

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON
LEGAL AFFAIRS**

TRAFFIC (AMENDMENT) BILL (NO. 2) 1992

REPORT NO. 3

DECEMBER 1993

COMMITTEE MEMBERSHIP

Mr Gary Humphries	(Chairman)
Mrs Ellnor Grassby	(from 9 August 1993)
Mr David Lamont	(to 9 August 1993)
Ms Helen Szuty	(from 25 February 1993)

<i>Secretary:</i>	Ron Owens
<i>Research Officer:</i>	Judy Starceвич
<i>Administrative Support:</i>	Karen Pearce

TERMS OF REFERENCE

On 16 June 1993 the Legislative Assembly passed the following resolution:

That notwithstanding the provisions of standing order 174 -

- (1) the Traffic (Amendment) Bill (No.2) 1992 be referred to the Standing Committee on Legal Affairs for inquiry and report, by 16 December 1993; and
- (2) on the Committee presenting its report to the Assembly resumption of debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for the next sitting. ¹

¹ MoP, 1992-93, p 370

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CHAPTER ONE: INTRODUCTION

Background

1.1 The Standing Committee on Legal Affairs was formed on 27 March 1992 to:

...inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community relating to administrative law, civil liberties, and human rights, censorship, company law, law and order, criminal law, law reform and consumer affairs.

1.2 Mr Humphries presented the Traffic (Amendment) Bill (No. 2) 1992 on 9 December 1992 and moved that the Bill be agreed to in principle.² The purpose of the Bill is to control the use of skateboards, roller skates and roller blades in areas designated as shopping centres to the enhancement of public safety and the public amenity of public places.³ Debate was adjourned on the motion of the Minister for Urban Services.

1.3 When the debate on the Bill was resumed on 16 June 1993 the Government and one of the Independent Members of the Assembly indicated that they would be opposing the legislation;⁴ the debate on the Bill was then further adjourned on the motion of Ms Szuty.⁵ Following the adjournment of that debate Ms Szuty, by leave, moved a motion referring the Bill to the Standing Committee on Legal Affairs.⁶ In speaking to her motion Ms Szuty informed the Assembly of her belief:

...that the Standing Committee on Legal Affairs is well placed to consider the issues further and to come up with options and strategies which will effectively address the concerns expressed.⁷

The motion, supported by the Government and the Chairman of the Committee, was passed by the Assembly.

Conduct of the Inquiry

1.4 The inquiry was advertised in *The Canberra Times* on 3 July 1993.

² MoP, 1992, p 239

³ *Hansard*, 1992, Vol 14, p 3683

⁴ *Hansard*, 1993, Vol 7, pp 1888-99

⁵ MoP, 1992-93, p 370

⁶ *Loc cit*

⁷ *Hansard*, 1993, Vol 7, p 1900

1.5 The Committee also wrote to a number of individuals and organisations requesting a written submission. A total of four submissions were received. A list of those who provided written submissions is at Appendix A.

1.6 The Committee held a public hearing on 9 September 1993. At the hearing representatives from the Department of Urban Services, the Council on the Ageing (ACT), Youth Affairs Network of the ACT (YANACT), Cyclists' Rights Action Group and Mr Patrick Develin, a city pharmacist, were questioned at length by the Committee. A list of those who appeared as witnesses is at Appendix B.

1.7 On 26 October 1993 the Committee inspected the skateboarding facilities at Belconnen and the former facilities at Phillip.

CHAPTER TWO: FEATURES OF THE BILL

The contents of the Bill

2.1 Section 8C of the *Traffic Act 1937* provides that it is an offence to ride a bicycle within 10 metres of a shop during shopping hours.

2.2 The Traffic (Amendment) Bill (No. 2) 1992 extends the provisions of section 8C of the Principal Act in two ways. Firstly, it extends the prohibition on the riding of a bicycle in designated areas to include a prohibition on the use of skateboards, roller-skates and roller blades in those areas. Secondly, it provides that bus interchanges are to be treated in the same way as shopping centres for that purpose.

2.3 A penalty of \$40 for non-compliance is imposed in the Bill.

2.4 A copy of the Bill is at Appendix C.

The Purpose of the Bill

2.5 When introducing the Bill into the Legislative Assembly Mr Humphries stated that the purpose of the legislation was to ensure public safety in public places.⁸

2.6 While the Bill relates to 'designated public places' in general, Mr Humphries referred, in particular, to the many complaints received over the past few years from elderly people and traders within Garema Place. The complaints centred on collisions that had occurred between people, both elderly and young, and skateboarders, often resulting in injuries. While figures have not been kept on the number of collisions that have occurred, many people had witnessed such accidents. The rationale behind the Bill, therefore, is that it is incompatible to have people using skateboards in shopping centres where they pose a hazard to others who are going about their business of shopping or using the facilities in those places.

2.7 Mr Humphries stated:

The contention that I make in this Bill is that we should be ensuring that we do not make shopping centres effectively both places for people to

⁸ *Hansard*, 1992, Vol. 14, p 3681

shop and use the services there and recreational areas. They are not so designed and that it is a poor combination of uses in that one place.⁹

2.8 He referred not only to actual injuries but also to the perception of harm and damage that flows from people using skateboards in public places. As a result, elderly people going about their business in such areas often find themselves fearful of the hazardous activity going on around them.

2.9 There was also the question of damage to both public and private property from the use of skateboards, roller-skates and roller blades. In particular, seats in Garema Place have been severely damaged by skateboard riders who ride skateboards along the seats damaging the woodwork. Damage also occurred to the edges of concrete structures in the area of the chess pit in Garema Place.

2.10 Instances of private damage resulted from people colliding with shopfronts including cases of skateboards going through shop windows.

⁹ *Ibid*, p 3682

CHAPTER THREE: REACTION TO THE BILL

3.1 As mentioned in chapter 1, four submissions were received during the inquiry. The submissions received were divided on the Bill.

The Case in support of the Bill

3.2 The Council on the Ageing (ACT) indicated that it supported the move to restrict the riding of skateboards and bicycles, and the use of roller skates and roller blades, in public places.¹⁰

3.3 In particular, the Council stated that it had received many complaints in recent times from older people who felt insecure whilst walking in shopping centres and open spaces, such as Garema Place, because of the use of bicycles, skateboards, roller blades and roller skates in these areas. The proposed legislation would give the aged more security while enjoying the facilities the ACT has to offer.

3.4 The Council stated:

The people involved in the 'prescribed activity' often come up behind these people without warning, because they do so quickly and many older people have a hearing problem, it is frightening. If they feel the need to react, in the interest of their own personal safety, they cannot do so quickly. Older people therefore feel very vulnerable to physical injury, and are, therefore, afraid to move in public places.¹¹

3.5 The Council on the Ageing (ACT) also stated that many of the complaints they receive voice concerns on behalf of younger people with disabilities as well as people who have the care of very young children.¹²

3.6 Mr Patrick Develin, a pharmacist in Garema place for 23 years, who did not provide a submission but appeared as a witness before the Committee, also supported moves to restrict skateboarding in Garema Place.¹³ He emphasised that when the area was changed from a street into a pedestrian mall it was designed for the predominate use as a pedestrian area for the shoppers and people having lunch. Since the advent of skateboards and roller blades a deterioration in the use of that area has occurred, particularly to the detriment of pedestrians.

¹⁰ Council On The Ageing (ACT), Submission, dated 13 July 1993

¹¹ *Loc cit*

¹² *Loc cit*

¹³ Transcripts, 9.9.93, p 15

3.7 Mr Develin also told the Committee that, in recent times, he had attended several mishaps, particularly involving the elderly and the young. Echoing the views of the Council on the Ageing he stated that, although elderly people may not have been struck by a skateboard, many have been frightened by a skateboard because older people are slower to move, many have impaired hearing and become easily startled.¹⁴

3.8 Mr Develin also emphasised the potential for serious injuries to occur having seen a skateboard fly out of control like a 'flying missile' which disintegrated a three or four foot plastic sunglass stand. An out of control skateboard had also broken a window in his shop.

The middle road

3.9 While the Cyclists Rights Action Group did not actively support the legislation, it raised a number of important issues which it thought the Bill should address.¹⁵

3.10 The Group argued that where a shop fronts onto a road, bicycles and other vehicles would pass by it at a distance of the width of the intervening pavement. The Group, in its submission, went on to say:

We therefore suggest that, where a shop does not front onto a road but rather onto a Plaza, the riding of a bicycle at any greater distance from the shop and road should not be prohibited.¹⁶

3.11 The Cyclists' Rights Action Group suggested that the danger in question stems from people riding in a manner dangerous to the public:

We do not, however, simply suggest that the, apparently arbitrary, distance of 10 metres specified in the Bill should be reduced. Distance from a shop or bus interchange is only a secondary factor in whether the riding of a bicycle constitutes a danger from which the public should be protected. The primary factor is, whether the rider has due care and consideration for other people in all the circumstances.¹⁷

¹⁴ *Loc cit*

¹⁵ Cyclists' Rights Action Group, Submission, dated 6 August 1993

¹⁶ *Loc cit*

¹⁷ *Loc cit*

The Case Against

3.12 The Youth Affairs Network of the ACT strongly opposed the Bill.

3.13 Amongst its objections to the legislation, YANACT argued that:

- Garema Place is designed to be a thoroughfare which is large enough for all Canberrans to enjoy;
- the bill seeks to restrict the few forms of transport which are affordable to young people;
- skateboarders and roller bladers add colour to the centre of Canberra providing entertainment to people eating their lunch and to passers-by;
- young people are disproportionately disadvantaged by the \$40 fine; and
- the Bill discriminates against young people, as they are the main users of these forms of transport and recreational activities described in the Bill. ¹⁸

3.14 A submission was received from the Minister for Urban Services who highlighted a number of problems with the proposed legislation:

- Enforcement issues
- Identification issues
- Transport implications
- Definitional problems.

3.15 These issues are all discussed in the following chapter.

3.16 As mentioned earlier the Minister also indicated, during the 'agreement in principle' debate in the Legislative Assembly, that the Government would be opposing the Bill. ¹⁹

¹⁸ Youth Affairs Network of the ACT, Submission, dated 12 July 1993

¹⁹ *Hansard*, 1993, Vol. 7, pp 1888-91

CHAPTER 4: THE ISSUES

4.1 The Committee examined a number of issues raised during the inquiry.

The \$40 Fine

4.2 YANACT pointed out that young people and other people in the community on low incomes would not be able to afford a \$40 fine. ²⁰

4.3 While the Bill imposes a penalty of \$40, Mr Humphries stated that he would hope never to see penalties actually being imposed on young people. Rather, the legislation was a way in which the police and others can successfully encourage young people not to use certain public places for that kind of activity. ²¹

4.4 The Committee agrees that a \$40 fine for the offences listed in the Bill would impose a severe penalty on some young people.

Enforcing the Bill

4.5 The Minister for Urban Services referred to the fact that there is a general view that legislation of this nature is difficult to enforce. ²²

4.6 The Minister argued that the provision prohibiting bicycles from within 10 metres of an open shopfront is rarely enforced due to the difficulties in apprehending and identifying offenders and the inability to appropriately penalise an offender. Any attempt to enforce skateboard laws would be even harder, due to the average age and increased mobility of skateboard riders.

4.7 This view was echoed by officials from the Department of Urban Services. ²³

4.8 Cyclists Rights Action Group also stated that, while the Bill provided a penalty of \$40, an important consideration must be whether it would be enforceable against minors who presumably would be the most frequent offenders.

²⁰ Youth Affairs Network of the ACT, Submission, dated 12 July 1993

²¹ *Hansard*, 1992, Vol. 14, p 3682

²² Minister for Urban Services, Submission, dated 12 July 1993

²³ Transcripts, 9.9.93, p 3

4.9 The Group argued that if the penalty was enforceable only against adults the result would be that responsible adults, cycling with due care and consideration and posing no danger to others, but happening to be within 10 metres of a shop or bus interchange, would be liable to a penalty. While the Bill was intended to deter irresponsible behaviour by minors, it would be ineffective against this age group. The Group expressed the view that this would be similar to the "absurd" situation of the bicycle helmets law. Its genesis and emphasis are child cyclists, but only adult cyclists are effectively subject to penalties for not wearing a helmet. ²⁴

4.10 The Committee pursued the question of whether the main role of legislation of this nature was actually to apprehend people and fine them or whether such legislation was simply to empower police to request young people not to carry out those activities in public places. ²⁵

4.11 Representatives from the Department of Urban Services agreed that there is legislation which deliberately has an educative role as well as legislation that is there purely for the purposes of being enforced. ²⁶ However, the Department found it difficult to justify legislation where the enforcement really becomes very difficult. In that sort of environment the Department would prefer not to push the educative role too far. ²⁷

4.13 Furthermore, the Minister, in his submission, argued that the amendments proposed in the Bill would not solve all the problems of skateboards in Garema Place as businesses are more than 10 metres away from the chess pit where most of the activity takes place. ²⁸

4.14 In his submission the Minister for Urban Services also indicated to the Committee that there were also specific enforcement difficulties relating to young people under the age of 18 years. In the main these difficulties were due to the limitations placed on police powers under the *Children's Services Act 1986*, and the concomitant problems associated with identifying young people who are not carrying any formal identification. ²⁹

²⁴ Cyclists' Rights Action Group, Submission, dated 6 August 1993

²⁵ Transcripts, 9.9.93, p 3

²⁶ *Loc cit*

²⁷ *Loc cit*

²⁸ Minister for Urban Services, Submission, dated 12 July 1993

²⁹ *Loc cit*

4.15 The Committee considered this issue in the context of its inquiry into the Crimes (Amendment) Bill 1993 ³⁰ and agrees that similar problems would arise with the Bill under consideration in this inquiry.

Transport Implications of the Bill

4.16 Skateboards and roller skates constitute a form of transport amongst young people in the community.

4.17 A representative from the Youth Affairs Network of the ACT confirmed that she was aware of young people using skateboards and roller blades as a means of transport. Some people actually skated to university and art school from their places of residence in Ainslie and O'Connor using roads and footpaths. ³¹

4.18 YANACT also argued that skateboards, roller skates, roller blades and bicycles were not only forms of transport used by young people and the wider community but they are affordable and friendly to the environment. Since the roads are too dangerous for commuters using these forms of transport they often used footpaths and other pedestrian walk ways.

4.19 The Minister for Urban Services also supported the view that skateboards and in-line skates are healthy, relatively cheap transport alternatives for the young and should not be discouraged. ³²

4.20 The Minister referred the Committee to the implications the Bill would have for the ACT Transport Strategy.

4.21 In particular, the ACT Transport Strategy encourages the use of minor, non-motorised transport modes as well as the use of public transport. Various environmental strategies also encourage the use of non-motorised transport.

4.22 The proposed Bill would have a number of implications for the Government's transport strategy:

³⁰ *Crimes (Amendment) Bill 1993*, Report No.1 of the Standing Committee on Legal Affairs, May 1993, pp 19-21

³¹ Transcripts, 9.9.93, p 21

³² Minister for Urban Services, Submission, dated 12 July 1993

- (i) banning skateboards and in-line skates from interchanges would discourage individuals from catching the bus and skating through Civic, a combination of two desirable transport options;
- (ii) as the Civic Bus interchange is situated in an area of heavy pedestrian and bicycle through-traffic, the banning of bicycles in the Civic interchange would restrict cyclists' travel from one side of Civic to the other. It would be impractical to expect that cyclists would walk their bike through the interchange or ride around it; and
- (iii) discouraging the use of bicycles could effectively increase car usage in the Civic area.

4.23 Furthermore, if a ban is to be applied, rather than simply singling out bicycles, skateboards and in-line skates, any amendment banning or restricting their use should follow the proposed National Road Traffic Regulations' definition of Toy Vehicles. The draft Regulations presently propose that a Toy Vehicle means:

- (a) any wheeled device propelled by human power only and being ridden by a child under the age of 9 years; and
- (b) a scooter, skateboard, roller skates and similar wheeled devices propelled by a human power only.

The Bill

4.24 The Committee accepted the objections to the Bill raised above. On balance the Committee considered that the Bill should not be proceeded with.

Recommendation 1

4.25 The Committee recommends that:

- the Legislative Assembly not proceed with the Traffic (Amendment) Bill (No. 2) 1992.

Educating the Public

4.26 In giving evidence before the Committee YANACT made the point that an increasing number of laws directed at young people are being enacted by the ACT Assembly. According to YANACT 'move on powers' was one such law which had the effect of causing young people to feel like scapegoats; a target group for people to pick on.³³

4.27 Similarly, the Cyclists' Rights Action Group argued that the Bill represented over regulation in this area and the problem could be rectified by means other than legislation. In this way educative strategies rather than legislative penalties could be used.

4.28 In particular, the Group referred to the lack of training of cyclists particularly children. The group also indicated that some of their members may be interested in providing such training.³⁴

Recommendation 2

4.29 The Committee recommends that:

The Youth Affairs Section of the Chief Ministers Department, in conjunction with the Council for the Ageing (ACT), the Cyclists' Rights Action Group and the Youth Affairs Network of the ACT, design and coordinate a public education campaign on the safe use of skateboards, roller blades and bicycles.*

³³ Transcripts, 9.9.93, p 20

³⁴ Transcripts, 9.9.93, p 28

CHAPTER FIVE: ADDRESSING THE PROBLEM

Establishing a new facility

5.1 When introducing the Bill into the Assembly Mr Humphries stated that the proposal in the Bill should not be characterised as being 'anti-kid'. Rather if a location could be found for people to take part in this particular kind of activity, given that the Belconnen skateboard ramp has been a great success, then the problem could be largely overcome.³⁵

5.2 Mr Humphries also stated that he was backed by traders in Garema Place who had indicated that, if a ban was placed in the area, they would like to ensure that an alternative venue was found for young people to go to.³⁶

5.3 According to the submission from the Minister for Urban Services, there are skateboard facilities at Telopea Park, Stirling, Rivett, Football Park (Phillip) (this facility has been demolished), Kambah District Pool, Richardson, Fadden Pines, Campbell, Kippax, Charnwood and the Belconnen Skate Park, all of which are well patronised.³⁷

5.4 As indicated in Chapter 1, the Committee inspected the skateboard facilities provided at Belconnen and the former facilities at Phillip.

5.5 The Minister for Urban Services noted that the facilities near Belconnen and Phillip had greatly contributed to the lack of complaints against skateboard riders in these areas.³⁸ The impact of the closure of the facilities at Phillip appears not to have been evaluated in neither the Minister's submission nor the evidence given before the Committee by departmental officials.

5.6 YANACT argued that the legislation was unnecessary as the problem could be addressed by providing young people with alternative recreational places. If there were more recreational places for young people using skateboards, roller blades, and roller skates, young people might not resort to using public places.³⁹

³⁵ *Hansard*, 1992, Vol. 14, pp 3680-3

³⁶ *Ibid*, p 3682

³⁷ Minister for Urban Services, Submission, dated 12 July 1993

³⁸ *Loc cit*

³⁹ Youth Affairs Network of the ACT, Submission, dated 12 July 1993

5.7 Mr Develin, however, stated that the establishment of a skateboard facility in the centre of Canberra was a separate issue to protecting pedestrians from skateboard riders in Civic.⁴⁰

5.8 Notwithstanding Mr Develin's argument, however, the Committee concluded that a more suitable alternative to banning skateboards in Civic was to provide a skateboard facility where riders would not compromise other people's safety.

5.9 In considering the type of facility to be established the committee bore in mind the excellent and well patronised facilities in Belconnen and the demolition of the smaller facilities in Phillip. Given both that a facility in the Civic area would cater for young people from across the whole Canberra City Area (from Watson to Manuka) and there is now no facility in the Woden area, the Committee is of the view that facilities similar in standard to that provided at Belconnen should be established in Civic and Phillip.

Recommendation 3

5.10 The Committee recommends that:

the Government establish skateboarding facilities in Civic and at Phillip, similar in standard to the facility provided at Belconnen.

Siting of a facility in Civic

5.11 The success of a skateboard facility in Civic would be largely dependent on its location.

5.12 The Facilities Section of the ACT Office of Sport and Recreation which are responsible for planning and providing skateboard facilities has identified a number of possible sites in the Civic area.

5.13 Representatives from the Département of Urban Services informed the Committee that three locations had been identified:

City Hill long-stay surface Car park sites, a number of which are not being fully utilised;

⁴⁰ Transcripts, 9.9.93, p 16

Section 56 Car park adjacent to the Griffin Centre; and

the area that is currently landscaped between the Boulevard and the Car park on Section 52 which is between Custom Credit House and Electric Shadows.⁴¹

5.14 YANACT indicated that its preference for the siting of a facility was near the Griffin Centre due to the types of services around that area, in particular, the Youth Centre and the Citizens Advice Bureau.⁴²

5.15 The Committee agrees that, while Section 56 Car park near the Griffin centre is currently heavily used as a Car park, it has the advantage of being close to the bus interchange as well as the Youth Centre.

5.16 The Committee also considered the long stay car parks on City Hill, opposite the Lakeside Hotel. Whilst this area is currently under utilised, it is distant from the Youth Services currently in the Civic area, and is some distance, though not to any great disadvantage, from the Civic Bus Interchange. The Committee, however, can see substantial advantages in the co location of the proposed skate boarding facility and other Youth services in Civic.

5.17 The Committee concluded, therefore, that the Section 56 Car park was the most ideal site for the establishment of a skateboard facility in Civic.

Recommendation 4

5.18 The Committee recommends that:

the Section 56 Car park near the Griffin Centre be considered for the establishment of a skateboard facility in Civic.

⁴¹ Transcripts, 9.9.93, pp 7-8

⁴² Transcripts, 9.9.93, p 22

The cost of a new facility

5.19 While the Committee did not seek an estimate of how much a new facility would cost, it is aware of the extra financial burden the building of a new skateboard facility would impose on the community.

5.20 However, the Government, according to the Minister's submission is currently incurring increased expenditure for repairs to public seating facilities damaged by skateboards in shopping centres and is at risk of compensation claims being made against it by members of the public who have suffered an injury as a result of seating facilities damaged by skateboards.⁴³

5.21 In addition, Mr Develin, in giving evidence before the Committee, also referred to the issue of who would be liable if a skateboarding accident or injury should occur, speculating whether it would be the parents of the child causing the accident or the Government.⁴⁴

5.22 Mr Humphries, in presenting the Bill to the Assembly, intimated to the possibility of Traders in Garema Place contributing to the cost of establishing a skateboard facility in Civic⁴⁵ and Mr Develin, a Civic Trader, expressed a similar possibility, in evidence before the Committee.⁴⁶

5.22 The Committee concluded that the implications of these factors made it possible to build a facility at a reasonable cost to the community.

⁴³ Minister for Urban Services, Submission, dated 12 July 1993

⁴⁴ Transcripts, 9.9.93, p 16

⁴⁵ *Hansard*, 1992, Vol 14, p 3682

⁴⁶ Transcripts, 9.9.93, p 17

CHAPTER SIX: THE RECOMMENDATIONS

Recommendation 1 (paragraph 4.25)

6.1 The Legislative Assembly not proceed with the Traffic (Amendment) Bill (No.2) 1992.

Recommendation 2 (paragraph 4.29)

6.2 The Youth Affairs Section of the Chief Ministers Department, in conjunction with the Council on the Ageing (ACT), the Cyclists' Rights Action Group and the Youth Affairs Network of the ACT, design and coordinate a public education campaign on the safe use of skateboards, roller blades and bicycles.

Recommendation 3 (paragraph 5.9)

6.3 The Government establish skateboarding facilities in Civic and at Phillip. similar in standard to the facility provided at Belconnen.

Recommendation 4 (paragraph 5.18)

6.4 The Section 56 Car park near the Griffin Centre be considered for the establishment of a skateboard facility in Civic.

(Gary Humphries)
Chairman
14 December 1993

DISSENTING REPORT, GARY HUMPHRIES MLA
TO
REPORT OF THE STANDING COMMITTEE ON LEGAL AFFAIRS
ON TRAFFIC (AMENDMENT) BILL (NO.2) 1992

I dissent from the majority report of the Standing Committee on this Bill, in respect of recommendation No. 1.

Evidence heard by the Standing Committee fell into two categories. Evidence from Mrs. Sue Doobov of the Council on the Ageing and Mr. Pat Develin, a Garema Place pharmacist, indicated practical difficulties with skateboarders using shopping centres. Evidence from the Youth Affairs Network of the ACT argued that a ban on skateboarding discriminated against young people, and the Minister for Urban Services argued that there were enforcement and other difficulties with such legislation. The Committee, in supporting a recommendation to reject legislation of this kind, has accommodated the concerns of one side of this debate but left the practical problems of the other side substantially unaddressed.

There are unquestionably ongoing issues of public safety and reasonable access arising from the continued legal use of skateboards and roller blades in public places. Mrs. Doobov, of C.O.T.A., stated the problem as follows:

"Older people feel very vulnerable with skateboards and bicycles and roller blades rushing around them, mainly because of their frailty and, if there is an accident, the long term effects of an accident. It makes them very nervous. That fear keeps some of them from going into public places". (Transcript, page 10)

She went on to detail cases of the injury and apprehension arising from the use of skateboards and the like in public places. She recounted the advice of the President of the Belconnen Senior Citizens Club that three members of that club had been hospitalised from accidents from the use of skateboards and so on. (Transcript, page 11).

Mr. Develin indicated that he had personally attended a number of people who had suffered injuries after encounters with skateboarders:

"I have attended several mishaps, particularly with the elderly and the young. They have not been struck by a skateboard but they have been frightened by a skateboard. The older people are slower to move, they have impaired hearing in a lot of cases and they get easily startled. One particular case which I recall involved a woman of about 70 to 75 in fairly good health. She was startled by a skateboard, fell over and had to seek medical attention after I had patched her up. She was very shaken. She fell flat on her face and broke her dentures. The whole thing was an unintentional problem with a skateboard. She just got startled and she fell". (Transcript, page 15).

He claimed to express the view of other traders in Garema Place that there was a particular problem in that area and that there was an issue of the combined occurrence of different activities in the one area:

"Over recent years since the advent of skateboards and roller blades we have seen a deterioration in the use of that area [Garema Place] to, I feel, the detriment of, particularly, the pedestrians. I personally have nothing against people being involved in skateboarding - I think it is probably a great sport for a lot of the children - but I think it is horses for courses. I do not think the area is really designed for that shared involvement". (Transcript, page 15)

I welcome the recommendation to encourage the Government to build a skateboard facility in the Civic and Woden areas (recommendation 3). However I do not share the confidence of the Committee that this will obviate the problem of skateboarding in other areas. I believe that a two pronged approach is necessary, by offering young people a suitable place to engage in this activity while at the same time ensuring that they are discouraged from using inappropriate areas. The Committee had no evidence before it that would suggest that we will put an end to skateboarding and other dangerous practices in places designated for shopping centres and bus interchanges through the establishment of facilities for skateboarding. It is also worth noting that skateboard facilities are, by definition, facilities for skateboards. There was no evidence that people using roller blades or roller skates would be attracted to these areas.

Many of the arguments put for permitting continued use of skateboards and so on are either double edged or are not a problem with the two pronged approach referred to above. For example, while it is true that skateboarding and so on is a healthy pursuit for young people, there was also evidence before the Committee that the elderly's access to healthy exercise might be curtailed by the continuation of these sorts of activities in shopping centres. Mrs. Doobov told the Committee that;

"One of the recreations that a lot of older people like to do is walk. As anyone from Health will say, it is a very healthy activity and it keeps people independent; it keeps them out in the world; it keeps them in the community. If they are frightened to go into public places to go window shopping and things like that, and go to places where they can stop and have a cup of coffee or something, that leads to social isolation, and social isolation leads to ill health and those kinds of consequences". (Transcript, page 10)

I do not believe that concerns such as this have been adequately addressed by the Committee's recommendations.

I do not believe that there is a problem with enforcement of this legislation.

Representatives of the Minister for Urban Services were quick to point out the difficulties in prosecuting young people. However, I believe that this misses the point of the legislation. A \$40 fine is not worth the Territory's time to attempt to collect; however, it provides a basis for a policeman to request or direct a young person to cease skateboarding in particularly dangerous circumstances. Without such a power, underpinned by legislation, this cannot occur. Representatives of the Minister for Urban Services acknowledged that law can sometimes have an educational as well as a prohibitive value. (Transcript, page 3).

I regret that the Committee saw fit to reject any element of the legislation before the Assembly which might offer some redress to the problems identified by the Council on the Ageing and Mr. Develin, and to some extent by the Cyclists' Rights Action Group. I believe that the Committee could have accommodated an arrangement to trial this legislation for a limited time in a limited public area, such as Garema Place. There was very little evidence before the Committee concerning behavioural patterns of young people in the circumstances where there was a law against skateboarding in shopping centres; a trial would be a useful way of collecting that information, especially in conjunction with the establishment of new facilities in the same vicinity, facilities purpose-made for skateboarding.

GARY HUMPHRIES

15th December, 1993

APPENDIX A

Written Submissions Received

Mrs Sue Doobov

Council On The Ageing (ACT)

Ms Vanessa Sargeant

Youth Affairs Network of the ACT

Mr W J Curnow

Cyclists' Rights Action Group

Mr Terry Connolly, MLA

Minister for Urban Services

APPENDIX B

List of Witnesses

Leigh Buttsworth	Department of Urban Services
Rohan Clark	Department of Urban Services
William Curnow	Cyclists Rights Action Group
Sue Doobov	Council On The Ageing (ACT)
Patrick Develin	Pharmacist, Garema Place
Vanessa Sargeant	Youth Affairs Network of the ACT

APPENDIX C

THE BILL

Traffic (Amendment) Bill (No. 2) 1992

A BILL FOR An Act to amend the *Traffic Act 1937*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Traffic (Amendment) Act (No.2) 1992*.

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

3. In this Act, "Principal Act" means the Traffic Act 1937. ¹

Substitution

4. Section 8C of the Principal Act is repealed and the following section substituted:

Restriction on certain activities

"8C. (1) A person shall not engage in a prescribed activity in a public place that-

- (a) is, or is within 10 metres of, a bus interchange; or
- (b) is within 10 metres of premises that-
 - (i) are used for the sale of goods by retail; or
 - (ii) are used for the provision of services by retail;at a time when such premises are open to the public for business.

Penalty: \$40.

"(2) Subsection (1) does not apply in relation to a prescribed activity in a place lawfully set aside for that activity.

"(3) In this section-

'prescribed activity' means any of the following activities:

- (a) riding a bicycle, other than on a public street;

- (b) riding a skateboard;
- (c) using roller skates or roller blades."

NOTE

1. Reprinted as at 1 July 1992.