DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

8 December 1999

Wednesday, 8 December 1999

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Wednesday, 8 December 1999

MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

COMMISSION FOR INTEGRITY IN GOVERNMENT BILL 1999

MR KAINE (10.32): Mr Speaker, I seek leave to amend my notice, which was incorrectly worded yesterday, to read:

> To present a Bill for an Act to constitute the Commission for Integrity in Government in the Australian Capital Territory and to define its functions, and related matters.

Leave granted.

MR KAINE: I present the Commission for Integrity in Government Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR KAINE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the intention of this proposed legislation is to enable the creation of a new statutory body in the ACT, to be called the Commission for Integrity in Government. Under this legislation, the commission will have wide powers, especially in terms of investigating conduct by public officials which is lacking in integrity or possibly lacking integrity and in educating public authorities and the community generally about the detrimental effects of public conduct lacking integrity and strategies to combat such conduct.

The term "public officials" has a very wide meaning and includes Ministers, members of the Assembly, the judiciary and the police, and the wider Public Service. Members will note that the expression used in this Bill is "conduct lacking integrity", which includes, among other things, conduct that adversely affects or could adversely affect the honest or impartial exercise of official functions by a public official or a public authority. It does not matter whether the conduct is committed by a public official or by some other person. However, the conduct must be such as could constitute or involve a criminal or a disciplinary offence, or reasonable grounds for terminating the services of a public official. Of course, this Bill contains an extensive description of what constitutes "conduct lacking integrity".

The proposed legislation provides for the appointment of a commissioner responsible for the administration and affairs of the commission. The commissioner may be assisted by one or more assistant commissioners and can be removed only by an address of the Legislative Assembly, rather than by Executive fiat. The integrity commission must give special attention to matters referred to it by resolution of the Legislative Assembly.

The Bill also provides for three other important measures. Firstly, the appointment of an operations review committee to advise the commissioner, especially about what action might be taken on complaints received about possible conduct lacking integrity. Secondly, it extends the responsibilities of the Standing Committee on Justice and Community Safety to include monitoring and reviewing the integrity commission's functions. Thirdly, it establishes an ethical standards council comprising members of the Legislative Assembly and community members, whose function is to prepare draft codes of conduct for Assembly members, to carry out educative work relating to Assembly ethical standards, and to give the Assembly advice on such ethical standards.

Mr Speaker, when four months ago I circulated widely for public comment an exposure draft of this Bill, I could never have predicted the strength of positive response that this proposed legislation has generated. There is a great deal of support for it out there. Interestingly, the only strident opposition has come from the Carnell Government itself and, predictably, from its supporters at the *Canberra Times*. One important public comment I have taken into account is the need to accentuate the positive in this legislation. Accordingly, the term "integrity" - or, rather, the lack thereof - is used in preference to "corruption", of which the Attorney-General insists there is none.

In conclusion, may I repeat some observations that I made in this Assembly on 25 August when I tabled the exposure draft of this Bill. Official or public corruption is one of the great evils of our time and, unfortunately, we cannot assume that our Territory is immune from this creeping cancer. The cost to the community of such conduct is immense, not just in terms of dollars, but in the damage done to community confidence in public administration. I believe that only a powerful, independent, extrajudicial body like the integrity commission can perform the essential function of rooting out this creeping cancer. Integrity in government must be assured. I commend this Bill to the Assembly.

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

ENVIRONMENT PROTECTION AMENDMENT BILL (NO. 2) 1999

MS TUCKER (10.37): Mr Speaker, I present the Environment Protection Amendment Bill (No. 2) 1999.

Title read by Clerk.

MS TUCKER: I move:

> That this Bill be agreed to in principle.

It is not often that I get to put forward a proposal that has the support of the Federal Liberal Government, but I am happy to say today that the Greens got the idea for this Bill from the Federal Minister for the Environment, Senator Robert Hill. Members may recall that last year the Liberal Government put forward a new Environment Protection and Biodiversity Conservation Bill in the Federal Parliament. That Bill was quite controversial in that it radically changed the Federal Government's approach to environment issues and devolved many Commonwealth environment powers to the States. In order to get the Bill passed through the Senate the Government reached agreement with the Australian Democrat senators, who put a number of amendments to the Bill. The Bill was finally passed in June of this year. The Bill was opposed by many environment groups, but some groups decided to back the Democrat amendments in the belief that getting some changes to the Bill was better than nothing.

This is not the place to go into detail about the problems with the Federal Environment Protection and Biodiversity Conservation Act. However, there was one amendment to the original Bill that was supported by all parties and environment groups. That was to section 516A, which required that the annual reports of Federal government departments, authorities and agencies include a statement on what they are doing to promote ecologically sustainable development, or ESD for short. Specifically, these organisations are required to report on five points: How their actions and administration of legislation accord with ESD; how their outputs contribute to ESD; what impact their activities have had on the environment; what measures they have taken to minimise impacts on the environment; and how they are reviewing and increasing the effectiveness of these measures.

My Bill basically copies section 516A and applies it to all ACT government departments, authorities and agencies. It also makes some consequential amendments to the Auditor-General Act to extend the existing powers of the Auditor-General to take into account ESD in his performance audits to include all government authorities.

This initiative had its genesis in the national strategy for ESD that was agreed to by federal, state and territory governments way back in 1992. In fact, there was an action agreed to in the strategy that said that program managers would implement, monitor and review the performance of policies and programs outlined in the ESD strategy in the context of annual reporting requirements. Unfortunately, the ESD strategy became a nice addition to various bookshelves around the country, rather than being actively implemented by government.

Last year the Federal Government asked the Productivity Commission to undertake a review of progress in the implementation of ESD by Commonwealth departments and agencies. The Productivity Commission produced a draft report early this year. I understand that a final report has been completed, but has not yet been released by the Government. Whilst the review looked at Commonwealth agencies, I believe that its general findings could be applied equally to other levels of government, including the ACT Government.

The commission's main conclusion, not surprisingly, was that departments and agencies could do much more to implement ESD. It found five major impediments that limited the extent of ESD implementation, namely, a lack of understanding of what constituted ES-related policies, the complexities of information and data requirements for ESD policies, failure to adopt good policy-making practices, deficiencies in intra- and intergovernmental coordination in policy-making, and the lack of a long-term policy focus. Fortunately, the commission believed that these impediments were surmountable and put forward a range of recommendations to address these deficiencies.

Of relevance to this Bill is that the commission thought that departments and agencies should regularly and as a matter of course monitor the efficiency and effectiveness of their ESD-related policies, programs and regulations. It pointed out that monitoring is a critical element of any management system. It provides a feedback to allow ongoing improvement and offers a means of enhancing accountability, which may also improve performance.

The commission also pointed out that there was a lack of clarity about what constitutes ESD-related policies. There was a wrong perception that ESD was just about the natural environment. The commission pointed out that ESD implementation is largely about good practice policy-making. It is about the consideration of all costs and benefits - public, private, short term, long term, environmental, economic and social - and attempting to integrate these factors.

I believe that this deficiency is very evident in ACT authorities; in fact, in the whole approach of this Government. I have found it quite disappointing that a number of ACT authorities have ESD incorporated into their objectives, often as a result of Green amendments, yet there is little evidence that these authorities have really understood the implications that this objective should have for their decision-making.

Requiring government authorities to include in their annual reports a report on their implementation of ESD would not, by itself, change the way that government authorities or government itself operates, but it would certainly force them to start thinking about how their decisions now will impact on the ability of future generations to be able to enjoy as good a quality of life as that we currently enjoy. This is really what ESD is all about. It will also allow the Assembly and the broader community to scrutinise more easily what the authorities are doing to promote ESD.

The contents of this Bill have the backing of the Federal Government. If the Federal Government is prepared to take on this reporting responsibly, I can see no reason why the ACT Government, which has a much simpler administrative structure than the Federal Government, also should not be able to take on this responsibility. I commend this Bill to the Assembly.

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

LIQUOR AMENDMENT BILL (NO. 2) 1999

MR QUINLAN (10.44): Mr Speaker, I present the Liquor Amendment Bill (No. 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR QUINLAN: I move:

> That this Bill be agreed to in principle.

This Bill ensures that the results of breath analysis equipment installed in licensed premises are not admissible in court. This legislation makes sure that the results from these machines cannot be admissible in civil or criminal proceedings. It mirrors legislation currently in place in New South Wales and I assume that there will be sufficient support on that basis when it is brought back for debate. If passed, licensees with breath analysis machines installed in licensed premises cannot be held liable in any civil proceedings resulting from a patron being pulled over and failing a random breath test administered by police, despite registering under the limit on the licensed premises. However, if it is established that at the time of the test the breath analysis machine did not comply with Australian standards, the licensee was aware or should have been aware that the instrument was not operating correctly, or the licensee contravened the labelling laws, the result of the breath test may be admissible in civil proceedings.

Significantly, the Bill also includes labelling laws which make sure that every breath analysis machine clearly displays information regarding the inadmissibility of readings and the fact that a patron’s blood alcohol level can rise for one hour or more after the last drink. Breath analysis machines are a good guide for patrons in ensuring that they do not drive while over the limit and this Bill ensures that licensed premises can install and operate these machines properly without fear of prosecution if a patron is charged with drink-driving.

I do not believe that the Bill will result in a large number of orders being placed with the manufacturers of this equipment, but I do believe that licensed premises should not be discouraged or dissuaded from installing this equipment because they fear prosecution. This Bill is not about encouraging or allowing patrons to drink to the limit and then drive. The message regarding alcohol and driving is that they do not mix and that, if you are going to drive, you should not drink. We must, however, be realistic and appreciate that some patrons will drink their one or two beers or wines and they should be able to check their blood alcohol level and make sure that they do not drive while they are over the limit.

I might add, Mr Speaker, that I believe that this is good law, as opposed to bad law passed in this place recently. It is positive, not punitive. It is designed to be fair to all, to the provider of the device as well as the user of the device. I commend the Bill to the Assembly.

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

ROAD TRANSPORT LEGISLATION AMENDMENT BILL (NO. 2) 1999

MR RUGENDYKE (10.48): I present the Road Transport Legislation Amendment Bill (No. 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR RUGENDYKE: I move:

> That this Bill be agreed to in principle.

These amendments to the road transport legislation which was passed yesterday are designed to insert provisions that outlaw burnouts and motor vehicle racing on public streets. As members are aware, I introduced the Motor Traffic (Amendment) Bill (No. 4) 1998 as a private members Bill in November last year. It was agreed to in principle by the Assembly and then referred to a committee almost 12 months ago to the day. The Bill proposes that the driver of a motor vehicle should not engage in the specified actions unless he or she holds a permit.

The Planning and Urban Services Committee has completed a thorough consultation process, including a visit to Newcastle to observe how similar laws operate in New South Wales. I am pleased that the committee saw fit to recommend that burnout and street racing laws should proceed. The committee's view is that burnouts or motor racing in public places constitute a potentially serious risk of injury to the public and of damage to the surface of the road. The committee's report also says that penalties for burnouts should be severe but graduated, with repeat offenders being liable to forfeiture of their vehicle to the Territory. I trust that the Assembly will adhere to the committee's recommendations and pass the Motor Traffic (Amendment) Bill (No. 4) 1998 when it returns to the chamber for debate this afternoon.

The Bill that I have presented to the Assembly today reflects my original Bill and the suggested minor amendments put forward by the committee. I do thank members for noting and cooperating with the extra layer of detail that has been created by the timing of the Government's new road transport package. For the record, the Government's package will come into force some time next year, probably in March. I am seeking to finalise debate on the original Bill today so that the burnout provisions will be in place between now and the introduction of the new national road laws. The main purpose of that is to enable police to act on this dangerous and reckless type of behaviour over the upcoming holiday period. The annual Summernats events usually coincide with extra problems for the community in this area. It is important that the Assembly provide police with the measures that will assist to preserve community safety on our roads and in our public places.

The amendments to my original Bill will be debated this afternoon, so I will not cover the same ground by entering into a detailed explanation now; but I will say that this Bill does mirror the burnouts Bill and amendments that will be debated today. I would like to flag now that I will be seeking to have the new Bill returned for debate in the first

sitting week of next year. Considering that the thrust of its contents already will have been debated, I envisage the final passage of it being a straightforward process. I commend the Bill to the Assembly.

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

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

Debate resumed from 1 September 1999.

Detail Stage

Bill, by leave, taken as a whole.

MR BERRY (10.52): I seek leave to move the five amendments which have been circulated in my name together.

Leave granted.

MR BERRY: I move:

> Clause 23, page 9, line 32, subclause (5), after “must not”, insert “, without reasonable excuse,”.
> Clause 35, page 12 –
> Line 19, subclause (1), omit “may”, substitute “must”.
> Line 33, after subclause (2), insert the following new subclause:
>> “**(3)** The application must be given to the registrar within 1 month after the applicant becomes an employee or within any additional time that the registrar allows.”.
>
> Clause 36, page 13 –
> Line 2, subclause (1), omit “may”, substitute “must”.
> Line 20, after subclause (2), insert the following new subclause:
>> ‘**(3)** The application must be given to the registrar within 4 months after the employee becomes an employee or within any additional time that the registrar allows.”.

These amendments result from a consultation process and consideration of this Bill by the scrutiny of Bills committee. There have been inclusions which put employees under the same arrangement as applies to employers in respect of notification of the requirement to include them on the register. They are dealt with in amendments 2, 3, 4 and 5.

Amendment 1 picks up suggestions from the scrutiny of Bills committee report about including the “reasonable excuse” defence where somebody may offend this particular legislation by failing to comply with the requirement of an inspector. The amendments are quite straightforward.

Amendments agreed to.

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

Bill, as amended, agreed to.

REGIONAL FOREST AGREEMENT FOR SOUTH COAST

MS TUCKER (10.56): I move:

> That this Assembly calls on the Chief Minister to write on its behalf to the Premier of New South Wales, the Honourable Bob Carr, requesting that the Regional Forest Agreement for the South Coast:
>
> (1) protects the 15 community reserve proposals developed by the South East Forest Alliance;
>
> (2) supports the development of a local wood products industry based on plantation forests; and
>
> (3) excludes woodchipping of non-plantation forests.

This motion about the south coast forests is of great importance to the people of the ACT. I realise that I may not see that view supported in this place. I am raising this matter here because it is of concern to me that we do not in practice see this place acknowledge the fact that we are part of a bio-region. Acknowledgment is there in rhetoric, but in practice it is way in the background. We know that this issue is of great interest to many residents of the ACT. I hope that it will be of interest to other members of the Assembly when they listen to the statements I am going to make right now and also the statements that, hopefully, will come.

Decisions will soon be made that are of significance to the forests, waterways and coastal areas of the region surrounding Canberra. Under the regional forest agreement process, the new South Wales and Commonwealth governments are about to decide the future of the forest estate, and the forest industry that uses it, in an area from the coast between Nowra and Narooma west to and beyond the Snowy Mountains. This decision will dictate which forests will be protected as national parks, which forests will be logged or woodchipped and how the logging industry, including employment, will be structured.

Every regional forest agreement, or RFA, completed so far in the country, apart from Queensland, has been a failure in the eyes of the public. Witness the community outrage after the recent Western Australian RFA. Purporting to protect environmental values through a comprehensive, adequate and representative reserve system, and to create a sustainable logging industry with resource security for timber mills, the RFAs have continually failed to provide a sound and visionary plan for a timber industry of the future or to protect the environment to the standards of even the national forest policy statement signed by the federal and all state and territory governments.

The RFA for southern New South Wales is likely to be no different. Due to be completed by March 2000, its formula is the same as for every other RFA in the country. It will likely see logging intensified in many of the most important forest areas and waterways on the south coast. Already New South Wales State Forests - the Forestry Commission - and the logging industry are proposing to double the volume of wood taken from these forests, with much going to the Daishowa woodchip mill or proposed to be burnt for energy. Incredibly, burning the forests for energy is being promoted as green energy, despite the negative impact on carbon and the greenhouse effect of woodchipping and burning old-growth forests and despite the destruction of wildlife and forest ecosystems involved.

Access to all these areas for logging and woodchipping will be guaranteed for 20 years under the resource security component of the RFA. This means that the fragile coastal environment of the south coast is likely to suffer increased damage from logging for 20 years. Waterways like the magnificent Clyde River will be polluted by siltation, and woodchipping operations will expand.

The south coast relies on tourism for much of its economic income. Tourism generates over $500m per year and employees over 6,000 people. The region is the most heavily forested coastal area in the State, providing magnificent scenery, clean waterways and fantastic biodiversity. This is a fact recognised by many Canberrans who travel to the south coast each year for their holidays. In fact, the Eurobodalla Shire names itself the “Eurobodalla Nature Coast” due to its reliance on this natural environment for its tourism industry.

Expanded logging and woodchipping for the next 20 years has the potential to ruin many aspects of the south coast’s natural environment for tourism and recreation. Nobody wants to holiday in a logging area or canoe down a silted, muddy stream. Yet the logging industry only produces a few million dollars worth of timber products each year, a fraction of the $500m tourism industry.

An RFA is likely to be a disaster for the natural environment and a blow to tourism and jobs. It is likely to fail to produce a positive and forward-thinking vision for the logging industry. It is likely to fail in the eyes of the public as every other RFA has so far. Let me tell you why this does not have to be the case. A far more powerful vision for the region would see the forests, waterways and tourism assets protected and the timber industry encouraged towards value adding, environmental sustainability and the abundantly available plantation timber resource. It would be a success for development, a success for employment and a success for the environment. Although many people, particularly those who benefit from the comfortable status quo, like the 100 per cent Japanese-owned export woodchipping company Daishowa, will claim this is impossible, it has already happened and it has been proven in Queensland.

Recently the Premier of Queensland announced a forestry agreement which achieved all of this. Supported by the Queensland Timber Board and the environment movement, it is being hailed as a huge success. The media is overwhelmingly positive and in support of the visionary people who put together this plan. Importantly, the only way it was achieved was by breaking out of the mould of the RFA process. The Queensland Government, instead, chose to ignore the limitations of the RFAs and came up with

a resounding success. This can also be achieved for the New South Wales southern RFA region.

Rather than yet another failure in the eyes of the public, another RFA that fails to protect the environment, that fails to value add and that supports the foreign woodchip companies, this forest decision could be a success like that in Queensland. It could be another economic success, another employment success, another environmental success, another media success, that has already been proven to work in Queensland. That is what the public wants to see.

For example, the New South Wales southern RFA region is surrounded by some of the biggest plantation areas in the State - Tumut, Oberon and Bombala - as well as the ACT. Visy recently opened a $450m pulp mill based on plantations at Tumut. The investment potential is enormous. The plantations of the New South Wales southern RFA region produced almost a million cubic metres of timber and pulp wood in 1997-98, whereas the native forests industry produced less than a quarter of a million cubic metres in 1998-99. Hardwood mills based on native forests employ only 250 people, whereas the number of people that mills based on softwood plantations employ is over 1,300 and growing.

Clearly the region does not rely on native forest logging for jobs or income. There is already substantial movement of timber between these plantation regions and the south coast. It should also be noted that in many cases these native forest industries are in direct competition with the plantation industries rather than complementing them. An expansion of native forest logging will only harm the plantation industry, which is so much more important for employment and wood production in the southern RFA region.

The ACT's plantations are being ignored in the development of a timber industry plan. When we are already exporting whole logs from the ACT out of Port Kembla, the ACT's timber industry should be included in any regional development strategy, with a view to maximising the amount of processing of our wood in the region.

With the coming decision by the New South Wales Government on whether to take the RFA path or the Queensland path for the forests of the south coast and Snowy Mountains, governments, businesses and residents of New South Wales and the ACT have the opportunity to affect this choice now. It is a decision which is currently being made without any input from Canberrans or the ACT Assembly. This is despite the fact that the south coast is Canberra's backyard and the ACT has a role to play in the region's tourism and economy. It is a matter that concerns Canberra residents and residents of the south-east New South Wales region.

The South East Forest Alliance, which is a coalition of community environmental groups in the region, has identified 15 forest areas which are essential to completing the south coast forest national park system. The community reserve proposals are currently unprotected, and most of them are threatened by intensive logging and woodchipping. The New South Wales Government must declare these areas as national park.

The areas include forests that would be well known to the many Canberrans who travel to the south coast. There is Badja, an area of extensive old-growth forest near Cooma. Monga, east of Braidwood, is one of the best known and loved forests of the region and is the closest rainforest to Canberra. Greater Deua, an area of outstanding wilderness quality inland from the south coast, contains both the most extensive wet old-growth forests in the State and the most extensive rainforests in the region.

Greater Murramarang, an area of the Kioloa State Forest, is vital to extending the small Murramarang National Park on the coastal strip north of Batemans Bay. Murramarang is the most heavily visited coastal national park in New South Wales outside of the Sydney region. North of this area is Croobyar, which contains some of the most special forests for biodiversity and old-growth protection and for tourism in the region. There is also Tallaganda, a huge area of diverse old-growth forest near Braidwood. Dignams Creek, a vital near-coastal forest adjacent to Mount Dromedary, contains the region's major koala population.

Bimberamala is part of the catchment of the upper Clyde, the only unmodified river left in New South Wales. Wandella, with its magnificent forests around Peak Alone, inland from Narooma, is vital to supplying water to the local community and contains many ecological values. Conjola is a vital link between the magnificent Conjola coastal forests and the protected escarpment forests. North of this area are unprotected forests that should become extensions of Morton National Park. Flat Rock is a vital area next to the famous tourist destination Pigeon House Mountain. Kianga is an important small patch of coastal forest near Narooma, an area with very little coastal environment remaining in a natural state.

The community reserve proposals, combined with the existing south-east forest national park, would create a continuous protected forest area along the New South Wales escarpment of over 300 kilometres, stretching from the Victorian border to north of Nowra. This would surely be a record for long distance nature protection that the New South Wales Government should be proud of.

The South East Forest Alliance also wants the south coast region to be a woodchip-free zone. Any logging of native forests in the region outside of protected areas should only be on a sustainable basis for high-value uses. We are therefore particularly concerned about the recent New South Wales Government proposal to allow native forests to be logged as fuel for electricity production. This form of biomass burning has been rejected by the New South Wales Sustainable Development Authority as a green power source, as it is not truly renewable or greenhouse neutral. The forest industry appears to be looking for new markets for its woodchipping operations, which can only lead to further destruction of our remaining native forests if not stopped now.

My motion today calls on the Chief Minister to write to the New South Wales Premier, Mr Carr, on behalf of the Assembly and the ACT community who love the south coast and use it, to express its support for the community reserve proposal that I have just described, as well as support for a move away from woodchipping of native forests to a plantation-based timber industry. I think this is the least we can do to help save the south coast forests, which are part of the national capital region. The major dispute over woodchipping in the south-east forests has been going on for too long, and it is time the

issue was resolved once and for all in favour of both the natural environment and a sustainable value-added timber industry, which is of course about employment as well as about the environment.

MS CARNELL (Chief Minister) (11.10): We have just heard an unusual speech about something that we have absolutely no responsibility for or control over. The last time I checked, we were elected by the people of the ACT to set policy and to do the best we could for the people who vote for us. I also understood that democracy as practised in Australia at three levels of government - local, state and federal - meant that we elected people to represent us.

If the New South Wales Parliament wrote to this Assembly suggesting that we change a particular policy or go down a particular path inside the ACT, I ask everyone how they would react. Mr Quinlan, if the New South Wales Parliament wrote to the Assembly and suggested that we go down a particular path, what would we say? We would walk away because we would not want to deal with that situation. The reason we would not want to deal with it is that we all know what we would say. We would tell them exactly where to put their letter. It is not their responsibility to tell us how to run the ACT.

Similarly, it is not our responsibility to tell New South Wales how to run their State. The brochure that Ms Tucker pulled an awful lot of her speech from was put out by the South East Forest Alliance, and very appropriately. Guess what even the South East Forest Alliance says? It says:

> What can you do to help? Contact your local council or your local member of parliament and encourage them to support the protection of the south-east forest.

I agree, but we are not their local council or their local members of parliament. We are another entity, elected by our people. The people in New South Wales have no input into our policy direction, nor should we into theirs. Even the South East Forest Alliance seems to understand that.

It is interesting that Ms Tucker has chosen to use this place to put forward the views of another organisation, the South East Forest Alliance. What Ms Tucker has asked us to do is exactly what the South East Forest Alliance has asked its members and its supporters to do individually, and that is to write to the Premier of New South Wales along particular lines. That is exactly what Ms Tucker has asked this whole Assembly to do, way outside our sphere of influence.

It is true that policies we pass in this place often have some effect over the border. When we passed legislation for tip fees, that caused some issues over the border. How would we have reacted to the New South Wales Government saying, “Change your policy, ACT Government.”? We would have said, “Fine. Give us the money”. Or we would have told them exactly what to do, and rightly so. This is patently ridiculous policy - members in this place using our Assembly, our parliament, for absolutely inappropriate reasons. Every day we sit in this Assembly it costs our taxpayers money.

Ms Tucker is using it for purely personal reasons, so that at taxpayers' expense she can send out copies of her speech to some of the people who would support her. I think that is unbelievable and unacceptable.

Ms Tucker is very good at talking about consultation. She says that we should consult to find out what the people want. We cannot consult with the people in these areas, because they are not our constituents. A regional leaders forum that does cover this region met last week, and the feedback I had from people there was that they do not support this approach. They believe that the approach that is being taken here will cost jobs. It appears that at least some of the members who do represent the people who live in this area do not support Ms Tucker's approach at all. So much for consultation. We are not even consulting with the people who live in the area, or the people who represent the people who live in the area. We will just come in right over the top and attempt to tell them how they should run their area. If they tried to tell us how to run the ACT, I would be severely unimpressed, and I believe everyone in this house, including Ms Tucker, would be. I think we should immediately go on to the next item on the agenda after we oppose this motion.

MR KAINE (11.15): I do not support this motion, for the final remark that the Chief Minister made. I think it would be the height of arrogance for us to tell the Government of New South Wales how to do their business. I agree with the Chief Minister. If the New South Wales Government tried to do that with us, particularly if it was a matter to do with the environment that did not please Ms Tucker, she would be the first one on her high horse about it. It is not our place to tell another government what they should or should not do, or how they should and should not do it. For that reason, I will not support this motion.

MR OSBORNE (11.16): I do not think Ms Tucker has gone far enough, quite frankly. If we are going to tell other governments what to do, we should go the whole hog. I have an amendment to her motion which I will possibly move. It will add that we write to the Premier of Queensland to ensure he does more for the survival of the dugongs in that State and that we write to the Premier of Western Australia to ensure that he does more to protect the dolphins at Monkey Mia, near Broome. Then I think we should write to the Chief Minister of the Northern Territory to ensure that he is doing enough for the protection of the sea turtles. Then perhaps we could write to the Premier of South Australia to ensure that South Australia are protecting the great white shark, an endangered species.

I do not think Ms Tucker has gone far enough. Someone suggested that we should write to the President of Indonesia and ask him not to use lead in the bullets they use to kill people, because lead is bad for the environment. We can perhaps do a lot of things, but we have no place in writing to other governments on issues like this.

MR CORBELL (11.18): There is no doubt that many people in the ACT would have considerable concerns about the operation of woodchipping in the south-east forests. Many Canberrans, indeed a great majority of Canberrans, at one stage or another have enjoyed the natural beauty of the south coast. They have appreciated the fact that it is an unspoilt area. Most Canberrans would want to see it remain that way.

The proposition that Ms Tucker is putting to the Assembly today asks us to make some very specific and definite decisions about areas that should be protected. I went to Ms Tucker earlier today and I said to her that my colleagues and I felt very strongly that the process of woodchipping was an undesirable one and one which should be phased out. I do not think many people in Canberra would disagree with that statement.

However, we are not in the position today to make a definite decision about whether or not the areas that Ms Tucker has identified in her motion should be protected. She outlined 15 community reserve proposals as developed by the South East Forest Alliance and asked us to endorse them. Mr Speaker, I do not think we can do that. The issues to do with regional forest agreements are complex and detailed. The protection of individual areas needs to be very closely considered. There are complex issues relating to the worth of protecting areas with endangered species. There are complex issues in relation to the impact on timber industries in the areas concerned and the impact, environmental and social, on local communities.

For that reason the Labor Party is not prepared to support this motion today. I would suggest to this Assembly that, rather than making a knee-jerk response on this issue, Assembly members should consider this issue. Ms Tucker has put this motion to the Assembly because it is about an issue of public concern in the Territory. We are elected representatives of people in the Territory. We have an obligation to consider the issue.

I remind members that this Assembly has not hesitated before in sending a signal about issues which are outside its jurisdiction. Indeed, this Assembly has seen this Government support issues which have absolutely nothing to do with our jurisdictional responsibilities. Nevertheless, because of the feeling in the Canberra community, it has been prepared to send a signal.

Perhaps the most obvious was in relation to the testing of nuclear weapons in the South Pacific. If I recall correctly, Mrs Carnell spoke very strongly in favour of a motion condemning that approach. What did that have to do with us? Did we have any jurisdictional responsibility for that issue? No, we did not. In fact, whose jurisdictional responsibility was it? It was the responsibility of the Government in Paris, but that did not stop this Assembly from saying, “We object to this process even though we are not even located on the coast”. Perhaps you could argue that cities on the coast would have had a direct interest, but because we are inland it had nothing to do with us.

It is a silly argument from the Government. This Assembly previously has said, “We reserve the right not to make decisions but to make a comment and to send a signal about our community’s concern about matters of concern to us”. That is what Ms Tucker is proposing today. Before we get a few more knee-jerk, greenie-bashing comments from those opposite, perhaps they need to reflect on their own record about sending signals to other jurisdictions.

I come back to the point that I believe is most important in this debate. In any debate we have to make a considered decision. Ms Tucker put this motion on the notice paper less than 24 hours ago. She is asking us to make a very detailed decision about very specific issues. I have said to Ms Tucker privately, and I say it in this debate, that we are not in a position to do that. We are certainly not in a position to do it simply on the basis of the

pamphlet which Ms Tucker has circulated, because that is not the full story. It is one part of the story but it is not the full story, I would imagine.

I propose - and I think my colleague Mr Wood will assist me in this shortly - to adjourn this debate until the Assembly decides that it is properly informed on the matter. Then we can decide whether or not to continue the debate. If the Assembly rejects that approach, I foreshadow now that I will move an amendment to Ms Tucker's motion to allow the Assembly to send a message about our concern about woodchipping in the south-east forests but in a way which does not require us to make detailed decisions about the specific areas that Ms Tucker has raised.

MR STANHOPE (Leader of the Opposition) (11.24): Mr Speaker, I rise to express sentiments similar to those of my colleague Mr Corbell. I am a little bit surprised at the parochialism expressed by the Chief Minister, the great advocate of regionalism. I recall the Chief Minister not all that long ago suggesting that she would be sponsoring a referendum in the region with the view of developing a regional government for Canberra and the region. Here we have a Chief Minister prepared to foster and sponsor a referendum on the basis of the need for us to better represent the interests of the region as a whole now arguing quite stridently against the prospect of sending a letter to the Government responsible for the surrounding area.

The people of the ACT have a very particular and strong interest in relation to things that go on within our region. The south coast of New South Wales, together with the south-east region of New South Wales, is a region of Australia that is of great importance to the people of Canberra. It is an area in which we have a particular interest. There is an enormous community of interest between Canberra and the entire region, in particular the south-east region.

It beggars belief that we should not feel ourselves able to approach a neighbouring government about issues of mutual interest. There is a whole range of issues in relation to which there is mutuality of interest. Are members opposite suggesting that, were a circumstance to arise, we would not write to Bob Carr about certain activities of the New South Wales Government in relation to the catchment area of Googong Dam?

Are members opposite seriously suggesting that we would not consult the New South Wales Government about aspects of the environmental impact of the very fast train? Are members opposite seriously suggesting that we would not contact the New South Wales Government about environmental aspects of the operation of the Canberra Airport? Would they seriously suggest that they would adopt this strident attitude that has been adopted here? No, they would adopt this strident attitude only when it impacted on some ideological position that they had already developed about the matter of concern.

Mr Corbell has put the position very well and very clearly. We do not support Ms Tucker's motion in its current form. We believe that the issues raised in the motion require some serious consideration by the members of this Assembly. They are issues in relation to which, in the context of a debate such as this, we need to be more precise. We need a better developed approach.

We would prefer to see the matter adjourned, but to suggest that under no circumstances should we approach the New South Wales Government, the Government that has the potential to impact so severely on the quality of life of the residents of the ACT, is quite amazing to me. The Government and others in this Assembly suggest that we should never approach the New South Wales Government in relation to a matter of the most significant importance to so many people in the ACT, namely the state of the south-east forests, the area which most people in the ACT use for their recreational and holiday purposes.

It is an area that we all visit constantly. We visit it, in most part, because of what it has to offer - its natural environment. We have a government here that does not think that our community of interests is of significant order to allow us, as another government, to approach the Government of New South Wales. It is the most parochial, narrow-minded, inward-looking, absurd approach to government that anyone could possibly imagine.

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

CASINO CONTROL AMENDMENT BILL (NO 2) 1999

Debate resumed from 25 November 1999, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

Debate (on motion by **Ms Carnell**) adjourned.

LAND (PLANNING AND ENVIRONMENT) AMENDMENT BILL (NO 4) 1999

[COGNATE BILL:

LAND (PLANNING AND ENVIRONMENT) LEGISLATION AMENDMENT BILL 1999]

Debate resumed from 13 October 1999, on motion by **Mr Corbell**:

> That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Land (Planning and Environment) Legislation Amendment Bill 1999? There being no objection, that course will be followed. I remind members that in debating order of the day No. 3 they may also address their remarks to order of the day No. 4.

MR SMYTH (Minister for Urban Services) (11.30): Mr Speaker, the call-in powers of the Minister for planning are an important part of the Act. I think the Assembly recognised when they put them there that there were circumstances when it was

appropriate for the Minister, perhaps at the direction of the Assembly or perhaps because of the policies of the current Government, to have that option in order to facilitate good planning. It has been my practice since I became the Minister responsible for planning to always inform the public when I use the call - in powers and the reasons why. With that in mind, Mr Speaker, the Government does not have any objection to Mr Corbell's Bill because it is something that we have been doing for a long time.

It is important when Ministers exercise their power that they explain it to the people so that people understand how the process works. On every occasion that I have used the call-in powers, Mr Speaker, I have put out a press release at the time and made the reasons for the use well known. In just about all the cases where I have used the call-in powers, Mr Speaker, I think it would sit very comfortably with what Mr Corbell is proposing in his Bill.

Mr Speaker, the Government will not be supporting Ms Tucker's Bill. We do not believe that the powers should be removed. We believe they do serve a useful purpose. The extensions that Ms Tucker calls for to other parts of the Land Act are unnecessary. We believe that they would clog the system with third party appeals that really are not necessary for good planning in this city. I think to extend it to single dwellings is an intrusion on people's personal homes. It will achieve nothing except slow up the system, clog the system with vexatious claims, and make it almost impossible to do anything on your own property.

It is important, I believe, that people have certainty, particularly when planning their family home. They should be able to know what they can do so that they can get on with their lives. We believe that what Ms Tucker is planning here is not acceptable and we call on all members of the Assembly to ensure that it does not go ahead.

What do we have in the ACT? We have a reasonable planning regime, Mr Speaker. Public notification, where warranted, is carried out as the various parts of the Planning Act are implemented, either through a PA, a DA or a BA. Where it is necessary, where there is an impact, there is appropriate notification and an appropriate process is followed. We do not want to turn that process into a nightmare for all involved that will slow down reasonable planning, that will slow down the process and make it open to vexatious claims. With that in mind, we will not be supporting Ms Tucker's amendments.

A consequence of Mr Corbell's amendments is that anything the Minister approves may be open to appeal or dispute, so we will be moving a small amendment that will allow appeals to the Supreme Court on points of law and set a period of 28 days in which an appeal may be lodged. The Government does not have a dilemma with what Mr Corbell has said. Why? Because we have been doing it. We do have a dilemma with what Ms Tucker proposes. Why? Because it does not add anything to the planning process. It will not achieve any better outcome for the people of Canberra. In fact, what it will do is disrupt good planning in this city.

People may well use the planning system and lodge vexatious claims to achieve their own ends. Since I have been the planning Minister, I have tried to make sure that people understand that they are not to use the planning system for their own personal ends. The

planning system, for instance, is not a business tool. You should not be using the planning laws to disrupt a rival business, to slow down their entry into the market or their expansion. That is not what the planning system is about and that is not what good planning is about. When people want to undertake planning activity in the ACT it is very important that they can do so with certainty and in the knowledge that where due process is followed it will flow through.

We believe we can live with what Mr Corbell is suggesting. It is accommodated in what the Government already does as a matter of principle. We do not believe that what Ms Tucker proposes in her amendment adds anything at all to the planning process, and with that in mind we will oppose her Bill.

MR MOORE (Minister for Health and Community Care) (11.36): I rise to speak in my independent capacity on planning matters. I always separate myself from the Government on these maters. I am pleased to be speaking to both these pieces of legislation. I think the criteria put up by Mr Corbell are very sensible criteria and I will be supporting the legislation, as indeed the Government is. The amendment seems to me to be a sensible one. In fact, I discussed this issue with Mr Corbell the other day without having come up with an amendment to that effect. I think this is a good solution along the lines of the discussion that we had.

I think it will be very important for us to monitor what happens here. I do have an underlying concern that if the appeal mechanism becomes the order of the day there may be a situation where a Supreme Court decision overturns a decision of the Assembly. I think that is something we need to monitor, remembering that the system put up by Mr Corbell does not have an appeal system to the Assembly other than the normal process of somebody using the Assembly to require a Minister to take some particular action. If we get that impact we should deal with it, but I think it is a small risk. I think it is unlikely that that will happen and therefore it is appropriate to proceed.

I would like to move on to the legislation proposed by Ms Tucker. I had noted that Ms Tucker's legislation was about broadening the appeal system and had reacted immediately by saying, "Yes, as a general rule I would support broadening the appeal mechanism where we can so that people have rights to appeal over the development". Then I had some concerns with it and Ms Tucker said to me this morning something to this effect: "Can you look at it carefully and make sure you do understand where we are going with the appeal?". I did so and I must say it increased my concerns rather than minimising them. I understand what it is that Ms Tucker is trying to achieve but I think that this appeal mechanism will go too far because of some probably unintended consequences as I see them.

We are talking about single dwellings. We are talking about appeals and informing neighbours of the approach that is being taken. We already have a system in place so that when somebody seeks to go beyond the set rules there has to be an appeal mechanism. Let me give an example. If somebody wants to build closer than 1.5 metres to a boundary, there are times when that is appropriate, such as for a garage or for some other reason, and there is an appeal mechanism now in place. So Ms Tucker's Bill does not add to that. There is a notification mechanism now in place for that process.

What concerns me with Ms Tucker's broadening of that is that it seems to me it would also apply to where an individual wishes to modify their bathroom, or where there is a substantial modification inside the house that does require planning approval. Now, I do not see that that should be appealable or notifiable to neighbours. I do not think it has anything to do with neighbours. When you are talking about going closer to the boundary and it can have an overshadowing impact on neighbours, it can have a range of other impacts; so that is why that notification exists, and appropriately so.

It may well be that what Ms Tucker intended was that, if somebody has a single dwelling and they are going to put up a second storey, the neighbours ought to be notified; but if that is done within all the rules that are set out, I think the notification is unnecessary. I would hope that neighbours, out of politeness, would inform their neighbours. Most neighbours, I imagine, would talk about what is going on within their homes. I think in the case of the single dwelling that the notification is not necessary because it meets the criteria.

I understand where Ms Tucker is coming from. As I say, my immediate reaction was to support her Bill, but I think the unintended consequences of the legislation, as I read it, are serious enough for me to say, "No, I am not prepared to support it at this stage".

MS TUCKER (11.41): Mr Speaker, I will speak just at the moment to Mr Corbell's call-in powers Bill. I have explained already to you and to other members that we need to seek an adjournment to a later time this day because of some procedural issues that need to be sorted out because my Bill deals with two different issues.

I will speak now to Mr Corbell's call-in powers Bill. I was interested to hear the Minister say that he would not support my call-in powers legislation, but he would support Mr Corbell's because he thinks it would serve a useful purpose. It is clear that Mr Smyth thinks it does serve a useful purpose, basically to fast-track development applications and avoid third party appeals against applications. In the case of the new Woden cinemas and the lease variation at Homeworld in Tuggeranong, the Minister, Mr Smyth, openly said that the call-in powers had been exercised to stop appeal processes that had already been initiated by objectors. In the case of the expansion of the Manuka cinemas, the Minister actually overruled the commissioner's initial decision to reject the application.

It would be hard to regard these development applications as major proposals of territory-wide significance. It is a statement of the obvious that the Minister thinks it serves a useful purpose. We are obviously concerned about the implications of such a power, particularly as it is totally without any appeal rights. It is not even able really to be brought to the Assembly. We could make it disallowable, but that would be quite messy, and it would involve processes that took up time anyway. So why not just keep this seated in proper planning processes, which is what our proposal on the call-in powers was basically supporting - that we do not have any situation where the Minister just makes a decision and is all powerful?

We have planning laws so that there is a process in place that the community can have confidence in and that is accountable. You could argue that ultimately the Minister is accountable because he has to stand up for re-election, but, unfortunately, a lot of damage can be done in three years, as we know too well.

I will not be supporting Mr Corbell's piece of legislation on the call-in powers. Obviously, I am supporting my own. May I move that the debate be adjourned until a later time this day? No, I cannot. Someone else can do that.

MR SPEAKER: Yes, that is right.

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

LAND (PLANNING AND ENVIRONMENT) LEGISLATION AMENDMENT BILL 1999

Debate resumed from 13 October 1999, on motion by **Ms Tucker**:

> That this Bill be agreed to in principle.

MR CORBELL (11.45): Mr Speaker, I understand that I may speak in this debate, so I will make a couple of comments in relation to Labor's view in relation to this Bill. As Ms Tucker indicated earlier, she does not believe there is a role for the exercise of the ministerial call-in power - the power of the Minister to determine, either in favour or against, a development application. This approach, I believe, would have some merit if it was in the context of a truly independent planning system with a planning authority with statutory independence from the Minister for planning. Only then could you be absolutely confident that planning decisions were made without any government intervention.

However, Mr Speaker, that is not the system that operates in the Territory today. The system that operates in the Territory today is a planning system where the planning agency is directly responsible to the Minister for planning, and it does not have the statutory independence that many in this Territory would like it to have.

In light of that there are, I believe, grounds for the exercise of a ministerial call-in power, and, contrary to what Ms Tucker argues, there must be criteria under which that power is exercised. That, of course, is the intention of my Bill, the debate on which we have just adjourned.

Mr Speaker, you cannot remove a call-in power in the way Ms Tucker is proposing under the current system because under the current system there will be on occasion the need for the Government, any government, to require a development application to proceed or to be stopped in the interests of the Territory, in the interests of the furtherance of the planning objectives of the Territory or in the public interest overall. For that reason the Labor Party will not be supporting the Bill put forward by Ms Tucker today in relation to the call-in powers.

Ms Tucker proposes another element in her Bill, and that relates to third party appeal rights for single dwellings. This is not as simple as perhaps the Government would like to present because Ms Tucker's Bill, as I understand it, only provides for appeal rights for developments in relation to single dwellings where approval is granted basically to exempt part of that application from the performance measures outlined in the Territory Plan.

Mr Speaker, you would think on the face of it that it is not a problem not to have appeal rights in that situation, but as I go around Canberra and as I meet residents who are concerned about development in their suburb - usually it is in the house next door to them or down the street - they are raising with me the issue that the development has been approved and that certain performances measures have been exempted. What does this mean in practice, Mr Speaker? In practice this means that the development is usually larger, or taller, or bigger, or more colourful, or with bigger windows or with greater denial of solar access than is usually allowed for under the performance measures. The intent of exemption from the performance measures is that your design actually improves on those measures; your design actually improves on the final outcome that is developed. But that is not what is occurring, Mr Speaker.

What is occurring is actually, in many instances, the reverse of that. You are getting a worse outcome. You are getting a worse outcome in the eyes of residents and in the eyes of people in their suburbs. Mr Moore made the point that this could apply to a bathroom in a residential home. Well, quite simply, Mr Speaker, if someone appealed on those grounds it would almost certainly be deemed vexatious.

I was surprised to hear Mr Moore stand up here and say that we should not have third party appeal rights in this case because it will lead to vexatious appeals. Well, Mr Speaker, I have seen Mr Moore stand up in this place before and say that people should not be afraid of third party appeal rights; that the vexatious appeals argument is a nonsense. I have heard Mr Moore say that in this place. I accept that Mr Moore may be differentiating between certain types of appeals, but to use the vexatious appeal argument really is a nonsense because vexatious appeals are promptly dealt with by the tribunals concerned. They are promptly dealt with in most instances. Therefore, Mr Speaker, if people go down the vexatious appeal path the appeal is going to be dealt with very quickly. That is going to send a clear signal that the tribunals concerned are not going to put up with those sorts of appeals and they will promptly stop. So, Mr Speaker, I do not accept Mr Moore's argument about vexatious appeals.

We are down to the issue of whether or not it is appropriate to grant third party appeal rights in the instance that Ms Tucker is proposing. I would argue, Mr Speaker, that we are seeing an unprecedented rate of redevelopment in Canberra's established suburbs. We are seeing the nature of our established suburbs change very quickly. They have remained static for a considerable time and we are now seeing quite a rate of change.

This change is mostly for the good. We are seeing improved residences. We are seeing high-quality residences being built in our established suburbs and they are complementing those suburbs. But, Mr Speaker, there are areas of concern, and I see no reason why, in a situation where a performance measure is deemed to have been exceeded, which is of course a subjective judgment, someone cannot appeal against that.

People should be allowed to appeal against that because they may take a different view. If it is affecting someone's personal amenity, if it is affecting the amenity of a neighbourhood, of a street or of a suburb, then it is appropriate to allow a third party appeal.

Mr Speaker, the Labor Party will be supporting Ms Tucker's amendment in relation to a third party appeal for these areas because it is workable and it provides a right that is currently denied to residents to have a say on what sort of suburb they live in into the future. I challenge any member in this place to deny residents in those suburbs that right. They live in them, they enjoy their amenity, and they want to see the amenity improved and enhanced, not degraded.

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

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1998

Debate resumed from 9 December 1998.

Detail Stage

Clauses 1 to 3, by leave, taken together, and agreed to.

Clause 4

MR RUGENDYKE (11.53): I move:

> Page 2, line 1, omit the definition, substitute the following new definitions:
>
> " '***burnout*** means-
>
> (a) in relation to a motor vehicle other than a motor cycle-operate the vehicle in a way that causes the vehicle to undergo sustained loss of traction by 1 or more of the driving wheels; or
>
> (b) in relation to a motor cycle-operate the motor cycle in a way that causes the motor cycle to undergo sustained loss of traction by the driving wheel.
>
> '***prohibited substance***, in relation to the burnout of a motor vehicle, means-
>
> (a) petrol, oil, diesel fuel or any other flammable liquid; or
>
> (b) any other substance that increases the risk of death, injury or damage to property (including damage to the surface of any road or to any prescribed traffic control device) from the burnout.'.".

This amendment omits the definition from clause 4 and substitutes two new definitions relating to a burnout and a prohibited substance. The committee recommended that the definition of a burnout be in line with that for New South Wales, and that is how I have approached this amendment. The burnout definition is divided into two parts to distinguish between a motor vehicle burnout and a motorcycle burnout.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 5

MR RUGENDYKE (11.54): Mr Speaker, I seek leave to move together amendments 2 to 11 circulated in my name.

Leave granted.

MR RUGENDYKE: I move:

Page 2 -

Line 8, proposed new section 119, after "public street" insert "or public place".

Line 11, proposed new paragraph 119(c), omit "trial the speed", substitute "trial the maximum speed or acceleration".

Line 14, proposed new section 119, omit "granted under subsection 139H(1)", substitute "under subsection 217(1)".

Line 18, proposed new section 119AA(1) –

Omit "knowingly".

After "public street" insert "or public place".

Line 21, proposed new subsection 119AA(2) -

Omit "knowingly".

After "public street" insert "or public place".

Line 22, proposed new subsection 119AA(2), omit "petrol, oil, diesel fuel or other inflammable liquid", substitute "prohibited substance".

Line 24, proposed new subsection 119AA(2A), after proposed new subsection (2), insert the following new subsection:

> "(2A) In a prosecution for an offence against subsection (1) or (2), it is a defence if the person charged establishes that the motor vehicle, although operated in contravention of the subsection, was not deliberately operated in that way.

Line 26, proposed new subsection 119AA(3), omit "granted under subsection 139H(1)", substitute "under subsection 217(1)".

Amendment 2 amends clause 5 to incorporate public places as well as public streets in the proposal to make clear to the public that areas such as car parks are off limits for offences under proposed new section 119. Amendment 3 amends clause 5 to make clear that the legislation is aimed at trials, testing maximum speed or acceleration. Amendment 4 amends clause 5 to transfer the job of granting and refusing permits from the chief police officer to the Registrar of Motor Vehicles. This is consistent with the findings of the committee inquiry.

Amendment 5 removes the word "knowingly" from clause 5. It is a consequential amendment. Amendment 10 inserts a proposed new subsection which makes a non-deliberate burnout a defence against prosecution, so the word "knowingly" is no longer required. Amendment 6 amends clause 5 to incorporate public places as public streets, to make clear to the public that areas such as car parks are off limits for burnouts and are offences under section 119AA. Amendment 7 removes "knowingly" from clause 5 and, as I said before, amendment 10 inserts a proposed new subsection which is a defence against prosecution for non-deliberate burnouts.

Amendment 8 is similar to amendment 6, incorporating public places as well as public streets. It makes clear that areas such as car parks are also off limits for burnouts under section 119AA. Amendment 9 amends clause 5 by omitting the substances listed and substituting the prohibited substances defined in amendment 1. Amendment 10 inserts a new subsection which makes a non-deliberate burnout a defence against prosecution. Amendment 11 transfers the job of granting and refusing permits from the chief police officer to the Registrar of Motor Vehicles, consistent with the findings of the committee inquiry.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 6

MR RUGENDYKE (11.58): Mr Speaker, I ask for leave to move together amendments 12 to 17 in my name.

Leave granted.

MR RUGENDYKE: I move:

Page 2 –

Line 29, proposed new heading to Part VIIIA, omit the heading, substitute the following heading:

" '**PART 8A—ENFORCEMENT OF SECTIONS 119 AND 119AA**"

Line 30, proposed new Divisions 1, 2 and 3, omit the Divisions.

Page 5 –

Line 31, proposed new heading to Division 4, omit the heading.

Line 32, before proposed new section 139J, insert the following new section:

"139I. **Meaning of *impounded motor vehicle* in pt 8A**

In this Part-

impounded motor vehicle means a motor vehicle impounded under this Part.".

Line 33, proposed new subsection 139J(1), omit ", 119AA, 139F or 139I", substitute "or 119AA or subsection 217(4)".

Page 6 -

Line 4, proposed new subparagraph 139J(1)(b)(i), omit the subparagraph, substitute the following subparagraph:

(i) a period not longer than-

(A) for a first offender-3 months; or

(B) for a repeat offender-12 months;

Mr Speaker, these amendments relate to the running of events. They delete the provisions I had for the police to run them and simply allow the Registrar of Motor Vehicles to do his work in that area. They return it all to section 217 of the Act for simplicity and for the efficient operation of that part of the Act.

Amendments agreed to.

MR HARGREAVES (12.00): Mr Speaker, I move:

> Page 6, line 5, proposed new subparagraph 139J(1)(b)(ii), omit the subparagraph, substitute the following new subparagraph:
>
> "(ii) if the court specifies another period of disqualification-the other period; or".

Mr Speaker, we had this argument yesterday, so I will not go over old ground too much. Essentially, we are seeking with this amendment not to restrict the court as to the length of the disqualification. That is merely what we are seeking to do. We support absolutely section 139J as proposed by Mr Rugendyke. We support subparagraph (i), which relates to a period of disqualification not exceeding 12 months, and we support subparagraph (iii), which says that if the person is already disqualified, the disqualification shall be for a further period specified by the court. We figure that in the middle of that the court would be still involved and would know the seriousness or otherwise of the matter.

Mr Speaker, all we are saying here through our amendment is that, if the court specifies another period of disqualification, the other period shall prevail. In other words, we are giving the court the flexibility to decide on each case. The Bill says that, if the court specifies a longer period of disqualification, the longer period shall prevail. We believe that it is directly for the court and that this amendment is necessary. We believe that there are plenty of discretions here for the court and that we ought to leave it to the discretion of the court.

Amendment negatived.

MR RUGENDYKE (12.02): Mr Speaker, I move:

> Page 6, line 10, proposed new subsection 139J, after proposed new subsection (2), insert the following new subsection:
>
> "**(1)** For this section—
>
> (a) a person who is convicted, or found guilty, of an offence against section 19 or 19AA (the ***current offence***) is a ***repeat offender*** in relation to the current offence if the person has been convicted, or found guilty, of an offence against section 19 or 19AA within 5 years before being convicted, or found guilty, of the current offence; and
>
> (b) a person who is convicted, or found guilty, of an offence against section 19 or 19AA is a ***first offender*** in relation to the offence if the person is not a repeat offender in relation to the offence.".

Mr Speaker, this amendment adds to proposed new section 139J provisions for a person convicted of an offence under section 19 or 19AA. It describes current offenders and repeat offenders and provides a penalty for repeat offenders.

Amendment agreed to.

MR RUGENDYKE (12.03): Mr Speaker, I move:

> Page 6, line 14, proposed new subsection 139K(1), omit ", 119AA, 139F or 139I", substitute "or 119AA or subsection 217(4)".

Mr Speaker, this amendment is a machinery one relating to the transfer of the running of an event to the Registrar of Motor Vehicles from the way I had it in the first place, run by the police.

Amendment agreed to.

MR HARGREAVES (12.04): Mr Speaker, I move:

> Page 6, line 11, proposed new section 139K, omit the section.

Mr Speaker, this is the first issue on which I expect to cause some angst. This provision goes hand in hand with later provisions in terms of the seizure of the vehicle of a person found to be breaching the burnouts legislation. It was said by one of the Ministers recently, I think as a throwaway line, that this burnouts legislation is consistent with national transport reforms. That is not true. This legislation is somewhat draconian and has not been endorsed across the country. Maybe it has been in Newcastle. Maybe it has been in Sydney, but I am not aware of that. But I do not know of any other jurisdiction where it is applicable. Let us look at the wording of proposed new section 139K(1). It says:

> A police officer may seize a motor vehicle if the officer suspects on reasonable grounds that the vehicle has been driven or operated on a public street in contravention of section 119, 119AA, 139F or 139I.

It can apply if a police officer suspects that somebody has done a burnout. There are no time limits or anything else on it. He can rock around to a house and seize a vehicle if he suspects it on reasonable grounds. Mr Speaker, I do not think it is on for a police officer to say, "I received information that a burnout has taken place with a red V8 Ford", and go to the first person he spots with a red V8 Ford and knock it off. I do not believe that to be at all correct. Later in the story there is talk about having to pay prescribed fees to recover the vehicles, but I cannot see any detail about that. This is big brother stuff to the absolute extreme.

Mr Speaker, I want this Assembly to consider whether the penalties which pertain to doing a burnout are not significant enough already. We are talking about a penalty of $2,000. If the offender is a body corporate, it is 250 penalty units. Mr Speaker, can you imagine a body corporate actually doing burnouts down Lonsdale Street of a night? The mind boggles. It just shows the degree of thought that has gone into this sort of stuff.

All we are saying here is, "We do not like burnouts; let us take the vehicles off the road". The police can seize a vehicle just like that - clickety-click. At the moment, the police have the power to book somebody for negligent driving, but do the police have the power to book somebody for suspected negligent driving? I suspect not.

I find it absolutely incredible that we are allowing a person other than a police officer to remove a vehicle. Admittedly, it is at the direction of a police officer; but, at the direction of a police officer, a person can come and knock off my car, paid for and registered by this Assembly, because it is suspected of having been involved in a burnout in Lonsdale Street. I have not done a burnout in my life.

Mr Moore: I have.

MR HARGREAVES: Michael Moore, the Minister for Health, has, and he is Minister for Health because he survived it. Mr Speaker, this is just unbelievable stuff. I think we should just dismiss it out of hand. It is giving to police powers far and above those we would normally ask them to perform. They do not need this power; they have enough power. I do not think that there is sufficient reason for knocking off somebody's car under the guise of national road rules because they are suspected of having done a burnout and there is a risk of somebody dying because of the burnout. I ask the Assembly to omit this clause.

MR STEFANIAK (Minister for Education) (12.09): Whilst I cannot remember ever doing a burnout, I might have attempted one once and failed miserably.

Mr Hargreaves: You were too heavy, Bill.

MR STEFANIAK: You are probably right there, mate. I was lighter then, but not all that much. I am not going to comment on what Mr Hargreaves said in terms of body corporates. Mr Rugendyke can comment on the rationale for that. But I feel that I should comment on a couple of other points Mr Hargreaves made. I refer to the provision whereby a police officer may act if he believes on reasonable grounds that something happened and his comment about someone acting under a police officer's direction to remove, dismantle or neutralise locking devices and things like that.

Firstly, it is common in a lot of the criminal and quasi-criminal legislation to state that a police officer may act if he believes something on reasonable grounds. That is quite normal. It has been in statutes for many decades. It is a normal piece of phraseology that enables a police officer who does believe something on reasonable grounds to effect certain action as a result of that and then place a person before a court. If the police officer happens to be wrong, that person can plead not guilty and, obviously, the police officer has to prove beyond reasonable doubt that there were reasonable grounds that the person had been committing an offence. There are all sorts of protections there and I do not think Mr Hargreaves should be startled at all by that.

As to someone doing something under a police officer's direction, a police officer may not be expert in terms of neutralising locking devices. If anything, I would see it as a bit of protection for the hoon whose car is being impounded if a professional person actually dismantles or neutralises the locking device as a police officer might not have

the relevant expertise. But it is necessary, because there are sanctions to these laws, for the police officer to be there to supervise it and to ensure that that person does it under the police officer's direction, otherwise that person could be liable for certain action by the owner. There is a necessity to protect that person and there is a necessity to ensure that the person is only doing it in accordance with the directions of a police officer who is in the process of enforcing this law.

I can think of a number of instances where similar types of situations do arise in other statutes. Again, I would say to Mr Hargreaves that it is not anything to be unduly alarmed about. If anything, I think that it probably offers some sensible protections all round, including to the offender.

MR MOORE (Minister for Health and Community Care) (12.12): Perhaps I should clarify my interjection on burnouts that Mr Hargreaves picked up. I should have said that I had tried to do burnouts, rather than being particularly successful with them, in my younger days. At no stage did I use the oil and so forth which, I gather, you need to do them properly.

The issue that Mr Hargreaves raises with this legislation, and it comes with the first of his amendments about the seizure of vehicles by police, is that the penalty is totally over the top for the problem. I must say that in some ways I would be prepared to support this provision if it were about letting people cool down, if it were about saying, "You are misusing your car now. We are seizing the car. You will get it back within 48 hours and then we will work out how you are going to be charged and what the penalties will be". But the penalty of taking away somebody's vehicle in the way that that is to be done through this process is entirely, completely and utterly over the top. I think that that is the problem with the legislation.

I do not disagree with Mr Rugendyke's motivation. There is no doubt that the situation we have in Lonsdale Street, which Mr Rugendyke is trying to address, and the situation that arises out of the Summernats, which Mr Rugendyke is trying to address, do need to be addressed. I must say that I can see the sense in seizing a vehicle for a very short period. The difficulty here is that the vehicle seized can be held for 28 days. To me, that is going totally over the top.

The vehicles will range in price from $100 to $40,000. Some people will do a burnout deliberately to see what happens if their vehicle gets towed off, but they will get out of it very quickly as the legislation works. The other people would be so proud of their cars and would have put so much effort and time into them that they would not like having them removed for 48 hours, and we all understand that. The level of penalty for this offence is out of all proportion to the offence itself. That is why I have no choice but to support Mr Hargreaves' amendment.

As I say, if this clause were in the context of there being a cooling-down period, effectively, and a person would not have their car for 24 hours, 48 hours or something like that, I would say that that would make sense as it would deal with the situation immediately and everybody who went out on Friday night to have a burnout in Lonsdale Street or wherever would know that the police could take their cars away from them for the weekend, basically. Mr Rugendyke is trying to resolve the matter, and I do not

disagree with that, but I think that the method being used to do so is extraordinarily over the top.

I must say that I think that it would be better to adjourn this matter now and come back after we have had a think about it. Mr Rugendyke is probably determined to push on with it and he probably has the numbers. I have had the numbers before and pushed on with things, so I understand that. But I think that there are better ways of dealing with it without creating the impression that we are taking issues like this to that degree of seriousness.

This provision brings into question how seriously we take a whole range of things in the motor transport legislation. Last night we dealt broadly with the motor transport legislation, including drink-driving. We do not impound people's vehicles for that. I have to say that it would seem to me that we have greater reason for impounding somebody's vehicle over serious drink-driving offences. If somebody is guilty repeatedly of drink driving, then, using this logic, you would have to say that that is a better reason for adopting this process.

At the moment, to the best of my knowledge, the only area where we actually seize assets - and we are talking about the seizure of assets - is for very serious drug-dealing offences. We are talking about the proceeds from drug dealing on a huge scale. Somebody may correct me, but my recollection is that that is the only occasion on which we seize assets. There is a big difference between that and allowing the police to have the power to handle a situation which is clearly out of hand and which we need to handle by providing for a cooling-off period. As to the way that it is being done here, I just think that the legislation is totally over the top and disproportionate to what we are trying to achieve.

MS TUCKER (12.18): I share some of the concerns that Mr Moore has just raised. In the in-principle stage, I expressed concerns about the legislation being poorly drafted, amongst other issues. We are also concerned about the basic response as a penalty and how it sits with other penalties and the lack of consistency. I support Mr Rugendyke's intention. I understand what he is trying to deal with. I am aware of that and supportive of it, but we do have concerns about the response that he has come up with.

Since the recommendations of the Urban Services Committee, we have had Mr Rugendyke put a range of amendments which tighten up the legislation. The committee also recommended that the new legislation be closely monitored over the next year and that the Government advise the Assembly of suitable sites for burnout events to be conducted legally, and I agree with those recommendations.

I am really interested in the punishment, which we discussed at length yesterday. It is interesting to compare the punishment for this offence with the punishment for other offences under the Motor Traffic Act. There is already an offence under section 119 of the Motor Traffic Act for racing another vehicle on a street. It carries a $200 fine and three demerit points. For exceeding the speed limit by between 15 and 30 kilometres an hour there is a fine of $180 and three demerit points. However, Mr Rugendyke has set a penalty for burnouts of a $1,000 fine, disqualification from holding a driving licence

and seizure of the vehicle for three months for first offenders, and 12 months' disqualification and forfeiture of the vehicle for repeat offenders.

As Mr Moore and others have said, this is a very extreme reaction. It concerns me that Mr Rugendyke wants to use the very big stick against people who do burnouts of seizing their vehicle when more dangerous activities on our roads are subject to lower penalties. The question that has to be asked is: Which offence is creating a greater public safety risk? Whilst we do not condone burnouts, I do not think that they are in the same league as speeding and drink-driving in terms of risk to public safety.

It is very interesting to compare the penalties for speeding with those for drink-driving. The fine for first offenders with a blood alcohol content over 0.05 is only $500 and loss of licence for six months. For over 0.08 it is $1,000 and 12 months' disqualification. A report put out by the Federal Office of Road Safety at the end of 1997 on travelling speed and the risk of crash involvement found that in a 60 kilometres an hour speed limit area the risk of involvement in a casualty crash doubles with each five kilometres an hour increase in travelling speed above 60 kilometres an hour. It also found that speeding at even five kilometres an hour above the 60 kilometres an hour speed limit caused more crashes than drink driving with a blood alcohol content of 0.05. Mr Smyth might be interested in that and I ask him to listen because he is the one who has responsibility for these issues. It is very interesting information and I am happy to give him the details of this report.

A person driving at a speed of 72 kilometres an hour in a 60 kilometres an hour zone has the same risk of involvement in a casualty crash as a person driving with a blood alcohol content of 0.12. We had a discussion yesterday about drink-driving. The reason I am bringing this information to the attention of members is that we are not acknowledging the danger of speed in the same way. The amazing thing is that such a drink-driver would receive a fine of $1,000 or up to six months' imprisonment and a 12-month licence disqualification. Under the road transport legislation passed yesterday the person will receive a mandatory disqualification of three months and no opportunity to get a restricted licence. However, if the person was caught speeding at 72 kilometres an hour - the same risk is there - only 12 kilometres an hour over the speed limit, there would be a fine of $112 and one demerit point. Surely something is out of balance there.

There is also the question of why the existing offences in the Act cannot be used for burnouts and racing. Getting back to Mr Rugendyke's legislation, there are already offences for reckless driving, negligent driving and dangerous driving, with fines ranging from $100 to $1,000. Surely the deterrent already exists for these activities. Perhaps the problem is more with having enough police available to deal with these incidents rather than the provisions of the Act.

I also have concerns about the civil liberties aspect of police being able to seize a person's vehicle for up to 28 days before an offence has been proven in court. What is that saying, once again, about what this Assembly thinks is the role of the courts? We had that discussion yesterday. It was interesting to hear that Mr Moore would even consider seizure for a couple of days in light of his position yesterday. We know that there can be real issues for people not having a car. Once again, we have a penalty being

imposed by the Assembly without any provision being put in place for the courts to have the discretion to determine that it is the just and sensible thing socially for a particular penalty to be applied. That is my concern about the civil liberties issue relating to being able to seize a person's vehicle.

I would have thought that the behaviour of the driver of the vehicle would be the problem, not the car itself, which is just the means of transport. If the driver is breaking the law, then it would seem to be more consistent to take away their licence to drive, as occurs under drink-driving laws, than to take away their car. For a number of reasons, I am really concerned about this matter and I do ask Mr Smyth to look at the information I have just put before this place about the relationship between speed and casualty crashes and the penalties applied there compared with the penalties that this place has imposed on the offence of drink-driving, which is a very serious issue for road trauma.

I do not believe that Mr Rugendyke's legislation, if passed, will in any way give credibility to this Assembly in terms of the consistent approach or the lack of a consistent approach that is taken to these issues of behaviour and road management. They are in quite a mess now and could become worse if this provision is passed.

MR STANHOPE (Leader of the Opposition) (12.25): Mr Speaker, I rise to express the same concerns as have been expressed by my colleague Mr Hargreaves and by Ms Tucker. I do think that the approach taken in this legislation really is out of kilter with the approach that we have taken in relation to the punishment of traffic offenders and traffic offences. I think that the hierarchy of penalties or the responses that this legislation proposes are simply out of kilter. Not only are they out of kilter, but also I think that some of the responses to this newfound offence of burnouts or wheel spinning simply are inappropriate.

We are reclassifying this offence of racing, this offence of wheel spinning or this offence of burnouts. In the existing legislation it probably comes under dangerous driving. We are reclassifying an existing offence. This behaviour is an offence under the existing legislation. We are reclassifying an existing offence for the sake of appearances, so that we look tough, so that we look as though we are actually doing something, but all we are doing is renaming an existing offence and applying to it a colourful and draconian penalty.

We are taking what is an existing offence of dangerous driving and giving it a new name - burnouts or wheel spinning - and we are applying this regime of punishment, namely, the prospect of seizure followed by the prospect of the vehicle being impounded and forfeited and eventually, in the context of perhaps more than one offence, the vehicle simply being sold. As Ms Tucker has said in some detail, this is not a response that we apply to the whole range of offences in the motor traffic legislation that each of us in this place would accept absolutely are more serious, more dangerous and more deserving of that level of ultimate sanction that we have available to us as a parliament.

To provide this hierarchy from the bottom, to promote what was, in effect, dangerous driving over and above culpable driving, driving at speed whilst drunk or driving in a dangerous and reckless manner causing death, we now have a situation in which a young kid doing a wheel spin will suffer a greater penalty than a drunkard who causes death or injury through reckless driving. That is simply wrong. It is the wrong approach to punishment, it is the wrong approach to the dispensation of justice and it is wrong in a road traffic strategy that we start at the bottom, that we punish the transgressors that we regard as not actually participating in the most dangerous or the most heinous form of conduct more than we punish those who do the most outrageous things on our roads.

A drunk driver who caused a death would not necessarily suffer the same level of punishment as an 18-year-old kid doing a wheel spin on some back street and causing, in that instance, no damage or no injury. That is simply wrong. It is a wrong-headed approach to punishment. It is a wrong-headed approach to the administration of justice. Let us not kid ourselves about this matter. We are singling out a perceived group of offenders, namely, young men. We are, basically, making scapegoats of a group of offenders for the sake of appearance, for the sake of showing that we are really serious about this matter, that we are tough on law and order, that we will crack down on these young thugs, and that we will clean up our road problems.

This approach will not do that. This is not a road safety strategy; this is classic scapegoating of an identifiable group of offenders, namely, young macho men who are proud of their hotted-up cars. We are pointing the finger at them and saying that they are the group that is dangerous on the roads. We take the focus off the middle-aged wealthy lawyer, public servant or politician who drives home drunk as the main cause of concern on our roads and we put the focus on young kids, all as part of a design to make us look tough. It is part of the inexorable move to the right which I was amused to hear Mr Moore talking about yesterday.

Mr Moore, who basically provides the cement that holds together this right-wing Government, was out bleating and lamenting the fact that the Assembly has moved to the right. Mr Moore might just have a little bit of a think about his role in cementing together this right-wing coalition that now holds sway in this Assembly. Mr Moore is an intrinsic part of the cement that binds this right-wing coalition together and I find it amusing in the extreme to see Mr Moore out there beating his breast about what a pity and what a shame it is that we have moved to the right to the extent and to the degree we have. Mr Moore holds this right-wing coalition together; let there be no mistake about that.

MR SPEAKER: Relevance, Mr Stanhope.

MR STANHOPE: It is relevant to the stand and the posturing of Mr Moore on this issue. We have here what may be, on behalf of Mr Rugendyke, a right-headed attempt to do something about serious traffic problems that we have in Canberra. We do have a cultural problem in relation to the way the roads are used. I do not denigrate Mr Rugendyke's honest attempts at trying to do something about the poor traffic culture that we do have. But this approach is simply wrong-headed, Mr Rugendyke. I think your motives are fine. I think your approach is simply wrong. I think that it is the wrong approach to a serious problem. It is a problem that we all think is extremely serious.

This is not a strategic way to go about approaching the serious problems we have in relation to the need for us to change the culture of speed and the culture of larrikinism on the road. It is wrong that we elevate this single offence, which boiled down is the offence of dangerous driving, above what every one of us knows are far more serious offences.

There can be no confidence in a system of justice - and this is important in terms of the philosophy of punishment and the philosophy of justice in relation to our response to law and order issues - that elevates an offence that we do not regard as of the first order of offence in relation to a range of traffic offences. It is dangerous to elevate an offence which we know to be not the most serious of offences over and above every other offence that is committed in relation to that particular area of the law. It brings the law into disrepute.

Those people who do have their vehicles confiscated, who do potentially have their vehicles sold as a result of wheel spinning, will have no respect for authority, for this parliament or for those who have imposed this unfair and unjust hierarchy on them because they know in their hearts, as we all know, that they are being punished more severely than transgressors who offend more severely than they have. That is simply not right. It is not fair and it will bring the law into disrepute and it will bring the police into disrepute. Those people who are subjected to police action as a result of this law will know that they are being unfairly treated. It will bring the police into disrepute, it will bring the law into disrepute and it will not solve the problem that it seeks to solve.

Debate interrupted.

Sitting suspended from 12.34 to 2.30pm

QUESTIONS WITHOUT NOTICE

Bruce Stadium

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. On 26 November the Chief Minister told ABC radio that the Assembly passed legislation to alter the manner in which the Bruce Stadium redevelopment was financially structured. The Chief Minister said the Assembly “wasn’t happy with the financing approach” that the Government had taken - that is, presumably, the plan to have the private sector pay for most of the project - and insisted on going to a “full public funding”. The Assembly, said the Chief Minister, forced the Government to withdraw from the deal it had in place with the Commonwealth Bank for “a significant amount of the funding”. Can the Chief Minister tell the Assembly, for the benefit of those members who might have missed it, which particular piece of legislation imposed the requirement on the Government to meet the cost of the redevelopment fiasco from the public purse? When did the Government withdraw from the deal with the Commonwealth Bank, and why were the details of the deal with the Commonwealth Bank not included in the papers on Bruce Stadium tabled in the Assembly? Will the Chief Minister now table the correspondence relating to the deal and the Government’s withdrawal from the deal?

MR SPEAKER: There are four parts to the question.

MS CARNELL: Four parts, and on the basis that I obviously cannot remember some of them I will answer only the ones I feel like answering. That is what happens when you ask four questions in one, Mr Stanhope. With regard to the first part of the question, the most important part, Mr Stanhope, you and Mr Quinlan have made it abundantly clear on many occasions that you did not like the financing approach the Government had put in place. You asked questions - - -

Mr Stanhope: There was one, was there?

MR SPEAKER: Now, now, let us have some shush while the Chief Minister answers the question.

Mr Quinlan: I raise a point of order, Mr Speaker. I rather think that if the Chief Minister is going to make those sorts of accusations she should support them with some reference.

MR SPEAKER: There is no point of order, Mr Quinlan. It does not seem to matter what the Chief Minister says. The interjections are maintained, and I have had enough of them.

MS CARNELL: The Government made it very clear. I am sure that in the Estimates Committee and in other places it gave members of the Opposition and members of the crossbench a full rundown on what the financial deal looked like, how it panned out. Those opposite indicated that they did not believe that it stacked up appropriately; that they did not believe there was a benefit to the people of Canberra. And on and on they went. They were also provided with information from the Commonwealth Bank indicating that the Commonwealth Bank were comfortable about financing the arrangement that was put on the table in depth and at length.

Mr Speaker, those opposite cannot have it both ways. That is what it really comes down to. They cannot whinge about the private sector financing deal and say that it is not all right. This is a minority government. This Government pays attention to what this Assembly said. Members made it extremely clear that they did not believe the private sector financing approach was appropriate. On that basis - - -

Mr Stanhope: We have been Gary-ed, Mr Speaker.

Mr Corbell: Here, here! We have been Gary-ed.

MS CARNELL: Mr Speaker, I understood that that word had been ruled out of order.

MR SPEAKER: Silence! That word got you into trouble yesterday, Mr Corbell. Do not push your luck this time.

Mr Corbell: I will not ask any more questions, Mr Speaker, in due deference to you.

MR SPEAKER: I will give you the opportunity to ask one formally later. Can we now let the Chief Minister finish her answer?

MS CARNELL: The Commonwealth Bank, maybe the leading financial institution but certainly amongst the top group of financial institutions in this country, believed that the financial structure the Government put together was appropriate and was something they could be part of, but this Assembly made it absolutely obvious in many questions that they did not. If you take that line one day, you wear the outcomes of it. Look at surveillance cameras. The Opposition a couple of years ago said, "We do not like them". Today they say, "We like them". It is the same deal here. They indicated categorically that they did not support the private sector financing approach we put on the table.

Mr Quinlan: Rubbish!

MS CARNELL: Okay, you do support it. Do you or do you not? Mr Speaker, do they or do they not?

Mr Quinlan: We only asked you some questions. We asked for some facts.

MR SPEAKER: I warn you, Mr Quinlan.

MS CARNELL: Mr Speaker, they either have to support or oppose. They made every - - -

Mr Kaine: I take a point of order, Mr Speaker. I have to ask you for a ruling as to whether or not a wrong interpretation of what the Opposition's position was and then an attack upon that position are a fair and reasonable answer to a question. I do not think the Opposition leader is being given a proper answer to his question by any means.

MR SPEAKER: Mr Kaine, there is no point of order. As you know, questions can be answered as a Minister sees fit. The opportunity to respond to anything the Chief Minister or any other Minister says that people believe is incorrect is available under standing order 46 or 47, provided of course that you stick within the parameters of those standing orders. The opportunity is there, but not during the answer to a question.

MS CARNELL: Mr Kaine said in his point of order that a wrong interpretation of what those opposite believe would produce a particular outcome. If it is wrong, if they do support the private sector approach we put on the table, please let them say that. That is not what they did. They tried to undermine it. They tried in every way possible to create arguments. When we debated the Appropriation Bill - - -

Mr Stanhope: This was after the illegal expenditure, was it?

MS CARNELL: No. Labor opposed everything. They opposed the Appropriation Bill for CanDeliver and Bruce Stadium. That shows everything. They opposed the private sector finance; they opposed the Appropriation Bill. It is simply an Opposition that will not tell the people of Canberra what they support. That is really what it comes down to.

Yes, we did go down the path of an Appropriation Bill for the Bruce Stadium money. We put it all on the table because that is what those opposite said they wanted. Now they say it is not what they wanted - or do they, Mr Speaker? It is about time for them to stand up and be counted and to tell the people of Canberra how they would have funded the Bruce Stadium upgrade. They have also said they support that upgrade. They support the upgrade, but they do not support any method of funding it. That shows why they are not in government.

MR STANHOPE: I ask a supplementary question. Will the Chief Minister concede, contrary to her statement on ABC radio and some of the statements that she has made now, that the passage of the Appropriation (Bruce Stadium and CanDeliver Limited) Bill - and wasn't it limited? - was in no way an instruction to the Government to abandon plans for private sector financial involvement in the redevelopment, but was in fact a mechanism to correct the Government's illegal expenditure of public money without the authorisation of the Assembly?

MR SPEAKER: There is an imputation in that question.

MS CARNELL: I am absolutely amazed that those opposite could be so far off the mark. Of course it was a method of public sector funding. That is exactly what it was – a way of moving away from private sector funding to full government funding. That is what the figures showed. That is what it did. I am horrified that Mr Quinlan and Mr Stanhope, who think they could run this Territory, are so far off the mark when it comes to financial information. This Assembly made it clear that they were not happy with our financial arrangements - - -

Mr Stanhope: Because they were illegal.

MR SPEAKER: Ignore the interjections, please, Chief Minister.

MS CARNELL: I am happy to ignore the interjections. To assume for a moment that the Commonwealth Bank would be involved with anything illegal is totally unacceptable, and I am sure the Commonwealth Bank would take great exception to that. The financial arrangements entered into by the ACT Government were backed up by one of the top financial institutions in this country. They believed that it was a goer; we believed it was a goer; but this Assembly did not. - and made it very clear they did not. On that basis we brought a Bill to the Assembly to appropriate the money. That Bill was passed by this place.

To answer the question once and for all, we were happy to go with private sector funding but the Assembly chose not to.

Mr Stanhope: They were not happy to go with you.

MS CARNELL: Mr Stanhope says, "But they were not". We circulated a letter from the Commonwealth Bank making it clear that they were happy to go ahead. Mr Stanhope knows that, because I gave the letter to him.

V8 Supercar Race

MR OSBORNE: I am now a bit confused about where the Labor Party sit on Bruce Stadium.

Mr Stanhope: Why did you censure her then, Ossie?

MR OSBORNE: It has nothing to do with the censure motion. I thought the whole issue was about the fact that we needed to have the money approved by the Assembly. We did that, but now - - -

Mr Quinlan: I raise a point of order, Mr Speaker.

MR SPEAKER: Mr Osborne, ask your question.

Mr Stanhope: Why did you vote for the censure motion?

MR SPEAKER: Order! This is question time, not a general debate.

Mr Stanhope: Why did you vote for the censure motion?

MR SPEAKER: Be quite, Mr Stanhope. I would hate to have to caution you as Leader of the Opposition.

MR OSBORNE: It has become increasingly clear that the Labor Party's memory on process does not even extend back to last week.

MR SPEAKER: Mr Osborne, I will ask you to resume your seat very shortly if you do not ask your question.

MR OSBORNE: This is the new Labor Party! My question is to the Chief Minister. Yesterday I asked about a reported figure from Canberra Tourism for the V8 supercar race for the first year. I think the figure was $13m - $7m from government, $6m from sponsorship, ticket sales and other revenue raising. I then asked whether those figures were correct and whether the $6m was underwritten by the ACT taxpayer. Your response was less than clear. I am seeking to clarify your understanding of the event's financial arrangements. The papers you tabled yesterday showed the event's operating statement for the next five years. The figures for the first year of operation show a government payment of $2.5m and a start-up capital injection of $4.5m, making up the first year total of $7m, which has already been appropriated. The revenue total for corporate hospitality sponsorship, general admission ticket sales and licensing comes to $5m, making up a total of $12m. The question remains where the $13m figure comes from. Is this amount underwritten by the taxpayer? I am glad I am asking you and not the Labor Party.

MS CARNELL: As Mr Osborne will be aware, I gave him all of the figures related to his question very soon after question time. Where does the $13m figure come from? Of that, $8.5m is for expenditure - I do not have the figures with me, so I am running on memory here - and $4.5m is for capital works. That comes to the $13m figure. Off the $13m figure comes the revenue. The revenue of course is ticket sales, corporate sponsorship and a number of other smaller items.

As I said yesterday, if nobody turned up, if not one person came, the commitment of the ACT Government and CTEC would be around about the total expenditure. There is no doubt that about that. That information has been on the table from the first time those opposite, particularly Mr Quinlan, were briefed. I have the briefing papers from that particular meeting.

It is quite clear that there are risks involved in the super 8s. Those risks are things like nobody coming, it being extremely wet and a number of other things that can happen. On the other side, there are significant upsides. That is what we debated in this place. That was in the documents that Mr Quinlan and, I assume, others were given during the briefing - what the risks were and what the upsides were.

As members would be aware, a business case was put together and a risk analysis was done for the first year - again I do not have the papers with me, so I am running on memory - on the basis of 50,000 people attending the event. The point was made that some 140,000 people attended the first year of the Adelaide event, and Adelaide is a damned sight further away from a major population centre than the ACT is. Avesco, the company that Mr Corbell greatly maligned in this place, guarantees the ACT a number of things, mostly that the drivers, the cars and the event would come to Canberra.

It is true that with any major event, whether it be Floriade or whatever, you can have huge amounts of rain or something else can go wrong. There is a risk. Anything worth doing has a risk. If it did not have a risk, everyone would have done it already. This Government is willing to take risks for the benefit of Canberra in the longer term.

The sales of tickets already are very good, though details on corporate sales will not be available, as members would be aware, until final approval for where the corporate stands and corporate tents will be comes from the NCA and the Federal Government. As we saw the other day, the Senate was very positive about the event.

I believe strongly that this will be a great event for Canberra. On that weekend, the June long weekend next year, will see the Brumbies playing in Canberra, the Raiders playing in Canberra and the V8 cars racing in Canberra.

Mr Kaine: On a point of order, Mr Speaker, can I draw your attention to the question of relevance? I thought the question was about the V8 car race. I do not know how the Brumbies and - - -

MS CARNELL: If Mr Kaine does not understand the risk of staging a major event that pulls people to Canberra, then I am very sad that Mr Kaine has forgotten about risk-benefit analyses.

Mr Kaine: Why don't you answer the question?

MS CARNELL: I think I have answered the question. If there is not one dollar of revenue, then obviously the figures already presented to this Assembly - the total expenditure plus the capital works - will be the cost. That just goes without saying.

The information that was tabled in this place gave a very clear cash flow, a very clear profit and loss, with revenue, expenditure and capital works, and then another bit of paper showed what the capital works component was being spent on and what would happen over the five-year period of that particular event. If those opposite do not know that if you do not get the revenue it does not come off the expenditure, heaven help this place if they are ever elected.

CanDeliver

MR QUINLAN: Mr Speaker, my question is to the Treasurer, although I would be happy to have an answer from the Chief Minister. I have been enjoying her sparkling form. The serial government apologist, Mr Chris Peters of the Canberra Chamber of Commerce, attributes the abysmal fiasco that is CanDeliver to poor direction and management.

Mr Moore: I raise a point of order, Mr Speaker. On 4 May 1995 the Assembly agreed to a motion about the exercise of freedom of speech. This arose from an inquiry about naming people. In a question it is inappropriate to name someone unless it is essential to the question. I think knockers opposite naming people willy-nilly in this Assembly has to be addressed.

MR SPEAKER: It will have to be addressed only in terms of the freedom of speech resolution. I have not as yet heard Mr Quinlan criticising anybody he has mentioned by name, but I would have to caution him.

MR QUINLAN: Mr Speaker, an unnamed serial government apologist attributed - - -

MR SPEAKER: In that case, I understand. I ask you to withdraw. I uphold your point of order, Mr Moore.

Mr Berry: Mr Speaker, I take a point of order. Mr Quinlan referred to an unnamed serial apologist.

MR SPEAKER: I do not care. The fact is that - - -

Mr Berry: I know you do not care. I would just like you to observe the standing orders.

MR SPEAKER: The name is already in the *Hansard*.

Mr Berry: So what?

MR SPEAKER: You do not have to be Sherlock Holmes in order to link the two comments. I uphold Mr Moore's point of order. I suggest you rephrase the question, Mr Quinlan.

Mr Berry: Mr Speaker, under what standing order do you order Mr Quinlan to withdraw?

Mr Moore: Standing order 117(b)(iv).

MR SPEAKER: Thank you. The standing orders state:

> Questions shall not contain:
>
> > (i) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and the facts can be authenticated;

Standing order 117 (d) states:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion, and notice must be given of questions critical of the character or conduct of other persons;

You can take your pick.

Mr Moore: His question is so far out of order, Mr Speaker, that I think we ought to move to the next question.

MR QUINLAN: Would you like me to rephrase the question, Mr Speaker?

MR SPEAKER: If you believe that you can do so to my satisfaction, yes.

MR QUINLAN: Recent media reports implied that the abysmal fiasco that is CanDeliver is a result of poor direction and management. Do you, Treasurer, agree with these reports? Do you agree that they were based on misinformation? Do you wish to attribute blame to the board and the direction of CanDeliver, whom I am trying to defend here, or do you wish to be selective, as some later media reports were, about the members of the board of CanDeliver who were at fault?

MR HUMPHRIES: I suppose we should all be grateful that the Labor Party has moved off attacking public servants and people outside the Assembly. That is of some temporary relief to people who work for the ACT community as public servants. But moving on to attacking other people does not necessarily indicate that any of those people will find much joy or much truth in what that Labor Party has to say.

Mr Speaker, I heard the comments that Mr Quinlan was referring to about poor direction and management. I interpreted those to be a criticism of the board of CanDeliver. I reject those criticisms. With any board charged with responsibility for a major

enterprise, one involving hundreds of thousands of dollars of turnover each year, naturally any fallible human being will be capable of making some mistakes. I do not pretend that CanDeliver did not make some mistakes as it went about its business, but I believe the overall legacy CanDeliver has left the ACT community with is a positive legacy.

As Ms Tucker would be fond of saying, you cannot measure the success of CanDeliver purely in terms of the profit and loss statement and the balance sheet but you should measure the success in terms of other benefits which are less tangible than the existence and operation of CanDeliver. I have no doubt that CanDeliver provided to the ACT community a very real vehicle to maintain the competitive pressure on ACT businesses to get them to work together in a competitive way against outside businesses that were seeking service contracts with the Commonwealth and also provided a very real vehicle to keep jobs in the ACT that otherwise would have gone to Sydney, Melbourne or somewhere else.

In that context I think that the board of CanDeliver did extremely well. CanDeliver bid for, I think, 22 contracts, and I understand that it won 12 of those contracts. A 12 out of 22 success rate is not too bad. It is a pretty good strike rate for an organisation that has a number of competitors and was only itself very new on the ACT landscape.

I know the criticism was made that, for example, we ought not to have had former politicians and former bureaucrats in key positions on the board. Bearing in mind that we had CanDeliver bidding for ex-government work, or work that government was contracting out, particularly the Federal Government, it was highly appropriate to have people of that kind, because an understanding of politics and the bureaucracy was essential in the success of those available bids.

Mr Quinlan asked me whether I believe I should attach blame somewhere else. Yes, I do. To be perfectly frank, I think the Federal Government's approach towards the contracting out of major services left a great deal to be desired. The Commonwealth promised to reduce its expenditure on these matters through its internal processes. Instead of having public servants do certain work, it promised to put a great deal of this work out to the private sector to bid for and to do. What was promised to be a flood in 1996 and early 1997 turned into a trickle by 1999. I do not know why the Commonwealth turned back on that process. CanDeliver was given birth to on the basis that there would be that flood of work coming out and Canberra businesses needed to be well positioned to take that work. It is unfortunate that the promised flood did not turn out to be a flood, but I think that what was successfully achieved by CanDeliver was worth while. The infrastructure we invested in CanDeliver simply was not of an order that would warrant the amount of work it actually got to do. Hence the Government's preferred position, to be reflected in a motion tomorrow in the Assembly, to allow CanDeliver to divest itself of its major assets.

Those opposite were very quick, when the Commonwealth started to outsource work some time ago, to say that this was a terrible course of action. They said that we were going to have jobs disappearing from Canberra left, right and centre; that it was a ghastly decision by the Federal Government that would leave Canberra a ghost town. CanDeliver was there to make sure Canberra was not left a ghost town. Whether or not

you attribute the results to CanDeliver is a matter we could have a debate about tomorrow, but the fact is that the ACT today is financially and economically in a much stronger position after 9,000 jobs were shed by the Commonwealth than it was before.

Today the private sector is stronger than ever. Growth is higher in the ACT than anywhere else in Australia; unemployment is lower than anywhere else in Australia except, I think, in the Northern Territory. Employment is at its highest level in 10 years - - -

Ms Carnell: Ever.

MR HUMPHRIES: Or ever. I think CanDeliver contributed to that. You cannot measure that in CanDeliver's bottom line, in its profit and loss statement. It was a worthwhile exercise to be engaged in, one I do not regret attempting. With the same information available to the Government and the same outlook, without the benefit of hindsight, I think we would have made the same decision again today.

MR QUINLAN: Mr Speaker, with no local blame attributed and CanDeliver having won 12 out of 20 contracts, can the Treasurer let us know his estimate of what is going to be the total cost of this exercise? What is the estimate for this year, and what is it going to cost us to wind CanDeliver up?

MR HUMPHRIES: Mr Speaker, I cannot give Mr Quinlan a figure on that today. I understand that the subsidy we have agreed to provide in this year's budget is in the order of $1m. I imagine that if CanDeliver can sell its existing contracts to subcontractors much of that $1m - injection for equity, I think it was - will not have to be expended. How that adds up to what has already been spent I could not tell Mr Quinlan right now, but I will take that question on notice and get back to him when I have the answer.

Temporary Accommodation Allowance

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Chief Minister, the report Ernst and Young prepared for the Government in 1997 on employee allowances stated:

> Living allowances have been accepted for a period of up to 2-3 years. Beyond this period the ATO -

that is, the Australian Taxation Office -

> would seek clarification as to whether the employee indeed changed permanent residences.

After receiving the Ernst and Young report, did the Chief Minister's Department seek a ruling from the ATO about the status of temporary accommodation allowance payments to the seven executives mentioned in the *Canberra Times* article on 1 December? Will you table a copy of any such advice, along with a copy of the Government's response to the Ernst and Young report?

MS CARNELL: Mr Speaker, as I said yesterday, this is not a matter for the Executive or for the Minister. It is a matter, and rightly so, for the Commissioner for Public Administration, and that is exactly where it would have stayed. As the information I tabled yesterday shows, there was not, and should not have been, any direction or any requirement for approval from any of the relevant Ministers or from me for these sorts of issues. Public sector employment issues are not issues for Ministers. It is that simple.

Mr Corbell: Are you responsible for the administration or not?

MS CARNELL: If Mr Corbell is suggesting that Ministers should run the Public Service directly - that is, be the employer - then he should stand up and say that, because it totally undermines - - -

Mr Corbell: I take a point of order, Mr Speaker. Is the Chief Minister the Minister responsible for the Public Service or not? How long will you allow her to hide behind this false veil that she is not responsible for answering questions on Public Service matters? It is a load of nonsense, and you should direct the Chief Minister to answer the question.

MR SPEAKER: There is no point of order.

MS CARNELL: Mr Speaker, was that the supplementary question? I assume it was. It was not a point of order; it was obviously a supplementary question. Mr Speaker, I ask you to rule on whether that was a supplementary question. It was a question.

MR SPEAKER: No, it is not a supplementary question.

MS CARNELL: I do not know how you can have a point of order that was a question, Mr Speaker.

MR SPEAKER: It was not a valid point of order. I overruled the point of order.

MS CARNELL: Mr Speaker, I make the point but again. The issue of public sector employment is not an issue for Ministers, nor should it be.

Mr Corbell: You are a coward, Chief Minister.

Mr Stefaniak: I take a point of order, Mr Speaker. That is highly unparliamentary. I would ask that the member withdraw.

MR SPEAKER: I warn you, Mr Corbell.

Mr Berry: What for, Mr Speaker?

MR SPEAKER: Under standing order 202, for persistently and wilfully disregarding the authority of the Chair. That will do. I warn you, Mr Corbell.

MS CARNELL: Mr Speaker, I am more than willing to provide any information, after asking the Commissioner for Public Administration for that information, but it is not information that flows to Ministers. That is the point I continue to make here. I am happy to find out whatever information Mr Corbell wants, but it is not something that I can take in the Assembly, because it is simply not something that flows to Ministers. That is why those opposite set up a Commissioner for Public Administration under the Act that they put forward in 1994. The purpose was to have a person at arms length from government, at arms length from the Executive, to make decisions with regard to Public Service employment. They created the position. They created an Act under which those sorts of decisions are not made by, or even referred to, Ministers. It is their system. It is also a very appropriate system.

Mr Corbell is very capable of putting questions on notice, I know, because he does. He knows how to do it. Questions that a Minister has no capacity to answer simply because the information would never - - -

Mr Stanhope: I raise a point of order, Mr Speaker. I am concerned that what we are hearing here is a statement by the Chief Minister that she will not take questions in this place on anything to do with the Public Service commissioner. I want your ruling on whether, if the Opposition wishes to ask questions about the role and function and responsibilities of the Public Service commissioner, we can any longer do it. The position that is being put by the Chief Minister here today is simply a declaration that the Government will no longer answer questions on the role or responsibility of the Public Service commissioner. In other words, is it worth our while ever again asking a question on the role of that office? It appears to us that what is being said here is that we cannot. I am interested in whether you will rule whether questions in relation to the Public Service commissioner are out of order.

Mr Humphries: Mr Speaker, on the point of order: The Chief Minister has been asked about this matter and is taking the question on notice. She suggested that questions of that kind should be put on notice in the future, but she is answering the question Mr Corbell has asked. She is suggesting that the information he requires or wants can be provided on notice. I have three points I wish to make. First of all, standing order 114 provides that questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which the Minister is responsible. However, the Chief Minister has indicated that if the matter is put on notice then an answer can be provided.

Mr Berry: One day.

MR SPEAKER: No, Mr Berry. If you read your standing orders, you will find that there are limits to how long questions can stay on the notice paper before they are answered. I would also refer members to standing order 117(h), which states:

> A question fully answered cannot be renewed.

We have run through this on a number of days, and I am fast coming to the conclusion that we are now dealing with repetition. Chief Minister, do you wish to continue?

Mr Stanhope: Your ruling on that point of order does not answer the basic question of whether or not the Chief Minister has declared that she will never again answer a question in this place on the Public Service commissioner. It seems to me, from what you were just ruling, that you agree that in future the Chief Minister will take all questions in relation to the Public Service commissioner on notice, because she does not feel able to accept any responsibility for that office.

MR SPEAKER: That is entirely up to the Chief Minister.

Mr Stanhope: The Opposition needs to know whether we are wasting our time in asking questions on anything to do with the Public Service commissioner.

MR SPEAKER: It is entirely up to the Chief Minister how she wishes to answer those questions. I cannot order people to answer questions in the way that you may desire them to be answered. I do not even know if it is possible. You could stand up and ask the most long-winded questions that required massive amounts of statistics. I cannot order a Minister to immediately answer those questions. It would be impossible.

Mr Humphries: Can I address you on the point of order, Mr Speaker? I think Mr Stanhope misunderstands the role of some agencies within government, in the loose sense, which are part of the process of government but which do not answer to Ministers in the same way that a public servant who is employed directly within a department does. For example, if a member of this place were to ask me to explain a decision of the Director of Public Prosecutions, or indeed of an officer of the court, I would be unable to answer that question. At best, I would have to take it on notice. I would probably have to say that I could not answer it at all. That is even though that person is within the Government's framework and is paid by the Government as an employee. Mr Speaker, I could not answer that question. That is the truth. The Public Service commissioner is in a similar position. The Chief Minister was not saying that she would not take any questions in the Assembly about the Public Service commissioner - questions about the role of the commissioner, about what he or she is paid or about the work. But decisions of the commissioner are appropriately at arms length from the Government, and certainly in most cases cannot be answered without the Chief Minister taking them on notice.

Mr Corbell: Mr Speaker, is the Attorney-General seriously saying that Mr Osborne cannot ask a question of him in relation to the DPP, or Mr Rugendyke cannot ask a question of him in relation to the Registrar of Motor Vehicles, also a independent statutory position, or the Human Rights Commissioner? For heaven's sake, this Government has stood up in this place time and again and answered plenty of questions about the DPP, the Registrar of Motor Vehicles, the Human Rights Commissioner and the Ombudsman without taking them on notice. This is simply a smokescreen for the Government to refuse to answer questions on this issue. It is pathetic. They should stand up to their responsibilities.

MR SPEAKER: There is no point of order.

MS CARNELL: Mr Speaker, I think we have lost the plot a bit. I am saying that I am more than happy to take these questions on notice, but because the Public Service commissioner does not send me information about her decisions, because she is at arms length, then there is no way I am ever going to know what decisions she makes under the Act when she makes them. That is the reality. The public sector commissioner does not work directly to the Minister. The Act put together by those opposite, and supported by us, sets up the appointment of the Commissioner of Public Administration at arms length from the Government. Why would we do that if it was not appropriate for that person to act within the Act? It is true that the commissioner does give advice to me on things like management of the Public Service.

Mr Stanhope: Gives advice to you on management of the Public Service?

MS CARNELL: Absolutely. But the commissioner does not come to me as Minister asking for advice on how to make decisions. She has the capacity to make decisions as required under the Act. What I am saying quite clearly is that I am happy to take on notice questions on decisions made by the Public Service commissioner. There are no problems with that. I will ask the commissioner - it is a new commissioner at the moment - to go back to the records and look at what happened. But those decisions are not relayed to the Minister when they are made, so there is no way for the Minister to know without taking the question on notice. That is our system. There is no smokescreen. If those opposite want answers in question time, then they are going to have to give notice a couple of hours before or put their questions on notice.

Mr Berry: I raise a point of order, Mr Speaker. During your response to another point of order, you said that Ministers can answer questions how they like, or words to that effect.

MR SPEAKER: That has always been the situation, Mr Berry.

Mr Berry: Mr Speaker, in the set of standing orders I have standing order 118 goes this way:

> The answer to a question without notice:
>
> (a) shall be concise and confined to the subject matter of the question; and
>
> (b) shall not debate the subject to which the question refers,
>
> and the Speaker may direct a Member to terminate an answer if of the opinion that these provisions are being contravened or that the Member has had a sufficient opportunity to answer the questions.

Mr Speaker, are you reading from a different set of standing orders from those I am reading?

MR SPEAKER: There is no point of order. Mr Corbell, do you have a supplementary question?

MR CORBELL: Mr Speaker, my supplementary question is also to the Chief Minister. As the Government has recently extended the temporary accommodation payments to four of the seven executives in what we understand are special circumstances, is the Chief Minister aware whether the ATO has commenced an investigation into this matter? Can she inform the Assembly about that?

MS CARNELL: I am not aware of whether the ATO has commenced any action or anything else with regard to this. Taking into account that Mr Corbell did ask a question on a similar issue yesterday, I am able to add more information with regard to the first part of the question, with regard to the extension of terms for public servants. I am able to table for the interest of members a determination made by the Office of Public Administration and Management and the commissioner at the time, Ms Linda Webb. In 1996, on 13 August, she made a determination which was circulated to all managers and personnel, but not to the Minister, because that is not the way it works. In that decision Ms Webb extended the duration of the application of benefits to a maximum of five years, which she is able to do under the Act.

Yesterday Mr Corbell also asked about contributions by public servants to their rental assistance. Ms Webb at the time set a maximum rental assistance for executives with dependants of $400 per week and a maximum rental assistance for executives without dependants of $265 per week.

Under standard 14, chapter 6, instead of setting a contribution, the commissioner set a maximum assistance level. From my briefing after Mr Corbell's question yesterday, I understand that came from the situation in the ACT when these standards first came in. At that time rent may have been $100 per week. The contribution was set at, say, $50 per week and the rest was paid by the officer. It was perceived by Ms Webb obviously better to set a maximum amount, and of course an officer would pay anything in excess of that. She set a maximum amount rather than a contribution amount under this particular direction. That is something I understand the commissioner was totally able to do. I am happy to table this information for the interest of members.

Temporary Accommodation Allowance

MR HARGREAVES: My question is also to the Chief Minister on a similar subject. My understanding is that the Public Service commissioner is responsible to the Chief Minister. My understanding is that it is not appropriate that members of the Opposition approach the Public Service commissioner directly. If something appears to be wrong, I would assume that it is up to the Minister to find out why and advise the Assembly. That is the basis of the question I have. I understand that that great big folder full of papers is in fact a brief. Since there was an article in the *Canberra Times* on 12 November 1997, two years ago, I am assuming that a brief would have been given to the Chief Minister, and because it was raised the other day I would assume that the Minister had the brief refreshed. Will the Chief Minister report to the Assembly – I rephrase this in the light of your inability to do it on your feet - by close of business today on what basis the rent ceiling for the weekly rates for temporary accommodation allowance were increased by 60 per cent for a person with, but unaccompanied by, dependants, and by 41 per cent for a person without dependants? That goes to that

determination you mentioned just now. Mr Speaker, my question is. On what basis was that done? Clearly, I cannot ring up the Public Service commissioner and ask why. The Chief Minister is the responsible Minister, so now I am asking the Chief Minister what that basis was.

MS CARNELL: If those opposite stopped talking or interjecting and listened, they would know that I have just tabled - - -

Mr Hargreaves: I take a point of order, Mr Speaker. The Chief Minister should try to answer my question. She has just accused us of talking. I would remind you, sir, that I have said nothing yet in this question time. I want that withdrawn.

MR SPEAKER: Order! Mr Hargreaves, we are well aware that you have not been talking and interjecting. We cannot say the same for your colleagues. I must admit in fairness that it is difficult for people to hear if others are talking. The Chief Minister is about to respond to your question.

MS CARNELL: Mr Speaker, I table for the information of members the direction the Public Service commissioner made on 13 August 1996 with regard to rental allowances and so on. I do not know the basis upon which this was made. We have a new Public Service commissioner. I am more than willing to take the question on notice, but because we have a new commissioner and it may take somewhat longer than close of business today to ask her - I have to ask her - the basis upon which she made this determination. I am happy to take the question on notice, but I certainly cannot answer it by close of business today. You can see quite definitely that Ms Linda Webb at the time made that decision, produced that direction. I am sure she had a very good reason to do so, but I will have to ask her.

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

Mr Hargreaves: No, thank you, Mr Speaker, I think the Minister has successfully ducked the question.

Attorney-General's Adviser - Law Enforcement Discussions

MR KAINE: Mr Speaker, my question, through you, is to the Deputy Chief Minister. Minister, back in September you spent 10 days in Ireland on what I understand was a very productive trip which had some beneficial outcomes for the Territory. When looking at the travel report for the July-September period for members of the Executive, I noticed that after you left to come home one of your political staffers spent 13 days on a round of meetings with law enforcement agencies in London, New York, Washington and Vancouver. I know that this political staffer is probably a dab hand at law enforcement, but can you tell us what topics this staffer was authorised to discuss with these law enforcement agencies? With which agencies and with whom at those agencies were these matters discussed? What beneficial outcomes for ACT law enforcement flowed from these discussions?

MR HUMPHRIES: Mr Speaker, I thank Mr Kaine for that question. I think it is quite appropriate to explain what kind of information came out of that trip. My senior adviser undertook that extra study work while he was overseas. As Mr Kaine no doubt knows, he travelled to Ireland with a delegation that included Mr Quinlan and me but came back via the United States and Canada to gain further opportunities for exposure to the agencies in those places that Mr Kaine has mentioned. The meetings my adviser held were, in London, with the City of London Police Forensic Science Service; in New York, with the New York Police Department and the Australian Consul-General; in Washington, with the International Association of Chiefs of Police and the Australian Federal Police Liaison Office at the Australian Embassy in Washington; and in Vancouver, Victoria, with the Royal Canadian Mounted Police and the Ministry of the Attorney-General in the Government of British Columbia.

Mr Forshaw has produced for me a very extensive report outlining a number of areas where law enforcement agencies in each of those places have taken certain issues to a level which has not been the case in Australia. For example, he looked at the experience with the use of DNA evidence in courts in those places to produce a higher rate of conviction and at methods of policing. Members will be well aware of the controversial zero tolerance approach to policing in New York. I was interested in that and was very pleased that my adviser was able to spend some time there finding out what zero tolerance meant and whether it was a concept applicable in the ACT. My answer, incidentally, is probably not.

The discussions on a range of issues concerning a large number of things, including cameras and other things, were extremely valuable. I think the expenditure, which is fully outlined in the Assembly travel report, is entirely justifiable. Much of the cost of that trip was borne by my adviser himself, not by the ACT Government or the taxpayer. Specifically, he has advised me that the extra cost of flying back to Australia via the USA and Canada, as opposed to coming through Asia, which is the way the delegation came, was $436.20. He undertook two side trips on his journey back, one of $406 and the other of $353, to British Colombia and Washington respectively. Much of his other expenses he absorbed himself, although he made some claims for some transport costs and some meals. Mr Speaker, I think that is entirely justifiable. The information is of considerable value and I think it has been a worthwhile exercise in gathering information about what happens in other parts of the world.

MR KAINE: I ask a supplementary question. Will the Minister table the report completed by this staffer at the conclusion of his trip so that we can all have the benefit of what he discovered that was not otherwise available on the international Web?

MR HUMPHRIES: Mr Speaker, I have received this report. I have not had time to read it as yet, but I will certainly be happy to table it.

Mr Kaine: You have not had time to read it since September? Gee whiz!

MR HUMPHRIES: It was not produced in September; it was produced much more recently, Mr Kaine. It is a long report of some 16 pages. I am happy to look at it, and if there is no sensitive information in it then I am happy to table it.

Ainslie School

MS TUCKER: My question is to the Chief Minister. It concerns the new Ainslie arts centre to be established at the old Ainslie school in Braddon. The Chief Minister will be aware that there is some disquiet among the school and arts communities about this new facility and the process by which it has been put in place. I noticed that in the 1999-2000 budget $167,000 was specifically allocated from the Chief Minister's Department's new capital works for fitout of the Ainslie public school. My question is: Can the Chief Minister assure the house that, following this expenditure, the old Ainslie school will be in a safe and suitable condition for the new tenants when they move in and that, in bringing it to such a standard, no further expenditure will be, or has been, drawn from the existing essential arts assets renewals and replacements allocation for new capital works or from the 1999-2000 ACT arts funding allocation?

MS CARNELL: Mr Speaker, $167,000 - again, I am running from memory here - was the money that was identified to get the Ainslie public school up to OH&S standards. When the building was transferred from Education to Assets Management, the government approach, as is usual, was to assess the building for OH&S issues. An OH&S report was presented. From memory, it identified a number of issues with the buildings, such things as the roof leaking and the lack of firewalls around the furnace. Those issues needed to be addressed, whoever used the building.

The indicative cost of bringing the building up to OH&S standards is $167,000. On top of the $167,000, as I think has been talked about earlier in this place, some $250,000 was originally allocated in the 1998-99 budget for Craft ACT to relocate to the site at Ainslie. The Government has made a commitment that a new arts centre will be established at the new Ainslie school. Craft ACT will relocate to the North Building, which will create the arts precinct. Ainslie public school building will be brought up to OH&S standards, then some refitting will be required over and above that, I understand, depending on the final use of the building.

We are looking at the building running on a break-even basis for ongoing maintenance. It is certainly true that, as it is a heritage building, there may be calls on the budget from time to time, as there is with basically all of our heritage-listed publicly owned buildings, for major capital works.

Ms Tucker makes the comment that there is some disquiet in the arts community. Have you heard of any disquiet, Mr Humphries? I have not on this one. My understanding is that Craft ACT are really happy to move to the North Building. The music groups and other performing arts groups we are talking to with regard to the Ainslie infants school are really happy about the idea as well. The arts community is like - - -

Ms Tucker: I raise a point of order, Mr Speaker. I would appreciate it if the Chief Minister just answered the question, please. That is all that is required. I know it is ambitious, but I asked a very specific question. If Mrs Carnell is so sure that the arts community is so happy, she can assure the arts community there is nothing to worry about by answering my question.

MR SPEAKER: Are you asking another question?

Ms Tucker: I would like that question answered, please.

MR SPEAKER: There is no point of order.

MS CARNELL: Mr Speaker, I have an enormous amount to do with the arts community, and I have no idea whom Ms Tucker is representing.

MS TUCKER: I ask a supplementary question. I would like an answer to my question. I asked a specific question. If Mrs Carnell wants me to repeat it, I will. As a supplementary question, I ask - - -

Ms Carnell: You can't. It is out of order.

MS TUCKER: It is out of order, is it? I cannot ask the first question again because the Chief Minister refused to answer it?

Ms Carnell: No, you cannot.

MR SPEAKER: You cannot repeat the same question.

MS TUCKER: Okay. There was no answer. I will ask another supplementary question.

MR SPEAKER: Continue.

MS TUCKER: Can the Chief Minister assure the house that insurance, management and maintenance costs of this new facility, should they escalate beyond the capacity of the arts community tenants to pay, will not be funded out of the existing arts funding allocation or to the detriment of other arts activity services, as this is a new facility?

MS CARNELL: Mr Speaker, I think I answered that exactly in my first answer. I made the point that ongoing maintenance and ongoing costs of running the building will be met by the tenants out of their rent. Any costs on top of that which are related to a heritage building - this is the same way we work right across government - would be met, on approval, out of capital works budgets, by the budget itself. Our approach to these facilities is that the ongoing costs of running them should and must be met by the rent paid by the occupants. My understanding is that the people who are looking at using the facility believe that that is quite possible.

Federation Square Roadworks

MR RUGENDYKE: My question is to the Urban Services Minister, Mr Smyth. Minister, in March of this year construction of major roadworks began in O'Hanlon Place in Federation Square, Nicholls. The *Chronicle* ran a fine story featuring my dear friend Mr Hird, stating that the inconvenience and construction would last for only three months. Three months, Mr Hird. Construction has had a disastrous impact on businesses in this tourist precinct, including ACTION buses. Because the bus stop has been moved, people cannot catch a return bus from Federation Square without a kilometre hike up the

hill past the roundabout. The disruption at parking bays has resulted in some coach companies now deleting Federation Square from their stop-off points. In addition, the general road and parking conditions are an obstacle course for private vehicles and pedestrians. Minister, what steps have been taken to ensure that the contractors can complete this project so that this disaster can be ended?

MR SMYTH: Mr Speaker, the information I have is that two-way traffic was operating at that site from 3 December and that all the car parks were opened yesterday.

MR RUGENDYKE: I ask a supplementary question. What about the footpaths and the rest of the shemozzle that has not been completed?

MR SMYTH: I am reliably informed that, to avoid disruption to the Christmas traffic, landscaping will take place after Christmas.

Information Industries Development Board

MR HIRD: Mr Speaker, I have a question. I will not call those fellows opposite bully boys, because I want them to pay attention.

MR SPEAKER: Order! Ask your question.

MR HIRD: I will call them happy boys opposite. Gentlemen, pay attention. My question is also to the Chief Minister. Could the Chief Minister outline the reasons behind the Government’s decision to establish a new Information Industry Development Board? How will this new body help to build on the ACT’s push to become a major centre for information and advanced technology not only in the region but in Australia?

MR SPEAKER: Order! I trust we are not announcing Executive policy, Chief Minister.

MS CARNELL: No, Mr Speaker. We have announced the new Information Industries Development Board already. Today those opposite show the lack of women on their side, with their incredibly male behaviour. It is just straight testosterone. You need some moderating factors, you guys. You are just acting like little boys. I love little girls as well, but that is okay. Mr Speaker, they cannot cope.

For some time now this Government has been promoting the expansion of our high-technology sector as part of our strategy for diversifying the territory’s economy. As members will be aware, under this Government we have encouraged the move away from what was pretty much a total reliance on the Commonwealth public sector for growth and employment. Instead, we have been aggressively marketing Canberra as a centre for local firms to expand, and we have been encouraging interstate and international companies to set up regional headquarters here.

Contrary to claims by those opposite, our focus has not been solely on information technology when developing our industry strategy. In fact, unlike the Labor Party, on this side of the chamber we have an industry strategy, which is a good starting point to get this city going. I am surprised that Mr Hargreaves has not been putting out press releases congratulating the Government on the announcement that Ansett will be

establishing a new state-of-the-art call centre in Tuggeranong early in the new year. I think that is great news. In the first stage of this, 50 new jobs will be available, plus 120 positions will be transferred from Deakin to the town centre. That is really great news for Tuggeranong.

Mr Speaker, it is worth noting that under this Government we have increased employment in Tuggeranong quite significantly with projects such as this call centre, the Bunnings retail centre, plus the expansion of the Hyperdome and related facilities. We have a motel there now - in fact, two motels.

Mr Hargreaves: How many motels?

MS CARNELL: A motel, plus a number of clubs, all significant employers. But you never see Mr Hargreaves or Mr Wood out there talking about the real benefits of that economic development.

There is no doubt that our efforts to encourage more jobs have paid off. Since coming to government in 1995 we have seen more than 11,500 new jobs created, despite the loss of thousands of Commonwealth positions and a substantial reduction in the size of the ACT’s own Public Service. But we have more jobs - not just a few but 11,500.

We felt that we needed to establish closer links between the sectors involved in Canberra’s growth areas, one of those being information technology, as the next step of our industry strategy. That industry strategy is the basis upon which we work. Links between business, research centres, our universities and the ACT Government are essential for the growth of this city. We have created those links by creating the new Information Industry Advisory Board, which is chaired by the managing director of Tower Software, Mr Brand Hoff. We are really pleased about that. Who else is on it? We have the managing director of one of the largest information technology companies in Australia, CSC. As well as that, we have representatives from ANU, the University of Canberra, CIT and the business sector, including Telstra.

On top of this, we have also released a draft information industry direction statement under the heading “ACTSMART”. This is a guide to us to encourage the growth and expansion of these areas in the Canberra region. There are four key actions that this Government believes are important: First, ensuring recognition of Canberra as a clever city and a city of the future; second, encouraging a strong, innovative and dynamic information technology and communication industry that is export orientated and recognised for its research and development capacity; third, providing world-class infrastructure to support the development and growth of this sector, with an education and training sector that is internationally recognised for its IT&T courses; and, finally, having a government that is committed to providing the best possible services electronically to our constituents. That is the basis of ACT government services being on line by 2001.

Mr Quinlan, over the last few months, has been talking about the need for the ACT to become a knowledge-based economy. We agree with that, but we do not see those opposite supporting our initiatives in this area. Why? Because they are always negative, no matter what, and it is totally unacceptable.

We have not put all of our eggs in one basket as has been claimed by those opposite. What about Bishop Austrans, one of the most exciting projects that you could ever imagine - an automotive mass transit system? What about Sverdrup Technologies, Ansett, Modernfold, Pacific Noise and Vibration, CEA, Radpharm Scientific, all with business incentive grants by this Government? Guess what they are doing? They are creating a clever city, a knowledge-based economy. They are doing it because we are out there making it happen. Yes, we support business incentive grants. Those opposite do not. We do not know what they support.

Mr Quinlan: Good management.

MS CARNELL: Good management. How is Mr Quinlan going to produce a knowledge-based economy? I remember asking Mr Quinlan at one stage whether he believes we should directly fund research and development. He said yes. I am looking forward to having support from Mr Quinlan in the future on that basis. We do need to get behind research and development in Canberra, and that is what this Government is doing.

I would like to congratulate Mr Stefaniak. As we know, this term the ACT is trialling an approach that will mean that all Year 10 students will end up with an IT competency certificate. All of them will do the course next year, and by 2001 they will all have certificates in IT competency. This will be the first time not just in Australia but in the world. This is a proactive government doing exciting things, and they are paying off.

MR HIRD: My supplementary question is to the Chief Minister. I could not help noticing one of the good old boys opposite say that there was good management on this side of the house. I am overcome by the fact that one of the members opposite - - -

Mr Corbell: I take a point of order, Mr Speaker. There should be no preamble to a supplementary question.

MR SPEAKER: Order! Do you want me to suspend the sitting? Behave yourselves, the whole lot of you. Ask your question, without preamble, Mr Hird.

MR HIRD: My supplementary question is to the Chief Minister. Chief Minister, is this a good news story? Tell us, just for the old boys.

Mr Corbell: I take a point of order, Mr Speaker. The question is hypothetical.

Mr Kaine: On a point of order, Mr Speaker: The Chief Minister is not entitled to venture an opinion.

MS CARNELL: Mr Speaker, yes.

Acton Peninsula - Demolition of Buildings

MR BERRY: My question is to the Chief Minister. Chief Minister, will you confirm or deny that the then head of your department, Mr John Walker, now AM, personally oversighted the initial construction of a fence around the Canberra Hospital implosion sight in the a.m. on or about 14 December 1996?

MS CARNELL: Mr Speaker, I am confident that Mr Walker is a very competent public servant, but he is not very good at building fences.

MR BERRY: I ask a supplementary question. Will the Chief Minister check the details of this matter and report back to the Assembly?

MS CARNELL: The coroner spent 18 months to two years looking at this issue. We have had a full report on it. It is not appropriate to look at the issue again. Mr Walker was the head of my department. He did not, to my knowledge, go out on Acton Peninsula building or supervising the building of fences.

Homelessness

MR WOOD: Mr Speaker, my question is also to the Chief Minister. Chief Minister, I note your satisfaction - expressed in a media release in which you cited 1996 ABS census data - that apparently fewer than 10 people in the ACT had no roof over their head on census night 1996. Forgetting for the moment the fact that census takers would have trouble knocking on the door of someone without a door, do you also consider it satisfactory that approximately 650 people were forced to live with relatives or friends or that about 480 people were living in temporary SAAP accommodation? I remind the Chief Minister that we will be celebrating United Nations Day later this week. The UN Committee on Economic, Social and Cultural Rights states:

> … the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather, it should be seen as the right to live somewhere in security, peace and dignity.

Chief Minister, do you understand that the 1,200 people identified are desperate to find more than just a roof over their heads and that this crisis over the lack of a roof imposes a severe strain on them and those on whom they are forced to impose?

MS CARNELL: Mr Speaker, I believe that the issue of homelessness is an extremely important one, which is the reason that we raised this issue as an important one.

Mr Corbell: They need temporary accommodation.

Mr Berry: They can stay at the Hyatt.

Mr Humphries: I take a point of order, Mr Speaker. The Chief Minister has barely got about 10 words of her answer out and there have already been interjections from every member opposite except one or two.

MR SPEAKER: Nobody wishes to listen, do they?

Mr Hargreaves: I take a point of order, Mr Speaker. I wasn't talking.

Mr Humphries: Except one or two, I said, Mr Hargreaves.

Mr Hargreaves: Thank you. Get it straight, Gary.

Mr Humphries: I did. That is what I said to start with. I think the Chief Minister deserves some courtesy in being able to get this answer out without the barrage of interjections she has had from those opposite every time she has spoken this question time.

MR SPEAKER: I have to uphold the point of order. Because of this barrage, it is no wonder so many of the questions are repeated each day.

MS CARNELL: Mr Speaker, I was very pleased to see that the number of people defined as homeless by the Australian Bureau of Statistics and the report on this issue put out in the last couple of weeks by the director of sociology at Monash University showed that the ACT had the lowest number of homeless people per 10,000 head of population in Australia. From memory, the figure was something like 40.3 per 10,000.

It is important to look underneath that to see what the definition of homeless is. Again, I am operating from memory here, but the definition is not just about people who live on the streets, although that is an important issue. It is also about people who are living with friends or family, people who are living in supported accommodation and people who are living in boarding houses. It is interesting to note that we have the largest percentage of people living with friends and relatives. I fully accept that if that is not where they want to live it is a very real issue for us. But it is very hard to know whether people are choosing to do that. The person we were just talking about, the person who went overseas with Mr Humphries, is currently doing just that. I do not think that you would regard him as homeless. In fact, my own PA, is in the process of doing something similar.

Mr Speaker, there are issues involving people forced to live in situations that they are not happy about. A real issue that maybe this Assembly should be addressing on a broader scale is that these figures also show that the ACT has the largest percentage of people living in SAAP accommodation in Australia. When you look at our statistics for SAAP accommodation, you see that our flowthrough in SAAP and our efficiency in SAAP are amongst the lowest in Australia. I think that is a real issue that we should be addressing in this place. It means that people are staying for long periods of time in refuges, hostels, boarding places and so on. It is the sort of thing that, very appropriately, an Assembly committee could pick up.

These figures show that the ACT has fewer than 10 people living on the streets or in makeshift accommodation. That is the lowest in Australia. I suppose the good part is that it shows that people in the ACT who are not accommodated in the way that they would choose do have a roof over their heads. That is something we should be proud of.

The ACT also has double the Australian average for public housing on a population percentage basis. I suspect that if we can improve the efficiency of our SAAP accommodation and do what we are already doing - improving the efficiency of our public housing - the ACT will be well placed to address these problems.

MR WOOD: My supplementary question focuses, as a supplementary question should, on something the Chief Minister said. Can the Chief Minister understand that the example she cited of a person who was living in a pretty expensive unit, whether he owned it in total or in part, and is about to move into another place somewhere indicates that she was not really sympathetic and does not understand the nature of the problem that I have been questioning her about?

MS CARNELL: That is nonsense. These figures are based upon work done by the head of sociology at Monash University, who put out a report on this, and on the 1996 census. If in the situation I spoke about Mr Humphries' senior adviser was staying with family on that night, he would have been in the statistics. That is the reality. What I was pointing out is that there are different people in those statistics. I went on to say quite definitely that the ACT takes these issues very seriously.

It is good, too, that housing affordability in the ACT is amongst the best, if not the best, in Australia. That is good news. It is good news that we have more public housing than anywhere else in Australia. There are a lot of issues here that we should be proud of, including the fact that even on these statistics we have the lowest percentage of homeless people, as defined in these statistics, in Australia. That has to be something that we all think is good, but we can do better.

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

V8 Supercar Race

MS CARNELL: Mr Speaker, can I add some information to a question asked earlier by Mr Osborne? I understand that CTEC is arranging comprehensive insurance against rain and other problems that may occur with regard to the V8 race, to minimise the risk involved.

PERSONAL EXPLANATION

MR QUINLAN: Mr Speaker, under standing order 47, may I make a little explanation? I think during one of the earlier answers to a question the Chief Minister- - -

MR SPEAKER: Standing order 46.

MR QUINLAN: Standing order 46 or 47. Take your pick. The Chief Minister misrepresented appallingly. I cannot recall saying, and I deny that we ever said, that we did not like the Government's financial arrangements. We just found it - - -

Ms Carnell: Is this a personal explanation?

Mr Moore: He is debating the matter.

MR SPEAKER: A point of order. This is a personal explanation. Not "we".

MR QUINLAN: We did find it rather difficult to believe that the Commonwealth Bank - - -

MR SPEAKER: This is a personal explanation, Mr Quinlan.

MR QUINLAN: I am just trying to explain what I did say rather than what I did not say because I have been quoted as saying I did not like the Government's financial arrangements and, in fact, was responsible for them falling through. That was the implication and that was what the Chief Minister said. I think that is a fairly appalling accusation. I am entitled to make a personal explanation, I would have thought.

MR SPEAKER: Yes, you are, but you are not to keep using the word "we". That is all.

Mr Moore: He is not to debate the matter. Standing order 46 says that such matters may not be debated.

MR QUINLAN: Well, I was actually linked with Mr Stanhope in this particular accusation, but I will stick to the single person.

MR SPEAKER: Mr Stanhope can speak for himself if he wants to.

MR QUINLAN: I at no time indicated that I was against the Government's financial arrangements. I did indicate that I thought they were a bit fanciful - - -

Mr Stanhope: And it would be better if they were legal.

MR QUINLAN: Yes, and it might help if they were legal. We had not seen, in fact, the slightest piece of evidence that they were a reality. That is what we said. To draw the long bow that we were somehow responsible for them falling through is, I think, misrepresenting us.

PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS

Papers and Ministerial Statement

MS CARNELL (Chief Minister): Mr Speaker, I present for the information of members, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of a long-term contract made with Dorte Ekelund, and short-term contracts made with Sandra Lambert, Peter Gordon, Suzanne Birtles, Gerry Cullen, Ron Foster and Stephen Ryan. Mr Speaker, I ask for leave to make a short statement.

Leave granted.

MS CARNELL: Mr Speaker, I ask members to respect the confidentiality of these documents. There has been a tendency of recent days to use public servant's names and some issues involved in contracts in the media. I ask members to ensure that this information is kept confidential. Members have been extraordinarily professional about this until recently.

PAPERS

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members I present, pursuant to section 8 of the Legal Aid Act 1997:

> Direction to the Legal Aid Commission, including an explanatory statement.

Pursuant to section 26 of the Financial Management Act 1996, I present:

> Consolidated Financial Management Report for the period ending 31 October 1999.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1998

Detail Stage

Clause 6

Debate resumed.

MR SPEAKER: The question is that Mr Hargreaves' amendment No. 2 be agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.59): Mr Speaker, I think we were in the course of debating an amendment moved by Mr Hargreaves to remove the power of the police to seize motor vehicles.

Mr Hargreaves: Proposed new section 139K.

MR HUMPHRIES: Indeed. I want to make a few comments about that particular provision and about the legislation generally, Mr Speaker. I think there are not many members in this place who have not raised with me, as Minister for police, in the last year or so a problem coming from some constituent or other to do with burnouts on Canberra streets. It clearly is a significant question which goes to the amenity of Canberra residents and also has some bearing on the question of safety of the ACT's roads. A number of people complain about the loud screeching of tyres on suburban streets, particularly late at night when people are asleep. I am also advised by the police that there is a significant problem with those vehicles causing damage to the roads. I would not have thought it possible, but I am assured by the police that doing burnouts on Canberra streets does have the effect, in some cases at least - - -

Mr Moore: When oil is poured on it.

MR HUMPHRIES: It may be that it only happens when oil is poured onto the road. I am told that burnouts can damage the fabric of the street. I think in those circumstances that legislation that deals with this problem effectively is both timely and important for consideration by the Assembly as a whole. I also want to indicate that, on the basis of the advice I have received from the police, it is important to take the steps which Mr Rugendyke has included in his legislation. These appear to be steps that go a great deal further than might be the case to do with other sorts of problems on Canberra's roads, and in some respects they are.

Mr Speaker, we need to bear in mind the sector of the community that we are dealing with. I think it is important for people to realise that very often people with these sorts of vehicles who conduct these sorts of activities on Canberra's roads do so on an organised basis, do so in concert with a large number of other people very often, and do so in the knowledge, the expectation even, that at some point or other they will be caught by the police and fined, or prosecuted for some offence or another in respect of that activity.

I had one report to me from the police of a person who was picked up during the Summernats festival one year. This person had come to the ACT from elsewhere with a vehicle for display there and freely conceded that he had a budget for the payment of fines. It was quite a large budget of several hundred dollars. This person expected to spend that and in fact looked to taking things to the point where he would be obliged to spend that money in the payment of fines. A challenge to the law appears to be part of the culture that accompanies much of the conduct of these sorts of motor vehicle related events.

If members care to go out to the Barton Highway, just beyond where that large roundabout takes you off at one point to Gungahlin and another point to Belconnen, and before you come to Cockington Green, Gold Creek Village and Federation Square, they will still see, I think, large black marks along the road where people have conducted drag races and burnouts. I am advised by the police that often at night there are large numbers of people at that point on the Barton Highway who take over the road for the

purpose of conducting those sorts of street related activities. They generally manage to avoid the police, largely because of the existence of scanners which allow them to know when the police are converging on that point and to make a swift getaway. Certainly, the number of apprehensions in those circumstances is quite small.

The point I make when saying all of this is that simply to impose a fine, or suspend someone's licence for a short period, or even to seize a vehicle, as Mr Moore suggested, for 24 or 48 hours, is not an effective response in many cases to the sorts of offences which are being committed. It simply is not effective.

Mr Berry: Is this the burnouts?

MR HUMPHRIES: Burnouts, yes. Mr Speaker, I am not saying that all those who do burnouts necessarily conduct drag races and do other things that are illegal. That obviously would be far too great a generalisation, but there is a subculture in Canberra which engages in activities around street machines or modified cars. Those activities are a feature of that subculture, and those who engage in those activities, I am sure, do so with the expectation that they will, at some point or other, come into conflict with the law. They almost countenance it and expect it. As I said, in one case that I knew of, they budgeted for it.

Mr Speaker, I think it is important, if we are going to deal with the problem in Canberra, given the range of laws that we have at the moment which we could use, which clearly are not being effective, and they are not - - -

Mr Berry: That is not our fault.

MR HUMPHRIES: It is not anybody's fault.

Mr Berry: Yes, it is. It is the fault of the people who are trying to administer them.

MR HUMPHRIES: Well, okay. I think what Mr Berry is saying is that the Federal Police, whose job it is to administer them, are not effectively using those laws presently to make sure that these people are not able to continue to do burnouts on Canberra streets.

Mr Berry: On one occasion they did, recently. It was demonstrated. I will respond to that.

MR HUMPHRIES: I reject that suggestion. The Federal Police are acutely aware of these problems. I have spent some time travelling with the police around Canberra while they have been trying to address those problems and they are extremely frustrated by the inadequacy of the present laws to deal with them. I think Mr Berry follows the path, unfortunately a very well trodden path by his colleagues in the ALP, of attacking the Federal Police. My estimation is that the Federal Police do the best they can with the existing laws. Mr Berry, let me put this on the record. You said that the fault lies with those who administer the laws.

Mr Berry: That is right, yes.

MR HUMPHRIES: No-one else administers these laws in this respect except the Federal Police. Nobody else.

Mr Berry: It is a statement of fact. It is not an attack.

MR HUMPHRIES: Okay, this is a statement of fact: The fact that the present laws are not used to apprehend more people is because those who administer the laws do not do so effectively.

Mr Berry: Yes, and the resources they are provided by government.

MR HUMPHRIES: Mr Berry can explain all he wants, but he is on the record as saying that there is some inadequacy in the approach of the Federal Police. I do not believe that for one instant. I think the inadequacy is in the status of the law. The officers on the streets of Canberra who deal with this problem, the same problem that you people write to me and complain about, have not got the adequate laws they need to be able to address that problem.

I think what Mr Rugendyke has put forward is a viable solution. Why do I say that? Because it is modelled on the laws in use in New South Wales where there has been a very effective response to this problem. Yes, Mr Speaker, I think the seizure of these vehicles, which are the object of much attention and much affection on the part of the people who drive them, is an effective way of deterring people from that kind of behaviour. In fact, it is the most appropriate way to send that message.

I think it is not a matter of opinion as to whether it is effective. Clearly, what is happening in New South Wales demonstrates that it is effective in addressing this problem. There has been a significant improvement in the measure of the problem in New South Wales because of the application of these sorts of laws. I think we should try them in the ACT. I support their use in this Territory. I think those opposite who are concerned about not infringing the rights of people in these circumstances simply overstate the case when they say that there are serious rights at stake here. I think the more important issue here is addressing the concerns that people in this place have heard, no doubt dozens of times from people in this city, about burnouts in the streets of Canberra at hours of the night and day which pose considerable inconvenience to the rest of the citizens in this place. I think it is time that we acted on it and I therefore support the provisions in this legislation.

MR QUINLAN (4.09): Mr Speaker, I will not take that long. I think members of this place are to be congratulated for the genteel approach to this debate thus far. It has been reasonably logical and methodical. I have to say that slices of this legislation are nothing more than a grandstanding, attention-seeking, breast beating exercise.

Mr Humphries: Breast feeding?

MR QUINLAN: Breast beating. Do you want testosterone charged thrown in as well? This legislation, particularly this provision, seems to be an instalment in a growing law and order campaign. A law and order appeal has built up. I have to say that it is emanating from Mr Rugendyke and Mr Osborne. They are setting out to employ some very simplistic logic to appeal to a certain section of the community. The John Laws school of simplistic logic seems to be followed. I am sure that lunatic Stan Zemanek would be very proud. You could probably get an hour out of this from that ratbag at night - "Yeah, lock 'em up". What I find disturbing is that in large part the Government is supporting it.

I cannot believe that Mr Humphries and Mr Stefaniak, in particular, with their backgrounds in the law and in justice, can support this sort of regressive, hardline approach because it will lead inevitably, as will some of the legislative provisions passed in this place yesterday, to inequitable treatment of people who commit the same offence. If you have a $200 car or a $20,000 car, it does not matter; it can be impounded. It can be impounded for three months. Who is going to look after it? Do you want your car impounded for three months?

My major concern with this is that it is a brick in the wall in terms of an emerging raft of these sorts of punitive provisions that have been brought forward to this place from that corner of the Assembly and supported by the Government. I have to ask why the Government is supporting this. Do you guys have some sort of trade-off in that you need Mr Osborne and Mr Rugendyke on side? So, the pressure is there to pass this legislation which in all logic really needs some work. Justice is about exactly that - justice. But no; this has been justified so far on the extreme case, the cock-eyed logic that Mr Humphries was using - something about: "These people are hard to catch, so, if you catch one, really give it to them". That has nothing to do with justice. In fact, I think it runs counter to justice and fair treatment.

All I want to do in my contribution to this debate is register a genuine concern that this appeal to a constituency out there, that we are hardline, tough and just take the simplistic approach to law, is going to leave Canberra, if it goes on for a considerable length of time because we have to maintain the flow, in a very regressed state. I thought this was an educated and progressive city, but we are going backwards.

Mr Speaker, I have to say that this provision for seizure of someone's property by someone who suspects with reasonable grounds is beyond the pale in terms of justice and fair treatment.

MR BERRY (4.14): Mr Speaker, let me start by saying that it is extremely important for me to publicly dissociate myself from this legislation, as my other Labor colleagues have. This is an extremely bad piece of law in many respects. I was not surprised to hear that Mr Humphries supports a swing to the right in the coalition which supports this. I acknowledge that Mr Moore takes a different position on individual rights issues from time to time. However, as my leader has said, Mr Moore is part of the mortar or cement which holds this coalition together, and he has to accept the responsibility of being part of that coalition, notwithstanding the comments he makes in relation to these matters. Regrettably, Mr Moore will not be able to escape the odium of that connection.

This legislation is bad law because it seeks to label a certain group of people in the community, young people. In places like Singapore, it is an offence to chew chewing gum – to have chewing gum even. It was once an offence to have long hair. You had to get your hair cut before you were allowed into the country. I wonder whether those members who support this might seek to include an extra provision which would get at these sullen young people by putting a premium on the penalty for wearing their baseball caps backwards, which is an extremely inoffensive presentation of themselves in the community.

This is outrageous legislation. To suggest that people's property should be taken off them for these sorts of offences is absolutely outrageous. I was unfairly Gary-ed, I think, by Mr Humphries in relation to - - -

MR SPEAKER: Withdraw that remark.

MR BERRY: Mr Humphries was specifically dealing with questions yesterday. I think I can make the point here. I was misrepresented. It is a terminology that we have developed in the Labor Party. "Gary –ed" is an economic use of words. Everybody understands what it means. I think it will make it into the lexicon in due course.

MR SPEAKER: Is it in the lexicon?

MR BERRY: It will be there one day.

MR SPEAKER: Withdraw it.

MR BERRY: I withdraw, Mr Speaker. Let me deal with the principles of legislation first. I think it is badly framed in the first place. On any reading of the matter, one could be held to have been involved in a burnout if one were bogged in a car park and had to spin the wheels in the mud excessively. Burnout in relation to a motor vehicle other than a motor cycle, according to the amendments moved by Mr Rugendyke, is the operation of a vehicle in a way that causes the vehicle to undergo sustained loss of traction by one or more driving wheels in a public place. Essentially, that could mean that the car is bogged. There is not much burnout in that.

There are other issues which are important to acknowledge. When the police get it into their minds to do something about this, they have enormous success. Recently there was an event in inner Canberra where the police decided to mount a campaign, and they fixed the problem quickly because they took it into their heads to deal with the matter because the laws are available to them now to deal with the issue.

It is also the case, on my understanding of it, that there may be some application of environmental laws in the ACT in relation to the matter. There is certainly provision in the Motor Traffic Act, on my last recollection, for pouring substances on the roadway. I think that even goes so far as water. There are avenues open to police to deal with this matter. Do you think this is going to make any difference to the person who does what is now described as a burnout out in front of Bill Stefaniak's house in the middle of the night?

They conduct a massive burnout for 20 seconds. Bill Stefaniak leaps out, rushes to the front door, waves his fist in the air, grabs the phone as he goes, calls the police, and they zoom off down the road. He says, “These blokes have just done a burnout in front of my house”. Do you think the police are going to rush over? They will probably say, “I think he’s gone, Mr Stefaniak. It wouldn’t be worth our while coming”. Notwithstanding all of the provisions which are set out in this law, do you think anything is going to change in relation to that matter because of this law? No, of course it is not. They will be long gone. It is not going to make any difference at all. This is merely a baseball bat being used to crack a nut.

The proposal to take people’s property off them for being involved in a burnout is, as Jon Stanhope said earlier, outrageous. It is outrageous for the many reasons which he aptly described. Most particularly it is outrageous because people might be involved in an act of illegal behaviour, but if they are young, as they usually are, and have a motor car which is capable of doing these things - I might add that in my younger years I did not have a car that was capable of doing much more than skidding the wheels in loose gravel but - - -

Mr Quinlan: But we tried.

MR BERRY: Now and then. I think it is abundantly clear that police should not move in and take motor vehicles off young people for being involved in this sort of behaviour. It is not that I advocate these provisions applying to people who are involved in more serious offences against the Motor Traffic Act. For example, people who own a Porsche or a Volvo or a Jaguar and have been involved in some serious motor traffic infringement do not get their car taken from them by the police and have the matter dealt with in the courts. And neither should they. They should be dealt with in an appropriate way.

I am prepared to cop personally that burnouts have become a public nuisance around the built-up areas of the city, and it is appropriate for a penalty to apply, notwithstanding the fact that there are penalties which could apply now. But I am not prepared to stand up here and be seen to be part of a process which endorses this dramatic swing to the right in law-making in the ACT. This is the second event in this sitting period where we have seen this happen. I do not want to be associated with the members responsible for this, and I will not be. That is why I am on my feet today, to express my concern about the approach which is being taken. This is merely an attempt to label a group of people to respond to a perceived constituency in the community who might have young, sullen people dealt with harshly.

This is overly harsh. It is designed to draw attention to the muscle of the Government and others in the coalition who support this. It is an outrageous move. It will not improve the relationship between police and young people; it will harm it. It will certainly drag down this Assembly further, if it can be dragged down any further, in the eyes of young people who might be affected by this legislation.

Why is it that law and order issues are almost invariably targeted at young people? Anybody in this place who denies that at some stage in their life they were not sullen youth is simply misleading us and kidding the rest of the people in the community. It is

no solution to crush a nut with a baseball bat. It is an appalling swing to the right so far as legislation is concerned. The Labor Party, thankfully, will not be supporting this. I would be surprised if at some point in the future there is not a commitment to immediately repeal this crazy legislation at the first opportunity.

MR OSBORNE (4.25): I will be brief. I was not going to enter the debate, but I was sitting upstairs listening to Mr Quinlan churn out his usual “deal” line which he has used on numerous occasions. The point that has become increasingly clear is that, when he has not got an argument, when there is no substance in what he is saying, he stands up and says, “You’ve done a deal”. We have heard it in relation to ACTEW. We have heard it so many times in the last few months and it is becoming laughable. When I was a kid and I had arguments with people, I knew they were in trouble when they started calling me fat. Similarly, when Mr Quinlan is in trouble, he says, “You’ve done a deal”.

Nevertheless, I am pleased because for the first time in 10 years of self-government the police are finally being looked after. The police are finally being given a fair go. It is interesting that the two members of the right from the Labor Party who supposedly get on with the police union, who have meetings with the police union, are here bagging the legislation which they asked for. This legislation has come about because of concerns raised by the police to Mr Rugendyke. We listened. We make no apologies for trying to make their job easier, for trying to make the streets safer.

Some of the boring arguments churned out by the Labor Party today and yesterday are laughable. I am pleased, as Mr Berry said, that for the second time this week some legislation has been passed which hopefully will make their job easier. I look forward to the members of the right attempting to gather support from the police union before the next election. It really comes down to actions and, quite clearly, you two have been left wanting. Mr Hargreaves says, “There’s your seat over there”, and Mr Berry says, “The coalition”, but the reality is that, if you do not vote with the Labor Party on everything, then you are a member of the enemy.

I would have thought that a democracy was all about listening to the arguments. If we vote with the Government on more occasions, it is because your argument is pathetic. We heard it today. This legislation is designed to make the streets safer and to assist the police. I make no apologies for supporting my colleague Mr Rugendyke in the passage of the Bill.

MR STEFANIAK (Minister for Education) (4.28): I agree with virtually everything that Mr Osborne said, but I disagree with one thing: that is, it is not the first time in 10 years of self-government that the Assembly has tried to give the police a fair go. We had a majority in the first Assembly and I managed to get move-on powers, dry areas and several other things through. Sadly, after that it was difficult - until now. It is good to see a few pieces of legislation, common sense legislation, which do just that.

I listened to Mr Stanhope and then Mr Berry. The Labor Party never ceases to amaze me. It is quite different from New South Wales, Queensland and other parts of the country in terms of law and order issues. I thought it might have changed with the injection of new blood, but sadly not. I think most members know my views about law and order and punishment. I made no bones about that in the first Assembly; I make no

bones about it now. However, I initially thought that taking a car away from someone for 28 days if caught might have been a bit strong. Seven days might have been better, with three months for a second offence. I might have accepted that.

However, this legislation is based on what occurred in New South Wales, and in New South Wales it has had a very significant effect. This legislation has been proven to be effective legislation in our adjoining jurisdiction. I think there is a lot to be said for consistency between jurisdictions. The legislation was enacted by the New South Wales Labor Government, the Carr Labor Government, which, unlike the ACT Labor Party, does not seem to have too much of a problem with law and order issues. It enacts legislation which protects the community and which assists the police force to do its job. It gives the police force reasonable powers which it needs to do its job properly. I reject what Mr Berry says about their not catching anyone. Quite clearly, the facts in New South Wales indicate that virtually identical legislation has worked there.

I come to another point about young people who might be involved in burnouts. It is a dangerous activity. The people opposite - indeed, everyone in this Assembly - have indicated that it is an activity that we should not condone. They agree that legislation should be implemented to stamp it out because it is fundamentally dangerous. People can get killed. People might do it without malice aforethought, out of a sense of fun, but the fact is that it is dangerous and people can get injured. People have been injured by cars that have lost control, which is the very nature of it. It is something that needs to be deterred.

Mr Berry raised the issue of our having a go at young people. In my portfolio of education, we have a number of young people who sit on school boards. They sit on boards where sometimes their opinions are called into account, and they are asked how to deal with other young people who might be breaching the rules. A comment was made to me recently by a teacher that invariably young people are the hardest in those situations on their peers. I do not think young people expect to be treated with kid gloves.

I want to hark back to my experience in the courts – 9½ years as a prosecutor and about six years in both New South Wales and the ACT defending people. That is a reasonable amount of time, especially in the criminal jurisdiction in which I specialised. In my experience, people expect there to be rules and regulations. Most reasonable people will probably transgress. We have all done things wrong, but most reasonable people when they do transgress and are punished accept that, and they do not necessarily come back. If there is no punishment, if there is no sanction for people who have done wrong, which is what this Labor Party would have us do, what is there to stop people and dissuade people from doing the wrong thing?

It is pointless being weakly merciful. From my experience in the courts, both prosecuting and defending, it has been shown time and time again that, if a court is weak, if a magistrate or a judge is weak, if they do not gaol anyone, they do not get any respect from the people they let out. They think they are an absolute joke. People need restrictions. People need to have some imposed self-restraint. They need some discipline. There have to be standards. There have to be parameters. Human nature dictates that people actually want that. People respect that. I think a lot of these young

people who are doing burnouts will not be overly phased by this measure. If they happen to get caught, if their car happens to be impounded, that is an inconvenience and it is unfortunate, but I doubt very much if they are going to come back. If they do come back, they are probably being incredibly stupid and then the law takes further effect. But there will be a deterrent. New South Wales has quite clearly shown that.

Those opposite keep talking about the coalition being right wing; that it has moved to the Right in terms of law and order. The New South Wales Labor Party, the Carr Labor Government, has introduced some very significant law and order measures, some of which probably go even further than things that I would support. They have been very strong on law and order. The Queensland Labor Party has been quite strong on law and order. Just because you pass a law and order measure, does that mean you are moving to the Right? Look around the world. Look at the countries which have very draconian measures. China is a left-wing regime. It is hardly right wing, yet they shoot people on sight for things like larceny. In the old Soviet Union, you could be sent to a gulag or get shot at the drop of a hat. How more draconian could you get? But they are hardly right-wing regimes.

My colleague Mr Moore, a member of this Government, is leading the charge against this Bill. I think he is wrong, but that is part of his deal with joining our Government. He is deadset against this. He is hardly right wing. He would be quite offended to be called that, and he is leading the charge against it. It just happens that there is a majority of people in this Assembly who see this as a commonsense measure. They can see that in New South Wales it does work. They reject the comments made by the Labor Party, saying that this measure is having a go at youth, that it is not going to work and that it is needlessly draconian. I do not think any of that washes. It is not draconian. If people are wrongfully picked up by the police, as I said earlier, they can always defend it. They will certainly get a fair hearing in our courts. No-one is going to dispute that.

The points made by the Opposition are completely spurious. To say that this is a lurch to the Right is absolute nonsense. My colleague Mr Moore makes an absolute farce of that. Maybe it is a lurch to the Left because it is left-wing regimes who seem to have far more totalitarian law and order policies than a lot of the right-wing parliamentary democracies around the world. I stress again that it works in New South Wales. I think you are badly misjudging young people and the effect that it will have on anyone involved in this. It is something that will be accepted - probably respected, if what has occurred in New South Wales is anything to go by.

Whilst there are a few points which I was initially surprised at, I respect what has occurred in New South Wales. I respect the fact that Mr Rugendyke has mirrored his legislation on the New South Wales legislation. I followed it sufficiently to know that it has had a very significant effect there. I am fully supportive of what he is attempting to do and what I believe he will do. I think a lot of people will be the safer as a result of that. I certainly reject comments that it has any draconian effect on possible offenders. I think the vast majority of them will take a lot greater care as a result of this legislation. That is what we are all about.

MR KAINE (4.37): I have to say that, as a matter of principle, I support what Mr Rugendyke is trying to do. It fits in, in general, with other legislation that we have already dealt with. The purpose of all this legislation is to send a message to people that their attitudes and the way they deal with other people on the roads have to change. If not, there are severe penalties.

Having said that, I have to say that about five per cent of this Bill causes me great concern personally. I think it is the same bit that the Labor Party has concerns about; that is, the impounding or the forfeiture of somebody's property. When Mr Rugendyke tabled his amendments yesterday, which have now found their way into his Bill which we will be debating next year, I had gone through that legislation with a view to amending it. I have my copy here. I went through it in red pen and deleted all the words that talked about "and forfeiture". For example, proposed section 10(a) states:

> … for a first offender to be impounded for three months unless the Court otherwise orders.

You read that in conjunction with another provision where they lose their drivers licence for three months anyway. So they lose both their licence and their car for three months on a first offence. For the second offence, the following applies:

> … for a repeat offender, forfeited to the Territory unless the Court otherwise orders.

I deleted that and instead proposed:

> … for a repeat offender to be impounded for a period to be determined by the Court.

In other words, the car will be impounded for a suitable period greater than three months, since it is a second offence. Again, it may tie in with the period of time during which the licence is suspended or there may be some other justification determined by the court. I went through the Bill and wherever the words "or forfeiture" appeared I deleted them. Wherever there was a provision like that, I sought to change it. I was proposing to move amendments. By bringing it forward today, it has curtailed the process. I was unable to bring amendments to the Bill that is now before us, although it would have been my preference to do so.

The other part that concerned me greatly was the proposed new section 10J in the Road Transport Legislation Amendment Bill (No. 2) about the disposal of vehicles:

> The chief police officer may cause an impounded or forfeited vehicle to be offered for sale, by public auction or public tender, in the circumstances prescribed under the regulations.

That is okay, if it is an impounded vehicle and the regulations prescribe certain circumstances under which it will be sold. Then it says:

> The vehicle may be disposed of otherwise than by sale if the chief police officer believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.

We could have a case where, according to the police officer, the vehicle does not have enough value to warrant it being sold so it can be disposed of otherwise than by sale. What does that mean? Can it be handed over to another 19-year-old kid as a gift? What does it mean? What is intended there? It goes on:

> If the vehicle offered for sale is not sold, the chief police officer may dispose of the vehicle otherwise than by sale.

What are the methods by which the chief police officer may achieve this? It concerns me greatly that it is open ended, even if you accept the fact that the vehicle should be forfeited and sold, which I do not. That part of the Bill gives me a stitch. When the Road Transport Legislation Amendment Bill (No. 2) 1999 comes up for debate next year, I will seriously consider putting forward amendments to delete clauses concerning forfeiture.

That leaves me in a quandary, because I am being asked to vote today on a Bill that incorporates it on an interim basis. I could be accused in three months time of being a hypocrite if I let it go through today and in two or three months' time I try to take it out. I do not like being put in that position. On the other hand, I do not want to reject Mr Rugendyke's Bill because I agree with 95 per cent of it. So I am in a quandary. I am going to have to make a decision.

On balance, I will support the Bill, despite my reservations about it, because I will have another opportunity in two months' time to deal with those issues that concern me. I will have to deal with them then because I do not have the time to deal with them today. I just wanted to put on record my feeling about it. I think most of the Bill is fine, but in my view that part of it is draconian. I do not think it is necessary. There is sufficient retribution either in the Bill or that can be built into the Bill.

If somebody is foolish enough to come back a second time for the same offence, we can make provision for reinforcing the problem that this person is creating. I think we can do it without taking possession of that person's property and either giving it away, dumping it in the tip, dropping a large rock on it from a great height or whatever the proposed method of disposal is. I will be supporting the Bill today, because I think something needs to be on the table over the next two to three months. But when the other Bill comes up for debate, the longer term one, I will be closely examining it and moving to change it.

MR MOORE (Minister for Health and Community Care) (4.43): I will be very brief. Having heard Mr Kaine, his position is not that different from the one that I put forward, although I did point out that I do not have an objection to the notion of having a vehicle seized for a very short while under these sorts of circumstances; for example, something in the order of 24 hours to 48 hours, provided it is then returned. That would cool the situation down, and it is something that I think we should take into account. I suggest it is quite clear that Mr Rugendyke has the numbers today with Mr Kaine supporting him, but it will be a different story when the substantive legislation comes through.

I would suggest that Mr Rugendyke organise a round-table conference perhaps early in February so that we can get an agreed position on some of these issues. On some issues we might not be able to agree. Members would recall that we did that with the mental health legislation. In that case I think we were able to resolve everything. In some cases there have been issues still left to be resolved, but where we can reach agreement we ought to do that. In that way, we will get a satisfactory piece of legislation for all of us.

MR HARGREAVES (4.44): I want to reiterate that the Labor Party supports what Mr Rugendyke is trying to do. We are supportive of the Bill itself. There are three parts to it with which we are discomforted. I want to address my remarks through you, Mr Speaker, to Mr Kaine in this instance. We agree that the long-term debate on this issue will occur in February or March. We accept that. What we are saying is that, if you want to trial it for three months, if you want to have some time out and look at it for three months, let us do it without the draconian measures.

Let us do it without having the seizure components in there. Let us take out those parts which talk about impounding and forfeiture. Let us provide the opportunity for Mr Rugendyke's Bill to be trialled during these three months on the basis of the significant financial penalties that people will suffer as a result of this. After all, we have to do this in two stages. Why do we not take that opportunity to trial it, as Mr Kaine is saying? Do we really need to go first bang into it and say, "This is your first offence. You have lost your car for three months."?

Those three months are going to go past the deadline by which we start talking about this new legislation. What I am asking members to do tonight is support the Bill but take away the possibility of forfeiture of a motor car on the second offence. After all, the punishment does not really fit the crime. Take out the impounding of a motor vehicle for three months for the first offence, because again that punishment does not fit the crime. Take away the seizure on suspicion.

It is pretty obvious when a burnout is happening who the perpetrator is. That is pretty clear. I think we have significant sanctions within the Bill to really slug it to these people if they do it. I am very happy to strengthen the arm of the police by giving it specific mention and by not lumping it in with negligent driving. This is a significant matter, and we want the community to sit up and take notice. This is behaviour that we are not going to tolerate.

If this does not work, if we find over this three-month period that people are saying, "We can pay the $2,000. Who cares? We will take the loss of points. Who cares?", then we will revisit it. Mr Rugendyke will have additional information to bring forward to

this Assembly in February/March when we debate it next time. When we talk about penalties, the question I ask is: Are people going to receive a loss of driving points for their behaviour? I do not know the answer to that. I think we just slug them with a big bill , $2,000, for example. Perhaps we ought to give that some consideration the next time the Bill is debated. We would be very happy to support a financial penalty with a loss of points, if this happens. I think it would be a great move for this Assembly to get behind this particular activity, particularly in the next few months leading up to Summernats and burnout time in Lonsdale Street and Mort Street, instead of us fighting over what are essentially issues of civil liberty.

I would like to ask Mr Moore to support the next two amendments, in particular. I am happy to ask him to support this legislation with the proviso that he may not do so again when we come back in February or March. If we cannot sustain the argument in February or March, then so be it. We lose the argument. However, we have an opportunity here to be reasonable about it. I understand your need, Mr Rugendyke, for wanting to get on with it before this Christmas. You want to stop it now. You do not want to wait another 12 months to stop it, and that is fair.

However, I do ask that you pass my amendment that we are currently debating on the seizure, and support the following one which talks about impounding and forfeiture. Beyond that, the other ones are merely machinery ones and are consequential, so it does not matter that much. When we come back in February/March, we will look at it possibly in a completely different light. It would be pretty awful if we found that fines were enough of a deterrent. Why do we need to go with the big stick straight away? I would ask the house to support this amendment.

MR RUGENDYKE (4.50): To close this aspect of the debate, I appreciate Mr Kaine’s thoughts on the matter. I accept what Mr Kaine says, although these amendments have been on the table in roundabout form for about 12 months. I understand Mr Moore’s point. I appreciate the fact that Mr Moore has at least tried to leave the discussion open for compromise. I still believe that my amendments are more appropriate than the amendments proposed by Mr Moore. However, given Mr Kaine’s speech, we still may talk about Mr Moore’s amendments.

Mr Hargreaves’ amendments, on the other hand, are simply designed to dismantle the intent of my legislation. The intent of my legislation is to offer a loud and clear message to the people performing this type of activity that it is not acceptable in our community. Mr Hargreaves just gave a rather hypocritical speech about now wanting to talk, but did he offer any alternative to simply wiping out the Bill? No. He did not offer alternative amendments like Mr Moore offered. Mr Moore at least discussed it. I ask members to support my amendments, and not the amendments of Mr Hargreaves.

Question put:

> That the amendment (**Mr Hargreaves’**) be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Mr Rugendyke: On a point of order, Mr Speaker. I would like to clarify whether Mr Kaine intended to vote the way he did, or whether he was mistaken and may be able to rethink his vote.

Mr Kaine: I am not in a position to answer that, Mr Rugendyke.

MR SPEAKER: It is a matter you will have to take up with the individual member. I cannot do anything.

Mr Kaine: Mr Speaker, I think I should clarify the record. I did vote incorrectly. I intended to vote no and I voted yes in error. I do not know what procedure has to be followed to correct my vote.

MR SPEAKER: The Clerk is looking at the matter. Standing order 165 states:

> In case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the Assembly shall proceed to another vote.

Is it the wish of the house to have another vote? There being no objection, that course will be followed.

Question put:

> That the amendment (**Mr Hargreaves'**) be agreed to.

The Assembly voted –

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

Question so resolved in the negative.

Amendment negatived.

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

MR RUGENDYKE (5.01): I seek leave to move together the amendments circulated in my name.

Leave granted.

MR RUGENDYKE: I move:

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Line 26, proposed new subsection 139L (1), omit ", 119AA, 139F or 139I", substitute "or 119AA or subsection 217 (4)".

Line 33, proposed new subsection 139L (2), after "may", insert ", by order,".

Line 36, proposed new section 139L, after proposed new subsection (2), insert the following new subsections:

" '(2A) In deciding whether to make an order under subsection (2), the Court—

(a) must have regard to the circumstances of the offence, including the risk to the safety of road users; and

(b) may seek evidence from the prosecution about the circumstances of the offence.

'(2B) Subsection (2A) does not limit, by implication, the matters to which the Court may have regard or prevent the offender from presenting evidence about the circumstances of the offence.".

Mr Speaker, these are mechanical amendments necessary because the administrative duties have been transferred from the chief police officer back to the Registrar of Motor Vehicles.

Amendments agreed to.

MR HARGREAVES (5.02): I seek leave to move amendments 3, 4 and 5 together, Mr Speaker.

Leave granted.

MR HARGREAVES: I move:

> Page 6, line 25, proposed new section 139L, omit the section.
> Page 7 -
> Line 12, proposed new section 139M, omit the section.
> Line 19, proposed new section 139N, omit the section.

Thank you, Mr Speaker. I have to say how disappointed I was in the preceding discussion.

Mr Hird: You cannot.

MR HARGREAVES: I can, thank you.

Mr Hird: You cannot reflect on a vote. It is highly disorderly.

MR HARGREAVES: Mr Speaker, would you please ask Mr Hird to become unheard?

MR SPEAKER: We all had a very late night last night. I think it is beginning to show and I would ask all members to settle down.

MR HARGREAVES: I am disappointed, not in the substance, but because of the plea I made that we give some thought to not proceeding as draconically as we need to. Mr Speaker, on this amendment of impounding vehicles and forfeiture, much has been said in debate about the size of the crime. Mr Kaine made a lot of points about matching the punishment with the crime. I thought I could detect a distinct distaste on his part over the possibility of a person copping a significant fine and losing their vehicle for three months on the first offence. And on the second offence we can sell it, auction it, give it away, whatever.

It is amazing that we can just take a motor vehicle off a young boy because it is his second offence at a burnout. And when we take that motor vehicle, we sell it. If we let it go through to next March without taking this out, it may be too late. We will see young people with a second offence copping fines and their car gone. That car might be worth a couple of hundred dollars or a number of thousands of dollars.

We will not have changed the attitude or the culture one zot. We will have just been vicious, vindictive and revengeful - the sorts of traits I see coming out of Mr Rugendyke and Mr Osborne today. I do not think we need to go down this path. We can wait and debate this matter again in February or March, whenever it is brought forward, when we change it to the Road Transport Act. We do not have to introduce forfeiture of a motor car on a trial basis.

It is possible that at Christmas time some kid could lose his car. If it is impounded, he does not get it back until after we have finished debating it in March. Let us just think about that over the Christmas period. There will be people our age down a highway, intoxicated and in charge of a motor car. There will be a death in New South Wales; we can guarantee that. We are supposed to be having national transport rules that address this sort of thing, to get those sorts of people off the highway. This is not national transport reform. This is not national road rules reform. This is a single agenda. This is an ACT special.

The whole of New South Wales does not embrace this, as Mr Stefaniak says. You cannot get done for this in Queanbeyan. You cannot get done for this in Wagga or in Goulburn. You do get done for it in Newcastle, I admit, but you do not get done for it across New South Wales. There is nothing national about this. If you want to bolster police power so that they can take a car away from a kid who is doing a burnout, make him leave it over the weekend. "Bad luck, mate" - fine, we can talk about that again in March. I note what you said, Mr Kaine, when you were looking at it. You went through it and ruled out all those pieces about forfeiting. We do not like the impounding either. All the amendment seeks to do is remove the power to impound or forfeit. The other two are subsequent to that.

I do not see that as fair. It is not the sort of crime that requires this sort of measure. It is not going to change behaviour or culture. You know it is not going to change the culture. You are just going to take one or two people out of the game and you are not going to change the culture one zot, because people who do this sort of thing need some other measure to change their culture. Just taking a car off one or two people is not going to do it, particularly not at this time. So I ask you, very sincerely, not to allow this to go through.

Mr Rugendyke told, I believe, an untruth when he said I proposed no alternative. I did. I said a $2,000 fine was adequate. You have got a kid who is 18 years old. He cops his first burnout. He is stuck in his peer group under peer pressure. He burns a bit of rubber, gets pinged by the police, and cops a $2,000 fine for his troubles. But he is not a recalcitrant. He is not a hoon. He is just someone who has been caught up. He is going to suffer the same sorts of penalties. He is going to get a $2,000 fine. Recalcitrants are the ones who have got the "bombs"; tyres soaked in diesel and what not; they are going to do it. Taking their car is not going to make them change that much; they just change the car. But you are going to take a car off a kid for three months on his first offence. He does not get that much for exceeding the alcohol limit - a much more serious issue. Driving recklessly and negligently is much more serous. The draftsman - Mr Rugendyke himself - has admitted that this sort of behaviour is akin to negligent driving by virtue of the size of the fine.

So why do we need to go that little bit further? I appeal to members of the Assembly: If you do nothing else, remove these segments from the Bill. Go with the spirit of it. If you have to, revisit it in February and March. We will take up Mr Moore's offer of having a round table where we can thrash it out. But end this personal attack and let us start thinking about reality. The reality is that this is unfair; a bad law; a bad penalty. If you are not happy with the judiciary, get the Attorney-General to have a word to them. Do not do this. Do not go down to this level of thinking. Ms Tucker asked yesterday, "What will be next?". This is next. If we go with this sort of stuff, what will be next? I appeal to you, Mr Kaine, to support the removal of this thing.

MR SPEAKER: Mr Hargreaves, address the Chair, please. Standing order 42.

MR HARGREAVES: I addressed Mr Kaine through you, Mr Speaker, with due deference, of course, and I thank you for your indulgence.

MR CORBELL (5.11): Mr Speaker, I want to briefly enter the debate today because I was a member of the Urban Services Committee while the inquiry was taking place into Mr Rugendyke's Bill. I felt it was appropriate to comment in relation to provisions which Mr Hargreaves through his amendments is seeking to remove. Mr Speaker, the Urban Services Committee inquiry heard evidence that it was quite clear the provisions for impounding and seizure of a vehicle would not act as any real deterrent to individuals undertaking burnouts.

The evidence, I regret to say, overlooked or not taken into account by my other colleagues on the committee, was that in many instances - I accept, not in all - individuals who perform burnouts are in vehicles worth maybe $200 to $700. That is not a lot of money for a motor vehicle. Indeed, many of these individuals keep far more valuable motor vehicles at home. They invest in them a lot of time, preparation work, effort and money.

But these are not the vehicles they use for burnouts. Instead, they purchase, as it was put to the committee, a "cheapie" vehicle - $200 to $600 worth - for the purposes of gunning down a street, revving an engine, performing a burnout. The sanction of impounding, removing, seizing that vehicle was not seen as any real deterrent because it was not an asset in which they had an enormous investment. Indeed, it was an asset that they were not perturbed to see lost. They would simply go out and buy another one for the same purpose. So, Mr Speaker, will this provision work? Based on the evidence of the Urban Services Committee, you would have to say it probably will not. That is a factor overlooked in this debate today.

The other point I want to make, Mr Speaker, relates to the draconian nature of this provision for seizure and impoundment. I am deeply concerned that we are putting in place a law that will have considerable impact on citizens who are around, or under, the age of 18. It is common knowledge that many of the mostly young men who undertake this burnout activity are around, or under, the age of 18. What sort of society is it that imposes a far stricter penalty on citizens who are under 18 than on citizens in their 40s and 50s convicted of a serious drink-driving offence? Do they lose their vehicle? No, Mr Speaker, they do not.

The imbalance between these two groups highlights that perhaps it is easier for society as a whole, and its agents, such as this Assembly, the police or other parties, to come down heavily on individuals under the age of 18. They do not have the franchise or the same weight as older people in these sorts of debates. I am not for one minute condoning the activity of burnouts. I am not a person who instinctively has a great affinity with any sort of motor vehicle activity. But I am interested to ensure that these types of provisions are put in place fairly; that the sanction be consistent with the offence, and workable. This provision fails those tests. I urge this Assembly to consider exactly what sort of message it is sending younger people in our community if it cracks down disproportionately compared with penalties for more serious offences committed by both younger and older citizens.

MR KAINE (5.17): Mr Speaker, as suggested by Mr Hargreaves and Mr Corbell, this section gives me most cause for concern. But it is not the whole of the section. Mr Hargreaves' seeking to omit all of it leaves me in the same quandary. The bit that concerns me is 139L(1)(b):

> In the case of a second or subsequent offence by an offender, the vehicle shall be forfeited to the Territory.

That is the bit that bothers me. I have no difficulty with the proposal in the case of a first offence that the vehicle be imposed for three months. I think it is a reasonable penalty to take the car off the road. You say to the guy or the girl, "Sorry, come back in three months' time and you can have your car back". That is perfectly all right. But as I said before, I do not want to hold up Mr Rugendyke's Bill. Looking at it in a practical sense, if we are going to consider his permanent Bill in February, what time-scale are we talking about? It is three months at most before it becomes law.

We are talking here about a second offence. So for anybody to suffer that penalty between now and March, they have got to get caught twice, and they have got to be processed through the courts twice before the vehicle can be forfeited. How practical is that? The first time they are picked up and they go through court, their vehicle is forfeited for three months. They get the car back; then they have got to go out and commit a second offence and go through the court system again. This is all before Mr Rugendyke's second Bill comes up and is approved in this place. I think the likelihood of anybody, in a practical sense, suffering that degree of penalty before the full-time Bill comes into being early next year is zero. Because there is no practical way somebody could incur that ultimate penalty in the time that remains, I am still prepared to go along. But I am not prepared to remove the whole section.

MR RUGENDYKE: We have passed on from amendments Nos 20, 21 and 22 of mine. I seek leave to fully explain those amendments.

Leave granted.

MR RUGENDYKE: Amendment 21 specifies that the court may exercise powers in relation to the impounding or forfeiture of motor vehicles. Amendment 22 inserts a new subsection that allows magistrates to take into account evidence when determining whether a vehicle is impounded or forfeited. This is consistent with recommendations of the committee.

Amendments negatived.

MR RUGENDYKE (5.21): Mr Speaker, I seek leave to move amendments Nos 23 to 27 together.

Leave granted.

MR RUGENDYKE: I move amendments Nos 23 to 27 circulated in my name. The amendments read:

> Page 7 –
> Line 27, proposed new paragraph 139N (2) (b), omit the paragraph, substitute the following paragraph:
> “(b) must state—
> (i) the provision of this Act contravened by the person; and
> (ii) the place where the offence was committed and the date and approximate time of the offence; and
> (iii) particulars that identify the vehicle.”.
> Line 29, proposed new subsection 139N (3), omit “impounded under subsection 138K (2)”, substitute “seized under subsection 139K (1)”.
> Line 31, proposed new paragraph 139N (3) (a), omit “139F or 139I”, substitute “119 or 119AA or subsection 217 (4)”.
> Line 36, proposed new paragraph 139N (3) (b), omit the paragraph, substitute the following new paragraph:
> “(b) if such proceedings are not instituted within 28 days after the vehicle is seized—those 28 days have elapsed.”.
> Page 8, line 3, proposed new subsection 139N (4), omit “139O or 139P”, substitute “139P or 139Q”.

Amendment 23 inserts provisions for what information is required to be contained on notices of impounding or forfeiture. Amendment 24 is to clarify that subsection 139K refers to vehicles seized under the provisions rather than impounded. Amendment 25 is, again, a mechanical amendment necessary because the administrative duties have been transferred from the chief police officer to the Registrar of Motor Vehicles. Amendment 26 requires seized cars to be returned if a prosecution has not commenced within 28 days. Amendment 27 is required to correct an error in the sequential lettering of the initial drafting of the Bill.

Amendments agreed to.

MR RUGENDYKE (5.22): Mr Speaker, I move amendment No. 28 circulated in my name:

> Page 9, line 21, after proposed new subsection 139Q (3), insert the following new subsections:
> " '(3A) In deciding whether to release the impounded vehicle to the applicant, the Court—
> (a) must have regard to the circumstances of the relevant offence, including the risk to the safety of road users; and
> (b) may seek evidence from the chief police officer about the circumstances of the offence.
> '(3B) Subsection (3A) does not limit, by implication, the matters to which the Court may have regard or prevent the applicant from presenting evidence about the circumstances of the offence.".

Amendment 28 inserts new subsections which allow magistrates to take into account evidence when considering whether to impound vehicles. This is consistent with the committee's recommendation. This recommendation was particularly pertinent because it came to the committee's attention that the New South Wales courts were unable to examine evidence when deciding whether or not to return vehicles to their owners as a result of burnout laws in New South Wales.

MR HARGREAVES (5.24): The Labor Party will be supporting amendments 28 and 29. We are particularly keen to allow the courts to decide these matters. This is a good example of having the courts decide something and not having mandatory application of penalty. And we are pleased to see at least some expression of competency in the courts, even with a little bit of direction.

Amendment agreed to.

MR RUGENDYKE (5.25): Mr Speaker, I move amendment No. 29 circulated in my name:

> Page 9, line 27, proposed new Division 5, omit the Division, substitute the following new section:
> " '139R **Indemnity from personal liability for honest and good faith carrying out of duties**
> '(1) An individual is not civilly liable for an act or omission done honestly and in good faith in the exercise of a function or power under this Part.
> '(2) A liability that would, apart from subsection (1), attach to an individual attaches instead to the Territory.'.".

This amendment omits the division and substitutes a new division relating to legal immunity for police officers in the course of their duty.

Amendment agreed to.

MR HARGREAVES (5.26): Mr Speaker, I move amendment No. 8 circulated in my name:

Page 9, line 27, proposed new Division 5, omit the division.

Mr Speaker, this division, the miscellaneous division, talks about legal immunity. What it says here is that a police officer or a person engaged by the chief police officer, acting at the direction of a police officer, who has seized or impounded a motor vehicle under this part, is not liable while the vehicle is in his or her charge for any damage caused to the vehicle, unless the damage is caused by his or her negligence or deliberate action, or for the loss of the vehicle due to its theft by another person, unless he or she has assisted in the commission of the theft.

Some kid gets his car impounded and it goes off to, let us suggest, a Totalcare fleet yard. It is put it in there because these people do this at the direction of the police officer. The guy locks the door, the gates, does his job, goes home. Then some other little hood gets over a wire fence not patrolled particularly well; vandalises the car, smashes it, and takes out all the good gear because it is a nice, spunky looking motor car. That is quite possibly what would happen.

This provision allows people to just take the car, lock it up in a yard, walk away and ignore the duty of care. Before they can be held liable for it, the damage has to be caused by his or her negligence or deliberate action, unless he or she has assisted in the commission of the theft. A person doing what I have just described is not negligent; they have done their job. The negligence could very well be on the part of a third party. But where is the liability of the third party? Not here. You are asking these people to take somebody's car, lock it up and just walk away. Unless they are crooks themselves, they are fine. It is outrageous. We should be holding these people responsible for it.

You are holding these young people responsible for the burnouts, to the extent that you are introducing draconian measures; you are going to fine them 2,000 bucks, you are going to take their car for a minimum of three months, sometimes forever. But during that three months, you are also saying, "Right, mate, you run the risk of having your car vandalised". Mr Speaker, it is absolutely unbelievable that we would address ourselves to the fixing up of hoons and leaving these people in as vulnerable position as we have.

Earlier in this Bill it says that a police officer can say, for example, to a tow truck driver or a person who is adept at picking locks and hot-wiring vehicles, "Please do that to make sure that we can take it away". Okay, so they do. And then it is taken away by a tow truck driver. But does he have any real responsibility for it? No. If he is negligent, yes. If it is a deliberate action, yes.

MR SPEAKER: Excuse me, Mr Hargreaves, I regret to inform you that your amendment No. 8 is out of order. The Assembly has already agreed to amendment No. 29 of Mr Rugendyke's. That effectively prevents you moving amendment No. 8 to omit the division. We have just agreed to include the division.

MR HARGREAVES: Very well, Mr Speaker, I will not pursue the matter.

MR SPEAKER: It is not your fault.

MR HARGREAVES: This is the second time in two days, Mr Speaker, that this has occurred and I must say that I am considerably less than impressed with the whole matter.

MR SPEAKER: Thank you.

Mr Smyth: On a point of order, Mr Speaker. It is actually nobody's fault. Mr Rugendyke has moved that division 5 actually becomes indemnity from personal liability. What you are trying to do through your amendment 8 is delete what is now division 6 as a consequence of the previous amendment. Your amendment is now outdated. It is not that somebody is trying to stop you moving your amendment - - -

MR HARGREAVES: I am aware there is nothing deliberate about this mistake, Mr Smyth.

MR SPEAKER: We are revisiting this legislation some time in the future, correct?

MR HARGREAVES: We will be indeed revisiting this legislation, Mr Speaker.

Clause, as amended, agreed to.

Clause 7

MR RUGENDYKE (5.32): Mr Speaker, I move:

> Page 10, line 1, omit the clause, substitute the following new clause:
> "**7 Permits–section 119 and 119AA**
> Section 217 of the Principal Act is amended—
> **(a)** by omitting from subsection (1) 'conduct motor vehicle reliability trials or speed tests upon any public street' and substituting 'engage in conduct mentioned in section 119 or 119AA'; and
>
> **(b)** by omitting from subsection (1) 'at least 2 clear days' and substituting 'at least 28 days'; and
>
> **(c)** by omitting from subsection (1) all the words after 'Minister,' and substituting ', issue a permit authorising the person to engage in the conduct'; and
>
> **(d)** by inserting after subsection (1) the following subsections:
> '(1A) Before issuing a permit under subsection (1), the registrar must—

(a) consult the chief police officer; and

(b) take reasonable steps to seek, and take into account, the views of anyone who would be, in the registrar's opinion, likely to be affected if the permit were issued or refused.

'(1B) Failure to comply with paragraph (1A) (b) in relation to a permit does not affect the validity of the permit.

'(1C) A permit under subsection (1) exempts the permit holder from the provisions of this Act in relation to the affixing of silencers to the exhaust pipes of motor vehicles, rules of the road and speed limits while engaging in the conduct authorised by the permit.'; and

(e) by omitting from subsection (2) all the words after 'which the' and substituting 'conduct may be engaged in and any conditions to which the permit is subject.'.".

Mr Speaker, this amendment sets out procedures for issuing permits under sections 119 and 119AA. It sets out the authority for the road transport authority in issuing or denying permits, and stipulates consultation requirements in ensuring that the interests of public safety are met.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 8

MR RUGENDYKE (5:33): Mr Speaker, I move:

Page 10, line 4, proposed new item 62, Part 2, Schedule 7, omit the clause, substitute the following clause:

"8. Schedule

Schedule 7 to the Principal Act is amended by omitting item 62 of Part 2 and substituting the following item:

62	Section 217	Refusing to issue a permit or issuing a conditional permit"

Mr Speaker, this amendment substitutes a new schedule 7 relating to section 217 and refusing to issue a permit or issuing a conditional permit.

Amendment agreed to.

Clause, as amended, agreed to.

Title agreed to.

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Bill, as amended, agreed to.

LAND (PLANNING AND ENVIRONMENT) AMENDMENT BILL (NO 4) 1999

[COGNATE BILL:

LAND (PLANNING AND ENVIRONMENT) LEGISLATION AMENDMENT BILL 1999]

Debate resumed.

MR SPEAKER: I remind members that earlier in the day we agreed to consider this order of the day concurrently with the Land (Planning and Environment) Legislation Amendment Bill 1999.

MR CORBELL (5.38), in reply: Mr Speaker, I indicate my thanks both to the Government and to crossbench members, obviously with the exception of Ms Tucker on this occasion, for their support of this Bill. This is an important Bill because for the first time since self-government - indeed, for the first time since the implementation of the Land Act - there will be clear criteria, publicly notified reasons, for the exercise of the ministerial call-in power. That is a significant step forward in providing for accountability, openness and transparency in the exercise of this important power.

Ms Tucker made some comments earlier in the debate today about the current Minister's use of the call-in power. I know that the Government and the Minister have indicated that the conditions I am outlining in this Bill are what the Government already does, so they are prepared to support it. Whilst it is true that the current Minister, Mr Smyth, has put out media statements alerting the community to his decision to exercise his call-in power, and has given at least some attempt at a reason, we may not always be so lucky. Under any legislation it is important that we do not have to rely on the favour or the whim of a Minister to find out why he or she has exercised this power.

Instead, it should be a requirement upon the Minister for planning of the day to give clear, justifiable reasons in accordance with criteria for the exercise of this power.

I do not want to be in a situation where we have a Minister for planning who refuses to give reasons for the exercise of the power and does not publicly state that they have even exercised the power. That is one of the main reasons for my presentation of this Bill. Whilst we acknowledge that the Minister has publicly notified his use of the power in an open way, this may not always be the case. That is one reason why we need this Bill.

The second reason is a more complex one. The Minister has said that he has used his call-in powers in ways which are consistent with the criteria outlined in this Bill and shortly to be incorporated into the Act. I take some issue with that. I do not accept that the Minister has exercised his call-in powers in a way which could be seen to be consistent with these criteria. I would say that the Minister has given a very broad justification for the exercise of his ministerial call-in powers.

I put the Government and the Minister on notice that, following the passage of this legislation, the Labor Opposition and I, as Labor's spokesperson on planning, will be watching very carefully any future exercise of the power and scrutinising very closely the Minister's publicly tabled justifications for it. If the Minister continues to use the call-in power in the way he has used it to date, he may run into some trouble - not all the time, but he may. It is important that the Government be aware of the Opposition's intention in that regard.

The Minister has tabled an amendment to my Bill. As Mr Moore indicated earlier, it provides for legal appeal under the provisions of the AD(JR) Act but within a set timeframe. An appeal must be lodged within 28 days. The Labor Opposition has no objection to this amendment, but we do echo Mr Moore's comments when we say we will be watching very closely to make sure that this does not become the norm in relation to ministerial call-in powers. We will wait and see. I must admit that on the face of it I do not expect that to be the case, but we will be watching closely.

In conclusion, the use of a ministerial call-in power under the current system is an appropriate mechanism. As I indicated earlier in the debate, it may not be an appropriate mechanism if you have a truly independent statutory planning authority. We do not have that at the moment. Perhaps we will in the future. Under the current system the exercise of this power is appropriate as long as it is done in an open, transparent and publicly accountable way. This Bill entrenches those requirements. I thank the Assembly for its support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

Proposed new clause 4

MR SMYTH (Minister for Urban Services) (5.44): Mr Speaker, I move:

> That the following new clause be added to the Bill:
>
> "**4 Insertion**
>
> After section 279 of the *Land* (*Planning and Environment*) *Act 1991* the following section is inserted in Subdivision A of Division 5 of Part 6:
>
> '279A **Challenge to the validity of certain decisions**
>
> '(1) The validity of a decision made by the Minister on an application to which subsection 229A (7) applies may not be questioned in any legal proceedings except those commenced within 28 days after the date of the decision.
>
> '(2) In this section—
>
> ***legal proceedings*** does not include an application to the administrative appeals tribunal.'.".

I present a supplementary explanatory memorandum. As Mr Corbell outlined, this amendment tidies up the application of the call-in power. It allows an appeal to be lodged in the Supreme Court within 28 days. I would welcome the Assembly's support for the amendment.

Amendment agreed to.

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

Bill, as amended, agreed to.

LAND (PLANNING AND ENVIRONMENT) LEGISLATION AMENDMENT BILL 1999

Debate resumed.

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

SURVEILLANCE CAMERAS - TRIAL

MR STANHOPE (Leader of the Opposition) (5.46): Mr Speaker, I move:

> That this Assembly calls on the Government to institute the trial of surveillance cameras in Civic that it has promised for the past two years.

This is a very straightforward motion and should not take much discussion. It is based upon a very simple premise - that the Government should keep its promises. As everybody knows, the last Assembly referred to a standing committee chaired by

Mr Osborne, and on which the Labor Party was represented by Rosemary Follett, the possibility of using security cameras as part of a trial of a safety and crime reduction measure in Civic.

From the day of the tabling of the report, the Labor Party made its attitude to the possibility of this trial quite plain. On 25 September 1996 Ms Rosemary Follett said in this place that she was very pleased to be speaking to the report. She commended the report to the Government and hoped that the Government would respond positively to the recommendations and the prospect of conducting a trial of security cameras in the ACT.

It took the Government 10 months to respond to the report. The report had general cross-party support, despite certain members and the Labor Party having reservations, recognised by the committee, about the privacy aspects of the use of surveillance cameras in a controlled trial. That was a quite reasonable view accepted across the Assembly.

The Liberal Party did not hesitate to embrace this proposal as part of its policy for the last election. Among the promises the Liberal Party went to the people of Canberra on at the last election was a promise to undertake a trial of security cameras in Civic. Given the comments that the Attorney has been making about this matter, perhaps he has forgotten the extent of the promise that he and his party made in the run-up to the last Assembly election. Perhaps it is relevant that I read some of it out. These are the Liberal Party's promises to the electorate at the last election:

> Cameras have become a part of every-day life for many Canberrans. Banks, service stations and other establishments (even the ACT Legislative Assembly itself) have used cameras for security protection for many years, without public concern.
>
> Cameras do work as a crime prevention measure, and also assist to solve crimes.

The document goes on to talk about the advantages of cameras. Then come the promises:

> The Canberra Liberals will trial safety cameras in Civic.

No ifs and buts. The Liberals will do it. It goes on to say:

> The cameras will be monitored during peak periods by the Australian Federal Police, and during non-peak periods will operate on a record facility. Camera vision will be available at all times, should incidents be reported.

These are the Liberal promises:

> Privacy protection principles will be in place. People concerned about privacy have a guarantee that the cameras will be operated within police guidelines and that complaints can be investigated by the Ombudsman.
>
> Cameras will form an integral part in a strategy aimed at making the centre of Civic a safer place.

The starting point for the debate was the report of the standing committee chaired by Paul Osborne. I am not quite sure who the Liberal Party representative was. Mr Hird, you might be able to remind me. The Labor Party was represented by Rosemary Follett. I know there was general agreement and consensus.

Mr Hird: Mr Kaine was.

MR STANHOPE: Mr Kaine was a member of the committee. There was general bipartisan agreement. The Liberals then embraced that. The Liberals went to the election with specific, unambiguous, unequivocal promises. The Liberals would trial safety cameras in Civic; the Liberals would ensure that there would be privacy guarantees; the Liberals would ensure that complaints could be investigated by the Ombudsman. These are the Liberal promises. All this motion does is ask the Liberals to keep their promises. The motion states:

> That this Assembly calls on the Government to institute the trial of surveillance cameras in Civic that it has promised for the past two years.

It is a very simple motion. Will you, the Liberal Party, the Government, keep your promise to trial security cameras in Civic? Then all the ifs and the buts come.

Mr Berry: One day.

MR STANHOPE: Yes, one day. It is a bit like the Belconnen pool. The Liberal Party says, “Yes, one day we will. When we stop blaming everybody else for our inaction, when we stop blaming everybody else for the fact that we cannot get up off the chair and cannot get up off our hands, when we stop blaming the Labor Party, when we stop blaming Wormald, when we stop blaming the fact that we do not have privacy principles in place, when we stop blaming the fact that we have not done the work we promised in our election manifesto that we would do, when we stop blaming everybody else, maybe we will get around to it. We have been promising it for two years, since the last election”.

Are you going to promise it for the next election as well? Is part of your policy platform for the next election going to be: “We repeat the promise we made at the last election campaign that we will institute a trial of security cameras in Civic”, or will you just sit on your hands for another two years? You have had this promise on the table for 22 months. You have 22 months to go. You have blamed everybody in sight. You have blamed us; you have blamed Wormald; you have blamed your inability to develop the privacy principles that you said you would develop. You have not got around to it. It is

just sheer inaction, sheer broken promises, taking the community for granted and doing what you always do - blaming everybody else. Just get on with the job.

Look at some of the things that were said. Look at some of the claims that have been made. The *Canberra Times* of 14 April 1998, just under two years ago, states:

> A spokesman for the Minister for Justice and Community Safety, Gary Humphries, said there was no need for further delay …

Peter Clack wrote an article a week or so later stating that Mr Humphries had nothing to fear in terms of Assembly support; that he had the numbers to institute the trial of security cameras whenever he wanted. That was 20 months ago. This nonsense goes on and on as the Government seeks to explain, thrashes around and blames everybody else for the fact that it has not kept its promise, until we reach the comment in last Saturday's paper. After two years of obfuscation, two years of doing nothing, two years of promising to look into the problems of lawlessness and lack of security and lack of safety in Civic, two years of promising to do something about community security and doing nothing, we find this statement from the Attorney-General's office last Saturday:

> Attorney-General Gary Humphries said it was ironic that Mr Stanhope was legislating in a small area -

namely ATMs -

> while holding up Government plans to introduce security cameras in Civic …

That is not a Gary, Mr Speaker; that is a lie. For Mr Humphries to say to the *Canberra Times* - - -

Mr Humphries: Mr Speaker, I think to describe what another member has said as a lie is unparliamentary, and I would ask Mr Stanhope to withdraw.

MR SPEAKER: Indeed it is. I uphold the point of order.

Mr Kaine: Whom are you accusing of telling a lie?

MR STANHOPE: I do not know who said it. The *Canberra Times* got it wrong then. The *Canberra Times* obviously misquoted Mr Humphries, if he did not say this. I will read what the *Canberra Times* said:

> Attorney-General Gary Humphries said it was ironic that Mr Stanhope was legislating in a small area while holding up Government plans to introduce security cameras …

The Labor Party is not holding up plans to introduce security cameras. Any suggestion by anybody that the Labor Party is holding up plans to introduce security cameras is a lie.

Mr Wood: Hear, hear! It is an election device.

MR STANHOPE: It is an election campaigning device, an attempt to blame others for the fact that it refuses to implement its election promises. You should be embarrassed, Mr Hird. Have you read your promises?

Mr Hird: You should be red faced.

MR STANHOPE: You should read your promise. Are you the Government? Do you want us to do the job? Aren't you up to it? There is certainly a very strong view in the community that you are not up to it. I think most of you are not up to it. If you want us to do the job, then give it to us. We will do it. If you cannot keep your promise to institute a trial of security cameras, then give us a go, but stop blaming us, stop lying about the fact that we are holding up trials when we are not. We are urging you to undertake this trial. The people of Canberra have been waiting two years for you to undertake this trial. You simply do not have the energy or the commitment or, it seems, the capacity to do what you say you are going to do.

You refuse to keep your promises. You have been promising for two years. It is in your election platform, and you will not keep your promises. Stop blaming us for it. If you do not have the integrity to keep your election promises, just own up to it. Own up to the fact you are not up to the job and stop blaming us for it. Stop lying about what we will or will not do.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.57): Mr Stanhope rises full of indignation at the fact that there could be any suggestion that the Labor Party in the ACT could be holding up the advent of security cameras in the ACT. I might just make a concession here. It might just be true, in the last little while, that Labor's position on security cameras has come to the point where they do not propose to hold up security cameras any longer. Mr Speaker, I will tell you a lie, if you want to hear a lie, and that is the suggestion that the Labor Party in the ACT has not held up security cameras in this Territory for a very long time before now. I refer members to 1996, when the ACT Liberal Government - - -

Mr Stanhope: Gee! How far back do you want to go? Four years ago?

MR HUMPHRIES: Apparently what happened four years ago is ancient history. Apparently holding up security - - -

Mr Stanhope: What did you say in the last election campaign? You were going to put 1,000 beds in the hospital in that period, too.

MR SPEAKER: Mr Stanhope, you were heard in silence. I would ask you to extend the same courtesy to Mr Humphries, please.

Mr Stanhope: I was not, Mr Speaker.

MR HUMPHRIES: You were by me.

Mr Stanhope: I was not by my Ginninderra colleague.

MR HUMPHRIES: You can buy into interjections from him, but I heard you in silence, Mr Stanhope, and I expect the same courtesy from you. The fact is that in 1996 the Australian Labor Party held up security cameras consistently and without apology. I refer to the *Hansard* of 29 February. The then Labor Opposition Leader, Rosemary Follett, said:

> I believe that this issue is one that both the community and this Assembly need to weigh very carefully before we take action that would impose surveillance upon people's private lives, and that is what the proposition being put forward by Mr Humphries involves.

Does it sound like support, Mr Speaker?

Mr Stanhope: I take a point of order, Mr Speaker. This is intellectually dishonest and disingenuous in the extreme. That was months before a select committee. Ms Follett followed through on that undertaking. She at least had the capacity to do it. She followed through as a member of a select committee and recommended a trial of security cameras. How paltry is this defence?

MR SPEAKER: I do not uphold the point of order. It is perhaps a point of debate, but it certainly is not a point of order.

MR HUMPHRIES: What Ms Follett was doing at that time was leading the charge by the Labor Party to prevent cameras going in in Civic as planned by the Liberal Government. We had announced intentions to implement cameras at that stage, in 1996, pursuant to our election promise. We were ready to do that, and the Labor Party said, "No cameras go into Civic until we have had an inquiry". Ms Follett said:

> My concerns about the surveillance cameras could be summarised as, first of all, that I do not know whether they are going to work. We know that police presence in Civic, on all the evidence we have, does work. I would hate to think we might somehow be bringing about some kind of fool's paradise where we rely on a piece of mechanical equipment to do a job that ought to be done by properly paid and properly trained officers of our police force.

It does not sound much like a party enamoured of security cameras, does it, Mr Speaker? It does not sound like a party that was looking forward to putting those cameras in. Again, I quote:

> I do not believe that it is appropriate for the ACT community to be subjected to this kind of surveillance …

Mr Speaker, does it sound like a party enthusiastic about security cameras?

Mr Hargreaves: It sounds like a weak dinosaur argument to me.

MR SPEAKER: Order! Your leader was heard in silence. I expect the same courtesy to Mr Humphries.

MR HUMPHRIES: I know you people like to shout people down. That is a nice convenient way of dealing with issues. But I will present my arguments, and you can respond as you wish. You can hurl all the abuse and call me all the names you like, but I will put the arguments very coldly and calmly. Labor instituted a committee to stall security cameras. The report endorsed cameras, subject to extremely heavy restrictions, subject to the enactment of privacy legislation specifically about security cameras and subject to the establishment of a new ombudsman specifically for the purpose of monitoring cameras. They wanted a camera ombudsman to be set up in the ACT, at a cost of about $130,000 to the ACT community. They are not opposed to cameras, Mr Speaker! They say, "We are in favour of cameras. We just want you to spend $130,000 making it happen, before you put the first camera on the streets of the city".

Then we had a motion in June 1997, when the Government proposed to proceed without the ombudsman and without the specific privacy legislation duplicating, as they would have done, the Commonwealth Ombudsman and the ACT Ombudsman and duplicating the protocols already in place in respect of the Federal Police, who will be operating the cameras. We proposed proceeding without those restrictions in place. Again, the Labor Party, in conjunction with Mr Moore at the time, moved against the Government.

Mr Hargreaves: When was this?

MR HUMPHRIES: This was in June 1997. Mr Moore moved an amendment to the motion that the Assembly take note of the paper to add the following words:

> and, in noting the paper, this Assembly requires the Government to refrain from any implementation of surveillance cameras that is not in accordance with all the recommendations of the Standing Committee on Legal Affairs report "The Electronic Eye".

Again, this so-called green light was much more like a very pale amber light, if not an absolute red light. You said, "You can have cameras, but you have to put in place a special camera ombudsman", which I note you have now forgotten about, which I note you have now abandoned.

Mr Berry: When was this - 1996, 2½ years ago?

MR HUMPHRIES: Mr Speaker, again I ask for some respect for my right to put a point of view in silence. Again, they wanted a camera ombudsman and they wanted special camera privacy legislation. We said, "Sorry, we do not intend to take that approach. We will go to the electorate and we will say that, if re-elected, we intend to implement cameras on the basis that these unnecessary filibusters on the part of the Labor Party should be put aside". Lo and behold, the electorate backed the Liberal Party in that matter and re-elected us with a 10 per cent margin over the Berry-led Labor Opposition. The Labor Party went through one of its most humiliating defeats in its

electoral history in the ACT, and our promise to implement cameras without those restrictions was affirmed.

For the Labor Party to rise in this place now and say, "We are in favour of security cameras, so why are they not in place now?" is a little bit much to take. A little bit of indigestion gurgles up in the old tummy when you hear the Opposition say, "We are in favour of cameras. Why aren't they in place? Why haven't they been put there before now?".

Nobody is fooled for one instant by this charade on the part of the Opposition. You people have done your best for the last five years to block cameras at every step of the way. You now see a shift in concern in the ACT towards a concern about a problem with security in public places and a general concern about law and order in this Territory and you have decided to climb on the bandwagon. What was it someone said earlier today about a shift to the Right in ACT politics? Who is climbing on that very same - - -

Mr Stanhope: That was Michael Moore.

MR HUMPHRIES: Indeed, and he was absolutely right. It is just a jump to the right, as I think the song says. And it is true. The Labor Party, which throughout the Third Assembly utterly and resolutely opposed security cameras, now wants to have those cameras in place sooner rather than later. The conditions they sought to impose before - a privacy ombudsman and special camera legislation - appear not to be quite so important now. They do not appear to be anxious for it to happen.

Mr Stanhope: We are doing your job for you. You are just too lazy.

MR HUMPHRIES: You are doing it? You promised that in the last election, more than two years ago. That is your promise. I do not intend to do anything about it. It is not my promise.

Mr Corbell: You do not intend doing anything about it?

MR HUMPHRIES: I do not intend doing anything about a special camera ombudsman or about special camera legislation.

Mr Stanhope: You are going to break your promise? Attorney breaks election promise.

MR HUMPHRIES: Mr Speaker, I have to insist - - -

MR SPEAKER: Order, please, Mr Stanhope! I do not know why you people opposite think that by shouting you can drown out debates.

MR HUMPHRIES: At the same time as the Government made a promise in the context of the last election to have security cameras in place, those opposite made a promise of their own. They made a promise to have legislation specifically for cameras and to have an ombudsman, specifically for cameras.

Mr Stanhope: You promised that.

MR HUMPHRIES: No, I did not.

Mr Stanhope: I will table your promise in a minute.

MR HUMPHRIES: By all means do so. We promised protocols and we said that we would use the Commonwealth Ombudsman. That is what it says, Mr Stanhope. If you look closely, you will see that we were proposing the use of the Commonwealth Ombudsman as the person who would monitor the effectiveness of those cameras, because the cameras would be operated in the ACT only by the Australian Federal Police and the Ombudsman already has the jurisdiction to monitor those cameras in the ACT. I could be asking the question today, "Where is the Labor Party's promise of a camera ombudsman and special camera legislation?". "We are working on it", we hear. If it is a good enough defence for the Labor Party, it is a good enough defence for me too.

MR STANHOPE (Leader of the Opposition) (6.09), in reply: Mr Speaker - - -

Mr Humphries: We promised to have two speakers, one on each side.

MR STANHOPE: Yes, but we are not dogmatic and autocratic like that, Mr Humphries. You might nail your members down, Mr Humphries. I will just close the debate.

I will not repeat at length the points I made before. The case is well and truly made. The Government has simply broken its election promise in relation to security cameras. It was a clear promise and I will read it again. This is a quote from the Liberal Party's promises to the electorate:

> The Canberra Liberals will trial safety cameras in Civic. The cameras will be monitored during peak periods by the Australian Federal Police, and during non-peak periods will operate on a record facility.

Attorney, when will you keep your promise? We know Mr Hird is completely unapologetic about the fact that he has not been able to keep his party's promise in relation to a pool for his constituents in Belconnen. This is just another one of the Liberal Party's broken promises. It is a promise the Liberal Party has no intention of keeping. It thrashes around as it does with everything, blaming everybody else except itself. It is like that song "Not, Not, Not Responsible". Who sings that?

Mr Hargreaves: Helen Shapiro.

MR STANHOPE: Helen Shapiro. That is the theme song of the Canberra Liberals.

Mr Humphries: I take a point of order, Mr Speaker. I think Mr Stanhope is referring to "We're on a Road to Nowhere".

MR STANHOPE: If you would prefer that to be your theme song, Attorney, we will concede that that is more appropriate to you. I will conclude the debate on this point. We over here, and I think most people in Canberra, are simply sick and tired of this Government refusing to keep its promises in relation to security cameras. We stand by the very good report of the committee chaired by Mr Osborne. I understand Mr Kaine was a member, along with Ms Follett. It submitted a unanimous report - - -

Mr Hird: I told you.

MR STANHOPE: You were right. I checked. I need not have checked. I should not have doubted you. It was a very good report. It was a unanimous report. It recommended a trial of security cameras. The Liberals have been promising a trial and have continued to renege on that promise. They should stop blaming everybody else and get on with it.

Question resolved in the affirmative.

ADJOURNMENT

Report of Attorney-General's Adviser

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.12): I move:

> That the Assembly do now adjourn.

Mr Speaker, I want to table, for the information of members, the report that I referred to earlier today of my senior adviser on his visit to Britain, the United States and Canada.

Tuggeranong

MR HARGREAVES (6.13): Earlier today the Chief Minister said how wonderful things were looking and how well they were looking after Tuggeranong. She claimed responsibility for the motel, stacks of employees, Bunnings hardware store, all the clubs and, no doubt, if given time, for the snow on the mountains. However, what is the truth? What has she really achieved in her 4½ years of stewardship, Mr Speaker, and what has the member for Brindabella, Mr Smyth, the Minister for Urban Services, achieved for his own electorate? Well, the Chief Minister has indeed attracted business to Canberra through the use of incentives, but not to Tuggeranong.

Mr Speaker, Belconnen has 12,000 public servants, Phillip has 12,000 and Tuggeranong has 8,000. Belconnen has a hospital, Phillip has three hospitals nearby and Tuggeranong has none. Belconnen has a TAFE college, Phillip has a TAFE college annex, but Tuggeranong has none. Belconnen has a minor industrial area, as does Phillip. Tuggeranong has an embryonic one. Belconnen has a major IT park and a major sporting complex. Tuggeranong has neither. All three have a major shopping centre and all have very large populations. To be fair, Gungahlin has none either, but it has a rapidly increasing population.

Mr Speaker, it is deplorable that all the opportunities for job creation, in a large scale, are being promoted away from the Tuggeranong Valley. There appear to be three reasons for this, possibly more. Firstly, the shape of the valley contributes to the land allocation difficulties. It is a long, thin valley, not an open, wide one like Belconnen is and therefore there are difficulties; secondly, the over-allocation, over time, of suitable land for residential purposes instead of industrial parks, TAFE annexes, sporting complexes and hospitals; thirdly, the lack of vision of this Government, and lately the Minister, in extending the largess of the Government in creating alternative job creation scenarios. The Tuggeranong business lobby group has agreed with all of this. Mr Speaker, no wonder Tuggeranong feels neglected by this Government. The residents are right.

This Government accuses the Opposition and me personally of lack of vision. They have had 4½ years to correct the imbalance of job opportunities affecting Tuggeranong. They have assisted Civic, Belconnen and Phillip, but have neglected Tuggeranong, so I wonder for the future of Gungahlin. They have assisted Civic, as I said, and they have exploited the land down in Tuggeranong for residential development.

The Minister for Urban Services and the Chief Minister have attempted to take the credit for some movement in Tuggeranong to which they are not entitled. They have no vision for Tuggeranong. They should be ashamed, particularly the Minister. He has failed in his role as a member for Brindabella.

The Chief Minister, instead of pontificating about how wonderful things are going on in Tuggeranong, ought to wake up and realise just how Civic centric she is. She ought to realise that, unless they change the whole governmental attitude to planning in the Tuggeranong Valley, there will not be a square inch of land left so as to be able to do something large in that valley, such as put a university annex out there, or have CSIRO activity, a TAFE annex or a hospital out there. I dare say we are even running out of land to put a cemetery there, so even the dead have to go out of the valley. At the moment the whole of the valley is a dormitory suburb and people work outside it. I fear for its future while ever this regime is in power.

Public Service Contracts

MR CORBELL (6.17): Mr Speaker, earlier today in the Assembly when the Chief Minister was tabling copies of executive contracts she made a comment that she was grateful that the Assembly, until recently - I think she said in the last couple of days - had respected the confidentiality of those contracts. I assume that that comment related to some comments that I have made, both in this place and in the media, relating to the appropriateness of the payment of temporary accommodation allowances.

Mr Speaker, I want to put on the record here and now that I am absolutely confident that the comments I have made in relation to temporary accommodation allowance and the appropriateness of those payments have been entirely in the public interest. I want to refute the comment of the Chief Minister that the privilege extended to this Assembly in relation to the details of the contracts has been abused, because it has not, Mr Speaker.

In fact, the only thing that has been abused in relation to this whole matter has been the Chief Minister and her Government's approach to the payment of temporary accommodation allowance for senior executives.

I want to reflect quickly on a document which the Chief Minister tabled today in the Assembly. Today she tabled a minute from the then Commissioner for Public Administration, dated 13 August 1996, relating to new arrangements - I stress that - for the payment of temporary accommodation allowance. What did these new arrangements do, Mr Speaker? They provided for three things. First of all, they increased the payment of relevant temporary accommodation allowance to senior executives by 60 per cent and 41 per cent respectively. I will just emphasise that. There was a 60 per cent increase and a 41 per cent increase. When did it occur, Mr Speaker? It occurred in 1996.

Mr Hargreaves: Who was the Chief Minister?

MR CORBELL: Who was the Chief Minister, my colleague Mr Hargreaves asks? Mrs Carnell was the Chief Minister. What else did this minute do, Mr Speaker? It also overruled the requirement which is normally provided for in the guidelines for temporary accommodation allowance for officer contributions so that no contributions were required to be made by senior executives towards the cost of their accommodation.

Thirdly, Mr Speaker, this minute overruled the standard three-year limit for temporary accommodation allowance as prescribed by the guidelines by extending the entitlement for five years. I repeat, five years. It was not an extension halfway through the contract, or a quarter of the way through the contract; it was an extension from the beginning of the contract. From the day the contract was signed, the deal was that these senior executives would get this payment for five years, which is the full length of their contract.

Mr Speaker, the Chief Minister has said publicly and in this place that the temporary accommodation allowance that these executives were being paid was made under Labor's guidelines. Well, Mr Speaker, this document puts the lie to that. It puts the absolute lie to that because this document indicates that these changes were made in 1996 in the period of the Liberal Government. Deliberate changes were made to the guidelines set up in 1994. These changes were made in 1996 under the Liberal Government to increase the amount paid to senior executives, to extend the payment for the full five years of the contract, and to overrule any requirement for officer contribution.

Mr Speaker, the Chief Minister has only one choice in relation to this matter. First of all, she must answer the question, "Why were these arrangements made?". She has not given a reason to date. Secondly, she should do the decent thing, the morally right thing, the thing that is consistent with the report of the Ernst and Young review into these arrangements, and stop the payments. When will the Chief Minister do so, Mr Speaker?

Tuggeranong
Public Servants
Chief Minister

MR HIRD (6.21): Mr Speaker, I would like to cite some quotes. Our colleague Mr Hargreaves talked about services in the Tuggeranong Valley being deplorable. Those services were made available in the last five years and they have been enhanced by this Government.

Let me go on to the next quote of the evening. It is on the record. Our colleague Mr Corbell once again rubbished public servants who cannot answer back.

Let me cite another quote here and now, Mr Speaker: "And what a great Chief Minister". That was said by Harold Hird, a member for Ginninderra. Why did I say that? Look at the reduction in the deficit that we were handed. Look at the deplorable situation we were handed in 1995 when we came to office. What we have done with the crumbs left from the cake is marvellous. This Government stands on its record.

Question resolved in the affirmative.

Assembly adjourned at 6.22 pm