, in much the same position. I note, as an example of this point, that it is possible for the authority to exempt a supplier from supplying the higher grade petroleum. In other words, it is possible, by the obtaining of an exemption, for someone to supply this 0.84 grams per litre petrol in the ACT.

It is worth remembering that there is another circumstance that we could find ourselves in if a supplier is unable to meet the requirements set out in proposed new section 42BB, and that is that the supplier could simply decline to supply petrol to the ACT. It has happened in the past and it may happen again in the future. We are not exactly an extremely important market as far as those companies are concerned. I welcome the step here towards sustaining that trend, to capping off this process and ensuring that we cannot double back on it; but bear in mind that we are not entirely able to simply wave a magic legislative wand and solve the problems in this area.

We do face problems of distance and supply, and the ACT has to be sure, above all else, that we can supply the needs of our community, particularly as far as the business of our community is concerned. We need to be sure, before we legislate to outlaw things that we do not like, that we in fact have the capacity to do so without threatening the viability of businesses and the livelihood of people in the ACT.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (5.02), in reply: Mr Deputy Speaker, I thank members for their comments. It is certainly the case that this small but important piece of legislation has the general support of the Assembly, and I acknowledge its genesis.

Mr Collaery raised the matter of the Manuka car park. Let me respond seriously to that. If you want to reduce lead levels in busy city streets, one way to do it, and perhaps the most effective way, is to stop the situation where cars are endlessly driving around, as they do at Manuka, or spending long periods idling and waiting for something to happen. That is exactly what happens at Manuka. If there is a car park provided there, as Mr Jensen indicated, if people can rapidly get off the street and get the car motor switched off, that will have an immense beneficial effect on lead levels. That is one of the systems designed to improve that area at the corner of Northbourne Avenue and Barry Drive which has had not the best record in the past. One measure to alleviate that is simply to keep the traffic moving by using improved systems.

Mrs Nolan raised the question of penalties and the varied amounts of penalties. She may recall that last year, or earlier this year perhaps, Mr Connolly raised the question of penalty units so that across all our legislation

penalties are expressed in units. It is then a simple matter of amending one item of legislation and the penalties are varied according to the CPI. You can expect that Mr Connolly, when he is returned to the position next year, will be carrying on an overall review of legislation, and penalty units will be part of that.

As members know, I will be proposing an amendment that they have already indicated they will agree with.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (5.04): I move:

> Clause 5, page 4, line 7, proposed new paragraph 42E(1)(b), omit "is in effect", substitute "or 42BB(1) is in effect, without reasonable excuse".

Members know that the Standing Committee on the Scrutiny of Bills and Subordinate Legislation reviewed the Bill and advised that there is an interpretation possible which was not intended in the drafting. In the Bill as presented, a person filling a car with petrol containing greater than 0.4 grams of lead per litre could be guilty of an offence even when an exemption applied. The Bill was intended to apply to wholesale and point of sale but not to the purchaser at the retail level; but it would still control petrol additives which included lead. I have moved the amendment in order to remove the ambiguity.

Amendment agreed to.

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

Bill, as amended, agreed to.

TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL 1991

Debate resumed from 28 November 1991, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR KAINE (Leader of the Opposition) (5.06): The Liberal Party supports this Bill. Indeed, while in government, we began the process that led to the corporatisation of what is now to be called Totalcare Industries Ltd.

I will deal with the mechanics of the Bill first and then come back and mention something of the concept of corporatisation. What the Bill does is to recognise that when a body that is a government body is turned into a corporation there are some people there who are employed under the Public Service Act. This seeks to preserve for those people the rights which they have under the Public Service Act. That seems to me to be a fair principle to employ; but it is noted, of course, that any future employees will not be public servants. They will not be employed under the Public Service Act but will be employed under different terms and conditions.

I think it is indefensible that a public servant should not have his or her rights preserved when they are compulsorily moved into a corporate body such as this. It will, of course, create possible problems for the future when you find two people sitting side by side, one of whom is a former public servant with one set of terms and conditions and the other a person newly recruited who perhaps has a different set of terms and conditions. I can only hope that in the long term both of those people will enjoy terms and conditions better than those currently enjoyed by the public servant, and that is why one moved to corporatise such a body. So, the Liberal Party has no difficulty with the notion, although we can see the possibility in the future of differences in the employment terms and conditions of two people.

The interesting thing about this Bill, however, is the strange and inexplicable ambiguity on the part of this Government in connection with turning government bodies into corporatised bodies. When we left government there were two bodies considered for corporatisation, with a third one following close behind. The Government has chosen to corporatise only one. There are arguments for turning government bodies into corporate bodies and I do not know that we need to dwell on them at great length. The first of them is to get them off the public budget, get them off public funding, and turn them into bodies that can compete as though they were fully privatised bodies competing in a commercial sense with other organisations performing similar functions.

There have been many arguments put forward as to why it is a worthwhile thing to do. Indeed, at the Commonwealth level a Labor Government is talking about corporatising all sorts of activities, including our national airline, our internal domestic airline and other major operations such as that. Here at our level we have a government that says that this little operation out there in Mitchell is right for corporatisation but ACTEW is not. I believe that there is a certain ambivalence there.

If the conditions that justify the corporatisation of a public operation are acceptable for one Territory owned operation, how is it that they do not apply to others? What is the Government's explanation for its divergence of

opinion on this matter? I think that they have their head in the sand. Somehow they think that there is something to be gained by turning this operation into a corporation and putting it on a competitive basis, but they do not see the extension of those same benefits to other government activities. Of course, the biggest and the major one of those is ACTEW. The third operation that we were contemplating corporatising, close behind, is the ACT forestry operations. I would be interested to see whether the Government believes at some future time that the forestry operation ought to be corporatised because in principle it is no different from this particular operation.

So, it is a strange thing, Mr Deputy Speaker, that this Government, which in principle is opposed to corporatising, so it says, is happy to corporatise just this operation. I would be interested in their arguments, if they have any, that say that it is okay to corporatise this one, because there are benefits to be gained from it, but other government activities are not okay for corporatisation when the same benefits flow.

The Liberal Party supports this Bill because we believe in the concept of putting government owned operations onto a commercial basis and making them perform in a state of competition. We believe that this body, by being put into a state of competition with other similar operations out there in the private sector, will eventually get itself off the public purse. It will not need to be funded from Consolidated Revenue because it can become a functioning, competitive business operation in its own right. The management can get out there and sell its services and use up that excess capacity that was provided, I remind you, by Labor governments, an excess capacity that the local hospital system could never hope to utilise fully and which would always have been a drain on the public purse. By turning it into a corporate body and commercialising it, it will get out there; it will sell that excess resource capacity and will become a profit-making enterprise for the ACT.

I believe that that same argument applies to any other government operation which is commercial in nature. The same arguments apply. I will be waiting with great interest to see the Government coming along soon and saying that we will do the same with ACTEW, that we will do the same with the forestry operations, and that we will look across the whole range of activities conducted by the ACT Government Service to find other operations where there is benefit to this community by turning them into a commercial operation. I do not see how the Government can speak with a forked tongue on this matter. I will be waiting for their further initiatives.

MR HUMPHRIES (5.14): I rise to support the comments made by Mr Kaine and to indicate that I too think that this Government has been a little bit less than consistent and less than forthright about the way in which it has dealt with this very sensitive and important issue to the Territory.

Let us just remind ourselves of the reasons why we have been looking at this question of corporatisation with respect to major government enterprises. The Mitchell Health Services Supply Centre, as it was originally, is a perfect example of governments getting involved in the provision of services and doing so extremely badly.

Nobody could possibly stand in this place and pretend other than that the Mitchell Health Services Supply Centre has been an extremely inefficient activity for the ACT Government, and before it for the Federal Government, and has unnecessarily cost the Territory taxpayers and before that the taxpayers of Australia large sums of money. As I recall the figures - I think they are right, but they are approximately correct if they are not absolutely correct - the cost of running the supply centre was something like $13m a year, of which $12m was government subsidy. Only $1m of that running cost was met by income produced by the activity.

For one of the best such facilities in the whole of Australia, that was quite simply a disgraceful outcome. I think that to even delay this proposal by six months has been a quite unacceptable and quite disgraceful act on the part of this Government. There is simply no strong argument for not proceeding with this corporatisation. We now hear that they are going to go ahead with it. Wonderful; here is the legislation; we have considered the appropriate structures and we are going ahead with it today.

The question still needs to be asked: What substantive issues were traversed and considered by this Government in making this decision? What difficult issues were addressed or put to one side?

Ms Follett: All the relevant ones.

MR HUMPHRIES: We hear the Chief Minister say, "All the relevant ones". Well, I do not know what they are. I do not know what issues she has dealt with differently that were not comprehensively dealt with by the Alliance Government before it left office. The Government has reached very similar arrangements with respect to staffing to those that we had reached, so obviously there was no difference in the outcome of negotiations with the trade union movement.

Mr Berry: But we do not have access to all your decisions, and all your advice too.

MR HUMPHRIES: Mr Berry interjects, "We did not have access to your decisions". The fact of life is that your desire as a government to second guess this decision for ideological reasons, because the gnomes of your party said, "Let us not go ahead with this decision; it is a nasty step towards privatisation", has cost the Territory a lot of money.

If this provision is going to save the Territory, in the long run, the money that we presently subsidise that centre with, then a delay of even six months, Mr Deputy Speaker, does provide for a further loss to the Territory for at least those six months. If it takes us six months longer now to reach the stage where that centre is fully supporting itself in its own right, that is a half-year's worth of subsidy which we have thrown away. As I said, that is quite disgraceful, and the Government has not satisfactorily explained why it did not go down that path immediately on taking office, with the legislation sitting there ready to pass when it took office.

Mr Berry: Do you think we could? Would it ever be possible?

MR HUMPHRIES: For this Government, no, it would not be possible, I do not think, Mr Berry. I think we will find at the end of the day that this Government will start to realise that a lot more of the decisions made by the Alliance Government were pretty sound decisions.

Mr Deputy Speaker, I can see that I am getting these people across the way very excited. They certainly have this tremendous feeling that they might be caught in a cleft stick here; that they are once again preaching to their faithful that they are opposed to the moves towards corporatisation and privatisation of the ACT's public services.

Their policy, as I recall, says that they are going to keep the services of the Territory in the hands of the taxpayers of the Territory, et cetera; but when they get down to it they realise that there are some good, strong, practical reasons why corporatisation is a very good idea, and, as Mr Kaine said, if they are a good idea with respect to Totalcare Industries they are a good idea with respect to other government enterprises such as forestry operations and ACT Electricity and Water.

As I indicated before, the Government has negotiated with unions and it seems to have reached a similar position to that which the Alliance Government reached. It has only taken us six months and presumably a few million dollars in the meantime, but that is as may be.

I note with concern in the Minister's presentation speech that there was close consultation with the Trades and Labour Council and the relevant unions, and in addition to that there have been other employment arrangements for which it has not been necessary to legislate. I assume

that there are other aspects of the agreement the Chief Minister has reached with the trade union movement which affect the way in which the corporatisation of ACTEW will be affected. That is in the presentation speech, so I assume that it is true. I think the question that needs to be asked is this: What are those arrangements? Can we, the mere elected members of the ACT Assembly, elected by the people of the Territory, be graced with the information about that? What are these arrangements that have been entered into with the trade union movement?

If they are not sinister, if I am making a mountain out of a molehill, I am sure the Chief Minister will be very happy to table details of those arrangements. Certainly, Mr Deputy Speaker, that will have a great deal of bearing on the way in which future corporatisations might proceed. What sort of precedent are we setting in this case?

I welcome and I note the comment by the Minister also that newly corporatised activities "must have the freedom to negotiate employment arrangements for new staff, as far as practicable, within the same statutory framework as other companies". That is a very positive step.

There is, of course, the problem alluded to by the Leader of the Opposition with respect to those people who were public servants under the Public Service Act prior to becoming servants of Totalcare Industries, in that those people will enjoy the same conditions that the public servants in equivalent position would enjoy, just as if they had stayed members of the public service. If that comment I quoted earlier is true, there are going to be two classes of employees in Totalcare Industries at some point in the future. Employees who come after 1 January 1992 will come to employment arrangements which are different from those which apply to public servants who are employed under the Public Service Act of 1922.

That, I think, is probably unavoidable. It is probably not possible to say to public servants who take on posts in Totalcare Industries that they must give up the rights and entitlements that they would have enjoyed as members of the public service. Nonetheless, I think it is important for the Government, as quickly as possible, to put Totalcare Industries on a similar commercial basis to other enterprises operating in the ACT and elsewhere to provide services of this kind. It does mean that they get down to the business of negotiating with their work forces, either through their unions or through a process of enterprise bargaining, to work out what is going to be the best arrangements for the workers in that particular workplace.

I note also in the Minister's presentation speech that ministerial shareholders - I take it that that refers to the Chief Minister and Mr Connolly at the present time - will request voluntary compliance with government EEO policies for other groups. That is in conjunction with the decision in proposed new section 33B not to apply the Commonwealth's affirmative action Act necessarily to the

employees or to Totalcare Industries. So, that is also valuable. It might be helpful if the Minister or the Chief Minister were to spell out at some point exactly how the Government see that working. What sorts of requirements are going to be made to apply to workers in that industry?

Finally, Mr Deputy Speaker, I think it is tremendous that we have made progress in this area. We are seeing a little bit of commonsense exercised by this Government. As I said before, I regret the delay in getting to this point. It does need to be borne in mind that in the future there will be other such decisions to be made. We need to put aside ideology when making those decisions and bear in mind what is in the best interests both of the wider community and of the workers in this particular industry. We need to ensure that the ACT is best placed to take advantage of the end of the recession, if it does end, and to be able to weather the ongoing storms that we are likely to experience because of the gradual reduction in Commonwealth funding. Corporatising an enterprise like the Mitchell supply centre is an integral part of that process. It puts our services on a stronger basis for the future and I think it needs to be applauded.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.25), in reply: The Liberal Opposition made essentially two points. One of them was a very sensible and rational point made by both the Leader of the Opposition and Mr Humphries about the obvious potential difficulty if you have two employees working side by side on the line, one of whom is covered by public service conditions and the other not, being an employee who joins Totalcare once it is a corporate entity.

The point they raise that there is a potential for industrial difficulties there is a valid one, and the Government has indicated in the presentation speech, and I indicated when I addressed the Totalcare Industries employees last week to launch the corporate identity, that we are aware of that potential problem and we will ensure, through good employment practices, that the potential for differences, the potential for two different employment practices, is minimised. So, the point is a valid one. We are aware of the point and we have assured staff and unions and management that it is something that will need to be handled with sensitivity, and I am sure that it will be.

I would expect that, should there ever, heaven forbid, again be a Liberal government in this Territory, the approach taken by a Liberal government will be very similar, because you would be aware of that very unsound management practice of having unnecessary difficulties with different terms and conditions of employment for two people working side by side on a line. So, that was a sensible point and I can assure both Mr Kaine and Mr Humphries that we are aware of that. We will ensure that good employment practices apply and that we do not have those sorts of difficulties.

The second point was essentially a load of ideological claptrap. It is interesting that ideology has been thumped on the table by the Liberal Party here today. They are accusing Labor of taking ideological decisions. As Mr Berry said, there is nothing wrong with taking a decision based on a political philosophy. The irony here is that it is Labor that has taken a very sound commonsense approach, looking at each case on its merits, and it is this Liberal Party, wedded to its ideological obsession with corporatisation as the simple answer, that just has a parrot-like solution - "Corporatise, corporatise".

Mr Berry: Privatise.

MR CONNOLLY: And "Privatise, privatise" further down the track, of course, as Mr Berry says. It was fascinating in the early days of the Labor Government, when Mr Humphries was issuing a series of press releases on the supposed massive benefits of corporatisation and the peril that Labor was allegedly putting the Territory to by delaying a decision, as he said. We had a series of press releases that suggested that if we corporatised ACTEW we would make a $12m profit, and if we corporatised this organisation there would be a $12m profit. It was really a sort of magic pudding approach - that all you have to do is corporatise and you can pull $12m. I was waiting for the press release saying that if we corporatised the cemeteries trust or the showground trust there would be $12m in profit in that as well. It is simply not a simple solution.

Corporatising does not of itself lead to more efficiencies. It does not of itself lead to better dividends. Corporatisation can be a sensible approach, depending on the circumstances, and the Labor Party stood back from this ideologically inspired decision that the former Government had made to rush into this. We stood back and had a look at the matter. In relation to Totalcare we thought that corporatisation was appropriate, principally because this is a body that is out there competing with the private sector.

If you are in the tourist industry in Canberra or the region - we are hoping that the market is not just within the ACT - and you want your laundry done, it really does not matter whether it is done by Totalcare or Alsco or one of the other commercial linen providers. It is straight, even competition, and we think it is appropriate in those circumstances that the government owned body be set up with the same structure, the structure that the private sector is familiar with, and that it enjoy no taxation or other advantages over its private sector competitors so that we cannot be accused of having other than a level playing field. We think that makes sense, given the competitive nature of the market that Totalcare is about to enter.

Totalcare is a massive Territory asset, as Mr Humphries quite correctly noted. Its valuation of its assets for the purposes of the Australian Securities Commission puts the plant out there at a valuation of some $45m. So, it is a massive Territory asset. It can work efficiently, competing with the private sector, and there are some advantages of corporatisation.

ACTEW, on the other hand, is not competing with the private sector. It is a supplier of monopoly services. It enjoys a statutory monopoly for the provision of electricity and water in this Territory and the provision of sewerage services in this Territory. It is a totally different organisation from this body. There is no competitor. You cannot decide to have your electricity put on or your sewage taken away by either ACTEW or some competitor. It supplies an essential service. What it certainly needs to do is continue to increase its efficiency.

ACTEW in recent years has been undergoing quite a lot of reforms in the efficiency sense. It delivered this year a dividend to government of some $19m. It is an efficient organisation, the largest business in the Territory. ACTEW, if it were a company, would be one of Australia's 100 largest companies. It certainly is the largest ACT asset, and it is returning a good dividend. It is operating efficiently, but it is doing it without the corporate form. That is simply unnecessary. The corporate form would deliver no advantage to a body like ACTEW because of the nature of its operations. This organisation is different.

Mr Humphries: Talk about ideology coming in here.

MR CONNOLLY: Mr Humphries interjects about ideology. The difference, Mr Deputy Speaker, is that the Labor Party is looking at this on a case by case basis and is able to see a difference and accept that, whereas the corporate form may be appropriate in one case, it is not appropriate in the other. It is this ideological obsession that the Liberal Party have with corporatisation that blinds them to this.

I also note with some wry amusement that Mr Humphries was taunting us that we should have implemented the previous Government's decision; we should have gone straight ahead and rubber-stamped this decision to corporatise and that would have been a sensible approach. I remember that last week one of the few decisions that we could be accused of having just rubber-stamped was the package of revenue measures, the package of fees. That was one of the first decisions the incoming Labor Government took - to in effect rubber-stamp the decision of Mr Humphries and his colleagues. Of course, that was the one that you disallowed last week. So, when we do actually endorse one of your decisions, you turn around six months later and take the opposite view.

The Labor Party, when it came to government, confronted with a major decision to alter the structure of two of the largest assets of this Territory - Totalcare and ACTEW - stood back, took a long, hard look at the facts of the matter, and decided that there was merit in proceeding with corporatisation in relation to Totalcare. We have done that and it is now a company. We have looked at ACTEW and come up with a different approach. That is not an ideologically driven approach, Mr Deputy Speaker; it is an approach based on sound commonsense.

MR COLLAERY (5.32), by leave: Mr Deputy Speaker, I join with those who support the need for micro-economic reform in the Territory and in Australia at large in supporting the Bill. I do not want to get into any ideological debate between the Labor and Liberal parties. I support most of what the Liberal Party said, probably all of what they said, on the in-principle issues; but I want to focus this debate and again join the Liberal leader in questioning why this Government is not proceeding more expeditiously with the ACTEW corporatisation.

The fact is that the work was all done for the Government. It inherited from us, like it has inherited just about everything in this current session. As the Chief Minister well knows, at her July Premiers Conference she should have got the joint report on the government business enterprises review. From my notes of the Premiers Conference in November 1990, it was scheduled to be presented in July. That joint report was to move with the Commonwealth in its agreed initiatives in facilitating change in the structure and ownership of GBEs, of government business enterprises.

It was recognised at the October 1990 Premiers Conference in Brisbane that Mr Kaine attended that the GBEs control a significant proportion of the nation's activities and that there was very good reason for looking at corporatisation of a number of functions, particularly those that could be put onto a fully competitive basis and those that met the national performance monitorings of GBEs.

We have heard only recently how Telecom has paid a huge dividend to the Federal Government by way of paying its tax, its company tax, in effect, this year. There is a loss of tax equivalence in the streams of income that go to and from government bodies, statutory bodies, that are not on a competitive basis but are out there trading, and trading to some extent with an unfair advantage over private enterprise. It is not only unfair to private enterprise; sometimes it is not a competitive environment and the cost structures are not healthy.

Coming to the Bill before the house, it appears to me that the Government has had the opportunity, since Totalcare has been effectively established for some time, to provide to us members the statement of corporate intent in its fully worked form, as this Government sees it operating. We agreed under the principal Act last year, members will

recall, that TOCs should, within a short time of their establishment, set up and provide a statement of corporate intent. Statements of corporate intent for ACTEW, for instance, should provide for the pensioner and emergency rebates, EEO, and affirmative action issues, although that has been covered by statute in this Bill, et cetera.

The structural and accountability provisions are set out in the principal Act; but it is not clear to me what this Government has asked Totalcare Industries to do in dealing, for example, with a heavy linen service under the home and community care program. There is a heavy linen service in the home and community care program in the continency support area as well, and in palliative care, and so on. It is not clear whether we have what we intended as a government, ironically, and what I intended as a former Minister. From a statement of corporate intent we require specific, even statutory, protection in those areas. For example, with our ACTEW proposal, which this present Government should have, we proposed legislative mechanisms to protect rebates, pensioner issues and the like. We were going to do that within a mechanism that answered social justice imperatives.

I want to say, on the subject of social justice, that the union movement needs to understand that it cannot quarantine itself from change. The ACTEW moves could actually result in advancement for workers. Those of us who have been looking at the superannuation debate in this country in the last year know that some private corporate super schemes are more efficient, have a better return, and have some wiser investments than government super schemes. So, the old fear about going off the government payroll because your super might be at risk no longer applies. Mrs Grassby, I am sure, agrees that private superannuation schemes are often more innovative, have a better return, and are equally secure under the Commonwealth life insurance Act and so on.

The question is this: Is the message getting out to the workers that their protections can be equally provided and their benefits improved sometimes by corporatisation, as well, of their superannuation functions? In New Zealand charges went down following the corporatisation of their electricity services. The line that the unions are putting around some of these government statutory bodies, in social justice terms, means that the unions themselves need to be conscious of whether they are retarding the cost benefits to the community at large.

I heard Mr Moore talk about NIMBYs in another context earlier. There is a NIMBY element in, for example, the Australian Workers Union workers at the petroleum refineries in Geelong recently who got an effective 16 per cent rise. That, translated through, goes to our pumps, and has another effect in an industry.

So, corporatisation of Totalcare needs to be accompanied by a clear statement of the social justice imperatives, and we have not heard those in debate yet. Perhaps the Chief Minister will speak about what she has done to ensure that the HACC programs and the other community service funded programs who use the heavy linen service and other linen services there will be protected, or whether the increased payments required on a competitive footing will be matched by increased funding grants, Commonwealth and territorial.

The final point I wish to make is that the ACT Auditor-General, under the principal Act, remains the Auditor-General for the TOC. But there is no real independence unless the Auditor-General is free of Executive direction. Of course, the Rally has a Bill in the private members list to bring that about, which effectively complements the aim of having a Territory owned corporation. I commend the Bill to the house, and I commend the ACTEW Bill which we left behind for close, careful and swift examination in the interests of all Territorians.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 5.41 to 8.00 pm

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1991

Debate resumed from 28 November 1991, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR STEFANIAK (8.00): It is good to see that someone has attempted to double the penalty for something. That is basically what this Bill does in relation to speeding. This Bill will be supported by my party, the Liberal Party, as we are a very good, strong law and order party. There is a lot of commonsense behind this Bill. Since this Assembly started, we have seen two increases in traffic infringement penalties. The first was a 70 to 80 per cent increase across the board, which took the maximum penalty from $80 to $130 for a number of minor traffic infringements such as various categories of speeding, disobeying red traffic lights, negligent driving and the like.

That was done, I am quite pleased to say, by the former Minister for Urban Services, Mr Duby, after a fair bit of urging by me. Appropriate penalties in relation to traffic offences are important when any State or Territory is trying to address road accidents and abuse of the rules of the road. This is a very serious matter because more people die on Australian roads each year than die from almost anything else. Smoking is a worse cause of death in Australia than our roads. During the Vietnam war we lost about 500 people all up. More people than that are killed on Australian roads every year. That is indicative of just how serious road safety is. This Bill is one of the measures addressing it.

We have been lagging behind the States very badly. When one travels out of the Territory, one sees that the ACT is regarded as a joke when it comes to penalties imposed by courts for a large number of matters. This Bill is at least an attempt to redress the balance. This is the second Bill initiated by this Assembly which will increase traffic infringement penalties. As far as it goes, I commend the Minister for Urban Services for it.

I am pleased to see a couple of differences between this Bill and the last one. I note that, in future, regulations can be promulgated to increase penalties. Clause 4 deals with the general offences under section 192. Some people, as is their right, do not pay traffic fines. They want to defend the matter and have their day in court. Some people merely forget to pay fines and are summonsed to court and plead guilty. It is appropriate that the court, should it wish to do so, then be able to impose a penalty which is in excess of that set out in the traffic infringement notice.

Section 192 of the principal Act will be amended by omitting the maximum fine of $500, which is really quite low when one considers some of the fairly horrendous driving that can be subject to traffic infringement notices, and substituting $2,000, which is certainly a far more appropriate penalty. That is a good measure.

I note that the Attorney and Minister for Urban Services, in his speech, indicated that now there will be four categories of speeding. That brings us into line with New South Wales, although two of our penalties will be $13 and $26 lower than their fines for equivalent speeding levels. New South Wales have some rather quaint fines - $263 and a maximum of $526 - as a result of their penalty unit system. Effectively, we have swung into line with New South Wales.

I note, also with approval, that the maximum penalty one can get for driving at an excessive speed, which is more than 45 kilometres per hour over the limit, is $500. That is the same as the penalty for someone driving with a PCA reading of between .05 and .08. I certainly think that is quite appropriate, because if you are going more than 45 kilometres per hour over the speed limit your risk of having an accident is equal to that of someone driving with a .07 blood alcohol level, for example. That new fine is

entirely desirable. For gross breaches of the law, mandatory suspension of licence, such as they also have in New South Wales, might be considered as well. The maximum penalty in New South Wales is $526 and a three months' compulsory suspension of licence. That is something that could be considered here if breaches of the rules of the road in Canberra continue to be a problem.

I think the Minister can be criticised, however, for increasing on-the-spot fines for other road breaches by only $5. On-the-spot fines will rise from $130 to $135 in some instances, and from $80 to $85 in others. Traffic infringement notices cover some other pretty serious breaches of the rules of the road. From my experience in the courts I know of the very nasty injuries caused by people going through red traffic lights, for example. That, to me, is as serious an offence as going between 30 and 45 kilometres per hour over the speed limit. The Government might like to look at whether some of the penalties for other traffic offences can be increased to bring us more into line with the States.

This Bill does address part of the problem. It is good to see that the Government at least appreciates the need for some deterrence as far as minor traffic offences go. It might like to extend this approach to some other offences, both traffic and criminal, and insert more appropriate penalties in our statutes. Certainly, this Bill is a step in the right direction and has the support of the Liberal Party.

MRS NOLAN (8.08): Mr Speaker, I will be brief. I think the Bill is a step in the right direction. I support it. Current speeding fines are not adequate. I am pleased to see the fine for 30 to 45 kilometres per hour over the speed limit being increased to $250 and the fine for 45 kilometres per hour or more over the speed limit being increased to $500. I think the new penalties are much more appropriate.

I applaud the fact that penalties may now be changed by regulation rather than by legislation. Of course, the Legislative Assembly would maintain scrutiny. The power to increase fines by regulation is very important, particularly as New South Wales, which geographically surrounds us, and Victoria follow that path. This will bring us more into line with State legislation. Mr Speaker, for some offences we could have increased fines even further, but this Bill goes some way to addressing the situation. It brings us more into line with the States, and I think it is a step in the right direction.

MR MOORE (8.10): Mr Speaker, there is definitely some advantage in increasing the expiation fees to bring us into line with the States and in increasing the fine for people who exceed the speed limit by 45 kilometres an hour or more. I accept what the Minister said when he introduced the Bill and what other speakers have said.

I have some questions about court fines suddenly increasing from $500 to $2,000 - a fourfold increase. That hardly seems to be in line with the increase in the CPI. One cannot help wondering to what extent this is a taxation measure rather than a safety measure. I balance that comment against the fact that in the vast majority of cases people would go for expiation rather than going to court and taking that kind of risk. But it seems to me to be out of all proportion, and I would be very interested to hear the Minister's response on this.

The maximum court penalty is currently $500. Therefore, one would presume that a judge, in dealing with an offence, would consider $500 to be the maximum penalty to be imposed in the most serious of cases, say, and $250 in a medium case. With a fourfold increase, the medium offence, as the judge reads it, will fit into the $1,000 category. At a time when families are having more and more difficulty in finding money, when money is getting tighter and tighter, I really wonder whether it is necessary to go to this extreme.

That is not to say that we ought not to consider it appropriate to deal harshly with people who are exceeding the speed limit by 45 kilometres an hour in, for example, a school zone. Somebody who zooms through a school zone at 90 kilometres an hour, or something along those lines, certainly should be dealt with in the way provided for in this Bill. But there are zones in the ACT where the speed limit is 80 kilometres an hour. People speeding excessively in those zones would be doing at least 120 kilometres an hour, and they would deserve to be dealt with quite harshly too. Nevertheless, Mr Speaker, it does seem to me that this Bill imposes a rather sudden and dramatic increase in the sum. At this point I flag that I certainly have a difficulty with that.

At the same time, I accept the notion that the level of traffic infringement fines will be set by regulation in future. I think that makes a great deal of sense, particularly because we have the power of disallowance. Once any member has moved for disallowance, then the responsibility really shifts back onto the Minister to bring the matter on for debate. I think that is a satisfactory method and should make things easier in this area.

MR STEVENSON (8.14): I think it is reasonable to introduce a new offence of exceeding the speed limit by 45 kilometres an hour or more. One of the difficulties with introducing Bills and expecting their passage in a short time - this Bill was introduced on 28 November - is that there is not time to consult with the community, as I have already mentioned. Because of that, I will vote against the Bill. However, I already know that the Bill will be passed. In the past I have asked Canberrans whether they want Bills agreed to in under 30 days if they are not a genuine emergency. They do not, and this is one of the difficulties.

I agree with Mr Moore's comments on his concern about court imposed fines being raised from $500 to $2,000, although I agree with the principle that a magistrate should have the responsibility to look at the offence and make a decision. I think that is a very important matter in our society.

There is a concern about whether fines in general are being increased too much and about whether this legislation is an attempt to reduce offences or to increase taxation. Many people think that a number of these measures are designed to increase taxation rather than to reduce offences. I mention in particular the increased effectiveness of measures to apprehend people who are speeding. As I said, the offence of exceeding the speed limit by more than 45 kilometres an hour is a good one that most people would agree with. I leave my comments there.

MR COLLAERY (8.16): The Rally supports this Bill. I can share Mr Moore's concerns, but the increase from $500 to $2,000 in respect of section 192 offences relates only to a situation where a person has objected to an infringement notice and decides to go to court. My experience is that those people generally lose and generally pay a marginally bigger amount. I would not see a magistrate being swayed by the fact that his upper ceiling is now $2,000. I say "his" because that is the only gender term that applies to our court for the moment. My view is that the magistracy is unlikely to be influenced by this, except in those cases where the original traffic infringement notice was in a category that needed to be topped up if an undeserving appeal, in effect, had been made to take up court time.

There needs to be a little bit of filter to stop people using the system. Everyone knows that you have so many days to pay on the traffic infringement notice, and you can artfully delay the outcome of the other process for many, many months - a year at times. It clogs the system up and does not produce quick justice. It leaves people still driving. One of the things about our democratic system, unlike the system in a few other countries I know, is that you can have a very serious charge against you - for example, culpable driving, which is not part of what we are discussing tonight, but I mention it by way of example - and you can still drive until the outcome of the charge is known.

In the offences of strict liability - that is, the PCA or prescribed concentration of alcohol offences - most people are goners, but they can continue both with their driving and with their habits. That is a great shortcoming in our system. I am sure that the Attorney would agree with me that one day we need to work out a system of getting people who present on second or third PCA charges into the drug and alcohol counselling system at an early stage. Quite a few responsible solicitors get people into the program; but at the moment there is an increasing disincentive to use lawyers in the strict liability matters because there is

very little that can be pleaded, except in mitigation of the penalty. The penalties, as those who read the *Canberra Times* know, are generally fairly consistent. It is an unusual plea in mitigation that causes much variation to what you read in the paper each morning.

I think that the magistrates are going to read *Hansard* more in getting guidance on what the local Assembly feels about the passage of laws. I have no doubt that shortly the magistrates will be aware of Mr Moore's comments, and they will bear those issues in mind. Without exception, they are humane magistrates in this town. Whilst I look forward to the day that there will be a woman in their midst, nevertheless they are attuned to social justice imperatives and they are attuned to the gross injustices of people coming in for social security fraud whilst the great rip-off merchants of our corporate world can delay and delay outcomes and then jump overboard.

This Bill follows through the spirit of the Prime Minister's initiatives that came out of Perth. His Perth meeting with Premiers resulted in a number of moves, not all of which we are implementing at the moment, not the least being that in respect of bicycle helmets. Someone, in response, might tell us what the current situation is in that regard, although it is not relevant to this debate.

The fact that our penalties are not close to those in New South Wales never fizzes on me. I do not support Mr Stefaniak's comments in that regard. We have a different road system and different traffic engineering.

Mr Stefaniak: Don't be a wimp, Bernie.

MR COLLAERY: I will be a wimp on this. I am quite happy to be a wimp, because our traffic engineering and our road system are different. Many issues associated with the enforcement of motor traffic rules in the ACT are different from the situation in New South Wales. New South Wales has complex, badly planned, dense urban traffic areas where speeds in excess of the limit can result in a higher degree of dangerous driving. On our open carriageways - and I am not in any way excusing speeding - very often a speed in excess of the limit does not constitute dangerous driving of the same order. I am getting a bit worried, Mr Speaker. I can see the Chief Minister over with Mr Stefaniak. Mr Stefaniak is weaving a spell over her, I suspect. I had better stop now, while the penalties are at their present level; they might just go up if we are not careful.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.23), in reply: I thank members for their comments. This Bill essentially does two things. It allows a significant upping of the penalties for speeding offences, most significantly in the new category of exceeding the limit by more than 45 kilometres an hour. It allows me to make regulations to impose penalties.

Under the Bill the penalty will be $500 for exceeding the speed limit by more than 45 kilometres an hour. That is a substantial penalty. We make no apology for that. It will apply to very excessive speeds - on the open road, speeds in the order of 155 kilometres an hour and, through a school zone, speeds of something like 85 kilometres an hour. The area where this penalty will most often be applied is probably school zones throughout urban Canberra, and I think that will be a good thing.

Mr Moore: That is a sad statement, but it is true.

MR CONNOLLY: It is a sad statement, as Mr Moore says, that people may not observe school speed limits. But, if people choose not to, they will take a fairly substantial penalty.

Some comments were made by a number of members about whether this was a revenue issue or a safety issue. I would assert that this is not a revenue issue. I hope that it does not lead to substantial increases in revenue, because I hope that people will learn the lesson and moderate their speeds, particularly around school zones.

An issue that was raised by Mr Moore requires an answer, although I think both Mr Stefaniak and Mr Collaery adverted to what the answer is. That issue is what appears, on the face of it, to be a dramatic increase for the court imposed sanction from $500 to $2,000. The essential reason why we are doing that is that it is important to maintain a fairly significant parity between the amount you are fined under an infringement notice - the TIN or on-the-spot fine - and what you can get in the courts. Unless in going to court there is a risk of getting a substantially higher fine than you would get if you paid the on-the-spot fine, the incentive is for people to take a punt and go to court and argue the case out. It must be realised that courts do not come cheap. It is very expensive to deal with motor offences in the magistrates courts.

The traffic infringement notices have been a feature in the ACT since about 1983 and similarly around Australia since the late 1970s and early 1980s. If we did not have on-the-spot fines or traffic infringement notices, the system of justice in the ACT and in every other State and Territory in Australia would simply grind to a halt. The magistrates courts could not cope with the number of offences that are now dealt with by on-the-spot fines. So, it is important that we, in a sense, actively discourage people from punting on a day in court.

As Mr Stefaniak said, if people object to a traffic notice, it is their right to go to court and challenge it. But, as Mr Collaery observed, in practice very rarely are they likely to be successful. Often it is perhaps a case of

bloody-mindedness, of objecting to being caught and wanting to cause a bit of difficulty. Unless you had a risk of paying more than the on-the-spot fine, the court system would be clogged up. The Territory simply could not afford that. So, that $2,000 fine is justified.

Mr Moore said that people and families would have difficulty in meeting this fine. Obviously, we have concerns with speeding. I will certainly put my hand up to admit that I have received speeding tickets in the past. I suspect that other members have from time to time got a speeding ticket. Mr Wood has never been caught speeding.

Ms Follett: I never have.

MR CONNOLLY: Ms Follett has never been caught speeding. We are not surprised at that at all, Chief Minister.

This measure is something that affects ordinary Canberrans; it is something that affects ordinary families. If it were going to be a standard $2,000 fine, Mr Moore would be right. That is a lot to hit an ordinary family with. But it is the maximum. The magistrate has a discretion as to what fine to impose, but it is important that the magistrate have that discretion so that a person is discouraged from flippantly appealing to the magistrates courts rather than paying the on-the-spot fine.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

GAS LEVY BILL 1991

[COGNATE BILL:

TAXATION (ADMINISTRATION) (AMENDMENT) BILL 1991]

Debate resumed from 5 December 1991, on motion by **Ms Follett**:

> That this Bill be agreed to in principle.

MR SPEAKER: I understand that it is the wish of the Assembly to debate this order of the day concurrently with order of the day No. 6, Taxation (Administration) (Amendment) Bill 1991. There being no objection, that course will be followed. I remind members that in debating Executive business order of the day No. 5 they may also address their remarks to order of the day No. 6.

MR HUMPHRIES (8.29): Mr Speaker, the Gas Levy Bill and the Taxation (Administration) (Amendment) Bill are unexceptionable pieces of legislation and, as such, will be supported by the Opposition. They are, in effect, revenue Bills. I, therefore, have some question as to what, if anything, the Opposition or other parties other than the Government could do with them in any case. But, leaving that to one side, I see and my party sees no reason not to support these Bills. They raise additional revenue for the Government to the tune of $635,000 in a full year. Every little bit helps, as they say. I am sure that it will come in handy when the health budget blows out. Mr Speaker, I think this legislation will be supported fairly readily.

Mr Berry: We will know what is going on in Health. That will be the difference.

MR HUMPHRIES: I can see that I have upset the Minister for Health, but I will press on.

The Government has successfully negotiated with Australian Gas and Light for the company to absorb the levy, initially at least, the levy so that there is no increase in gas prices for citizens of the ACT. So, in effect, at least in the short term, this amounts to a tax on AGL which AGL has agreed not to pass on. That is an admirable piece of negotiation, and I think that is a desirable outcome, although I notice that the words used are "initially absorbed". One would have to assume that in due course the Government will, as a result of this measure, pass on to the consumers of the ACT some costs which will have to be borne.

The position of consumers of gas as opposed to consumers of electrical power has to be considered. Of course, in 1989 the first Follett Government froze gas prices. Whether that affected the relative position of gas consumers against electricity consumers I could not say. But, whenever one decides to intervene in the marketplace by freezing prices or otherwise regulating or controlling what suppliers might do, one runs the risk of affecting those sorts of things.

As I indicated, the Bills are supported by the Opposition and will certainly be a welcome contribution to the Government's revenue. I note also, before I sit down, that the formula used by the Government in clause 7 of the Bill appears, on Mr Kaine's advice to me, to be slightly different from the formula which was being considered by the Alliance Government. We, of course, developed this Bill originally. But that is not a matter that identifies itself to me as a matter of any great concern. Whether a lawyer might take advantage of the definition of "gross sales" or not I could not say. But that is not for me to decide; that is for others to consider. I commend the Bills.

MR STEVENSON (8.32): Firstly, the Gas Levy Bill was tabled on 5 December, only five days ago. It is yet another Bill that is going to be rammed through, as I made the point in the matter of public importance that I brought up in the Assembly. Once again, people do not agree with Bills being rammed through in such a short period. Secondly, this Bill represents an increase in taxation and an increase in regulation. I thought the comments by Mr Humphries were getting very close to the target.

In her tabling speech, the Chief Minister said that the Government has agreed with AGL that the company will initially absorb the levy. It is interesting that the Government has agreed with AGL. One would presume that AGL said, "Hey, that is a good idea; we want to do this", and the Government then agreed. However, I doubt that that was the case. I think that the Labor Party would have gone along and said, "What we want you to do at this time, with an election coming up, is not increase gas prices" and, under whatever sort of process the Labor Party gets its agreements, AGL agreed. One wonders whether it is a similar agreement to those with businesses making $200,000 donations in Western Australia. Members of the Labor Party go along and let businesses know what the current rule is regarding the amount of a donation to the Labor Party. When the Chief Minister says "initially", the question is: "For how long?". Provided it is after 15 February, I do not suppose it really matters.

It is expected that revenue of $635,000 will be collected in a full year. One could ask whether it is reasonable for any business to be required, however it is done, not to pass government imposts or what have become marketplace imposts on to the people who buy their service. I think that not many people in business would agree with that principle.

The Bill states:

> Where an authorised distributor ceases to carry on the business of supplying or distributing gas, the distributor shall, within 14 days, notify the Commissioner in writing of this fact.

Not doing so incurs a penalty. It also says in clause 9, under the heading "Records":

> In addition to any records kept pursuant to section 96 of the Taxation (Administration) Act 1987 an authorised distributor shall keep such records as are prescribed.

We do not know what is going to be prescribed. This sort of open-ended regulation, with more imposts and with more requirements of businesses, makes it increasingly difficult for businesses to operate. As I mentioned, it is suggested that initially AGL will not pass on any increases to the people of the ACT. I think it is quite reasonable to ask how long the Labor Party foresees that that will be.

With the requirements of ever increasing regulations, I think many businesses are being absolutely snowed under by government control. One wonders why it is not okay for businesses not to be regulated by government. Why does there have to be an ever increasing heavy hand of government control in every single aspect of many businesses? Why are so many businesses in this day and age unable to continue? They are operating under what has become perhaps the major liability of running any business in Australia, and that is the consequence of regulation and the taxes brought about by governments.

Yet governments tell us, "It is unfortunate that so many people are out of work; it is unfortunate that so many people are losing their homes; it is unfortunate that so many people are losing their businesses; it is unfortunate that so many people are losing their farms. I wonder what we can do to help this. Let us bring in some more regulations. Let us increase the taxes. That way, as we create more and more of the new poor, we will be able to get more money to look after them in this increasingly welfare state".

MR COLLAERY (8.37): I just looked up "Gas" in the *Hansard* index, and I came up with one of the most amusing exchanges this house has ever had. I will read it into the record. It is at page 2586. On 8 August 1990 Mr Jensen asked the Chief Minister, then Mr Kaine, whether the Alliance Government was considering the introduction of a gas franchise fee which, as Mr Jensen said, would result in a significant increase in ACT gas prices. I do not think this was a dorothy dix question, by the look of the answer. Mr Kaine said:

> No formal legislation has been put in place yet to ensure the safe and economic supply of natural gas to the ACT, despite the fact that natural gas was introduced here nine years ago. It is a priority of this Government to rectify that unsatisfactory situation as soon as possible. The previous Labor Government - specifically Mr Whalan, their best performer -

Then came an interjection:

> Ms Follett: Your best mate - your only mate, possibly.

Mr Kaine said:

> He was -

and so on and so forth. I invite members to read it. It is quite interesting. Mr Kaine went on to state that when the Alliance Government came to power in December he supported and strengthened Mr Whalan's initiative by conferring necessary board of inquiry powers on a working

party that had been set up, from memory, by the first Follett Government. He said that the board of inquiry had recently - and this is August 1990 - responded with a series of "options". So, the Chief Minister, in reply, might like to bring us up to date. That is the last I can recall of it.

The Rally supports this Bill. It institutes a tax which was announced, in effect, by the Chief Minister in her budget. The public are aware of it and I have received no representations from constituents to oppose the imposition of this tax, nor have I received any representations from AGL Ltd. Members will recall that AGL Ltd is not slow to petition members of this Assembly on issues. It has done so in the past.

I draw members' attention to the fact that there are some empty, gaseous words in this Bill. The definition of "authorised distributor" includes "any person for the time being authorised by or under an Act to supply or distribute gas by means of a gas reticulation system". That is another exercise in optimism, because there is no such Act, to the best of my knowledge, that governs the supply, distribution and reticulation of gas. That is an aspect that the Chief Minister may wish to comment upon.

The Chief Minister is aware of continuing proposals to dispose of the national Pipeline Authority and its asset - its one and only big asset, which is the pipeline from Moomba across through Dalton and on to Sydney, where of course the authority has an exclusive carriage contract with AGL. But a different company in law, AGL Canberra Ltd, has the contract for the on-carriage of gas from Dalton to the ACT. It comes in somewhere north of Watson, to my recollection. I also recollect that there are potential economies to the ACT, depending on who purchases the Moomba line to Sydney and whether there will be a split ownership with a middle party securing the contract for carriage via the spur line into the Territory. They are issues that I enjoin the Government to continue its interest in. That will be in the interests of Canberra consumers.

If ACTEW becomes corporatised in one shape or other in due course, it will face the prospect of paying corporate taxes and levies in lieu of the arbitrary dividends that it pays at the present time. Clearly, AGL have a margin in their operation if they have agreed to absorb this levy. They have been good to this town in the past. They operate in difficult circumstances because they operate without the protection of easement laws and many other things as they go about putting in the gas reticulation system. To my knowledge, they have been very cooperative with the building industry on common trenching arrangements. No word has reached me that AGL would be disadvantaged in their service to customers by the imposition of this levy. We support the Bill for those reasons.

MS FOLLETT (Chief Minister and Treasurer) (8.43), in reply: I thank members for their comments on the Bills that we are looking at this evening. I will have a brief word on each of the major issues raised by speakers. Mr Humphries raised the issue of the Gas Levy Bill being a revenue Bill, and of course it is. He mentioned that in a full year this Bill will bring into the Territory over $600,000 in revenue. It is, however, a bit more than that. To this point, we have not had any sort of a dividend or a return from the gas supply, as we do from ACTEW. So, in terms of equity between the different forms of energy, I think it is appropriate to have a look at revenue from the supply of gas. Indeed, that is what we are doing with this Gas Levy Bill.

To respond to Mr Stevenson, I would like to say that this measure was announced on 23 July of this year. We can hardly be accused of ramming it through when a period of approximately six months has elapsed. Members and indeed the public had adequate opportunity to take this matter on board and to make comment, had they wished. Like Mr Collaery, I am not aware that I have had any comment from the community on the Bill. For that reason, it is probably a matter that is generally regarded by the public as reasonable, as it appears to be in this chamber.

Mr Berry: Dennis would not let the truth interfere with a good story, though.

Mr Stevenson: I raise a point of order, Mr Speaker. Mr Berry's comment was unparliamentary.

MR SPEAKER: Mr Stevenson, I did not hear the comment. Would you like to advise just what was said.

Mr Berry: I withdraw anything that you might find in the transcript that would offend you, Mr Speaker.

MR SPEAKER: Thank you, Mr Berry.

MS FOLLETT: Mr Humphries and Mr Stevenson both referred to the effect of this levy on price. It is the case that there has been a price freeze on natural gas in the ACT since 1989. That freeze was imposed by Labor in its first term in government and is still in place. Mr Speaker, despite 2 years of price freeze, the price of gas in the ACT is still slightly higher than it is in New South Wales, or in Queanbeyan just across the border.

Far from this levy in any way increasing the price of gas, we hope that the overall negotiation process that is taking place with AGL will reduce the ACT's prices to the same level as applies in New South Wales, and in Queanbeyan in particular. It seems to me that there is very little reason for consumers just over the border to be paying less for their gas than we are in the ACT. Far from the price rising, it would be my intention that the price be reduced to the same level as in New South Wales.

Mr Collaery raised the question of a head Act or a regulatory regime. I touched on that in my speech introducing this Bill. Mr Speaker, I expect that the Government will be considering approval of a regulatory scheme very shortly, in fact within the next few days. The regulatory scheme will make provision for things such as mechanisms to control price increases, mandatory gas safety and technical standards in relation to the reticulation system, and the authorisation of distributors as provided for in the Gas Levy Bill. I take Mr Collaery's point that this matter has been some time in resolution, but I have advice this evening that it will be placed before the Government within a matter of days.

Mr Speaker, finally, I would like to touch on the Bill that we are looking at in tandem with the Gas Levy Bill, and that is the Taxation (Administration) (Amendment) Bill. That Bill brings the Gas Levy Bill within the ambit of the tax Act. It allows for the efficient administration of the Gas Levy Bill and provides for the necessary matters such as assessment, collection, recovery, prosecution and appeal. As no member has mentioned that Bill, I remind people that it goes with the levy Bill.

I trust that members supportive of the Gas Levy Bill also support that secondary piece of legislation. We are considering Bills together, and I alert members to the fact that there are two Bills rather than just one.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

TAXATION (ADMINISTRATION) (AMENDMENT) BILL 1991

Consideration resumed from 5 December 1991, on motion by **Ms Follett**:

> That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

POSTPONEMENT OF ORDERS OF THE DAY

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

> That orders of the day Nos 7 to 10, Executive business, be postponed until the next day of sitting.

FIRE BRIGADE (ADMINISTRATION) (AMENDMENT) BILL (NO. 2) 1991

Debate resumed from 5 December 1991, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR STEFANIAK (8.50): This is a Bill that the Alliance Government sought to bring in. It has not changed from its original form in any substantive way. I note the amendment that Mr Connolly is to move, which takes into account a matter raised by the Scrutiny of Bills Committee. That is also acceptable to us. The Bill covers some problems which have been in existence, certainly to my knowledge, for some time. I can recall them being brought to my attention as early as about April or May last year, Mr Speaker. This Bill merely picks up some anomalies. Accordingly, as it is in the terms of what the Alliance Government was going to do, which we accepted whilst in government, it has the support of the Liberal Party.

MR COLLAERY (8.51): I have a couple of questions for the Minister who introduced the Bill. One concerns arrangements made to bring the fire brigade into line in respect of the compulsory retirement at age 60 when members have contributed to a Commonwealth superannuation scheme based on retirement at age 65. I ask whether the potential cost of that to the ACT fiscus has been assessed in terms of the current age profile of Commonwealth superannuation contributors presently in the fire brigade. That is the first question.

The second question I am interested in is whether, in making this arrangement post self-government, the ACT Treasury applied the emerging cost calculation similarly to the manner in which we did when we took over policing. I believe that the ACT Treasury at that time reached an arrangement whereby our liability for superannuation in respect of other public servants post self-government was developed on that basis.

To put it in more simple language, I am interested to know whether we are taking on liabilities for superannuation lump sum payments in respect of service which antedates self-government - and clearly we are - and, if so, the extent to which the Commonwealth Government has contributed

or will contribute towards meeting those lump sum payments when the vast majority of the years of service to which they relate may well have been under the Commonwealth in service for the Commonwealth.

I am afraid that my papers have not yet been delivered to me in the chamber; but, to my recollection, they are the principal matters I wanted to raise. The Bill appears to reflect arrangements made previously for the civil aviation members. However, I believe that in making these arrangements we have to be very careful to determine whether there are any sleeping issues unresolved in our ongoing financial settlement with the Commonwealth. I will speak in the detail stage, subject to the responses we receive from the Government on those issues.

Members will recall that there has been a series of anomalies for the ACT in the self-government mode stemming from the fire brigade. They had for many years a most effective campaigner in their interests. Members will recall that there were long service leave problems relating to the service and questions about whether certain payments for long service leave were legal at the time.

Of course, in government in the middle of 1990 we found that the wages had not been adjusted since 1988. For that reason there was an amendment in relation to long service leave entitlements for the fire brigade to overcome anomalies between the award, the Act and a number of other issues. I introduce that issue not as a red herring but to suggest that we want to make sure that what we are doing is done properly and that the problem is not part of the general administrative mess that we inherited in relation to not only fire brigade employees' entitlements under their 1975 award and the later award but also what the Commonwealth paid us in the acts of financial settlement when we took over.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.55), in reply: This legislation is really the Labor Government honouring a commitment that was made by the Alliance Government. Mr Duby, as Minister for Urban Services, did discuss the issues with the firefighters through their union and gave a commitment that the Government would fix this problem. The incoming Labor Government looked at that agreement and that legislation, considered that it was a fair thing and so brought this legislation forward.

The essential problem here is that the firefighters, because of what has been seen historically as the nature of their employment, are required to retire earlier than other ACT Government employees. I think, perhaps in the long term, that we need to look at that issue of different ages of retirement, because it is, in a sense, age discrimination and perhaps is inappropriate, and we probably need to look at the issue of persons employed

under the Fire Brigade Act and why they are forced out of public employment and not able to move into other forms of employment that they could probably do very well under the Public Service Act.

At the moment the problem is that these people are under a disadvantage. They do have to retire at 60 years of age, and they do not enjoy the full benefit of superannuation payments that other public employees will get to enjoy at age 65. What Mr Duby agreed to do, and I think it was a fair thing, was make arrangements to do for the ACT firefighters what the Commonwealth has done for similar employees, in particular employees under the Civil Aviation Authority's Act and members of the Australian Federal Police, who are both other examples of employees who are required to retire at age 60.

Mr Collaery raised some questions about the cost to the ACT fiscus. I can say that in the 1991-92 financial year this will probably cost us in the order of $75,000. We expect that it will not cost us anything in 1992-93 and will cost us something like $25,000 in 1993-94. It is not a major financial commitment because it is not giving them their entire superannuation benefit. All it is doing is making some adjustment between what they would have been able to enjoy had they not been required to retire at 60, making it up to what that would have been if they were in other forms of public employment. So, it is not a major impost on future ACT budgets, Mr Collaery. I do not think it is one of those issues, as you rightly point out, where we are required to take on ongoing liabilities because of problems of Federal administration over the years; it is a relatively minor financial burden, but it is a fair thing to do.

It was negotiated with the firefighters union by Mr Duby. We looked at the agreement and thought it was a fair and reasonable thing. It is basically making up the benefit for people who are forced to retire at an earlier age, making up for that detriment. Age discrimination is a problem area. In an ideal world it would not apply. These people are forced to retire early and they should not suffer for it. I commend the Bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.59): Mr Speaker, I did circulate an amendment. This picks up a point that was picked up by the Scrutiny of Bills Committee. The Assembly is extraordinarily well served by

Professor Douglas Whalan, who is the adviser to the Scrutiny of Bills Committee. He truly has an eagle eye. He picks up the most extraordinarily minute detail. He noted that in one of the detailed provisions of this Bill we had referred to Division 2 of the principal Act and he quite correctly realised, as I am sure all members also realised, that it should have been Division 2 of Part III, rather than simply Division 2. So, we are indebted to Professor Whalan for his extraordinary eye for detail. I will be proposing that amendment to clause 3 to fix that up.

MR SPEAKER: Do you wish to move that amendment?

MR CONNOLLY: I do. I move:

> Clause 3, page 1, line 10, after "Division 2", insert "of Part III".

Amendment agreed to.

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

Bill, as amended, agreed to.

SUPERANNUATION (LEGISLATIVE ASSEMBLY MEMBERS) BILL 1991

Debate resumed from 21 November 1991, on motion by **Mr Berry**:

> That this Bill be agreed to in principle.

MR PROWSE (9.02): I would like, right from the outset, to move amendments that I have circulated in my name.

MR DEPUTY SPEAKER: Not till the detail stage, Mr Prowse.

MR PROWSE: Right. I will foreshadow those amendments. I do apologise, Mr Deputy Speaker; I was just seeing whether you were on the ball.

Very briefly, the situation is that I propose to compliment the Government for presenting this Bill for the members. I think it is most appropriate that the members of the Assembly have a superannuation Bill presented and a superannuation facility provided for them. All members in this community in this day and age have that facility provided for them. I think it would be most inappropriate for members of this parliament, whom I consider to be the most hardworking members in our community, to miss out on something that I think is essential.

It is a protection particularly for those approaching the latter years of their working life. It is also a protection for those further down the line, such as Mr Stefaniak and Mr Humphries, who no doubt will find, from

the way the Federal Government is proceeding, that there are no funds available for members for their retirement other than those provided by themselves through superannuation. Therefore, under that circumstance, I once again compliment the Government for moving on this issue and bringing down this Bill.

MR MOORE (9.04): It gives me some pleasure to stand and comment on the Superannuation (Legislative Assembly Members) Bill. Congratulations to the Chief Minister for bringing this on. It has been of some concern to me. I mentioned it to Ms Follett as Chief Minister. I had mentioned it to Mr Kaine when he was Chief Minister. It has been of some concern to me that my family has remained basically unprotected while I have been a member of this Assembly. In addition to the comments made by Mr Prowse, I believe that offering protection to families of members is an appropriate course of action. It simply brings us into line with the rest of the community in Canberra, as does the superannuation package itself. I believe that it is appropriate that members contribute to this scheme as set out in this legislation.

MR STEVENSON (9.04): There are two points about this Bill. First, is superannuation a good idea? Indeed, it is a good idea. Most people would agree with that. The other question is this: Is this particular package a reasonable idea for politicians to take? Does this align with what is in the marketplace?

I think we well understand how the 29 per cent pay-out after a 5 per cent contribution was arrived at. It was simply based on the 24 per cent non-contributory fund proposed by the Alliance. It was felt that there should be a contribution, so 5 per cent was added to either end, making it a 5 per cent contribution and, rather than a 24 per cent non-contributory pay-out, it became a 29 per cent or equivalent pay-out.

Are the majority of Australians able to have a similar type of fund or a similar type of benefit to that which this Bill allows?

Ms Follett: Yes.

Mr Moore: Yes, they are.

Mr Berry: Yes.

Mr Kaine: Yes.

Dr Kinloch: Put it the other way around.

MR STEVENSON: I hear a fairly unanimous "yes" from members all around the Assembly. The interesting thing is that, when I talk to members in the Assembly and when I talk to senior public servants involved in drafting this, they all say unanimously that it is perfectly reasonable, perfectly

natural, perfectly logical, perfectly understandable and totally financially responsible. However, every time I speak to somebody outside this Assembly, when I speak to accountants, when I speak to actuaries, when I speak to other people that - - -

Mr Berry: Public servants.

MR STEVENSON: Some public servants, indeed, yes. What we hear is that it is not okay.

Mr Kaine: Give us your sources when they say that it is not okay.

MR STEVENSON: Sauce on your pie. Firstly, I hear that the idea of paying in $7,500 and taking away about $45,000 is not something that most people could expect. Let us have a look at the details of what this superannuation means to the majority of the members of this Assembly who are going to be fired on 15 February, after three years. What will happen is that after three years those people will walk away with a $45,000 benefit.

Mr Berry: No, they will not.

Mr Moore: They will roll it over.

MR STEVENSON: I knew full well that that would gain a response of, "No, they will not". But let me tell you, "Yes, they will; they will walk away with a $45,000 benefit". I did not say "money in their pocket". I well understand that if they are under 55, or over 55 and not retiring, they will need to roll the funds over. They will need to roll over the $45,000 benefit they walk away with into another fund unless, of course, they are 55 and/or retiring over 55.

The other point is that it is interesting to note that this is a defined benefit fund. In other words, members will have a very good understanding of what the final benefit that they receive will be. This is something that the majority of people in the real world could never expect or hope to have. The reason, and let me put it clearly, is that in the financial marketplace you cannot be sure how much money is going to be available, what the return on money invested is going to be or what you are going to have left. I do grant that some funds that are managed well over a long period could actually show a better return than that which we are looking at getting at this time.

What would happen with the average individual if they entered a superannuation scheme and left after paying money into it for three years? What would happen, I am told, is that they would get a benefit of something like $8,000 or $9,000 back from the money that they paid in.

Mr Humphries: It depends on their salary.

MR STEVENSON: Mr Humphries said that it depends on their salary. I grant, of course, that it depends on their salary. When people have done calculations for me, it is not surprising that we have taken a similar salary to what members in this Assembly are getting, at a similar average age level.

Mr Duby: And do you add a similar employer contribution?

MR STEVENSON: Mr Duby asks: Is there added a similar employee contribution? The answer to that is yes, there is.

Mr Duby: Employer contribution?

MR STEVENSON: Mr Duby talks about an employer contribution. It is obvious that most schemes have an employer contribution. What they do not have, at the end of the time, when anybody is going to be paid out, is an unlimited fund to dip into, with a fixed determination.

One of the other things that this Bill allows is a death and disability benefit. I am told that, if a member had to leave the Assembly after a relatively short period through death or disability, the sum would be $412,000.

Mr Moore: Their family would be protected.

MR STEVENSON: Mr Moore says that their families would be protected. I am certainly all for protecting families. However, once again it comes back to the amount of money contributed by the individual.

I have no disagreement whatsoever with superannuation as a general principle. Indeed, I think that the idea that the Commonwealth Government had in Australia some decades ago, of having a national welfare fund that everybody paid into at the rate of 7 per cent of their salary and that that would guarantee them in their retirement a very handsome pay-out indeed, was an excellent idea. I think it is unfortunate that the Commonwealth Government got their fingers on the money by a series of actions over a period of years. It involved both Liberal and Labor governments. They took the money and no longer did we have a national welfare fund.

Some of the people would remember - Dr Kinloch might remember - paying 7 per cent of salary into a national welfare fund.

Mr Connolly: This is absolute nonsense.

MR STEVENSON: Is it? It never happened in Australia?

Dr Kinloch: I do not know anything about it.

MR STEVENSON: Once again, I think it is a wonderful idea. That particular amount that we had would have amounted to over $100 billion if it had remained in a separate fund and not been placed in Consolidated Revenue.

Mr Wood: It was never in a fund.

Mr Connolly: It never existed.

MR STEVENSON: I obviously will have to bring the documents along one day and explain it to members. I will certainly make a point of it.

As I said, most members will be forced at the end of this particular three-year term to roll the funds over. One would ask: Will they be able to roll the funds over into a similar scheme with a fixed pay-out on the same level of contribution? If that is to be the case, I would ask any member in the Assembly to stand up and tell me which company will allow that to happen. Mr Duby starts to move to his feet. I will be taking notes. Indeed, I will contact the company tomorrow and will ask them whether or not they will accept the same level of pay-out on the same principle of pay-in, over the same period of time - in our case, three years.

I think that the difficulty is that members in the Assembly talk about financial responsibility and yet, because we have an opportunity to introduce the laws ourselves, we are not prepared to show that level of financial responsibility.

MR DUBY (9.16): Mr Deputy Speaker, once again we have just heard from Mr Stevenson a prime example of how he can invariably get it wrong. What he has been talking about tonight in relation to a superannuation scheme for members is an employees superannuation scheme where there are contributions by an employer into that fund. He has been comparing it with the type of superannuation that you can buy, by going to the AMP insurance company or the Westpac Bank, deferred annuities or whatever it might be, by putting money over the counter. What Mr Stevenson has deliberately, I believe, chosen to believe is that this is somehow a generous scheme. I think it should be pointed out to Mr Stevenson that - - -

Mr Stevenson: If you think I think that, you are right.

MR DUBY: Perhaps Mr Stevenson would be kind enough to explain to me how this scheme, a 5 per cent members contributory scheme which will accrue a 24 per cent employer contribution over the period, is marginally different or markedly different from, for example, the normal Commonwealth superannuation scheme which applies to all the public servants in the ACT Government Service. Under that scheme most public servants contribute 5 per cent of their salary into a fund and the employer's contribution is 19 per cent of an employee's salary levels.

Mr Berry: The Commonwealth one is 20-odd per cent.

MR DUBY: Mr Berry interjects that the Commonwealth one may well be above that. In some cases, I believe, it is as high as 24 per cent. On top of that Mr Stevenson also has to take into account the fact that we currently have a 3 per cent national superannuation scheme. So, even for the most disadvantaged employees contributing to an employer funded superannuation scheme, you are having employer contribution levels of the order of 19 per cent plus the 3 per cent which goes in as part of the Commonwealth superannuation. Indeed, I believe that that national superannuation scheme will rise from 3 per cent to 5 per cent. I have a cutting from the paper of 5 December which shows that it may well eventually rise to 12 per cent for all Australians.

The purpose of that national superannuation scheme, Mr Stevenson, is to cover the employees in the community generally who are not members of superannuation schemes at all. They are people who might be casual labourers, et cetera. They require to be looked after. That is why the Commonwealth Government has decided that eventually a 12 per cent minimum contribution rate by the employers over a period of time will have to be introduced or will be appropriate.

I again say that, under the level of contributions by the employer into an employee-employer scheme for public servants working in the ACT Government Service, it is 19 per cent plus 3 per cent national. That makes a 22 per cent employer contribution plus, of course, the 5 per cent that the employee is putting in himself. That, to my way of thinking, adds up to 27 per cent.

If we as members are receiving an extraordinary bonus of 2 per cent additional to what every employee in the ACT Government Service is receiving, well, frankly, I have no hesitation in taking it, given, first of all, the lack of permanent employment, which I think many of us here are well aware of, and, secondly, the nature of the employment, where we are not on fixed hours, as you are aware. As you have often complained, your door is always open to the public, at all hours of the day and night.

Mr Berry: Of course, he can take time off any time and go to Chinchilla and chair meetings down in Victoria.

MR DUBY: Precisely. So, if we are getting paid an additional 2 per cent on what the ACT Government employees are receiving, well, frankly, I think I am entitled to it. I think every other member here would nod their head and say, "Yes, I agree". What you are doing, Mr Stevenson, is this: Again you are being devious. These figures have been explained to you in the past and you are comparing a - - -

Mr Stevenson: I raise a point of order, Mr Deputy Speaker.

MR DEPUTY SPEAKER: Yes, all right. You do not like the word "devious". That is probably unparliamentary. I will have a look.

No, that is quite all right. Continue, Mr Duby.

MR DUBY: Thank you, Mr Deputy Speaker. You are being devious, Mr Stevenson, because these figures have been explained to you.

Mr Stevenson: I take a point of order. I did not hear the ruling, Mr Deputy Speaker.

MR DEPUTY SPEAKER: I said that it is quite all right. "Devious" is quite all right. Continue, Mr Duby.

MR DUBY: Mr Stevenson, these figures have been explained to you in the past and you are continuing to compare an employee contributory scheme, with contributions that are matched by an employer, with something that someone can buy in the private marketplace, which is a totally different scheme. What we are talking about here is an employee superannuation scheme. You are aware of that and you know it. Nevertheless, I can see what is going to happen. You have decided that somehow there are some votes in this that you might well be able to drum up with an unwilling public.

Mr Stevenson: That is a devious comment, Mr Duby.

MR DUBY: It certainly is, and it is an accurate one too, because that is what we are seeing here tonight. You know the facts and you are deliberately choosing to misrepresent them. I, for one, do not like it. The fact is that superannuation is the right of every employee and it should be the right of every employee in Australia; not just people who are public servants, not just people who happen to be lucky enough to work for a bank or one of these large firms that provide those sorts of benefits.

The days when people would apply for jobs and part of the additional bonuses for the job was company superannuation provided are long gone, and hopefully the day will come when every employee in Australia will have a superannuation scheme to protect them and their families' independence, whatever the future might hold. For you to somehow make out that this is inappropriate and grasping, which is what you are doing, is again, I repeat, devious; but, then again, I guess it is typical of what we have come to expect.

MS FOLLETT (Chief Minister and Treasurer) (9.23): I would like to thank members for their comments on the Bill that is before us. Mr Deputy Speaker, I think it is important to note that in looking at this Bill the Government, and I am sure all members, were aware of the need to contain the cost to the ACT taxpayer as well as providing a reasonable benefit to members of the Assembly. It is on that question

of cost to the taxpayer that I think Mr Stevenson has perhaps done us a bit of a disservice. In fact, what we have come up with is a very cost-effective scheme, and a scheme that I think compares well with other similar schemes, particularly other parliamentary schemes. It is most like the Tasmanian parliamentary superannuation scheme, which is the only other one that provides a lump sum benefit rather than a pension.

In the Tasmanian scheme the lump sum benefit is 31.5 per cent for each year in office and the contributions to that scheme are made up by a government contribution of 22.5 per cent and a member's contribution of 9 per cent. So, for an overall larger benefit they pay rather more. All other parliamentary schemes are for indexed pensions, so it is difficult to make a direct comparison; but I think there is no doubt in most members' minds that an indexed pension scheme is probably a more generous one than this kind of lump sum benefit that we are seeing.

Mr Stevenson, of course, has made the point, as he said, that members walk away with some benefit on 16 February if they are not elected, and he knows that that is not the case. Members will not be walking away with anything other than a rollover amount that they can invest in another fund.

Mr Stevenson: What if they are 55 and retiring?

MS FOLLETT: Provided that they are not over 55 and retiring.

Mr Duby: Exactly the same entitlement as they would have got if they were public servants and they retired at 55, you twit.

MS FOLLETT: I should like to say that that is, as Mr Duby says, a very similar arrangement to that which applies to public servants. In fact, I have such an arrangement as a previous public servant and I do not see that this scheme is in any way excessive.

I accept that Mr Stevenson is determined to paint it in that way. I accept that he has every right to do that; but I would like him to be accurate and I would like him to be responsible in his comments, because I think it is quite clear that all members here, and the community generally, consider that workers are entitled to superannuation, whether those workers are parliamentarians or any other class of worker. It is a reasonable thing to make provision for their retirement and their old age.

Mr Deputy Speaker, I would like to mention that Mr Stevenson made an assertion that under the death and/or invalidity benefits provisions of this Bill a person would gain a benefit of $412,000. I would like to point out that under the provisions there Mr Stevenson appears to have assumed that death or total invalidity, total incapacity,

took place for a member at around the age of 30, and I think that is probably unlikely. I do not know of any members here who are around 30, with the possible exception of Mr Humphries, who looks very well to me.

I think that this provision, in effect, represents something of an insurance cover rather than a normal type of superannuation benefit. It is certainly consistent with other similar benefits payable under other schemes. I think again that most members would agree that a member who was so disabled as to be forced to retire at the age of around 30, or who died in office at the age of 30, would expect, under a similar sort of scheme, to see a sizeable pay-out. I do not see that this is in any way unusual. I certainly trust that that provision is never put to the test.

Finally, Mr Deputy Speaker, as I say, I think this is a reasonable Bill. I do not believe that it is in any way excessive. I think it is cost effective and I think it does give clear implementation to members' needs and also to the community's view that most workers, all workers, are entitled to superannuation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 6, by leave, taken together, and agreed to.

Clause 7

MR STEFANIAK (9.29), by leave: I move:

Page 4, line 23, omit paragraph (b), substitute the following paragraph:

"(b) The Chief Minister or, in his or her absence, a government member nominated by the Chief Minister;".

Page 4, line 26, omit paragraph (c), substitute the following paragraph:

"(c) The Leader of the Opposition or, in his or her absence, an opposition member nominated by the Leader of the Opposition; and".

The purpose of the amendments is quite clear. It is to substitute new paragraphs (b) and (c) of clause 7(1). At present the clause refers to a government member or an opposition member. I think this is a better way of doing

it because we do have a Chief Minister and we do have a Leader of the Opposition. They are statutory positions; they have responsibilities. The amendment would insert a new paragraph (b):

> The Chief Minister or, in his or her absence, a government member nominated by the Chief Minister;

Similarly, proposed new paragraph (c) reads:

> The Leader of the Opposition or, in his or her absence, an opposition member nominated by the Leader of the Opposition;

I think that is a far more appropriate provision than what we have at present and gives due recognition to the roles of Chief Minister and Leader of the Opposition.

Consideration interrupted.

ADJOURNMENT

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Grassby): It being 9.30 pm, I propose the question:

> That the Assembly do now adjourn.

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

Question resolved in the negative.

SUPERANNUATION (LEGISLATIVE ASSEMBLY MEMBERS) BILL 1991
Detail Stage

Clause 7

Consideration resumed.

MR COLLAERY (9.31): I would like to respond to Mr Stefaniak's amendments and point out to him that if they are framed to overcome the difficulty of an absentee, there being a vacancy at a sitting, it is quite in order for him to prepare amendments to provide for a government member's alternate and an opposition member's alternate, both elected as alternates at the same election. This is standard procedure in company boardrooms. There is a standard clause in the draftsman's dictionary that Mr Stefaniak can avail himself of.

The Rally simply will not accept "Leader of the Opposition", and I will not go into the history of that. If Mr Stefaniak seeks to ensure a balance of numbers on the committee at all times, he should use the normal company

board alternate arrangements - for example, a government member elected in accordance with the relevant procedures of a meeting convened by the Speaker or that member's alternate elected in accordance with the same procedures, and so on.

That is all that is required, Mr Stefaniak. If you want to get support for your amendment we would agree to that, but we will not agree to the title "Leader of the Opposition" going into legislation at this stage of the history of the Assembly.

MR KAINE (Leader of the Opposition) (9.33): I must say that Mr Stefaniak's amendment quite appealed to me. He made reference to the fact that the Chief Minister and the Leader of the Opposition had some statutory responsibilities. In fact, the Leader of the Opposition at this stage does not, and I was looking forward to having one. I am sorry that Mr Collaery does not feel like supporting this, as I do not expect to be Leader of the Opposition for long; I want to be Chief Minister next February, so somebody else will be filling the role of Leader of the Opposition in terms of this Bill.

In principle, I agree with Mr Stefaniak that the Leader of the Opposition ought to have at least one statutory responsibility, and I do not see any other one in sight. I support his amendments.

MR DUBY (9.34): Speaking as a member of that growing band of current and former Leaders of the Opposition - I am sure Mr Kaine will agree with me that that will be expanded by one after February next year when we have a new Leader of the Opposition - I do not support Mr Stefaniak's amendments. Speaking from my experience in the position, I remember that I was simply too busy to be able to devote the proper time to this very onerous task. I think it is a little too much to ask the Leader of the Opposition and, indeed, the Chief Minister to devote time to being a member of this board.

The issue of Leader of the Opposition has been traversed in the past in this place and my position on that matter is clear. I believe that an amendment has been foreshadowed by Mr Collaery whereby, if one of those elected members, either from the government side or from the opposition side, is not available to attend the meeting of the board, then an alternate delegate can go. That will certainly meet the need I see, which the current legislation does not provide, for proxies or alternate delegates.

Accordingly, I cannot agree with Mr Stefaniak's amendments. The Chief Minister, whilst she might not agree with me about the position of Leader of the Opposition - she undoubtedly thinks that - she will be Chief Minister next year - will agree that she has been very busy in that role.

I am sure she would much prefer to have the Government elect someone whose hands are not full and who can devote the appropriate time to representing both present and former members' interests on this board.

As I said, I believe that a further amendment is in the process of being drawn up, and I am under riding instructions to keep talking until such time as it is.

Dr Kinloch: That is known as a "Dubybuster".

MR DUBY: My name is not "Fili". I do not support these amendments.

MR HUMPHRIES (9.38): I support Mr Stefaniak's amendments because I consider them to be a traditional provision which appears in similar legislation around the country. In similar schemes in New South Wales or Victoria - I do not recall the details of the schemes in those States, so I cannot say whether it is or is not the case - my understanding is that there are superannuation boards consisting of members of parliament and the traditional formula is more or less as appears in the amendments moved by Mr Stefaniak. There is the Speaker, the head of government - whatever that position might be called - the Leader of the Opposition and, in certain circumstances, their nominees.

The amendments provide for a model which is used elsewhere and they recognise the role those two people play in the functioning of this parliament. I know that we do not want to go back over the arguments about whether we should have a Leader of the Opposition or not. The fact of life is that we have accepted, at least by majority vote in this Assembly, that we should have such a position. We certainly have the imposition of a Chief Minister by statutory force of the Commonwealth, and we have accepted by majority vote of this Assembly that we have a Leader of the Opposition.

The role of the Leader of the Opposition is as the chief antagonist, the chief person representing those who are not the government, the person who principally opposes the government, the person who represents those on the other side of the chamber. I have said in the past that there are sometimes people on the crossbenches; no-one quite admits to being on the crossbenches in this place. The fact is that we have a person who represents the Government, and that is the Chief Minister. We have a person who represents the Opposition, and that is the Leader of the Opposition. It seems to me appropriate that we have positions of that kind represented on this board.

I do not accept that we should be electing alternates. I think an alternate assumes that a particular person is available to fulfil a particular role. It may be the case that at some time that alternate is the person whose application is being made to the board, in which case you

would have to have the Chief Minister or Leader of the Opposition sitting in, and that might not be convenient in the circumstances. I believe that we should use the conventional model, and I think Mr Stefaniak's amendments do just that.

MS FOLLETT (Chief Minister and Treasurer) (9.40): I indicate that the Government will not be supporting Mr Stefaniak's amendments. I put that position because I really do not think the amendments are necessary or desirable. Mr Stefaniak has tried to be too prescriptive in the composition of the board by nominating who should be on it - the Chief Minister or her nominee and the Leader of the Opposition or his nominee - and I do not think that is necessary.

The Bill as it stands now makes clear provision for both the Government and the Opposition to be represented on the board. As Mr Collaery has said, it is quite possible that, within the arrangements made by the board, those members could have alternates available, which would cover the situation of a government or opposition member not being available or not being suited to sit on a particular matter.

I do not think we should try to be too prescriptive about it at this point. I indicate that I, for one, whether as Chief Minister or in my strictly previous role as Leader of the Opposition, do not believe that it would have been appropriate or desirable for me to sit on this board. I do not, therefore, support the inclusion of that kind of prescriptive aspect in the legislation.

Amendments negatived.

MR COLLAERY (9.42), by leave: I move:

Page 4, line 25, paragraph 7(1)(b), after the word "Members", add "or an alternate Government Member elected in accordance with the relevant procedures at a meeting convened by the Speaker, of Government Members".

Page 4, line 28, after the word "Members", insert "or an alternate Opposition Member elected in accordance with the relevant procedures at a meeting convened by the Speaker, of Opposition Members".

Essentially, the amendments add at the end of each of the two paragraphs provision for an alternate elected according to the same procedures by the same members. It is a standard provision that corporations use to ensure that there is an alternate available for board functions.

This provides a non-controversial, non-adversarial way of resolving those vestigial issues in the Assembly that the last few speakers alluded to. We feel that Mr Stefaniak was probably correct in drawing attention to the fact that

there may be a vacancy at these meetings which would leave a vote taken at a board meeting unbalanced. I think Mr Stefaniak was correct in drawing attention to the issue. We simply disagree with the solution he has offered, and we commend this approach.

Amendments agreed to.

Clause, as amended, agreed to.

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

Clauses 13 and 14, by leave, taken together

MR PROWSE (9.46), by leave: I move:

Clause 13, page 6, line 18, after "electing", insert "or within such further period as the Board in writing allows".

Clause 14, page 6, line 32, after "section", insert "or within such further period as the Board in writing allows".

I indicate once again that I am totally disappointed in the obtuse direction Mr Stevenson always takes in matters fiscal. His interpretation of things monetary is indicated by the manner in which he provides for himself. I think he underestimates the will of others in society.

In his speech he suggested that the majority of members in society are the ones we should be compared with. I suggest to Mr Stevenson that that is not a fair comparison. If you are fair dinkum in your objections, Mr Stevenson, you should compare members of this Assembly with the executives in this community, and that is something you continually forget to do. You bring us back to the lowest common denominator, and I do not think that is a valid argument at any stage. Members of this Assembly are executives. They work at executive levels. They are underpaid as executives and, by crikey, they deserve to be treated with some respect by the community. Your comments pull them down every time. Whether you agree or disagree with the Assembly is another matter, but the people in this Assembly are executives and they deserve to be treated as such by you and by everyone else.

Returning to the amendments, clause 13, "Member's Contributions", states in subclause (2):

> A member of the first Assembly who, within 30 days after the commencement of this section, elects to become a contributing member ...

Clause 13(3) states that, 30 days after so electing, the member is to make the payment. That gives 60 days from the commencement of this Act for the member to come up with, in some cases, between $5,000 and $8,000.

The timing of the commencement is unfortunate in that it coincides with a period of maximum cost to members who are seeking re-election to the Assembly at the February election and the subsequent excessive period of no income during the counting of the vote, which, as we are all aware, will be protracted over several months. To overcome the likely hardship to some members, I believe that the amendments that are proposed will allow those members who wish to defer payment until a more appropriate time to do so. Some members may be stressed to find the funds during this period of major cost to them, that is, the election campaign and other associated activities.

Ms Maher: And Christmas.

MR PROWSE: Christmas comes every year. The point is that this is a very intense period of expenditure for some members, and for them to have to go out and borrow funds for a period is inappropriate and may deter people from taking up a superannuation scheme which I believe is an entitlement and a right. It would be socially just for us to put in the words I have suggested.

Speaking to the amendment to clause 14, which seeks to insert after "section" the words "or within such further period as the Board in writing allows", in that circumstance we are referring to the entitlements of former members. At this time that applies only to our ex-member, Mr Whalan; but who knows what events may occur between now and tomorrow morning, or what could happen with the promulgation of this Act. There is always the possibility of delay. Even though it is of minimal effect to members, it is a protection and it is a continuation of the same ideas that are presented in the clause 13 amendment. On that basis I commend my amendments to members.

MS FOLLETT (Chief Minister and Treasurer) (9.51): The Government will be opposing Mr Prowse's amendments. We do so because we believe that they are totally unreasonable. As it stands, the Bill allows members 60 days to come up with what, in effect, is a back-pay on their contribution to this superannuation scheme. The point that ought to be made, first of all, is that they do not have to do it. Members may join and pay no back-pay if they want to. Indeed, that is what some members have indicated they will be doing. If they wish to pay the back-pay, they have 60 days to do so. There is no compulsion.

I think it is bizarre - that is the word that occurs to me - to suggest that the legislation ought to be altered purely to assist members with their personal financial arrangements because, as Mr Prowse suggests, there is an election coming up, a period when members may have higher than usual expenses, and also because it is Christmas. Legislation is legislation, and it is simply not good enough for a law passed in this Assembly to reflect that kind of thinking.

The provisions in the Bill are more than reasonable, and members have known about them for quite some time. It is not a huge amount of money for members on the salaries we receive in this Assembly to save up; nor is it a huge amount for members to arrange to borrow from one source or another, if that is their choice. I do not believe that the legislation we are passing tonight ought to reflect those sorts of considerations. The provisions within the Bill at the moment are entirely reasonable. They give members 60 days to arrange their circumstances to make this back payment, if that is what they wish to do, and it will not be what they all wish to do. I think 60 days, for people working at the level that Mr Prowse assures us we all work at, is more than adequate to come up with the sum of between $5,000 and $8,000. The Government opposes the amendments.

MR KAINE (Leader of the Opposition) (9.54): I am afraid I do not agree with the Chief Minister. I do not think there is anybody in this place who is more concerned about the proprieties than I am, and I do not think that it does any harm, given the circumstances of today, to consider what Mr Prowse has put before us. The facts of the matter are that for three years we have had no superannuation scheme, and what we are now saying to members of this Assembly is, "You may buy back that three years' worth of time". That is a not inconsiderable sum; under other circumstances we might have had a superannuation scheme in the first year and it would not have been so significant. Mr Whalan is the only one who is no longer a member of the Assembly to whom this will apply.

The Chief Minister made the point herself when she said that members have 60 days in which to make up their minds whether they are going to be in this or out of it, and they can borrow if they have to. The fact is that 60 days from now takes us to within a few days of election day, and those who, because of their financial circumstances, need to borrow are going to a financial institution a few days before an election day when they do not know whether they are going to be re-elected or not. Let us face it: They stand a good chance, within a matter of days, of being unemployed. What financial institution is going to lend people money when they know that within a week or 10 days that person will be unemployed, for all practical purposes?

Ms Follett: What about after that period, if you are unemployed? Do you think they will look upon you kindly?

MR KAINE: You put an argument that says that it is perfectly reasonable. I am putting an argument in response. Let me put my figures and facts on the table: I have the money. The day I join this scheme, I will put my cheque on the table. But that is not to say that every other member of this Assembly is in that fortunate position. I do not know what the personal circumstances of the people in this Assembly are and I would not deign to

ask, nor is it any of my business; but I can easily concede that, when it comes to it, some people may need to borrow a sum approaching $10,000. You can write it down; I will write it up a bit.

If one individual member of this Assembly has to borrow that money and the institution says, "In a week's time you could well be unemployed and I will not lend you that money", we are denying that member the right to a superannuation entitlement which we are writing into the Bill for everybody else in the Assembly - even Mr Whalan, who left nearly two years ago. I think that is an unfair prescription. It makes a judgment about whether people here are able to wave a wand and produce the money or not.

We are either putting in place a superannuation scheme that all present and future members of the Assembly are able to join or we are not. If we do not want to do that, we should write in a prescription that says that there is no backdating, there is no provision for anybody to buy back service beyond the day on which the Bill is put into effect and becomes an Act. Then you completely write out the likelihood of anybody incurring any difficulty.

I do not believe that it is unreasonable that we allow the board to make a determination in a particular case of hardship. I am not saying that it is going to be applied to every member of the Assembly or every applicant; but where there is a particular case of hardship the board should have the right to say, "We will give you another three weeks or another month", until people know whether they are employed or not and whether they can raise the money or not.

I find nothing that is offensive in that. I do not believe that it is in any way discriminatory in favour of anybody. In fact, if we do not do it, it may well be that we are being discriminatory against one or more members of this Assembly, and I do not think that is acceptable. For my part, personally it matters not a jot; but I have to have regard for the fact that other members may not be as fortunate as I am.

MR HUMPHRIES (9.59): I rise to support fully the remarks made by Mr Kaine. I want to make a few points. The Chief Minister says that there is no compulsion in these arrangements, and of course that is true. On the other hand, the offer made is a very compelling one. Members contribute 5 per cent of their salary for each year of service; they get that back plus 24 per cent. It is really very hard to imagine any member in his or her right mind not making an effort to make that contribution, if it is physically possible. I suspect that the only members who will not do so will be one member for ideological reasons and any others because they cannot raise that amount of money in the time available.

I have to say that I consider this Bill extremely unfair in its present format. I detect a certain vindictiveness on the part of the Government in that it is not prepared to consider this amendment. It seems to me that here we are talking about a group of people who, for the most part, feel assured of re-election and are going to be paid a salary throughout the period in which the election results are being counted.

Mr Kaine: Which nobody else will be.

MR HUMPHRIES: Which nobody else in this Assembly will be, except for one person - - -

Mr Moore: Who has moved the amendment.

MR HUMPHRIES: Who has moved the amendment. It therefore puts us in a very different position from that in which most members of the Government find themselves. It is a little unreasonable, I think, to expect that your rather luxurious position is the same position other members of the Assembly might find themselves in. It clearly is not.

Ms Follett also says that she has no desire to make provisions in this legislation that will assist the members. I should remind her and her Government that only a few weeks ago the proposal still on the table was that this be a non-contributory scheme. Until this idea was revised by the Government, no members, on this side of the house at least, had any idea that there was going to be a need for them to make a substantial monetary contribution for their first three years of service in the Assembly. We are being told within a very short space of time, "You find the equivalent of 5 per cent of your salary for a period of three years". That is not necessarily an easy thing to do.

I do not mind laying my cards on the table as well. I do not have that amount of money available and I will have to convert an asset - an asset I put aside for my retirement - in order to make that money available. I might also mention that there are two reasons for converting that asset. Firstly, if this legislation goes through it will be partly on that basis; and, secondly, the asset now attracts land tax, and I, for one, do not intend to be paying the amount of land tax I am now up for on an indefinite basis. Those are two reasons, attributable to this Government, why I am now going to be making my retirement asset - - -

MADAM TEMPORARY DEPUTY SPEAKER: Relevance, please, Mr Humphries.

MR HUMPHRIES: I think it is extremely relevant, Madam Temporary Deputy Speaker. The fact of life is that I cannot save up enough money in the course of the next six or eight weeks to pay out that amount of money. I will not have the resources to do so because I am going to be saving in any case to get through the period between 15 February

and whenever it is in April that the result of this election is declared. I will not have the means to do it and I certainly will not be able to borrow, and I doubt that other members in my position would be able to.

I also emphasise the final point made by Mr Kaine. There is no automatic entitlement under these provisions to any extension of time. The person who might be in that position would have to come before the board and make a good case for being able to obtain some assistance in paying over a longer period of time. That, I think, is reasonable. It is not an automatic entitlement for any member who might wish to extend the period for payment.

I think it is entirely unreasonable of the Government to try to portray this as members grabbing for funds. No-one is grabbing for anything he or she is not entitled to on the basis of the superannuation entitlements conferred by this legislation. If we are to make a 5 per cent contribution, for goodness sake, give us a reasonable chance to make it in an appropriate time, not in circumstances where most members of the Assembly, other than government members, who are in a better position than others, simply cannot meet those arrangements.

MR DUBY (10.04): I would like to endorse the comments made by my colleague Mr Humphries and, of course, those of the Opposition Leader, Mr Kaine. I should put on the record in this debate that the original proposal by the Follett Government in 1989, taken up by the Alliance Government in 1991, was that this legislation would introduce a non-contributory superannuation scheme. Therefore, I, for one, have not put 5 per cent away for a rainy day or so that I could cover the superannuation when the scheme eventually did become law.

I think it was in September that we were advised that the superannuation scheme that was to be introduced by the Follett Government - and I am pleased to see it introduced - would be a contributory scheme and that it would be retrospective to May 1989. The comments that have been made, that members should have somehow foreseen the present proposal and put money aside to meet their requirements, are really a little unfair.

My reading of the legislation, particularly clause 13, is that it is an all or nothing contribution. You may contribute a percentage of all of the money you have earned since May 1989 or you may commence contributions as from the day the Act commences or from a future date from which you elect to start contributing.

Suppose that the amount of money required is $6,000 to $7,000 and a member saving prodigiously, as the Chief Minister says members should be able to do over the next 60 days, has been able to save only $5,000. That member is not entitled to pay that money in and receive a part benefit. That member has to pay the full amount. There is

no part benefit. A member cannot say, for example, "I wish to be a member of the scheme as from June 1990". You cannot do that under clause 13 of the legislation. That is the way I read it. It is an all or nothing scheme.

I think it would be outrageous if a member who was three-quarters of the way towards the total contribution that is required within the 30- or 60-day period that the Chief Minister has mentioned and unable to bridge the gap was unable to join the scheme for that portion of time for which the member had already accumulated funds. To me, that would not be fair. I think it would be quite appropriate for the board to look at those circumstances and say, "That seems to the board to be a sensible arrangement. Perhaps we can give you a little bit of time to come up with the total required".

I support the amendments. I think they are good amendments. I congratulate the Speaker on representing the interests of all the members of this Assembly and bringing this matter to our attention.

DR KINLOCH (10.08): I assure you that I do not have vast funds; but, as part of a family with a double income and a pension, I would not find it difficult to come up with the appropriate amount. One would have to sell something here or borrow something there. But I would like to feel that we would not make life difficult for those of the people in the Assembly who are on single incomes in what I can describe as single families - that is, people on their own. I do not think they have as easy a time of it as those of us with a double income. I think it would be especially hard for someone on a single income with a family. To ask such a person to come up with a considerable sum all of a sudden is unfair.

Question put:

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

The Assembly voted -

AYES, 11	*NOES, 5*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Wood
Dr Kinloch	
Ms Maher	
Mr Moore	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	

Question so resolved in the affirmative.

Clauses, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

MR PROWSE (10.14): I move:

> Clause 19, page 9, line 13, after "decision", insert "within a period not exceeding 30 days".

The most common area in which requests are made for review of decisions is in cases of invalidity. In these cases it is most likely that very costly medical fees have been incurred and that severe hardship has been encountered by the member and the member's family. Therefore, in this time, it is essential that there be a timely - in fact, a speedy - reply by the board to any request for a review.

It is understood that in some circumstances a final review may not be possible because of the time required for a lengthy medical review, et cetera. However, we are asking that a reconsideration of a decision be addressed within 30 days. I do not see that that is at all unreasonable. In most cases the board would get on with the job as quickly as possible. Board members, in their day-to-day activities, will be very busy. It is essential to bring to their attention that they have a responsibility to quickly get back to the member asking for a review in a time of possible severe stress and severe financial difficulty. I think it would be most appropriate for the board to be given a little bit of a hurry-up to get back to the member and give some indication of the likelihood of a review succeeding or whatever. I propose that members accept my amendment.

MR COLLAERY (10.16): I hope members understand what Mr Prowse is seeking to achieve. You cannot force the board to make a decision.

Mr Prowse: But I am not asking them to take a decision; I am asking them to notify.

MR COLLAERY: You are simply wanting the board to come up with something within 30 days, but really this requires some further drafting to make the failure to make a decision a decision. I think Mr Connolly and Mr Stefaniak know what I mean. I think what is being proposed will need attention in the future. Mr Prowse's amendment is nothing more than an enjoinder. I do not say that with disrespect to Mr Prowse. You cannot force a board to make a decision. I believe, sadly, that we will need to relook at this proposed section at some future time.

Other implications of making decisions reviewable are just occurring to me. Third parties can seek to intervene if a member appeals a matter to the Administrative Appeals Tribunal, and we as parliamentarians become compellable before the tribunal. They are issues that escaped me until tonight.

I have no difficulty with Mr Prowse's amendment. It does not achieve anything, in my view. It is an enjoinder; it is a message. You cannot force a board not minded to make a decision to make a decision. What Mr Prowse should have done, if that was in his mind, was to make a failure to make a decision a decision for the purposes of the AAT Act.

MR PROWSE (10.18): We are suggesting that the board should reconsider their decision. It is an enjoinder. It is a request for the board to take some action in a timely manner. This is not a legal argument, as far as I am concerned. I am suggesting that, as a basic principle, the board be given some guidance within the Bill. It is all very well for legalities to be brought into the debate. May I suggest that it would have been nice to have had Mr Collaery's advice a few hours ago.

I am suggesting that the board reconsider their decision. That is not forcing them to change their decision. That is not forcing them to take a decision. It is asking the board to review the matter. In my understanding of English, that is all that has to happen. We are giving the board members an indication of the intent of this Bill. If Mr Collaery wishes to write legislation that is clear of all imputations and possible misrepresentations, he would do well to start on other Bills that are more serious than this one.

Amendment agreed to.

Remainder of Bill, as amended, agreed to.

Question put:

> That this Bill, as amended, be agreed to.

The Assembly voted -

AYES, 16	*NOES, 1*
Mr Berry	Mr Stevenson
Mr Collaery	
Mr Connolly	
Mr Duby	
Ms Follett	
Mrs Grassby	
Mr Humphries	
Mr Jensen	
Mr Kaine	
Dr Kinloch	
Ms Maher	
Mr Moore	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Wood	

Question so resolved in the affirmative.

AIR POLLUTION (AMENDMENT) BILL 1991

Debate resumed from 21 November 1991, on motion by **Mr Wood**:

> That this Bill be agreed to in principle.

MR JENSEN (10.22): I will not be long.

Mrs Grassby: You have said that before. It does not mean a thing.

MR JENSEN: The longer you go on, the longer it is going to take me, Mrs Grassby. Mr Speaker, the Rally welcomes the Air Pollution (Amendment) Bill. There are potential problems in the ACT despite the fact that we live where we do. One of the most important things is the need for enforcement.

The explanatory memorandum says that there will be no costs associated with the implementation of this Bill. I am not quite sure whether that is strictly correct. It seems to me that that could be a slightly hollow statement. I trust that it does not mean a reduction in the enforcement and problem solving areas of air pollution. I think one of the most important aspects related to air pollution is the requirement for an education program before enforcement. Once you have an education program, you can then hit very hard with the maximum publicity and solve longstanding problems.

Mr Speaker, air pollution is a problem in the ACT, particularly in our Canberra climate in the wintertime. Anyone who lives in Tuggeranong knows that when you come into the Tuggeranong Valley in the middle of winter you can encounter an air pollution problem. What I am concerned about is that there seems to be a lack of monitoring in that area. The National Capital Planning Authority, which looked at this subject, commented very succinctly on this problem. The Environment Committee report on wood fires in the ACT mentions specifically the problems associated with Tuggeranong.

In closing, let me say that we need more monitoring, especially in the valley areas of the ACT, be they north or south, to make sure that we are keeping track of the increasing amount of air pollution in the ACT so that we can then take the necessary steps to reduce it as quickly as possible.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (10.26), in reply: I thank Mr Jensen for his comments. He made a point about additional costs. There certainly will be a cost attached to this legislation. The reference to no additional cost is to the fact that the cost will be covered within the

existing budget of the department. Notification will be given that this Bill is now law. I do not know how great an education program there will be, but the message will be well expressed through the usual media outlets.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

WATER POLLUTION (AMENDMENT) BILL 1991

Debate resumed from 21 November 1991, on motion by **Mr Wood**:

> That this Bill be agreed to in principle.

MR JENSEN (10.27): This Bill is related to the Air Pollution (Amendment) Bill, as Mr Wood indicated in his introduction speech. It makes similar sorts of provisions in relation to pollution abatement notices. I am not quite sure whether people present realise that, if you wash your motor vehicle in your driveway and the water goes into the stormwater system, you are effectively breaking the law as it stands at the moment. In the strict letter of the law, you are putting material, particularly if you are using soap and other things, into the stormwater system.

What we are concerned about and what we need to be concerned about is the problems associated with urban run-off in the ACT, particularly in our developing suburbs. When self-government commenced the Follett Government introduced an education program, which was subsequently refined during the period of the Alliance Government, in relation to water pollution, and some work was done with builders. We should remember that residents also have a responsibility to make sure that no urban run-off, particularly from piles of soil, gets into the stormwater system.

Members will no doubt recall the comments and concern expressed in the early days of this Assembly in relation to the water clarity in Lake Tuggeranong. Lake Tuggeranong still has a problem, but the situation is much better than it was when the lake was new. The lake has now matured in much the same way as we have seen Lake Ginninderra mature over the years.

However, those of us who live in Tuggeranong see a problem with the lake. A major multinational organisation operates a facility right on the edge of the lake. One just has to go down to the lake on the weekend, as I did for an arts

festival last weekend, to see the amount of rubbish that has been allowed to flow into the lake in that area. I am referring, of course, to McDonald's. They have a quite considerable amount of packaging and wrapping which unfortunately finds its way into our water system. I think we have to speak rather severely to that organisation, because they claim to be environmentally aware. We have to ask them what they are proposing to do to assist in solving the problems associated with that litter going into our waterways.

Members may recall a recent report on the amount of material that was picked up by people during the clean-up campaign. Some members in this Assembly participated in that, as I did. We provided information on the sort of rubbish that was being located.

Mrs Nolan: Did you see the rubbish report?

MR JENSEN: Yes, that is what I was referring to, Mrs Nolan. Most of the material finding its way into our environment is related to the packaging industry, particularly plastics. That is something that we have to look at very carefully. I am pleased to see that there is provision for pollution abatement notices, as opposed to the old court system. I think this is a good way to move. But we also have to encourage people to be a little more aware of their environment, particularly builders and residents in the urban areas.

I hope that we make all officers who are associated with the building industry in the ACT aware of the problems of water pollution so that they can alert those responsible for actually issuing the notices that there is a problem. That is something that I sought to have implemented while I was assisting Mr Kaine in that area. I wanted officers from the various sections of the department to be available to advise the EPS section that there was a problem, rather than people just saying, "Well, that is somebody else's problem and I need not do anything about it".

The EPS section is a hardworking group of people. There are not many of them, and I think they need as much support as possible from other elements within the various sections involved, particularly members of the building industry developing new areas in the ACT.

I would encourage the Minister to take that suggestion on board, if he has not already done so, as a way of providing more enforcement and creating greater awareness of some of the problems. The amount of sediment that goes into our water system from developing urban areas is, if my figures are correct, something like three times the amount that goes into the system from established urban areas. It is important to solve the problems at the beginning.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (10.33), in reply: I thank Mr Jensen for his comments. I think he would know the very great amount of work that has been done in recent years to control run-off from building sites and from major developments. There are quite stringent conditions in place. Obviously, now a further role for the EPS will be to see that requirements are enforced in the new way. It may be possible to stop projects instantly if requirements are not being met.

It is true that if you wash your car in the driveway and the run-off goes into the drainage system you are technically acting illegally. I do not think anybody has been fined for that or is likely to be fined, but there is constant encouragement for people to wash their cars on the nature strip so that the water is contained in the grass.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LAKES (AMENDMENT) BILL 1991

Debate resumed from 21 November 1991, on motion by **Mr Wood**:

> That this Bill be agreed to in principle.

MRS NOLAN (10.35): I support this amendment Bill. I believe that it will add to the benefits that our lakes provide to the Canberra community. It is a pity that we are not able to apply similar provisions to Lake Burley Griffin. I will perhaps come back to that in a couple of moments.

The introduction of adequate lighting on boats and appropriate appeals procedures against decisions definitely tightens control on the lakes, as well as bringing the ACT into line with the States. The new measures will also satisfy international boating regulations.

Mr Speaker, I hope that the fee for the use of powerboats for certain purposes will not adversely affect the use of these boats on the lake. I would like to know the amount of the intended fee, as I am sure many others in the community would. I ask the Minister whether he can let us know what that prescribed fee is likely to be.

Mr Speaker, as I mentioned a couple of moments ago, I would like to use this opportunity to reiterate the case articulated by the many boating enthusiasts hoping to have similar use of Lake Burley Griffin. While I am aware that Lake Burley Griffin is a Federal Government responsibility,

I urge that the Minister actively pursue this matter. Fairly recently, in fact during the Tuggeranong community festival, I had the opportunity to take a boat ride on Lake Tuggeranong.

Mr Connolly: It was a nice trip around on the lake.

MRS NOLAN: It was a nice trip around on the lake, Mr Connolly, and I was just going to say how much nicer it would be if Lake Burley Griffin also could be used. Mr Connolly and I had the opportunity to take a nice trip around and have morning tea on Lake Tuggeranong during the festival and the launch of the steam powered boats on Lake Tuggeranong. But it would be so much nicer to see powerboats on Lake Burley Griffin as well. I commend the amendment Bill.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (10.37), in reply: I understand what Mrs Nolan says, Mr Speaker. It is my understanding - I will check it out carefully for you - that an approach has been made for use of Lake Burley Griffin, as you ask. I will see whether I can hurry a response so that there is consistency in the provisions applicable to the lakes.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Assembly adjourned at 10.39 pm