



DEBATES
OF THE
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY

HANSARD

26 August 1997

Tuesday, 26 August 1997

Distinguished visitor.....	2363
Petitions:	
Voluntary euthanasia	2364
Preschool enrolments.....	2364
Fireworks	2365
Leader of the Opposition (Statement by Speaker).....	2365
Authority to record, broadcast and photograph proceedings	2366
Aboriginal and Torres Strait Islander community representatives (Addresses to Assembly)	2366
Minister for the Environment, Land and Planning (Motion of want of confidence)	2384
Mr Berry and Ms McRae (Motion of censure).....	2427
Questions without notice:	
Acton Peninsula - demolition of buildings - inquiries	2440
Acton Peninsula - demolition of buildings	2442
Acton Peninsula - demolition of buildings	2446
Acton Peninsula - demolition of buildings - inquiries	2448
Acton Peninsula - demolition of buildings	2450
Acton Peninsula - demolition of buildings	2451
Public housing	2452
Year 2000 computer problem	2455
Police officers - court duties	2457
Bruce Stadium redevelopment	2458
Electricity supply contract.....	2459
School-based management.....	2460
Acton Peninsula - demolition of buildings	2461
Bruce Stadium redevelopment	2461
Police officers - court duties	2462
Personal explanations	2462
Legal Affairs - standing committee	2464
Financial Management (Amendment) Bill (No. 3) 1997	2464
Bank Mergers Bill 1997	2465
Legislation program - spring 1997 sittings	2465
Papers.....	2466
Subordinate legislation and commencement provisions	2466
Public Accounts - standing committee	2472
Medical treatment - consent	2473
Administration and Procedure - standing committee	2473
Administration and Procedure - standing committee	2473
Scrutiny of Bills and Subordinate Legislation - standing committee.....	2474
Adjournment:	
Fay Richwhite - ACTEW review.....	2474
Fay Richwhite - ACTEW review.....	2477

Tuesday, 26 August 1997

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.

DISTINGUISHED VISITOR

MR SPEAKER: I inform members of the presence in the chamber today of a member of the El Salvador National Assembly, Maria Ofelia Navarette. On behalf of all members, I bid her a warm welcome.

PETITIONS

The Clerk: The following petitions have been lodged for presentation:

By **Mr Moore**, from 25 residents, requesting that the Assembly pass a Bill allowing for a Territory-wide referendum on the matter of legalising strictly and properly regulated voluntary euthanasia for the terminally ill.

By **Mr Stefaniak**, from 116 residents, requesting that the Assembly require the Government to either maintain the current policy and procedures for the enrolment of preschool children from New South Wales if their parents work in the ACT or provide an exemption for the Nipperville Kindergarten and Nursery.

By **Mrs Littlewood**, from 3,650 residents, requesting that the Assembly gazette for the Queen's Birthday weekend one night only on which to celebrate with fireworks and restrict the sale of fireworks and legislate to restrict the noise of fireworks to that required for generating the visual effect and promulgate a code of conduct to ensure that neighbours advise each other of their intentions with respect to fireworks.

The terms of these petitions will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Voluntary Euthanasia

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory respectfully draws the attention of the House to the issue of legalising voluntary euthanasia for the terminally ill.

Your petitioners request the Assembly to pass a Bill allowing for a Territory-wide Referendum on the matter of legalising strictly and properly regulated voluntary euthanasia for the terminally ill.

Preschool Enrolments

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: the ACT Department of Education and Training are reviewing preschool enrolment policy and procedures which, if implemented, would discriminate against children from NSW whose parents work in the ACT and who are currently enrolled on equal terms with children from the ACT at the Nipperville Kindergarten and Nursery.

Your petitioners therefore request the Assembly to: require the Government to maintain the current policy and procedures for the enrolment of preschool children from NSW whose parents work in the ACT or provide an exemption for the Nipperville Kindergarten and Nursery.

Fireworks

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the Queen's Birthday fireworks night runs over several days and is noisy and dangerous.

Your petitioners therefore request the Assembly to:

Gazette one night only on which to celebrate with fireworks the Queen's Birthday.

Limit the sale of fireworks for the period commencing from the Friday of the weekend previous to the long weekend and cease with close of business on the evening of the day allocated for their use.

Legislate that firework design be such that the noise that accompanies the exploding fireworks be limited to that necessary to generate the visual effect.

Promulgate a 'code of conduct' to ensure that neighbours advise each other of their intentions with respect to fireworks.

Petitions received.

LEADER OF THE OPPOSITION Statement by Speaker

MR SPEAKER: I inform the Assembly that on 19 August 1997 Mr Berry advised me that the Australian Labor Party had elected him as its leader and that he had consented to be Leader of the Opposition. I therefore recognise Mr Berry as Leader of the Opposition from 19 August 1997, in accordance with the provisions of standing order 5A.

26 August 1997

**AUTHORITY TO RECORD, BROADCAST AND
PHOTOGRAPH PROCEEDINGS
Motion**

MR HUMPHRIES (Attorney-General) (10.35): Mr Speaker, I ask for leave to move a motion regarding the recording of proceedings today.

Leave granted.

MR HUMPHRIES: I move:

That the Assembly authorises:

- (1) the recording on video tape without sound by television networks of proceedings during the addresses to the Assembly by representatives of the Aboriginal and Torres Strait Islander community from the ACT and surrounding region and question time today, Tuesday, 26 August 1997;
- (2) the use by any television station of any part of the recorded proceedings in subsequent news, current affairs and documentary programs and not for the purposes of satire or ridicule; and
- (3) the taking of still photographs during the addresses to the Assembly by representatives of the Aboriginal and Torres Strait Islander community from the ACT and surrounding region and question time today, Tuesday, 26 August 1997, and the use of such photographs in the print media generally.

This is the usual motion relating to the broadcasting of proceedings and is appropriate, given today's historic sitting of the Assembly.

Question resolved in the affirmative.

**ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY
REPRESENTATIVES
Addresses to Assembly**

MR SPEAKER: On 17 June 1997 the Assembly passed a resolution of apology arising from the report *Bringing them home*. On 19 June the Assembly passed a further resolution to provide for representatives of the Aboriginal and Torres Strait Islander community from the ACT and surrounding region to address the Assembly on the matter of the apology arising from the report. I, as Speaker, was charged with issuing the invitations in consultation with the Standing Committee on Administration and Procedure. The committee, of which I am a member, considered the matter at its meetings of 24 June and 2 and 7 July 1997.

Invitations were issued on 14 July to the following organisations: Ngunnawal Local Aboriginal Land Council, Ngunnawal ACT and District Aboriginal Council of Elders Association Inc., Ngunnawal ACT and District Indigenous Peoples Aboriginal Corporation, Aboriginal and Torres Strait Islander Consultative Council, ACT Torres Strait Islander Corporation, ACT Government Public Sector Aboriginal and Torres Strait Islander Network, 1997 NAIDOC Young Person of the Year, and National Aboriginal and Torres Strait Islander Catholic Council. I have been advised that the Torres Strait Islander Corporation felt it would be more appropriate for Aboriginal groups, who had been more affected by separation policies, to speak and that the Ngunnawal ACT and District Aboriginal Council of Elders declined the invitation to speak, due to the sensitivity of the matter for them.

Pursuant to resolution of the Assembly, I call upon the Serjeant-at-Arms to announce the first speaker.

Serjeant-at-Arms: Members, Ms Agnes Shea, representing the Ngunnawal ACT and District Indigenous Peoples Aboriginal Corporation.

MS SHEA: Mr Speaker, Chief Minister, Leader of the Opposition, members of the Assembly, ladies and gentlemen, good morning. My name is Agnes Shea. I am an elder of the Ngunnawal people, whose ancestors roamed this land for thousands of years. I am especially proud of this heritage and look forward to a future with governments that acknowledge our history and association with the land.

The Follett Government's action to establish an Aboriginal and Torres Strait Islander Advisory Council and your Government's continuation of this process highlight the Government's commitment to develop better relationships with Aboriginal people in the Australian national capital. We the Ngunnawal ACT and District Indigenous Peoples Corporation (NACTDIPAC) acknowledge these commitments made by government in response to the recommendations on Aboriginal deaths in custody.

On 17 June 1997, in an historic event, the ACT Government resolved to apologise to the Aboriginal people of the ACT for the stolen generation and past practices and policies that discriminated against Aboriginal people. The apology is a firm foundation for the beginning of a better future and better relationships. Historically, the stolen generation, dispossession of land, the current appalling disadvantages in health, housing and education, and our relationships with the law are closely linked to the treatment of Aboriginal people since the new settlers came to this country in 1788.

Reconciliation is now firmly entrenched in the political agenda. We as Aboriginal people have had a history of broken promises, policies and programs that have made us more dependent, rather than given us independence and self-determination. For example, the establishment of the cultural centre has been met with some indifference to self-determination. NACTDIPAC proposes that the ACT Government provide a temporary facility for the cultural centre. It is absolutely essential for self-determination and financial independence that we run this enterprise by ourselves.

26 August 1997

After all, the 2000 Olympics are just around the corner and the tourist potential that this will generate for the ACT must be a priority. We plan to take full advantage of the 2000 Olympics tourist visitors coming to Canberra. To do this, we must have fully developed management practices. This means training in sales skills, accounting and business management. In addition, those involved in cultural activities - dance, food, storytelling - need to sharpen their skills, to ensure that they are fully developed to the best advantage. We propose that the ACT Government find a suitable site immediately for temporary use as our cultural centre.

Secondly, continuing with the cultural centre, Chief Minister, you agreed on 23 October 1996 that we should form a community working party to develop planning and operational structures for the cultural centre. Members who attended that meeting established an interim steering committee along with terms of reference. Your staff ignored this and turned the steering committee into three committees made up mainly of departmental appointees, with a new set of terms of reference, taking away the community's right to decide how we should approach the task. This is not good enough and must be fixed. To ensure that the local indigenous community feels as if it owns this cultural centre, it is essential that you immediately fulfil your commitment at our meeting with you on 23 October 1996 and ensure that a new representative community committee replaces the committee structure set up by your staff.

As indicated earlier in this presentation, we appreciate the Government's response and apology following the stolen generations report *Bringing them home*. However, if there is to be a new beginning as indicated by the recent National Reconciliation Convention, then there is a requirement that the close relationship developed with our people continue and that there be mutual respect for the thoughts of Aboriginal people and their desire to reduce considerably the levels of disadvantage suffered by many Aboriginal people.

Finally, we are offering the ACT Assembly the opportunity to lead the way in indigenous affairs in our country. We propose that prior to, and for inclusion in, the next election you pass laws for permanent indigenous representation in ACT government. This would involve one permanent representative elected by all ACT indigenous people at the next ACT election. If you act now, any paperwork required can be planned and prepared to achieve this milestone.

The apology has given us satisfaction that your Government has given recognition to a dark era in our history, recognition that our histories are combined and equally important. After all, what was originally my Aboriginal history is now our history. In closing, the real work in reconciliation should commence with Aboriginal and Torres Strait Islander people working in close harmony with non-Aboriginal people to achieve common goals. Thank you.

MR SPEAKER: Thank you, Ms Shea, for your remarks.

Serjeant-at-Arms: Members, Mr John Williams-Mozley, representing the Aboriginal and Torres Strait Islander Consultative Council.

MR WILLIAMS-MOZLEY: Mr Speaker, may I first of all observe Aboriginal protocol by paying my respects to the traditional owners of this country, the Ngunnawal people. Having done that, I wish to acknowledge and commend the actions of the Legislative Assembly in offering an apology to those Aboriginal and Torres Strait Islander people in the ACT who have suffered as a result of the past practices of forced separation from their families. I would also like to express my sincere thanks to the Assembly for providing the opportunity today here in this place for Aboriginal and Torres Strait Islander people to speak from experience about the policies and practices of forced separation.

Mr Speaker, I have read the *Hansard* transcript of 17 June, when a motion was moved in response to the *Bringing them home* report. As the Chief Minister stated in moving the motion, it marked an important and historic step in the healing and reconciliation between indigenous and non-indigenous members of the ACT community. What was of even greater significance to me, however, was the unconditional agreement by all members of the Assembly in commending the motion and their attendant comments which showed not only a great deal of knowledge and understanding of the issues - human, social, cultural and political - emanating from the inquiry's report but also their ready acceptance that true reconciliation will never be achieved in this country without acknowledging the past.

Mr Speaker, the story of forced removal within my family began in 1946 when my mother was removed. It is in my memory, my brothers' and sisters' memories and those of my niece and nephews who were also removed. They are not historical, distant or remote memories. We cannot consign them to the past, as some people would prefer us to do. They are lived and relived every day of our lives. Nor are they isolated incidents or the aberrations of a few. My family's story is a familiar and common one within the broader indigenous community. However, like so many aspects of Aboriginal Australia, our stories have been hidden or excluded from public view for so long.

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families was an important and earnest attempt to provide the Australian community with the facts as they relate to the extent and nature of this country's assimilation policies. And, even though the impact of the inquiry's findings has led this Assembly to describe such practices as abhorrent, determining that they will not happen in the ACT, there is still a prevailing attitude in the broader community that what was done was done "with the best intentions" and "in the best interests of the child".

Notwithstanding the argument now being offered that previous assimilation policies should not be viewed by today's standards or values, I continue to have great difficulty in understanding how such reasoning is used to nullify the facts elicited from the inquiry which, in essence, substantiated that the policies of forced removal were an act of genocide, as defined in the 1949 Genocide Convention; that such policies incorporated gross violations of human rights by persons in authority; that such policies denied Aboriginal people substantive common law legal rights; and that such policies effected the loss of culture and identity.

26 August 1997

If governments can enact retrospective legislation to prosecute unlawful or illegal acts committed in the past, then why not in this instance? What differentiates those unlawful acts from the terrible civil and criminal wrongs that were perpetrated against us? Why does it take such costly and issue-specific inquiries like the stolen generations inquiry or the Royal Commission into Aboriginal Deaths in Custody to bring to the public gaze the continuing circumstance of disadvantage, dislocation and disparity between indigenous and non-indigenous societies? How much longer do we have to wait before our histories and our knowledges are accepted and given an equal place alongside non-indigenous accounts?

While the commonly held view about the intent of assimilation seems to be that what was done was done in the child's best interests, I would like you to think about a view that perhaps ran parallel in the minds of earlier politicians, pastoralists and developers. Since 1788 the concept of terra nullius, or empty land, has been used by Australian courts to exclude the suggestion of Aboriginal prior ownership or occupancy of this land. As early as the 1890s, governments, churches and pastoralists were thinking about what to do with the growing so-called "half-caste" population. In their views, traditional Aboriginal people were to be left to die out naturally; hence the protection era of the early 1900s when governments did what they could "to smooth the dying pillow" of the traditional Aborigine. If traditional Aborigines died out, then the question of land ownership, land use or just compensation would no longer pose a significant problem. But the so-called "half-caste" population was an altogether different proposition. As long as they continued to live with their Aboriginal family, they would have legitimate claims to the family's traditional land.

I would offer the view that the separation of Aboriginal children, first from their family and then from their land, was nothing more and nothing less than a further strategy to attempt to delimit the number or circumstance of Aboriginal people who could at law be considered traditional owners. And, even though the High Court judgment in the Mabo case has now put to rest the legal fiction of terra nullius, Australian common law maintains that Aboriginal claims to land be predicated on being able to show either a traditional or historical connection to land. The same applies to land claimed under State-based land rights legislation or native title legislation. Given that Aboriginal cultures are predicated on affiliation with land, and that land is determined by family kinship arrangements, if family is removed then affiliation to land becomes almost impossible to substantiate. This is the case today for the majority of the many thousands of Aboriginal people forcibly removed under assimilation policies.

Mr Speaker, for the record, I would like to reiterate to this Assembly those facts which are known to me about the forced removal of my family members. My mother's name was Mary Williams. She was born in Alice Springs into the Western Arrernte people of Hermannsburg. She was taken from her family aged 13 years and transported by rail to the Mulgoa Mission at Warragamba, New South Wales - a distance of approximately 2,000 kilometres from her home and country. Her seven younger sisters and two brothers were also taken from Alice Springs when young children. Although they too were placed in institutions, they were, arguably, more fortunate than her in that they remained in the Northern Territory.

My mother was 17 years old when I was born at the Salvation Army home for unmarried mothers at Merewether near Newcastle. She named me Douglas Raymond Williams. When I was seven months old, the Aborigines Protection Board and the New South Wales Child Welfare Department placed me for adoption. I was adopted into a non-Aboriginal family whose surname is Mozley. I was then renamed John William Mozley. This is the name that appears on my birth certificate. My mother's name does not appear.

After searching for 20-odd years, I finally located my mother. She was alive and living in Tennant Creek. I spoke to her for the first time in 1979, when I was 28 years old. She told me then that she never stopped believing I was alive and that we would meet one day. From the New South Wales Archives I learnt that it took nine years for my mother to return to Alice Springs. She was taken away as a young girl and returned to her country as a 21-year-old woman. In all that time, she was not allowed contact with her family, was prepared for life as a domestic servant and had her firstborn taken from her under some false pretence.

At the time of meeting my mother, I also learnt that I was in fact the eldest of her children and that I had three sisters and three brothers. My brother Kenny, who is three years younger than me, was taken away at birth from Alice Springs and placed on Melville Island. He was permitted to return to our family when 11 years old. My sister Elna was taken away aged three months. She too was placed on Melville Island and was permitted to return to our family when 10 years old. Her three children - one girl now aged 21 and two boys aged 18 and 17 years - were taken from her as toddlers and placed with adoptive parents.

My brother Paul was taken away at birth and adopted to a Greek family in South Australia. He grew up believing he was Greek. Through Link-Up we were reunited with Paul four years ago. He was 33 years old at the time and continues to find it extremely difficult to come to terms with his true identity and his place in our family. We believe there is a twin brother to Paul still to be located. The only information we have is that he was adopted to a non-indigenous family in Victoria.

Three years after being reunited with my mother, I had my name changed by legal instrument to John Williams-Mozley, to reflect the family names of both my natural family and my adoptive family. Three years later, my mother died of diabetes-induced kidney failure. She was 51 years old. I had grown up knowing I was Aboriginal. And, even though my adoptive parents had no knowledge of Aboriginal cultures, or Western Arrernte culture in particular, they had told me at the earliest opportunity that my mother was an Aboriginal woman from Alice Springs.

The only other fact they were told by the Welfare Department and the Aborigines Protection Board was that my grandfather was a policeman in the Northern Territory. As a result, I wanted to be a policeman just like my grandfather, and in 1967 - the same year the Australian population voted overwhelmingly in a referendum for Aboriginal people to be counted in the census as citizens - I was accepted as the first Aboriginal police cadet in the New South Wales Police Cadet Corps. I was one of only two Aboriginal cadets accepted in the 40-year history of the Cadet Corps.

26 August 1997

Because of the fact that I was taken from my natural family at such a young age and thereafter denied access to my language, my culture, my land and my place in my family, I have no claims to my Aboriginal heritage. And, although I was raised in what could only be termed a “typical” white Australian family, white society will not accept me as white. I am neither black nor white. My identity resides somewhere in the hyphen in the middle of my name. In every respect, that is nowhere.

Three generations of my family, beginning with my mother and continuing with my sister’s children, were removed over the last 40 years and either placed in institutions or adopted in the name of assimilation. We were not allowed to grow up with each other or within our families. Consequently, we do not know each other. We can, in all honesty, be described as “dysfunctional”. We have no past and, given the mean-spirited and heartless treatment of the stolen generations issue by the current Federal Government, we have no future.

Mr Speaker, if I may be permitted, I would like to conclude by reading a poem that I wrote when I met my mother. It is titled “Assimilation” and represents my experience of being taken away. It says:

Tonight we met and through our tears, we sat and talked of the many years we didn’t share, together, alone divided lives, unknown love, twenty seven years of tears, fears, desires to perceive a vaguely recalled connection between mother and son, nine months as one we shared life’s blood, before extrusion to an unfriendly world, conception of hate, prejudice, and alien rules, for the foetal bond that was our tie, like the cord was severed,	by white design no cries of protest from one so young, brown skinned baby motherless son, twenty seven years groping, stumbling, coping, ambiguity the impetus of my mind, conjoined, dual identity, dissipated being, shadow between two worlds that never meet on one plane, save pain, the only common feature, Mother tonight we met and through our tears, we sat and talked of the many years, we didn’t share together.
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MR SPEAKER: Thank you, Mr Williams-Mozley.

Serjeant-at-Arms: Members, Mrs Yvonne Mills, as community representative of the Aboriginal and Torres Strait Islander Consultative Council.

MRS MILLS: Mr Speaker, I appear before the Assembly this morning, on invitation, to address the matter of apology made by the Assembly in relation to the *Bringing them home* report. Mr Speaker, what I will share with you all this morning is aspects of my mother's life that will give you some idea of the past policies and practices that controlled and monitored her life as an Aboriginal living in the State of South Australia. I want also to share with you aspects of my life as a result of being removed - what it was like growing up in an environment where I was different; how I lived with the story that my mother did not want me; how ashamed I was of being a ward of the state and, dare I say it, how ashamed I was because my skin was dark and I was Aboriginal; and how, finally, I learnt the truth.

Mr Speaker, the former Federal Minister for Aboriginal and Torres Strait Islander Affairs, Robert Tickner, announced a National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families on 9 August 1995. He said at that time that the inquiry was an important contribution to the reconciliation process. In the true spirit of reconciliation, I acknowledge the apology passed by the Assembly in June of this year. The announcement of that national inquiry sent a very clear message across the country to many indigenous people like me. The message raised several issues, from one that was more personal, which was to motivate ourselves into addressing the grief and pain that have been suppressed for many, many years, to the issue of accessing personal records, including basic human rights and justice. The terms of reference of the inquiry set down four main objectives. Of particular importance to me and my family was the first objective, which read that the inquiry would "trace the past laws, practices and policies which resulted in the separation of Aboriginal and Torres Strait Islander children from their families by compulsion, duress or undue influence, and the effects of those laws, practices and policies".

Mr Speaker, I have been a resident of Canberra and a member of the indigenous community here since 1978. I was born in Port Lincoln, South Australia, and I am an Aboriginal. The information I pass on to you this morning is based on my own experiences, the experiences of my eldest brother and sister as told to me by them, and the limited information I have managed to obtain from records held by the State Department of Family and Community Services.

Mr Speaker, my mother was an Aboriginal woman. I say "was" because she is now deceased. My eldest brother has agreed for me to speak here this morning about our lives. Throughout my mother's life, because she was an Aboriginal, she lived under various government policies and practices such as the protection era, assimilation and integration, and in more recent years self-determination and self-management. My mother was the eldest of 12 children. Her parents were from two different tribal groups - father from Kukatja and mother from Mirning. She was born at Koonibba Lutheran Mission in 1919. Koonibba is 20 kilometres west of Ceduna, just off the Eyre Highway. She was baptised in the same year and was later educated at

26 August 1997

Koonibba Lutheran Day School. Early in her youth she was sent to Yorketown as a domestic servant, and was confirmed in 1931, then aged 12 years. She returned to Koonibba in 1938, aged 19 years. One year later, she married a non-indigenous man. She was 20. She gave birth to her first child in September 1941, two years later, and had five children from this marriage.

She maintained strong family ties with her family at Koonibba, which we know is the strength and basis of indigenous cultures and societies. Her children were baptised in the Lutheran Church. She also raised them in the knowledge of her family, culture, language and beliefs. At the age of 30 years, my mother became a sole parent, her husband leaving her and his responsibilities for his five children. From what I understand, she eventually returned to Koonibba and her extended family with her five children.

To move freely in the wider community outside the mission, my mother sought permission from time to time from the Protector of Aborigines for an exemption. She was eventually granted unconditional exemption in 1944. Mr Speaker, I have a copy of an unconditional exemption form, and I would like to read the conditions for which an exemption is granted. It is called "Unconditional Exemption from the Provisions of the Aborigines Act, 1934-1939". It states:

In pursuance of the powers conferred by Section 11a of the Aborigines Act, 1934-1939, the Aborigines Protection Board, being of opinion that [the said person of the said address], by reason of his character and standard of intelligence and development, should be exempted from the provisions of the Aborigines Act, 1934-1939 ...

It goes on to say:

... that the said [person] shall cease to be an aborigine for the purposes of the said Act.

Mr Speaker, my brother has provided me with information from his records which states that my father was sentenced to six months' gaol in 1949 for habitually consorting with a female Aborigine. What I want to draw your attention to is the fact that non-indigenous Australians were gaoled for consorting with Aborigines who had not been granted exemption. It was not long after that incident that there were to be major changes in our lives. State welfare officers moved in and removed my brother and three sisters from my mother's care - my brother being nine years old and my three sisters, eight, six and four. I was 2½ years old. This is where my story begins.

According to copies of my records, which I have obtained from the State Department of Family and Community Services, I was committed as a ward of the State of South Australia until I was 18 years of age. The reason: Destitute. On my brother's records, noted under general conduct and facts of child at committal, were the comments:

Boy has led very unsettled life, having been taken from place to place over a number of years.

My committal records explained my last place of residence, Koonibba Mission Station, my father's name, my mother's name including her maiden name and, in brackets at the end of her name, "Quarter-caste Abo".

The exact circumstances surrounding my removal from my family are not clear to me, and may never be clear, as there appears to be no record of any charges against my mother or any signed document relinquishing us from her care. But there are the memories for my older brother and sister of life with our mother, the time in our lives when we were taken to Adelaide, accompanied by a welfare officer, and locked in a room together, and life in an institution. My eldest sister can also recall that a welfare officer looked at the palm and the back of her hand and said, "Yes, she will be all right".

My sisters and I were committed to Seaforth Children's Home and my brother to Glandore Boys Home. For one of my sisters, the separation was so traumatic that she almost died. I remained in Seaforth Home for almost one year. I was then fostered out to a couple who could not have children of their own and who already had two adopted boys and a girl who was fostered. They were non-indigenous. Recently, I asked a member of my foster family whether she recalls the first day I was taken home to live with my foster mother. She said, "Yvonne, you looked a very frightened little girl. The look on your face - you did not know what was happening". I was around three years old.

Mr Speaker, I hold in my hand 15 years of my life as a ward of the state, which has been recorded on four pages. In those 15 years as a state ward, I had the same foster parents. I had moved 11 times during that period because of my foster father's employment. I attended seven different schools in my first seven years of primary school and I was visited over 30 times by a state welfare officer. Mr Speaker, I want to read some of the entries made by welfare officers, which explain the racial discrimination I experienced as a very young Aboriginal child growing up in a non-indigenous environment:

Foster mother unhappy about conduct of school children towards child - call her "Nigger and Darkie". Girl will not go into the street without foster mother -

I was four years old -

Child upset when other children call her "Darkie" -

I was six years old -

Bright friendly girl - always well cared for. Is teased by other children about her colour -

I was seven years old -

Teacher seen re remarks passed about child's colour -

I was eight years old -

26 August 1997

Foster mother appears not much help to girl who appears unwelcomed at school -

I was 10 years old -

Girl rather sensitive about colour -

I was 12 years of age.

The six-monthly visits made by welfare officers were perhaps the most humiliating moments of my life. When the officer would visit the school, the headmaster's office would be the first point of call. I knew that whenever I was pulled out of my class to go to the headmaster's office it would be because the welfare officer was visiting. Visits usually meant that my hair, ears, teeth and on occasions my underclothing were checked. Other children in the school would ask, "Who was that lady who came to visit you and what did she want?". My only recall is that I was so ashamed I did not answer.

Mr Speaker, when I was 11 years of age, I was subjected to a psychological test. I was in my seventh year of primary school. What I had to do was thread coloured beads of different shapes onto a string. I recall the doctor threading her set of beads in front of me. Then she took them away and she said to me, "You thread them the same way as I did". The thought going through my head at that time was, "What would happen to me if I got it wrong?". When she finally laid our beads side by side, they were both exactly the same. I did not get them wrong. The results of that test revealed that I had an inferiority complex.

Mr Speaker, I did experience many good times in my childhood; but, because I was Aboriginal and separated from my family, to be brought up as a non-indigenous person, this made my life a continual struggle for survival. The other children in my foster family did not face the racial discrimination in the schoolyard as I did. They did not face the discrimination when seeking employment. They too were separated from their families. But one very clear distinction that I can establish between them and me was that they never received any word from their families during the time we were all together.

I did, however, receive letters from my mother and my eldest sister. Meetings between my family and my mother were arranged by the Welfare Department. Letters always came to me via the Welfare Department and were censored by them. Any information pertaining to their whereabouts was either crossed out or even cut out. I was told at a very early age that my mother did not want me and this was why she gave me away. Mr Speaker, that was one of the lies that I have lived with for most of my life, until the national inquiry was announced and my family and I made a decision to tell our stories. We made arrangements to obtain our records and any information on our family from the Lutheran archives in Adelaide. As mentioned previously, I have received very little information.

Last year, my eldest brother was sent 60 pages of information from his file. Contained on his file were many letters to the Welfare Department from our mother, always asking about her children and begging for her children to be returned. Mr Speaker, I have copies of two such letters, which I would like to read out. The first one was written in 1955.

It has my mother's name and address on the top of it, but this was typed by, obviously, the Welfare Department. It reads:

In reference with regards to my children, how are they all, my enquiries about my children has now been delayed for some time, this is due to me, for being away from home, I have been away as per usual, working out on a fencing job at Yarden Station but will soon be home again at the end of this month or beginning of next month, but if at any time you want to get in contact with me you will just know where to find me, but when posting all my mail, please address to post office, Yaninee.

Now for the total amount of cash that is being owed into the Welfare Department, how much is there really owing and if this is being paid, is there still any chance of me having my children back with me, I would like to have my baby daughter Yvonne back with me for Christmas at the end of the month until the other business is fixed, if all is being paid well I hope to have all my children home for Christmas.

The second letter was written in 1957, and it is in my mother's handwriting. It says:

Dear Sir, I am writing you this letter in an effort to find out whether there would be any chance for my two eldest children to come over and spend Christmas with me, that's Allan and Joylene. Their uncle is here in Lincoln and would like all the children to come over and spend Christmas with us. He has asked me to write over and ask for a permit, and we would see them all back again in your care, if you agree to that, do write and let me know next per mail if that could be done.

The children's uncle is my husband's brother, he is married and has a family of his own.

She signed the letter. There is a postscript to this letter, which says:

How are all my children?

Mr Speaker, those letters were not written by a woman who voluntarily gave her children away. They were the words of a woman who still had a lot of hope - hope that her children would be returned. Unfortunately, they were also the words of a woman who, even though she was granted unconditional exemption, was still being controlled by the system because she was Aboriginal.

In 1991, former Royal Commissioner Elliott Johnston, QC, produced a national report on the findings of the 99 indigenous deaths in custody that were investigated. In that report, he explained the degree of control agencies had over the lives of indigenous Australians. He stated:

26 August 1997

Aboriginal people have a unique history of being ordered, controlled and monitored by the state. For each individual there are files maintained by agents of the state; schools, community welfare, adoption, medical, police, prison probation and parole and, finally, coroners' files document each life to a degree that few non-Aboriginal people's lives would be recorded. Not infrequently the files contain false or misleading information; all too often the files disclose not merely the recorded life history of the Aboriginal person but also the prejudices, ignorance and paternalism of those making the records.

Of the estimated 33,000 indigenous children removed from their families, many have come forward and have given evidence to the national inquiry. The report *Bringing them home* contains many of those stories and similar experiences. The results are profoundly accurate. Mr Speaker, many did not survive removal, and I refer specifically to 43 of the 99 victims of death in custody. It was found by the royal commission of inquiry that these 43 victims experienced childhood separation from their natural families, through intervention by the state authorities, missions or other institutions.

Mr Speaker, I came here today to explain why it is not easy for us to forget and get on with our lives as if nothing happened. Although many years have passed, the trauma of separation, the grief and pain that followed and the vivid memories of how we were treated will remain with us for the rest of our lives.

In conclusion, I would like to say that many issues arise from one act, and that act is the separating of indigenous children from their families. The many issues for further consideration are the practices which were enforced under the Aborigines Act or the Child Welfare Act; the quality of "care" of those children who experienced physical and sexual abuse as wards of the state; the allegations made by persons acting on behalf of the state; and the burning issue of assimilation and genocide.

Mr Speaker, finally, J.H. Wootten, QC, a former royal commissioner of the national inquiry into Aboriginal deaths in custody, was quoted in the *Aboriginal Law Bulletin*, volume 2, December 1990, as saying:

In its crudest forms the policy of assimilation fell within this (a) modern definition of genocide, and in particular the attempt to "solve the Aboriginal problem" by the taking away of children and merging them into white society fell within that definition.

What remains to be said now must come from the people of Australia and their institutions, and it must be said soon. The recommendations contained in the report must be addressed so that all Australians can get on with our lives.

MR SPEAKER: I thank Mrs Mills for her remarks.

Serjeant-at-Arms: Members, Mrs Maureen Bates-McKay, representing the ACT Government Public Sector Aboriginal and Torres Strait Islander Network.

MRS BATES-McKAY: Mr Speaker, I would like to share today a brief story of the stolen generation and the effects that had on my family. I come from a small town in the far north-west of New South Wales. Most country towns that are situated on the river have large Aboriginal populations. The inhabitants of the back country witnessed the part-destruction of their river, which has been an important facet for many Aboriginal people, as a result, in many cases, of what the wider community calls agricultural progress.

Another turmoil many people lived with is the memory of being taken away by the welfare and police authorities. My father and his two brothers were among them. They were all under the age of 10 when they were taken to a foreign institution. Their parents had died at White Cliffs, outside of Wilcannia, which is the land of the Barkindji. Their relatives were bringing them into town by horse and sulky when they were met on the road. Despite the protests of their family, the boys were taken by the police. The next day, the three were boarded onto a train and taken to Kinchela Boys Home, where they remained until their late teens. After leaving the home, the boys went their separate ways. Dad became a drover around Bourke, Uncle Batesy went to the Pilliga scrub near Walgett and the younger brother went to a small town in Queensland. No contact was ever made between them as they grew into men.

Yes, Dad did drink. Dad did go off the rails and muck up at home when on the grog - although 20 years prior to his death he did not touch alcohol. A memory sticks out in my mind. I do not ever remember him telling us kids that he loved us. So, I wonder whether it was a legacy from Kinchela that he did not know how to express that love, combined with the conditions we were made to live under at the Bourke common, sharing with several other families one tap which was located in the shire council's horse pound yard, or whether it was the result of the welfare constantly lurking around and the police spotlighting the houses during the night or the relocation to the reserve.

Dad, it seemed, never escaped the surveillance and control of the authorities. When I was about 12, Uncle Batesy, who was then a chronic alcoholic, came down from Walgett to see us. I remember clearly Dad slamming the door in his face and telling him never to come to our house again. His reaction took us kids by surprise, thinking that this was quite out of character for someone who had not seen his brother for many years. We heard only snippets of the family being taken from their home town and being put in Kinchela. So, it was difficult as kids to understand the emotional trauma that the boys would carry with them throughout their lives. What would we know of the fear and anxiety from the Kinchela home that our father expressed on that day as he fronted his only living sibling? We never knew, because Dad never lectured us from dawn to dusk on the experiences he had been exposed to, and he never would, even as we grew older. Uncle Batesy gave it another try after that, but gave up when the welcome was the same. But we as kids, and then later as adults, would catch up with him in either Walgett or Bourke.

26 August 1997

Towards the end of the 1970s I had some work in Wilcannia and asked Dad several times would he come. "Oh", he said, "I might come for the ride". On a hot, dusty December afternoon we pulled into the kerb in front of the one and only grocery store to find an old black woman sitting on the front step staring at us. A look of recognition came over her face and with much difficulty, as she was a very big woman, she got up, and they then embraced. That will be a memory that I will always carry, as it was the only time I saw my father cry. As quickly as he did, he turned away. It was also an overwhelming experience witnessing the people of Wilcannia welcoming him home. I thought that on the long drive back to Bourke Dad would open up and tell me about himself and his family. But not a word was spoken in relation to any of that; nor, for that matter, did we talk about anything else.

I would catch a glimpse of him every so often staring out onto the plains, deep in thought, and I wondered what memories were going through his mind. He died two years after that one and only visit. He was aged 53. So, that was Dad's experience of being brought back home to Barkindji country. Uncle Batesy also returned to Wilcannia and would spend short periods of time there; but from what information we have gathered he would never contemplate living there with his relatives. We lost Uncle Batesy a few years ago; but we are ever so grateful that we knew and loved him before he died.

I often think about the times on our verandah, during hot nights in Bourke, with us 12 kids talking about the politics of the town. Even at a young age, we kids and Dad would debate and discuss what we saw as inequalities and what we would like to see happen. Included in all of this was the constant, repetitious reminding of us by him to get an education and that there was a world outside of Bourke. Sadly, he never lived to see several of us don the black robe and doff the mortarboard. But we still sit around late at night when we are all at home and continue talking about those politics.

I have seen in my generation changes for the better over the years. We have come down a long road and are slowly turning the corner with regard to indigenous rights. I want to acknowledge the apology the ACT Government has publicly stated and thank you for this opportunity you have given me to speak today. So, that is just a small story of an Aboriginal man who died with a dark secret but who always had his family to support him, and in particular a strong woman, my mother.

MR SPEAKER: I thank Mrs Bates-McKay for her remarks.

Serjeant-at-Arms: Members, Mr Caine George, who is the 1997 NAIDOC Young Person of the Year.

MR GEORGE: Firstly, I would like to acknowledge the Ngunnawal people. I thank the Speaker for the invitation to address the Assembly on this historic occasion. I applaud the ACT Government for the passing of a motion to extend an apology to the Ngunnawal people and all the Aboriginal and Torres Strait Islander people in the ACT for the hurt and distress inflicted upon them as a result of the separation of Aboriginal and Torres Strait Islander children from their families. I also acknowledge the ACT Government's negotiation of a regional agreement with the Ngunnawal people in relation to the Ngunnawal native title claim in the ACT.

I do not have much knowledge of the “stolen generation”, only what I have seen on television and read in books and newspapers; but I do have a very close link, because my mother, who was originally from Queensland, had first-hand experience of being separated from her family. She was sent to what was known as a penal colony, that being Palm Island, in Queensland. Mum, alongside her older brother and younger sister, lived on Palm Island in the “dormitory” for eight years, a fair distance from her parent who lived in Normanton in the Gulf of Carpentaria. I could not imagine living away from my mum when I was only five years old.

I would like now to refer to the *Bringing them home* report. It talks about the Harold Blair holiday schemes, on page 10 - again an experience that my mother can relate to. She willingly went on one of these trips to Melbourne, but never in her wildest dreams did she imagine that it was basically run by the Queensland Government to support white people to adopt Aboriginal and Torres Strait Islander children if they chose to. This was not known by Mum until we read through the report.

The report writes about assimilation, racism, indigenous identity, cultural knowledge and so on. It is pretty disturbing, as a young Aboriginal person, to read and listen to the stories about the past; but I must say that it has given me a better understanding of what my mother, my grandmother and my great-grandmother have gone through in the past and that we, the younger generation, need to work towards the reconciliation process. As a young indigenous Canberran, I see this historic day as a very positive step towards reconciliation for the ACT and surrounding region, and I once again applaud the ACT Government for this move.

Lastly, I would like to comment on a program shown on *A Current Affair* last week. It stated that the generation between the 1940s and the 1950s, known as the Australian baby boomers, was out there having fun, fun, fun. I would ask: What was happening to the Aboriginal and Torres Strait Islander people? Were they out there having fun, fun, fun?

I leave it there by saying that I am proud of all the Aboriginal and Torres Strait Islander people from that generation. Although you have gone through a lot of hurt and distress, most of you are still around today to proudly say that you are an Aboriginal or Torres Strait Islander person - something that was difficult to admit in the 1930s through to the 1970s. Thank you for paving the way for the younger Aboriginal and Torres Strait Islander generation.

MR SPEAKER: Thank you, Mr George.

Serjeant-at-Arms: Members, Brother Graeme Mundine, representing the National Aboriginal and Torres Strait Islander Catholic Council.

BR MUNDINE: I, too, for starters would like to acknowledge that we are standing on Aboriginal land, the land of the Ngunnawal people. I would also like to recognise the Aboriginal law that is still being handed down today to that particular group and to other Aboriginal groups within the nation.

26 August 1997

Mr Speaker, Chief Minister and Leader of the Opposition, today is a very significant day, and a very sad day in a lot of ways, because it is the time when we Australians, as a whole, begin to face up to the facts and begin to acknowledge that continual theft from Aboriginal people. First, it was theft of the land; then, it was of the children; and, as we are reading in the papers, also of our bodies, with the group from Western Australia who are now heading to England to retrieve our bodies. It is a very sad time, a time of great mourning, in a sense.

I would like to thank very much my sisters and brothers here this morning for being able to tell their story, because I do not have first-hand experience of it. I was one of the lucky ones. I was never taken away. But, in the work that I do for the Catholic Church, I travel across the country and continually come across people who have been separated, stolen, ripped away from their families. It is always a sad time for me to sit with them and to hear their story, because it is the story of my people and, as I said at the beginning, a story that has never been acknowledged.

We are at present in a great time of reconciliation, with all Aboriginal and Torres Strait Islander peoples coming together with our non-Aboriginal and Torres Strait Islander brothers and sisters and trying to live together in harmony. But I can say, for starters, that it will never happen until we begin to face the facts here in this country. My background is that of the church. The church has been involved in reconciliation for years - in fact, for almost 2,000 years, or more. So, this whole reconciliation thing is nothing new to us. But one thing that is important is at the beginning being able to put the base down correctly. That base, which is good to see in the actual report, is first of all to acknowledge the truth that this did take place, that human beings did it to one another, and then to realise that it was wrong.

I work for the Catholic Church. I cannot speak for any bishops; but we have expressed very strongly - and I would like to re-emphasise it again to the members here in the gallery - that the Catholic Church is deeply sorrowed by the role that it played in the separation of children. It is to the credit of this Assembly that they also have taken this first small but very important and significant step to acknowledging that something was done that was wrong. In this case, I refer to the stolen generation.

It also raises a question for us, and especially for you, about making legislation. A couple of weeks ago in a court case involving some Aboriginal and Torres Strait Islander people in the Territory, the court told us that there was nothing legally wrong with what took place here with the stolen generation. But we know now how absolutely horrendous that particular act was. As you are making laws for all Australians, you have to really think about what effect that will have on the people that that Act is aimed at.

I am reassured, from what you say in the second part of your motion, about your determination that it will never happen again. We, as Aboriginal and Torres Strait Islander people, have heard all this before. We are assured all the time that these things will never happen again. But I can honestly say that, within some of the children's services throughout this country, this is still being committed today. I am aware that at the present time you are having a review of your Children's Services Act. So, it would be important to watch it very carefully, to make sure that this does not happen again.

In the seven years that I have lived in the ACT, I have had the privilege of knowing a few of you in this Assembly and previous Assemblies. It is good to feel that there are great people, honourable people, in our parliaments who do support Aboriginal and Torres Strait Islander people. Here in this Assembly today we see another case of that. From what we are seeing in the mainstream Federal politics at the present time, I have to really wonder about morals within our society and the lack of them. But at least here in this forum you have shown that you do have a good moral stance.

I must warn you also about this report. This report is just another one of many - a very important and significant one, but just another one of many - the last being the most important one that I have seen, which was the report into deaths in custody. I just wonder how much of a commitment you really have to this particular report and also to others that have gone before. It is important, because we hear too often the rhetoric out there, and sometimes not that much is seen in the way of action. It is good to see, though, that this Assembly has committed itself to an agreement with the Ngunnawal people. As I said recently in a meeting with the Chief Minister with other members present, as well as Bishop George Browning, I see land as a very important stepping stone in the process of reconciliation, of reparation, here. For Aboriginal people, land is the basis of who we are. As Pat Dodson has often said, "I am the land and the land is me".

There is a group here in the ACT that you can negotiate with. I must say again, as I said at that meeting, because I do not think it was heard: From our side, as Aboriginal people, we too must get our act together. We have here a Government that wishes to rectify some of the past wrongs; but we on our side must also begin to reconcile with one another so that we can resolve these issues in the future. As I said at the beginning, it is the first, important step. There is more and more to be done, more and more action to be taken. By sitting down with the local groups and talking to them, as you have done in the past, to your credit, we will walk together out into the future. But, just in closing, I would like to quote a very famous saying: "Lest we forget".

MR SPEAKER: Thank you, Brother Mundine, for your remarks. Members, that concludes the addresses to the Assembly. I would like to thank the Aboriginal and Torres Strait Islander community in the ACT and surrounding region for participating in this historic event. I think it is very appropriate that representatives of our indigenous fellow Australians should be the first group of people who have been invited to appear before the Assembly at the bar of the Assembly. On behalf of all members, I would like to hope that your appearance and participation here will assist with the reconciliation process. Thank you.

Sitting suspended from 11.50 am to 2.30 pm

26 August 1997

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
Suspension of Standing Orders

MR SPEAKER: I call Mr Humphries.

MR HUMPHRIES (Attorney-General) (2.30): Mr Speaker - - -

Ms McRae: Mr Speaker, it is question time.

MR SPEAKER: Order!

MR HUMPHRIES: Mr Speaker, I move:

That so much of the standing orders be suspended as would prevent Ms McRae from moving her motion of want of confidence in the Minister for the Environment, Land and Planning.

MR BERRY (Leader of the Opposition) (2.31): It seems to me, Mr Speaker, that there is nothing for this Government to be concerned about today, except for question time; so, Mr Humphries wants to quickly bring on the motion of no confidence in him. Mr Humphries, I am sure that you could wait for an hour for question time. I am sure that the symptoms of fear which you pretend exist in relation to this matter would not kill you until the end of question time. It seems to me that you have nothing to worry about with the motion of no confidence, because the Greens have said that they will not support it. It is unlikely that the Independents would support something that would damage their Government. Mr Speaker, here we have a Minister who cannot wait for an hour to have a motion of no confidence debated here. I am surprised he made it to the chamber.

Mr Corbell: He is hoping to get out of answering questions.

MR SPEAKER: Settle down.

MR BERRY: You are feigning sheer terror at the prospect of this no-confidence motion which you know is not going to be carried. What do you have to be worried about? I am sure you could survive until after question time. I think that is what this move by the Government is about. The Government is frightened of question time. The Government has plenty to be frightened of, because question time goes to the issues.

Mr Humphries: You are such a hypocrite, Wayne. You set the precedent in 1994.

MR SPEAKER: I am trying to listen to Mr Berry, everybody.

MR BERRY: Mr Humphries intervenes and says, "You set the precedent in 1994". Things were quite different in 1994, Mr Speaker. At that sitting of the Assembly, the first time that a matter could be brought on was in the afternoon; there was no morning sitting. This morning, of course, there was a special event in the Territory, which for good - - -

Mrs Carnell: So you think we should abort it all because of that?

MR BERRY: No; for good reason, the matter could not be brought on. But to wipe out question time today over something this Minister has nothing to be fearful about is just a joke. Mr Humphries, you could relax there until the end of question time. By the sound of it, you have nothing to worry about; you have nothing to be fearful of, except a censure motion. We know that you take no notice of censure motions; so, why worry? Let us have question time and then we will get onto the motion of no confidence.

MR MOORE (2.34): Mr Speaker, I find this a most extraordinary situation. I recall that when Mr Berry was facing a no-confidence motion he asked other members of the Assembly to have it brought on directly. Indeed, the other members of the Assembly agreed, because he was the one that was facing the no-confidence motion. Mr Humphries is now facing a no-confidence motion and Mr Berry does not have the good grace to allow that to be brought on; and it is going to have to be forced on him. Mr Berry's reason for this is, "Do not worry, Gary; the no-confidence motion is not going to be carried anyway". That is a very interesting comment to make. I have certainly not stated my position on this issue; nor has Mr Osborne stated his position.

Mr Berry: In that case, I yield; and I think you can have - - -

MR SPEAKER: Sit down, Mr Berry. Mr Moore is speaking.

MR MOORE: If Labor were confident that their arguments were good, solid and substantive, then, of course, they would know that this motion would be carried. Mr Speaker, it is quite clear that, in the interests of equity, when a Minister is under the cloud of a no-confidence motion it should be dealt with at the earliest opportunity. We are all agreed that this morning was an inappropriate time. This is the earliest opportunity and it ought to be brought on immediately, in the same way as it was brought on for Mr Berry. I am afraid that this bodes very ill as the start of Mr Berry's leadership of the Opposition.

MR KAINÉ (Minister for Urban Services) (2.36): Mr Speaker, I totally endorse Mr Moore's comments on this matter. It seems that the Leader of the Opposition for today has a double standard. When he was under the threat of a motion of no confidence he felt that it was such an important matter that it should be dealt with ahead of all other business on the Assembly's agenda; and he was right. It is all very well now to try to write down motions of no confidence and say that they have no value. A motion of no confidence in a Minister is a very serious matter. The Leader of the Opposition seemed to think that it was a very important matter when he was on the receiving end. Today it is trivial; it does not matter. Well, there is a principle here, Mr Speaker. A motion of no confidence in a Minister is a serious matter. It was considered to be serious when it was the turn of the present Leader of the Opposition, and it is no less serious today. The justification for suspending all other business of the Assembly to allow Mr Humphries to deal with the motion of no confidence is just as important now as it was in the past. For Mr Berry to argue that somehow or other today is different, and the fact that it is not he that is on the receiving end of this motion makes it somehow less significant, is something that should not fool anybody in this place. I believe that Mr Humphries's motion is reasonable. I simply cannot understand why any member of this Assembly would do other than support it.

26 August 1997

MR CORBELL (2.38): Mr Speaker, the only reason the Government is moving this motion today is that they are afraid of question time. We know very well, Mr Kaine, why Mr Humphries is moving this motion. Other members may not be aware of it, but we know very well that you are attempting to hide from question time. That is the only reason you are doing it. If you are so serious about this sort of motion, where is your censure motion against Ms McRae and Mr Berry? It has disappeared, has it not? You do not even have it. You gave an undertaking to the Opposition that you were not moving it.

Quite clearly, Mr Speaker, the only reason the Government is moving to bring on this no-confidence motion now is that they want to delay question time. They want to delay this Opposition's opportunity to scrutinise some very important events that have occurred in the Territory over the past two months. They are scared. They are scared of that scrutiny. They want to delay it until later in the day when there are fewer people to observe that happening. We are not prepared to allow that, Mr Speaker. We believe that a no-confidence motion should be brought on when the Opposition believes it is most appropriate to be brought on, and that is immediately after question time. That is the undertaking we gave to the Government; that is the undertaking we gave to the rest of the members of this Assembly. We would ask other members of the Assembly to accept the Opposition's right to bring on the motion of no confidence when we believe it is appropriate.

MS TUCKER (2.39): I find this debate really interesting. Even though I was not here for the precedent that is being described by members who were here when Mr Berry insisted on that right, I recall very clearly that I had a lot of pressure from Labor to actually force the timing of a motion of censure of Mr Stefaniak. It was explained to me in very strong terms that I had to pay him that respect and that it was very onerous to have such a motion on the notice paper. I do find this stance by Mr Berry quite inconsistent as well. I think it is quite reasonable that we go straight ahead with this motion. We will have question time. The Government is not going to be unscrutinised. You think they are fearful of question time. Well, that will still happen, just at a later time.

MR HUMPHRIES (Attorney-General) (2.40), in reply: Mr Speaker, I just want to put something very clearly on the record. Mr Corbell, in his comments a moment ago, suggested that the agreement between parties was that this would be brought on after question time today. Mr Corbell was not present at the meeting of representatives of parties last Friday when Government business was discussed. If he had been, he would be quite well aware that I expressed the view, and I think other members supported the view, that the motion of no confidence ought to be dealt with at the first available opportunity after the matter that was dealt with this morning had been disposed of.

There was no agreement that there should be any dealing with this motion after question time; none whatsoever. Mr Berry certainly put that point of view; but I said it was my prerogative, based on precedent in this place, to have the motion dealt with as the first matter of business. Mr Speaker, that is the precedent Mr Berry set in 1994.

After that meeting I did ask him to confirm with me that that would be the arrangement we would follow. He undertook to do so but did not do so. Mr Speaker, if this is the principle that the Leader of the Opposition brings to leading his Opposition, I dread to think what a government under that man would be like.

Mr Berry: Mr Speaker, Mr Humphries imputed that I lied to him; and he should be forced to withdraw.

MR SPEAKER: I do not believe that is the case. I think Mr Humphries just explained the circumstances. I do not think there was any imputation. There is no point of order.

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

Motion of Want of Confidence

MS McRAE (2.43): I move:

That this Assembly has lost confidence in the Minister for the Environment, Land and Planning as a result of his management of the potential extension of tenure of leases in the ACT to 999 years.

My motion of no confidence in Mr Humphries is absolutely clear cut. It is not about the merits or otherwise of 999-year leases; it is about what a Minister told the Assembly and then what a Minister actually did. The case is based on four pieces of evidence. The first three are from *Hansard*. I will give page references so that members can check the whole debate and see what was said in full and not think that I am just quoting selectively to create a case. Members will see for themselves exactly what the Minister said and exactly what the Minister meant. My fourth piece of evidence, which I will table, is from Media Monitors. It relates to an interview on the ABC on 9 July. Mr Speaker, I seek leave to table that now; it may as well be part of the record.

Leave granted.

MS McRAE: Let us begin with my pieces of evidence. In February 1996 the Minister said:

Mr Speaker, one thing that I do think is appropriate is that whatever policy we adopt in this place should be determined for the ACT by the ACT Legislative Assembly, not by somebody else such as the Commonwealth Parliament. I welcome the proposal made in recent days to give the ACT Assembly the power to determine that question.

That is at page 485. In March 1996 the Minister said:

... one of the board of inquiry's central recommendations -

this, of course, was in response to the Stein report -

26 August 1997

is to continue with the current system of leasehold, and I have already said publicly that this Government will not seek, during the term of this Assembly, to change the current system of tenure to freehold or perpetual leasehold, notwithstanding our preferred policy to move towards perpetual leasehold. Our decision to accept the board of inquiry's recommendations on this issue, while we continue discussions with the business community and the broader community about the future of the leasehold system, was not taken without political cost to the Government.

That is at page 816. In December 1996, as reported at page 4806 of *Hansard*, Mr Humphries, in responding to a question from Mr Berry, said:

Mr Speaker, first of all, I must say that I am referring to us, the ACT Government. Much as I would love to ... direct the Federal Government - I can assure you that we could all think of some wonderful things to do - - -

He was referring to us, in sharp contrast to the Federal Government. You will learn a bit more when I quote from the rest of that answer, or you can go back and look at the full question. Mr Berry then took this point of order:

I think the Minister is pretending to be a little bit obtuse. I know he is sharper than that. The question that was asked of him was whether he can explain the move to change the Federal Land Act. Did it happen without his knowledge?

This was in December, after he had already told us in March that nothing was going to happen. Mr Humphries said:

No, Mr Speaker; he quoted words that I had used - "We will not move to change the system to perpetual leasehold" - and I am making the point that "we" means the ACT Government, not the Federal Government. Mr Speaker, the Federal Government has announced its intention to allow the ACT Legislative Assembly to change the system of land tenure through legislation enacted in this place; not to do it by itself; not to have the Federal Parliament create that tenure by an enactment that imposes it on the ACT, a la the Andrews Bill, but rather to allow the ACT Assembly to enact that if it so chooses. When I made the commitment that Mr Berry refers to there was a Labor government in power federally, and I certainly could not speak for a Federal Labor government, much less than I could speak for a Federal Liberal government.

Mrs Carnell then interjected:

I do not know: It is about even, I reckon.

Mr Humphries said:

We will not go into that debate, Mr Speaker. I must say I welcome the move by the Federal Government. I think that has changed the complexion of this debate very considerably and I welcome that. I hope that it does allow us to have a debate in this place, perhaps even in this term of the Assembly, on the provisions for changing the nature of the tenure of land in the ACT.

My party's position has long been that we support a longer sense of tenure for those who hold land in the ACT, both residential and commercial land, and possibly also rural land.

I will read it all so that people do not lose track of what he was saying. He continued:

We take the view that citizens in the ACT who invest in land should not obtain a significantly lesser estate in that land than do citizens making a similarly sized investment in, say, New South Wales or Victoria or anywhere else in the country, and that is why we support these sorts of measures. The measures which appear in the debate today concerning automatic renewal, Mr Speaker, do not amount to perpetual leasehold. They are something that approaches that in terms of security, but are not perpetual leasehold and should not be mistaken for that, although we feel it is certainly a step in the right direction.

Mr Speaker then asked Mr Berry whether he had a supplementary question. Mr Berry asked:

Minister, were you aware of the letter from Mrs Carnell to the Federal Minister requesting this outcome?

Mr Humphries interjected:

What outcome?

Mr Berry asked:

Were you aware of the letter from Chief Minister Carnell to the Federal Minister for Territories requesting this result?

Mr Humphries replied:

Yes, Mr Speaker, I was aware of that letter - - -

Mr Moore interjected, very tellingly:

After you guaranteed no action.

26 August 1997

Mr Humphries said:

No, it was long afterwards. That letter was written, as I recall, a couple of months ago.

Remember “long afterwards” is December. The comment was made in March. “The letter was written a couple of months ago”, said Mr Humphries. He continued:

The statement you referred to I made in the Assembly last year. Mr Speaker, I can hardly be responsible for having made an assumption about what the Commonwealth Government was going to do last year, which has now changed in the course of this year.

I am afraid it was all in 1996. Never mind. Finally, and most tellingly, he said on 2CN - and it is in the transcript that I have tabled:

We have had discussions with the Federal Government and I’m hopeful that the legislative steps at the federal level will be taken before the end of the year to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

The picture that emerges is quite clear. In the first instance, the Minister claimed to accept the paramount role of the Assembly; in the second, he conceded that his party would not be seeking to implement their preferred policy position to move all ACT leases to perpetual leasehold. Just as an aside here, I remind members of the actions, for instance, of the Chief Minister in regard to the heroin trial. Although Mrs Carnell knew that there were differences of opinion within her own party, she did not proceed to promote the trial publicly without knowing that she had the full blessing of the majority of the Assembly; it is a quite different case. Similarly, when Mr Stefaniak became Minister for Education, he very quickly abandoned his party’s policy of providing free school buses, because he knew that he did not have the support of the Assembly.

Let us look at what Mr Humphries was saying in December. I will go back to my third piece of evidence. He began his response to the question about the Federal Government’s move to change the Federal Land Act to 999-year leases by welcoming the move. He avoided, until asked a supplementary question, saying why the Federal Government suddenly sought to create such a change. He said:

Yes, Mr Speaker, I was aware of that letter - - -

As I said, Mr Moore interjected very tellingly, and demonstrating the clear view of the majority of Assembly members:

After you guaranteed no action.

Mr Humphries said:

No, it was long afterwards.

It was a whole two months. He continued:

That letter was written, as I recall, a couple of months ago. The statement you referred to I made in the Assembly last year. Mr Speaker, I can hardly be responsible ...

As I said, the statement was not made “last year”; it was not all that long before the final statement. Let us look carefully at what the Minister said. He admitted to knowing about a letter - he did not table it; he did not explain its contents - and he gave the impression that the Federal Government had its own agenda of change, which is somehow completely divorced from us, from him, from Mrs Carnell’s actions or from anybody else; just the Federal Government. He said:

I hope that it does allow us to have a debate in this place, perhaps even in this term of the Assembly, on the provisions for changing the nature of the tenure of land in the ACT.

In doing so, he then entirely ignored the fact that the debate had been had, that the position of the Assembly had been stated clearly and that a major and thorough report into leasehold had totally rejected any change already. In December, from the quote that I used, the shift in attitude was patently clear, as was the Minister’s high level of contempt for the Assembly. That was in December. But the bombshell, the real issue at stake, came during the Property Council lunch early in July this year when an announcement regarding the impending change to the leasehold system was made.

To get to my fourth piece of evidence: As you will see, what the Minister said to Alex Sloan on her *Drive* program is the most serious of my allegations and makes my case that this Minister has handled his portfolio extremely irresponsibly and should lose the confidence of this Assembly. He began by affirming that he believed leasehold was here to stay. I quote that piece:

We’ve said we think that, we understand that leasehold is here to stay. We can’t, for constitutional reasons as much as anything else, do away with the leasehold system but we can make it much more like freehold and acknowledge the fact that, when you invest as a householder, you know, \$150,000, \$200,000 in a house or as a business - \$7m ... - that you’re investing for keeps, not just for the duration of, you know, a 20 or 30 or 40-year period to run on a lease.

This is the piece that I think is very telling. He then proceeded to say coolly, “We have had discussions with the Federal Government”. He did not say “after consultation with my Assembly colleagues” or “in a bipartisan way”; he did not even say “after getting the nod from an Independent or two”. No; he said, “We have had discussions with the Federal Government”. Suddenly, we are the problem, not the Federal Government all of its own volition. Suddenly, Mr Humphries does have the power to influence the Federal Government, despite what he so mockingly told us in the Assembly. He said:

26 August 1997

We have had discussions with the Federal Government and I'm hopeful that the legislative steps at the federal level will be taken before the end of the year to allow us to create, to issue, or rather to automatically convert - - -

Mrs Carnell: "Us", the Assembly.

MS McRAE: Excuse me; I have the transcript. I am reading the words that are here.

Mr Humphries: I am reading it, too. It says "us".

Mrs Carnell: We have it here. It says "us".

MS McRAE: I have the transcript from Media Monitors, and will proceed to read from it:

... to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

What an astonishing claim! There is absolutely no reference to the Assembly and no mention of any local legislation. This is his announcement to the general public on the *Drive* program. There is no accompanying press release; there is no explanation.

Mr Humphries: I did not speak on the *Drive* program.

MS McRAE: It is headed, "2CN. *Drive*. Freehold Land Systems".

Mr Humphries: She was playing back my comments at the Property Council lunch. I did not speak to her. That was what I said at the Property Council lunch.

MR SPEAKER: Continue, Ms McRae.

MS McRAE: Mr Humphries can explain himself when he speaks. From my transcript, where his words were made public on 2CN, this was what he said.

Mr Kaine: But you need to get your facts straight, do you not?

Mrs Carnell: You just said he spoke to her.

MS McRAE: I did not say - - -

Mr Stefaniak: This was what he said that day at the Property Council lunch.

Mr Humphries: That was not what I said to Alex Sloan.

MR SPEAKER: Order!

MS McRAE: You may put any words you like into my mouth when it is your turn. I said, "This is what was said on the *Drive* program". Alex Sloan was there. Laugh as much as you like; this is the transcript that I am quoting from. Alex Sloan was listening. It reads as though Mr Humphries was speaking to Alex Sloan. Whether he was speaking to her on tape or directly, Mr Humphries can then proceed to explain. His public words were without correction, without a press release, without any counterwords, without anything else. His public words were:

... and I'm hopeful that the legislative steps at the federal level will be taken before the end of the year to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

All pretence of concern for the Assembly is gone. There is no mention of who else is to be involved in this change. Even more tellingly, when the issue went on to be discussed with James Service, who was there talking to Alex Sloan, he made absolutely no mention of the need to go back to the Assembly; of the need to lobby anybody else; of the need for any other change. (*Extension of time granted*) Either Mr Humphries reads something differently to what I read or we have a very clear case before us. This is not the sort of behaviour we expect from a Minister in the ACT. He has markedly changed his stance from his first pronouncements in the Assembly in 1996. He avoided informing the Assembly of what his intentions and actions were and gave the clear impression of knowledge of a letter written by Mrs Carnell, rather than acknowledging any active role played by him. Mr Humphries told the Assembly that whatever policy we adopt should be determined by the Assembly. As soon as the Commonwealth seems to be giving the capacity to make this determination, and despite the clear view of the Assembly as expressed in response to the Stein report, the Minister has announced to the community what he plans to do, with absolutely no reference to the Assembly. He has demonstrated total contempt for the Assembly and for the people that the majority represent.

I urge members to examine and consider those facts before you today and not be distracted by a reconstruction of events. This issue goes to the heart of the nature of ministerial responsibility. A Minister does not have the right to not be full and frank with his Assembly colleagues. This Minister has deliberately defied the wishes of the majority of the Assembly. He has appealed directly to the new Federal Government for assistance and has gone public with a deal to please a particular section of the community, without any discussion, debate or even assessment of the impact of the changes he and his particular friends seek to make. I urge you to make sure that you do not set a new and unacceptable standard. I urge you to consider that as you make your decision today.

MRS CARNELL (Chief Minister) (3.00): If ever we have seen a political stunt by a desperate Labor opposition, on their third leader in 18 months, this is it. Unfortunately, they did it at the wrong time; they did it at a time when it did put back question time. Obviously, Mr Berry would have known that was the case. Mr Speaker, this is a very serious issue. To attempt a no-confidence motion against a Minister is not something that you just do off the cuff; it is something that potentially means a Minister, if it were passed, would have to step down from his portfolio. Can you imagine anything, apart from possibly a change of government, more serious, Mr Speaker?

26 August 1997

Attempting a no-confidence motion against a member for not having done anything yet is simply outrageous. There is absolutely no question of having misled the Assembly, if that is what it was. Remember Ms McRae, in her lead-up to this motion over the last couple of weeks, seemed to have been suggesting, at least from my understanding of what she was planning to do, that the Minister had misled the Assembly. It seems now that we have a brand-new type of no-confidence motion against a Minister, and that is for his management of the potential extension of tenure of leases in the ACT. That has to be a very tenuous approach.

Let us look at what Mr Humphries actually said. Ms McRae has referred to two comments. The first was:

... one thing that I do think is appropriate is that whatever policy we adopt in this place should be determined for the ACT by the ACT Legislative Assembly, not by somebody else such as the Commonwealth Parliament. I welcome the proposal made in recent days to give the ACT Assembly the power to determine that question.

That is absolutely correct. Nobody could argue with that at all. Mr Speaker, if you remember, for that reason almost everybody in this Assembly opposed the Andrews Bill. We opposed the Andrews Bill simply because it extinguished the right of the Assembly to make laws with regard to euthanasia. We would similarly oppose any move by the Federal Government to extinguish our potential right to set how long leases would be. Decisions allowed to be made by this Assembly are properly made by this Assembly. Those powers should not be taken away by people who do not agree with a decision - for example, the Federal Government.

Secondly, on 28 March Mr Humphries said:

... one of the board of inquiry's central recommendations is to continue with the current system of leasehold, and I have already said publicly that this Government will not seek, during the term of this Assembly, to change the current system of tenure to freehold or perpetual leasehold, notwithstanding our preferred policy to move towards perpetual leasehold.

Can Ms McRae demonstrate to this Assembly where Mr Humphries has, during the term of this Assembly, sought to change the tenure of leases beyond 99 years? Where is it on the notice paper? Where is it in *Hansard*? Where has Mr Humphries attempted to do that? The fact is that he has not.

Mr Moore: It has to do with the letter that has been written to Mr Smith.

MRS CARNELL: That is all right; I will get to the letter. She cannot demonstrate that, because Mr Humphries has not done so. Ms McRae presumably argues that Mr Humphries has gone behind the back of the Assembly to get the Commonwealth to do that for him. Well, that is wrong too. Mr Humphries has not done that. The Commonwealth Government will legislate to allow the ACT Assembly to make laws, not make them for us.

Mr Speaker, I would like to table a letter from the Federal Minister. It would be good if copies could be distributed to all members, because I think it would be good for Assembly members to be able to read it while I quote a couple of bits of this letter. This letter was received by Mr Humphries and was from the Federal Minister for Sport, Territories and Local Government. It states that the Commonwealth will legislate to remove the impediment preventing the ACT Legislative Assembly from making laws with respect to the tenure of leases. It is quite categorical, from the Minister involved. If everybody has a copy of it they will see that this whole farce from Ms McRae is just that - a farce. Let me quote from part of that letter. That letter says:

I can confirm it is the Commonwealth's intention to legislate as stated in our 1996 Election Policy.

That is the Federal Government's election policy. The letter continues:

That policy commits the Coalition Government to supporting the introduction of 999 year leases, but also recognises that this matter is ultimately a decision for the ACT Legislative Assembly to make.

Mr Speaker, maybe it would be a good idea if I just said that again. I think many of us would remember that this was a quite large story at the last Federal election. I think there was a front-page *Canberra Times* story about 999-year leases. I quote again from the letter about the 1996 election policy of the coalition:

I can confirm it is the Commonwealth's intention to legislate as stated in our 1996 Election Policy.

That policy commits the Coalition Government to supporting the introduction of 999 year leases, but also recognises that this matter is ultimately a decision for the ACT Legislative Assembly to make.

Mr Smith goes on to say:

The legislation, if passed by the Commonwealth Parliament, will not automatically extend the terms of leases already issued, or the term of leases issued in future. The decision to implement longer leases is a policy decision properly left to the ACT Legislative Assembly.

That was claimed categorically in the 1996 election platform. This motion is such a huge waste of time, Mr Speaker, and is so poorly based that it is hard to believe that Ms McRae could have brought it on.

Mr Humphries has foreshadowed that there will be changes in the leasehold system eventually. Ms McRae has quoted him as saying:

Our decision -

that is, the decision of the Government -

26 August 1997

to accept the board of inquiry's recommendations on this issue, while we continue discussions with the business community and the broader community about the future of the leasehold system, was not taken without political cost to the Government.

That is true. Ms McRae made the comment that there were members of the community that were very keen to see longer leases. Yes, there are a significant number in the community that would like that to happen. Even though Ms McRae attempted to suggest that Mr Humphries had somehow misled the Assembly, I think Minister Smith's letter shows categorically that that is not the case; that all Mr Humphries, Warwick Smith and, for that matter, I have suggested to the Federal Government is they might like to put in place their own election policy. I think that is actually a very good thing. In fact, by its very nature, that allows this Assembly to make that decision. That is what Mr Humphries has said the whole way through.

Mr Speaker, let us look at what Ms McRae has said. I will now quote from another one of those ABC radio interviews, this time with Sarah Gillman on 11 July 1997. Sarah Gillman said:

Isn't it enough to vote against it?

She meant, "If it comes up in the Assembly, why don't you, Ms McRae, just vote against it?". Roberta McRae said, and I think it is very important to listen to this:

Well, we won't be able to vote against it as such, because it's an amendment that's being proposed to the Federal Parliament, and that's why we're so disappointed with it, because it's clearly against the wishes of the Assembly ...

If anyone is misleading anybody, it is Ms McRae who is misleading the people of Canberra and members of this Assembly. Quite simply, Ms McRae was saying that somehow the Federal Government was going to introduce legislation that would force this Assembly into a particular position. That was not the case. Mr Humphries has made it clear that was not the case. The fact here is that Ms McRae got it wrong, not Mr Humphries. She got herself into a complete mess. I have to say that it does appear that she just does not understand this whole issue.

Mr Speaker, this is the new leader's first day here. To move the absolutely weakest no-confidence motion I have ever seen in this place - and I suspect we have all seen a few - really does not help.

Mr Berry: The weakest was the one you moved.

MRS CARNELL: That one actually succeeded, Mr Berry. That was when you got the boot as a Minister - the only person who has ever got the boot, I have to say. This motion must be a desperate stunt to give Ms McRae a little profile in the lead-up to an election or possibly to make people actually think she knows something about planning. Well, it would have been a very good idea, Mr Speaker, if she had actually

looked at the Federal Government's policy in this area; if she had actually listened to what Mr Humphries had to say and not gone off half-cocked. Ms McRae has wasted the time of this Assembly today. Her actions, Mr Speaker, are a disgrace, and Mr Berry must be very embarrassed.

MS HORODNY (3.11): Mr Speaker, a motion of no confidence in a Minister for misleading the Assembly is a very significant action that should not be treated lightly. The Greens have always said that we will treat all issues - - -

Mr Humphries: On a point of order, Mr Speaker: I am not sure that Ms Horodny has caught up with the fact that this is not a motion of no confidence for misleading the Assembly; it is a motion of no confidence as a result of my management of the potential extension of the tenure of leases. If Ms Horodny is talking to a motion about misleading the Assembly, she is talking to the wrong motion.

Mrs Carnell: In other words, it is for his management of something that has not happened.

MR SPEAKER: Are you clear on that, Ms Horodny?

MS HORODNY: I am clear on it, Mr Speaker. A motion of no confidence in a Minister for mismanaging an issue in the Assembly is a very significant action that should not be treated lightly. The Greens have always said that we will treat all issues that come before this Assembly on their merits, and this case is no exception. We have very carefully considered the case made by the ALP and believe that this motion is driven more by political point-scoring than by substance. The debate on this motion has raised two intertwined elements that really need to be separated. They are whether or not the leasehold system should be supported and whether or not Mr Humphries, through his words and actions, has misguided the Assembly.

On the first point, the Greens support the current leasehold system and see no reason why we need to move to 999-year leases. The leasehold system has been so much modified over the years that it virtually operates like a freehold system anyway. A key feature that we want to maintain, however, is the control it provides over the use of leases and subsequently over urban planning and for the collection of betterment taxes on changes of lease purposes. We are concerned that, if the Liberals start playing with the length of leases, then they may also want to make it easier for redevelopment of leases through the widening of lease purposes and, thus, promote land speculation in the ACT, which the leasehold system was set up specifically to stop.

It is instructive to go back to what the Stein report said about leasehold. Stein pointed out that the debate between the supporters of leasehold and the supporters of freehold mirrored simplistic stances which pitted residents against developers. However, the objectives for land tenure which were commonly agreed - such as the desire for more certainty, less complexity, more security, more efficiency, less expense and more transparency and accountability - do not depend on a particular form of land tenure.

26 August 1997

Mr Humphries: Mr Speaker, I rise on a point of order. I think, with respect, that Ms Horodny is debating the issue of whether or not it is desirable to move away from the leasehold system or 99-year leases. That is a very important debate to have at some point. But the motion before the house today is not whether that kind of leasehold is better or worse than the alternative; the issue before the house today is whether I, as Minister for Planning, should be without the confidence of the house because of my management of the potential extension of the tenure of leases. The issue of whether it is a good thing or a bad thing is quite irrelevant to that. The question is how I have handled the issue. That is the issue.

MR SPEAKER: I have to uphold the point of order, Ms Horodny.

MS HORODNY: Mr Speaker, if Mr Humphries cares to wait, I will get to that point; and it is important that I am allowed to say what I need to say on this issue.

MR SPEAKER: Quickly, of course, Ms Horodny. Getting to the point quickly, I mean.

MS HORODNY: The objectives for land tenure, which were commonly agreed - such as the desire for more certainty, less complexity, more security, more efficiency, less expense and more transparency and accountability - do not depend on a particular form of land tenure. Stein said that the argument is not merely about which is the better form of tenure because the ACT already has a well-entrenched system of public leasehold - - -

Mrs Carnell: On a point of order, Mr Speaker: You have just upheld a point of order - - -

MR SPEAKER: I have.

Mrs Carnell: And Ms Horodny is continuing down the same path.

Mr Corbell: On the point of order, Mr Speaker: Ms Horodny is perfectly entitled to outline the rationale behind the reasons why she would vote in a certain way, and I think you should allow her that opportunity.

MR SPEAKER: No. I must uphold Mrs Carnell's point of order. I understand that you are setting the scene, but I do ask you to come to it speedily, Ms Horodny. We are not debating the merits or demerits of a possible change to 999-year leases; we are discussing a very clear motion of want of confidence in the Minister for Land and Planning.

MS HORODNY: Mr Speaker, it is very important that I do get the background across because I am arguing what the no-confidence motion is about and I am arguing why I have put forward the amendment that I have put forward.

MR SPEAKER: You have not put any amendment forward yet, Ms Horodny.

MS HORODNY: Well, I will be putting forward an amendment.

MR SPEAKER: Thank you.

MS HORODNY: Thank you. Stein said that the argument is not merely about which is the better form of tenure because the ACT already has a well-entrenched system of public leasehold but also about how the mechanics of any change to another form of land tenure would be managed. Stein pointed out a large number of factors why a change from public leasehold to private freehold would be fraught with difficulty and, therefore, recommended that the public leasehold system be retained. Stein also said that many of the reasons advanced by proponents of perpetual leasehold can in fact be delivered by the present leasehold system, provided that various improvements - - -

Mr Humphries: Mr Speaker, I have to press the point of order I made before. I appreciate that Ms Horodny believes we should vote on the question of whether or not we support 999-year leases as the premise on which to vote for this motion. That may be her view; but, strictly speaking, it is not relevant to debate 999-year leases in assessing a question of whether I, as Minister for Planning, have mismanaged the possible extension of the leasehold system. You can have a view entirely one way or the other without making any difference about this matter. It is entirely irrelevant.

Mr Corbell: On the point of order, Mr Speaker: Ms Horodny is quite clearly attempting to make the case as to what position she will be taking on this matter. This motion of no confidence is in relation to the Minister's handling of the system of land management in the ACT. If Ms Horodny wishes to outline in her rationale for how she will vote on this issue the background as to why she would do that and the evidence she wishes to draw on that point, then she, I believe, should be perfectly entitled to do so. I think the Government is taking no more than pedantic points of order to disrupt her flow.

MR SPEAKER: I have to uphold Mr Humphries's point of order, Ms Horodny. However, it may help your case if you move your amendment - which you have not done yet - which, as you know, calls for a censure; but it is in a more detailed manner.

MS HORODNY: Mr Speaker, I am happy to go directly to the point that I am trying to make. I will leave some of the background out if that is the wish of the Speaker.

MR SPEAKER: Are you moving your amendment?

MS HORODNY: I could move my amendment now, yes.

MR SPEAKER: Thank you.

MS HORODNY: I move:

Omit all words after "Assembly", substitute "censures the Minister for the Environment, Land and Planning as a result of his management of the potential extension of tenure of leases in the ACT to 999 years and requires the Chief Minister to immediately write to the Prime Minister asking his Government not to take any action to allow the extension of leases in the ACT to 999 years until such time as the ACT Assembly requests such action."

MR SPEAKER: It widens the scope for debate.

26 August 1997

MS HORODNY: The Greens do not have a particular ideological commitment to the leasehold system by itself, but we would want to make sure that whatever land tenure system we have contributes to ecological sustainability and social justice. We would want to make sure that any change from the leasehold system is made with the agreement of the Canberra community as a whole, with a full knowledge of the pros and cons of such a change. We, therefore, do not support the way Mr Humphries has gone behind the back of the Assembly by going directly to the Federal Government to get changes to the Australian Capital Territory (Planning and Land Management) Act to allow the issuing of 999-year leases without the Assembly's support and without a full debate within the Canberra community. Mr Humphries had previously assured the Assembly that it would have the power to determine this issue and that the Government would not seek to change the current system of tenure to perpetual leasehold during the term of this Assembly.

While it may be strictly true that the ACT Government will not introduce the necessary legislation in this term, Mr Humphries's moves to have the Federal Government pass legislation opening the way for 999-year leases go way beyond the wishes of the Assembly at this stage. For this he does deserve censure. However, the ALP wants a vote of no confidence in Mr Humphries, which would require him to stand down as Planning Minister. There are lots of things about Mr Humphries's actions as Planning Minister that we do not support and have actively campaigned against. But we do respect the democratic right of the Liberal Government to have its own set of policies which it seeks to promote. (*Extension of time granted*) The electors of Canberra are also free to make their own vote of no confidence in the Government at the next ACT election, and we hope that they do.

However, we do not have any confidence that Labor would act much differently. Labor is being hypocritical in pushing this vote of no confidence, when they supported the Liberals in amending the Land Act at the end of last year, which further weakened the leasehold system which the ALP say they are trying to protect. The ALP supported the Government in allowing commercial leases to be extended to 99 years; in allowing the automatic renewal of leases at any time; in a reduction in the change of use charge from 100 per cent to 75 per cent; in the abolition of the Land and Planning Appeals Board and the transfer of its functions to the Administrative Appeals Tribunal; in the restriction on third-party appeal rights against development applications; and in the abolition of the ACT Planning Authority.

The ALP has also allowed the Government to pursue redevelopment of the Manuka car park, the John Dedman Parkway and the town centre shopping mall expansions. In each of these cases, the Greens put motions opposing these developments, but the ALP voted with the Liberal Government. This motion of no confidence is really just empty politicking, which we are not going to be party to. We really cannot take the ALP seriously on any planning issue until they move decisively to change their own policies on planning away from the Liberal Party's.

MR CORBELL (3.24): Mr Speaker, I am speaking in favour of Ms McRae's motion and against Ms Horodny's amendment. I find it amazing that the Greens are prepared to move an amendment to Ms McRae's motion which they have already openly admitted will have no effect. Once again in this chamber we see the ACT Greens saying openly, "We will do something which will have no effect on the Government". Once again they miss the chance to do something substantive in this chamber. Ms Horodny has admitted publicly that a censure motion will achieve nothing. We all know that in this place. A censure motion will achieve nothing. The Minister for Land and Planning will continue to work behind the back of the Assembly to implement a perpetual leasehold system. That is why we have moved the motion of no confidence today.

We believe this has gone far enough. This Minister has deliberately worked to undermine the will of the Assembly. It is that simple. He is not competent to manage the system of land tenure in the ACT, and he should not be allowed to do so any longer. That is the substance of the motion of no confidence that the Labor Party is moving today. A motion of want of confidence is one of the most severe measures that can be taken in the Assembly.

Mr Kaine: Half an hour ago you said it was trivial, or your boss did.

MR CORBELL: It is one of the most severe sanctions that can be delivered in this Assembly. Is this Minister competent to safeguard and manage and administer Territory land on behalf of the people of the ACT? We are saying he is not. He is not, for several reasons. Can we trust the Minister to administer the land tenure system in the ACT? No. Can we trust this Minister to act in accordance with the will of the Assembly? No, we cannot. It is very clear.

Mr Kaine: Put up your evidence.

MR CORBELL: Ms McRae has already outlined it, but for the benefit of those opposite I will outline it again. The Minister undertook not to seek during the term of this Assembly to change the current system of tenure. That was in March 1996. Later, in December 1996, he says he is aware of the letter from the Chief Minister to Warwick Smith requesting that legislation be put in place to enable the change. He is aware of that letter. He admits it in questioning in the Assembly. The Government has kindly tabled that evidence. In July 1997 he says, "We have had discussions with the Federal Government".

We now have before us a letter from the Chief Minister to Warwick Smith, the Minister for Sport, Territories and Local Government in Federal Parliament, saying:

I seek your government's support to amend the Australian Capital Territory (Planning and Land Management) Act to remove the 99 year restriction on the majority of leases in the Territory ...

26 August 1997

“We seek it”; not the Federal Government will do it. This is not the Federal Government telling us, the ACT Government, what it is proposing to do. This is the ACT Government seeking to put in place a process by which they can change the land tenure system in the ACT, despite the fact that at every step along the way every other party and Independent in this Assembly, apart from the Liberal Party, has said no.

The overwhelming majority of people in the ACT represented by the Labor Party, the Greens and the Independents in this Assembly have said, “No, we are not prepared to see the system of land tenure changed”, and the Minister had given a commitment in the Assembly that they would not seek to have that system changed. They have just sought it. There is the letter. You sought it from the Federal Government. It is that simple.

Mr Humphries: You had that letter six months ago.

MR CORBELL: You sought it. You sought the change, and that is why we believe you are no longer appropriate to manage the system of land tenure in the ACT.

Mr Speaker, I would like to move on to another matter that has been raised in this debate, and that is the so-called currency of want-of-confidence motions. It has been suggested that these are a dime a dozen. The only things that are a dime a dozen are the censure motions like the one that Ms Horodny has moved. There has been only one other want-of-confidence motion in the life of this Assembly, and you would be surprised to see whom it was moved by. It was moved by the ACT Greens and it was a motion of want of confidence in the Chief Minister as Minister for Health. So, before others go out of this place and say the Labor Party is abusing what is a very severe sanction, I ask them to think about that. There has been only one other want-of-confidence motion. It was not moved by the Opposition; it was moved by the Greens. We do not take this step lightly, and we have outlined why we do not take this step lightly.

Mr Speaker, I would like to draw now on that previous want-of-confidence motion moved by Ms Tucker. It was moved on 19 November last year and in the debate Ms Tucker said, quite clearly, that she believes it is appropriate to move a motion of want of confidence when the system is not working, when the Government’s ability to manage the processes of government, in the relevant portfolio, is falling down. That is exactly what we are doing today. We are saying today that this Government works deliberately to undermine the will of the Assembly at every step.

This Minister has worked in conjunction with his Federal counterparts to put in place a system of perpetual leasehold in the ACT. He may play around with niceties about words. He may hide behind little verbal arguments that he may be able to construct, as I am sure he will, being a lawyer; but it is quite clear what he has endeavoured to do. I know it was the Chief Minister who wrote to the Minister for Territories. But he is the Minister responsible; it is his portfolio. I find it difficult to believe that he was not aware of this letter. I find it difficult to believe that he was not aware that his Government had made the decision, presumably at Cabinet level, to seek the support of the Federal Government to amend the Australian Capital Territory (Planning and Land Management) Act to remove the 99-year restriction on the majority of leases in the Territory.

He is not fit to remain a Minister for Land and Planning in the ACT. We should not allow him to remain in that position, because six months down the road, three months down the road, we will see him come into this place and put in place an alternative system of land management. He will come in and do that, despite the fact that he undertook in the Assembly not to do so. He undertook not in the life of this Assembly to put in place changes to the system of land tenure in the ACT. That is what he has done.

Mrs Carnell: He has not.

MR CORBELL: He has sought to put in place those changes. Your Government has written to the Federal Government seeking to put in place those changes.

There is one final thing, Mr Speaker, I would like to raise. This motion of no confidence and this letter from the Chief Minister to the Minister for Territories raise some very serious questions. What sort of effect will the Commonwealth's enabling legislation have? What will it do? We do not know whether or not it can be made just by regulation. We do not know whether it can be made just on the whim of the Executive. We have no indication that it has to come to the Assembly.

Mrs Carnell: It says it right here in Warwick Smith's letter.

Mrs Littlewood: You do. It is there in writing, in black and white, on paper.

MR CORBELL: Mr Speaker, the Chief Minister and everyone over there can rant and rave as much as they like; but what it comes down to is that this Government sought from the Federal Government the putting in place of changes that would allow the introduction of 999-year leases in the ACT, despite the fact that this Government and this Minister made a commitment not to do so. That is why we believe he has no confidence from this Assembly, and that is why we believe that the Independents and the Greens in this place must put their money where their mouths are on this issue and vote no confidence. Vote for something that will have an impact, that will send a message. We know that censure motions will not; Ms Horodny has already told us that. Vote for the no-confidence motion. It is the only way that you will send the signal that you so desperately want to.

MR KAINE (Minister for Urban Services) (3.34): Mr Speaker, I have been through some funny debates in this place in my time here, but this is one of the best so far. What the Opposition has done is the old, old ploy. First you set up the straw man and then you knock it down. There is no substance to the straw man, Mr Speaker. I am afraid even the Greens have fallen for it. They have accepted that there is some substance to the Labor Party's position. Then they say, "We will not go for a motion of no confidence, but we do think it is worth a censure". The problem is that the basis of the argument put forward by the Labor Party is false. There is no basis.

The Labor Party's motion says that this Assembly has lost confidence in the Minister for the Environment, Land and Planning as a result of "his management of the potential". Can somebody explain to me how you can manage potential? For a Minister or anybody else to be able to manage something there has to be a project, a proposal, a discussion paper or a piece of legislation. There has to be something tangible for him to manage.

26 August 1997

Mr Corbell: What do you think that letter is? It is a proposal.

MR Kaine: You cannot manage a potential, Mr Corbell. He is accused of not managing a potential. What a lot of rubbish! The Opposition - the brilliant Mr Corbell and his mates - have tried to make an argument. They have put forward no evidence at all supporting their argument. Talk about rhetoric; well, I have heard plenty of that, but I have heard no specific evidence that the Minister has committed any offence in relation to the proceedings of this Assembly. What he has done is seek from the Federal Parliament clarification of what their intentions are.

The policy of the Federal Government, as they said in their election campaign of 1996, is to move towards 999-year leases. The question then arises of whether they are going to do what they did in terms of things like euthanasia? Are they going to amend their law to impose 999-year leases on the Territory or are they going to do it in some other way? The Minister's approach to the Federal Minister was designed to determine, "What is it that you intend to do?". You have the answer in a letter from the Federal Minister. The Federal Minister says, "We intend to make a change that will allow the Legislative Assembly to deal with this matter". It has gone no further than that. The Minister has not put a proposal to this place.

Mr Corbell: He undertook not to do that.

MR Kaine: The Minister has not put draft legislation on the table. The Minister has not even discussed it with Mr Corbell to see what his reaction to such a proposal would be. He has discussed it with nobody because there is no proposal on the table. He has given a commitment that there will be no change by this Government during the life of this parliament, and he has said that he will live with that. That does not preclude him trying to clear the water, to clear the murk to determine what Federal Parliament intends to do and what this Assembly would have to do in its next term if it were the desire of the then government to go ahead and make a change.

The argument, Mr Speaker, is baseless. There is no basis for a motion of lack of confidence. There is not even the basis for a motion of censure, because the Minister has not done anything. If he has, let us have the evidence on the table. Do not do a Mr Corbell; do not stand up and accuse the Minister of something that he has not done without producing any evidence. If that is the nature of debate in this place, it is pretty shallow, and we will even - - -

Mr Corbell: I take a point of order, Mr Speaker. Several times throughout the debate I pointed to letters that I substantiated as evidence. I would ask that you direct the Minister not to mislead the Assembly by suggesting that I did not provide evidence. I did. If he is not prepared to accept it, that is another matter; but I did provide evidence.

MR SPEAKER: There is no point of order. Proceed, Mr Kaine.

MR Kaine: Mr Speaker, to assert that something is so does not make it so, and that applies to Mr Corbell. He can assert it all he wants, but it does not make it so.

Mr Speaker, I cannot support either the motion or the amendment. I think they are both lacking in substance. No evidence has been presented. Perhaps Ms Horodny will bring forward some more substantive evidence than the Labor Party has done, to support her case; but I doubt it. What we are doing, as we do so often in this place, is debating a motion put forward by the Labor Party which has no substance at all but from which they hope, by some subterfuge or other, to get some credibility. Well, they are not going to get any credibility out of this issue, Mr Speaker.

MS TUCKER (3.39): I will just speak to the amendment, briefly. I would like to respond to Mr Corbell, who said that in my statements on a previous occasion I had said that a motion of no confidence was appropriate if the system was actually failing. I was not in the chamber, but I think he was saying that I had said that that was appropriate; that it did not have to be technically misleading or something like that. What I would have to say in response to that is that, indeed, there is a problem with the system of planning in the ACT, but it is not just to do with the Liberal or Government side. It has to do with Labor.

If we are going to do a no confidence in the system because the system is not working, it is no confidence in this Assembly where you get two parties, Labor and Liberal, voting together against the crossbench trying to get some accountability into planning processes in this town. What Mr Corbell is tempting us to do is to move some kind of general censure or lack of confidence in both sides of the house, which I do not think is appropriate anyway. I did want to make that quite clear. Obviously, with the amendment that we have put, we are acknowledging that we are not happy with the process as it has occurred. However, we do not think a no-confidence motion is appropriate at this point. We are asking that there be a letter written to retract what has been asked for already, and I think that is a quite reasonable solution.

MR STEFANIAK (Minister for Education and Training) (3.41): Mr Speaker, I have not been in this Assembly for as long as Mr Kaine; but, like him, I am absolutely amazed at this motion. It would certainly have to be the strangest one I have ever seen, because the - - -

Mr Berry: You have not weathered as well, though.

MR STEFANIAK: Shut up, Wayne. It basically calls on this Assembly to sack a Minister for his management of something he has not done, "the potential extension of tenure of leases" - potential; something that has not happened; something that they say might happen; something that the Minister has actually said he is not going to do in the term of this Assembly, and he said that again today. That is absolutely unbelievable.

Mr Corbell, I suggest that you look at the letter from the Hon. Warwick Smith, the Federal Minister. I suggest that you have a look at paragraphs 2 and 4. Warwick Smith says:

I can confirm it is the Commonwealth's intention to legislate as stated in our 1996 Election Policy.

26 August 1997

The Federal Liberal Party, the Federal coalition, has this in its Federal election policy. It is consistent with their having a majority in the House of Representatives that they can go ahead and do what they like in terms of that.

Mr Corbell: Who sought that, Minister?

MR SPEAKER: Order! Mr Stefaniak has the floor.

MR STEFANIAK: Thank you, Mr Speaker. He goes on to say:

That policy commits the Coalition Government to supporting the introduction of 999 year leases, but also recognises that this matter is ultimately a decision for the ACT Legislative Assembly to make.

Then he says this:

Accordingly, the legislation I propose to bring forward to the Commonwealth Parliament will amend the Seat of Government (Administration) Act 1910 to allow the ACT Legislative Assembly to make laws to grant leases longer than 99 years.

That is something which Warwick Smith, pursuant to Federal Government policy, is bringing into the Federal Parliament. It is not something which Mr Humphries is putting into place. Mr Humphries is a member of this Assembly, as are we all, not a member of the House of Representatives. He cannot put anything into place in the House of Representatives. That has nothing to do with Mr Humphries. It is a Liberal Government policy federally. It has absolutely nothing to do with Mr Humphries.

Mr Corbell: Oh, I am sorry. That letter must have come from some other government. It could not have come from your Government.

MR STEFANIAK: It is a different parliament, Simon.

MR SPEAKER: Order! Mr Corbell, you have spoken already, lucidly or not. It is now Mr Stefaniak's chance to speak.

MR STEFANIAK: Thank you, Mr Speaker. Mr Humphries has been quite clear on this. He is doing absolutely nothing that would infringe the rights of this Assembly. He is doing absolutely nothing in relation to this Assembly having the power to make what legislation it wishes. Nothing he has said has indicated that he, in fact, is going to be doing anything different from what he said he would do. He has talked quite clearly about the term of this Assembly. He has said that again today. Now we have this idea of a potential extension - something that might happen in the future. All that has happened is a commitment by the Federal Government to change their legislation, not the Territory's.

Mr Humphries has not done anything to put into place changes to the system of land tenure in the ACT. Quite clearly, if this Federal legislation gets through, that is something that this Assembly is going to have to decide on at some future time, but there is absolutely nothing this Minister has done to put into place changes to the system of land tenure in the ACT. The only proposal to do that, which is on paper, is by the Federal Minister in the Federal Parliament. It has nothing to do with Mr Humphries. So this is an absolutely crazy motion. Mr Speaker, this motion of a lack of confidence, I believe, is completely from left field. The watered down amendment by Ms Horodny is also not applicable because this Minister has done absolutely nothing wrong. This Minister is doing his job in this area in accordance with the laws of the ACT. He is doing his job well. I think it certainly does devalue these types of motions when such stupid motions are brought before this house.

MR MOORE (3.45): Mr Speaker, it has been an extraordinary day in a series of ways. The most recent of those is that Mr Kaine stood up to defend Mr Humphries. Apart from that, Mr Speaker, let me say that it is always the role, I guess, of an opposition that wants to see themselves as an opposition to seek a ministerial scalp. When I first looked at this issue when Ms McRae provided me with some of the evidence quite some time ago - and I thank her for that - it seemed to me that, in fact, there was not enough evidence there, until I looked at the letter that Mrs Carnell wrote to Mr Smith. I think that letter is the very nub of the issue.

The way I see it is this, Mr Speaker: Mr Humphries made a commitment that his Government, not just him - he made a commitment on behalf of his Government - would not seek 999-year leases in the life of this Assembly.

Mrs Carnell: That we would not put legislation in here.

MR MOORE: No; that was the commitment. In March 1996 he said this:

... I have already said publicly that this Government will not seek, during the term of this Assembly, to change the current system of tenure to freehold or perpetual leasehold ...

Mr Speaker, if the situation is that a member of the Government, in this case Mrs Carnell, then wrote to the Federal Government and said, "Give us 999-year leases", if that is what has happened, then Mr Humphries must go, because he made a commitment to the Assembly, on behalf of the Government, that he would not do something. He even used the word "Government".

Mr Speaker, that is why the letter written by Mrs Carnell on 23 September 1996, about six months after that commitment, becomes so critical. In that letter about seeking a change to the leasehold system Mrs Carnell wrote:

I seek your government's support to amend the Australian Capital Territory
(Planning and Land Management) Act -

that is the Federal Act -

26 August 1997

to remove the 99 year restriction on the majority of leases in the Territory, the objective being to provide for longer term leases for residential and Aboriginal interests in particular. In other cases, "renewal" would be permitted at any time without effectively creating an estate in excess of 99 years.

It seems to me that this paragraph can be interpreted in two ways. It can be interpreted as seeking that the Federal Government take action to change 999-year leases, and if it is interpreted in that way the point I made is that Mr Humphries must go. If it is interpreted that this is asking for power to allow us to make the decision, then Mr Humphries is acting in a completely valid way. I disagree with him entirely on his attitude to 999-year leases, but that is exactly the same situation as Mr Humphries was in on the Andrews Bill. He disagreed entirely with what the Andrews Bill was about; but he said, as you did, Mr Speaker, that the power should belong with this Assembly, and I am in exactly the same position as that. I disagree entirely, vigorously and ideologically - there I have a difference with the Greens - with 999-year leases. However, the power belongs here in this Assembly.

So how do I then decide whether this should be interpreted in one way or the other? Mrs Carnell tabled a letter that was written today by Minister Warwick Smith. To me, the interesting thing about the letter is that it refers specifically to a discussion on Friday, 27 June 1997. This is a discussion between Mr Humphries and him about leasehold arrangements in the ACT. I draw members' attention to the fact that 27 June was long before the statements that Mr Humphries made to the Property Council on 9 September. It was well and truly before that and, therefore, before Ms McRae introduced the notion of a no-confidence motion in the Minister over this issue. The Minister, in writing, was confirming their discussion before all this became a conflict situation. The letter basically says that we will need to transfer the power. So the Minister, in one sense, is confirming that it is a transfer of power, in accordance with the Liberal Party policy, not an action taken by the Federal Liberal Government to remove 99-year leases.

There is one other issue that I think is interesting in my drawing this to a conclusion for myself, Mr Speaker, and that is that in December 1996, when Mr Humphries answered a question from Mr Berry, he basically reconfirmed his position. He also tabled this letter. It was at about that time that he tabled this letter to confirm what he was saying, namely, that they were seeking a change of power rather than asking the Federal Government to make that change. Mr Speaker, it is this very fine line that it comes down to, this interpretation of this particular paragraph. I want to listen, Mr Speaker, to how Mr Humphries justifies the issues that I have raised, and I want to listen to Ms McRae's speech in reply, to make a final decision. At this stage I have given the reasons why it appears to me that Mr Humphries has actually asked for the power to be transferred to the Assembly rather than asking the Federal Government for 999-year leases. I must say, Mr Speaker, that this is a very serious situation. When I originally came into the Assembly, before I had seen this letter, I thought that it was not as strong a case as has been put here. In fact, it is a very strong case. It comes down to a very fine line. The Minister now has to explain, very clearly, why I should believe that the 999-year lease power was sought rather than 999-year leases, and that is what I am listening for.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.53): Mr Speaker, traditionally with these things, or at least in the tradition established by Mr Berry's motion of no confidence in 1994, the Minister being moved against gets the chance to respond after all the members have spoken - except, of course, for the mover of the motion, who gets the right to close the debate. I take it that members - - -

Mr Berry: Yes, I will speak.

MR HUMPHRIES: Mr Berry wants to speak. Okay.

MR BERRY (Leader of the Opposition) (3.53): Yes, I will have a go. That is fair enough. That is a fair point. Mr Speaker, I had thought that I would wait until Mr Humphries was finished, but he has made a fair point and I will attempt to pick up the threads at short notice. I think the first thing that one has to go to in respect of this matter is the statement by the Minister which my colleague Ms McRae referred to in her speech. This has been quoted ad nauseam, but I still think it is important to re-emphasise it because I think it makes clear that this Minister was telling this Assembly that it had nothing to worry about. He was creating the impression in this Assembly that nobody in this Assembly need worry about this Government because this Government was not going to do anything that would upset any of us in respect of the leasehold system. That was the impression he was attempting to create in this Assembly. He said this:

... this Government will not seek, during the term of this Assembly, to change the current system of tenure to freehold or perpetual leasehold, notwithstanding our preferred policy to move towards perpetual leasehold.

We all said, "Phew! Thank goodness. That is great. That is that issue out of it. It is finished. Mr Humphries has given us an undertaking. We will expect him to stick with that. Nothing more will happen until perhaps after the next election. If the Liberals can win an election on the basis of their silly policy on perpetual leasehold, if that is the only issue they win their election on, then they can go for their lives". We would all sit back relaxed after that and take the Minister at face value. The impression was certainly created that this Government would do nothing.

Mr Speaker, the next thing I turn to is the Seat of Government (Administration) Act 1910. Section 9 of that Act refers to the disposal of crown lands and says this:

No Crown lands in the Territory shall be sold or disposed of for any estate of freehold, except in pursuance of some contract entered into, or the right to enter into which existed before the commencement of this Act, or except for the purpose of giving effect to some right which existed before the commencement of this Act ...

Excuse me; I think I may have - - -

26 August 1997

Mr Humphries: That was in about 1911 or something, was it not?

MR BERRY: Yes. Nevertheless, it is still the relevant law. I might have to come back to that. Mr Speaker, the other legislation which I should refer to is the Australian Capital Territory (Planning and Land Management) Act. I refer to that because that was the legislation that was specifically referred to in Mrs Carnell's letter to Mr Smith. She requested of Mr Smith that he alter this particular legislation so that the Territory could legislate. That was, of course, in the wake of Mr Humphries's creation of the impression that this Government would do nothing. "We will do nothing to upset the system", he said. That was the impression that was created here. Mrs Carnell goes off then and writes a letter to Mr Warwick Smith and requests him to change the Australian Capital Territory (Planning and Land Management) Act.

I think that is very clearly this Government at work. The impression was created, by the Minister representing this Government in relation to planning and land management matters, that nothing was going to be done. One assumes that Mrs Carnell asked Mr Humphries whether he agreed. Mr Humphries might get up and say, "She did it of her own accord". That would create an interesting position for us to deal with. But they together - if I may use the word - conspired to ensure that this happened and that changes to the arrangements in the ACT could be then facilitated by the Commonwealth. They requested the Commonwealth to facilitate an arrangement whereby changes could be made to the way leases are let in the ACT so that 999-year leases could be achieved.

Mr Speaker, on 2CN Mr Humphries made it very clear when he said this:

We have had discussions with the Federal Government and I'm hopeful that the legislative steps at the federal level will be taken before the end of the year to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

He did not say, "We have had discussions with the Federal Government and we said to them, 'We have told our colleagues in the Assembly not to do this. Federal Minister, please, do not let us down. We have told our colleagues in the Assembly that we will not do this. If you do this you will be letting us down and you will be letting our Assembly down. We have not requested it' ". No, that is not what Mr Humphries said. He said:

We have had discussions with the Federal Government and I'm hopeful -

that to me is an indication that he has encouraged the Federal Government -

that the legislative steps at the federal level will be taken before the end of the year to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

On any assessment of that it is very clear that this Minister came into this place, told us one thing and, as soon as he could get out of the place, did something else. He quite deliberately created the impression in this Assembly that we need not worry about this matter; that the Government was going to do nothing. His words make that very clear. If he climbs to his feet and tries to argue that he had a different position, Mr Speaker, I think members in this Assembly are entitled to feel that they are being deliberately misled.

Mr Speaker, the statement that “this Government will not seek, during the term of this Assembly, to change the current system of tenure”, et cetera, was a deliberate attempt to create the impression amongst all of us that nothing would change; that we could go about our business and we would have nothing to worry about, and many of us did that until the question was raised later on. Now, Mr Smith has written back to Mr Humphries - - -

Ms McRae: Today.

MR BERRY: Yes, today, in what seems to be, dare I say it, a desperate attempt to head off what was going to happen in this Assembly. We have to take at face value what Mr Smith says in here, but what he does confirm is that there was a discussion, and elements of that discussion led to the coalition Government moving to support the introduction of 999-year leases in the ACT. So that, too, is an indictment of this Minister, because the Minister created the impression, “I will not do that”. Mrs Carnell did it in her letter to Mr Smith, and Mr Smith - - -

Mr Humphries: But that was eight months ago.

MR BERRY: Oh, that was eight months ago, so it is okay. That is all right. A crime eight months ago is fine. The statute of limitations has run out. It is all over. Sorry; because you did not find out the same day, there is no case to answer.

Mr Humphries: You found out eight months ago.

MR SPEAKER: Order!

MR BERRY: A funny sort of Attorney-General we have here. Something happened eight months ago, so you cannot pursue it. My, my! Can we expect to see some changes to some of the criminal legislation which changes the statute of limitations in respect of certain crimes, Mr Humphries? Eight months is not a statute of limitations that this party would support. Mr Speaker, we have here a Minister who clearly said one thing to this Assembly, and then went outside and did something else. He must go if the credibility of this Assembly is to be preserved.

MS REILLY (4.04): I want to add some more information to this discussion. Mr Moore talked about the wording of this motion and Mr Stefaniak talked about the Commonwealth Parliament. Mr Stefaniak fails to understand that there is a relationship between the Commonwealth Parliament and this ACT Assembly. You cannot look at them as two separate institutions, as though the work of the Federal Parliament, the more senior parliament, does not have an influence on what happens in the
ACT Assembly.

26 August 1997

We saw a very recent indication of that in the euthanasia debate, and I think we will see other instances like that in the future. So Mr Stefaniak should check out constitutional law. If you look at Mr Smith's very timely letter, the third paragraph says:

That policy commits the Coalition Government to supporting the introduction of 999 year leases, but also recognises that this matter is ultimately a decision for the ACT Legislative Assembly to make.

You will notice in Mr Smith's letter that he talks about the Legislative Assembly. He does not talk about his Liberal mates in the ACT Government; he talks about the Legislative Assembly. As Mr Moore says, how important is this? If you look at the spring program for the Federal Parliament, which, as I have pointed out, has a relationship to us, you will see a Bill listed under "Environment, Sport and Territories". If you look at this document it just says "Australian Capital Territory (Planning and Land Management) (Amendment) Bill", and then the basis on which it will be set up. It will provide the Australian Capital Territory Government, not the Legislative Assembly - there is no reference to the Legislative Assembly - with the capacity to increase the term of the leases in the Australian Capital Territory from 99 years to 999 years.

We have here, yet again, an example of the Federal Liberals helping out the ACT Liberals and allowing the ACT Minister for Planning to set it up in such a way that he can do what he wants. It is very handy to have the Federal Parliament up there to introduce legislation in the spring sittings in 1997 to allow this Government to do what it wants to do. There is no reason to think that there is going to be discussion with the Assembly. This is to allow the Government - in this case the Planning Minister - to do what it wants to do. The Planning Minister is not controlling what is happening. If he claims that he has no relationship with what Mr Smith is planning to do in the Federal Parliament, we are then left with the question, "Does not the Planning Minister in the ACT have any control over what he is doing? Does he not know what he is doing?". We are wondering what his role is.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.07): Mr Temporary Deputy Speaker, I have listened to this debate with interest and care, and I have to agree with the Chief Minister. Many motions of censure and no confidence have been moved in this house over the last three years. For members' interest, this is the thirty-third motion of censure or no confidence. Collectively, there have been 33 of these motions moved in this Assembly since self-government. This is the thirty-third of them and, I think, at least the ninth moved in this Third Assembly. For interest's sake, that is the fact. The fact of the matter is that of all those motions - and I think I was here for all of them - this has been the weakest, the most unconvincing and the most detractive from the power of the Assembly to deal with these issues in that way.

Let me say a few things about the debate. First of all, I have to say I am happy that it is only today that we have discovered what the nature of the motion against me as Minister is. It was two weeks ago that I wrote to Ms McRae - in fact, I made it clear some time before that even - indicating that I wanted some idea of what the motion against me was to be, what the nature of the case against me was. I understood clearly from a meeting I had only yesterday with Ms McRae - - -

Mr Berry: Were you trying to set a new standard?

Ms McRae: Why do you not argue the main points, Mr Humphries?

MR HUMPHRIES: I am being accused of lacking the confidence of the house and I think - - -

Ms McRae: Yes, and I gave you a case. Why do you not answer it?

MR HUMPHRIES: Mr Temporary Deputy Speaker, in the circumstances, I ought to be heard with a little bit more silence. With respect, I have only eight minutes in which to make that case. Even with an extension of time, it is not very long.

Mr Moore: We would give you leave to speak for as long as you want, I am sure.

MR HUMPHRIES: Thank you, Mr Moore. I was told - in fact, Ms McRae confirmed it in her public statements - that there would be a motion against me for misleading the house. The motion before us is not a motion about misleading the house.

Ms McRae: You have misled. That is why you have mishandled.

MR HUMPHRIES: Supposedly, I have mismanaged because I have misled. That was not what Ms McRae said in her statement when she opened this debate, and I submit that it is not what she has been arguing in the course of this debate. Her argument publicly before today was that the case against me was that I had misled the Assembly. Today she has not made a case - - -

Mr Berry: Mr Temporary Deputy Speaker, I too am happy to have Mr Humphries speak for as long as he likes in his defence, but what I would like him to do is to stick to the issues, rather - - -

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Is this a point of order?

Mr Berry: It is on an issue of relevance and whether or not the Minister is prepared to address the issues which have been raised by members in this Assembly. I am not particularly interested in what went on in the media outside this place in the lead-up to this debate and Mr Humphries's interpretation of what happened in the media; nor am I particularly concerned about what Mr Humphries thinks about Ms McRae.

MR TEMPORARY DEPUTY SPEAKER: There is no point of order.

MR HUMPHRIES: As I said, it is only today that we discover what the nature of the motion is. It seems to me that Mr Moore has summarised quite succinctly what the crux of the debate has now boiled down to.

26 August 1997

I might say that the nature of the debate has gone through two significant changes. What started as a motion about misleading the house changed to a motion about generally mismanaging the system of possible lease tenure change and now, because Mr Moore has defined the issue differently and the Opposition has picked that up, it has become an issue about what it was that we were seeking from the Federal Government and whether we were trying to go behind the back of the Assembly - that is a different question to misleading it - in seeking for the Federal Government or Parliament to do what we had said we wanted to do only through legislation in this place.

I think Mr Moore is correct. The issue is: Was the ACT Government seeking the power to make these changes at some point in the future or was it seeking for the Federal Government to make the changes? I want to put it to the Assembly that it is clear on all the evidence that we were seeking the power to be able to make that change through legislation. To demonstrate that, I have four items of evidence to rebut the four items tabled by Ms McRae.

Mr Berry: You said “will not seek, during the term of this Assembly”.

MR HUMPHRIES: Mr Temporary Deputy Speaker, I am having a motion of no confidence in me moved and I would ask for a little bit of a chance to put my case before this Assembly without being constantly interrupted by Mr Berry.

MR TEMPORARY DEPUTY SPEAKER: The Leader of the Opposition and all members of the Assembly will endeavour to listen to Mr Humphries in silence.

MR HUMPHRIES: I thank you, Mr Temporary Deputy Speaker. I point to four things to prove that it has always been the intention of the ACT Government only to seek the power to pursue this proposal through change on the floor of the Assembly, not to seek to have the Federal Government do it on our behalf. First of all, that view is consistent with all the statements I have made in this place on this subject. In my response to the Stein report in 1995, I said:

... this Government will not seek, during the term of this Assembly, to change the current system of tenure to freehold or perpetual leasehold, notwithstanding our preferred policy to move towards perpetual leasehold.

That is the benchmark we set. I maintain that there is not a single piece of evidence to show that that benchmark has been gone below or departed from in the Government's actions - not once, nowhere. That view about our proposal was consistent with statements made in the Assembly on 12 December last year. The debate was referred to before and quoted from extensively. When asked about a proposal by the Federal Government pursuant to its election platform in 1996 to alter the basis of leasehold in the ACT, I said:

Mr Speaker, the Federal Government has announced its intention to allow the ACT Legislative Assembly to change the system of land tenure through legislation enacted in this place -

meaning this Assembly -

not to do it by itself -

that is, the Federal Government not to do it by itself -

not to have the Federal Parliament create that tenure by an enactment that imposes on the ACT, a la the Andrews Bill, but rather to allow the ACT Assembly to enact that if it so chooses. When I made the commitment that Mr Berry refers to there was a Labor government in power federally, and I certainly could not speak for a Federal Labor government, much less than I could speak for a Federal Liberal government.

That was the position that had been stated in response to Stein restated as recently as December last year. At that stage members of this place sought information about what it was that we had actually said to the Federal Government. The issue was raised then. It was put to us then that we were being inconsistent in our public statements about what we had sought from the Federal Government.

In accordance with the openness that we have shown in these matters, we tabled the correspondence between the ACT and Federal governments. When Mr Corbell spoke on this matter, he said, "The Government has now shown the letter between the ACT and Federal governments". Wrong. The Government tabled that letter on 12 December last year. If you are making out a case that I misled the Assembly or mismanaged the planning system, why have you waited eight months from the time that letter was first tabled to raise that point? That now appears to be the basis on which much of this motion today rests. The fact is that we laid on the table in an open fashion - I note the Greens' comments about going behind the backs of the Assembly - that letter, in which the Chief Minister, writing to the Federal Minister, said:

I seek your government's support to amend the Australian Capital Territory (Planning and Land Management) Act -

that is a Federal Act -

to remove the 99 year restriction on the majority of leases in the Territory, the objective being to provide for longer term leases for residential and Aboriginal interests in particular.

This is the second piece of evidence I want to turn to. If it had been the intention of the ACT Government to get the Federal Government to do the deed on our behalf, to enact 999-year leases on our behalf, and forget about that pesky ACT Assembly, surely the Chief Minister would have said to the Minister for Territories, "I seek your support to remove the 99-year restriction".

MR TEMPORARY DEPUTY SPEAKER: Order! Minister, your time has expired.

26 August 1997

MR HUMPHRIES: I seek an extension of time such as would permit me to complete my remarks.

Leave granted.

MR HUMPHRIES: I thank members.

If we had wanted to do that, we would have said, "We seek your Government's support to amend the Act to remove 99-year restrictions and to put in place 999-year leases". But we did not say that. We said that we wanted to remove the 99-year restriction, which is the restriction we understand to exist in the Australian Capital Territory (Planning and Land Management) Act, a Federal Act, that prevents this Assembly from dealing with that issue. That is consistent with what I said in response to Stein and consistent with what I said to the Assembly on 12 December.

It is consistent, thirdly, with the statements as announced by the Minister for Territories himself. I wrote to Mr Smith yesterday, after speaking to Ms McRae, once I knew - or thought I knew from what I discussed with Ms McRae - exactly what it was that was to be brought against me today on the floor of the Assembly. In my letter, and I think I have tabled the letter - if I have not, I will do so at the end of my remarks - I asked him, "Can you please clarify or put on the record what it was that we discussed at our meeting on 27 June?". He replied to that today by saying:

I can confirm it is the Commonwealth's intention to legislate as stated in our 1996 Election Policy.

I will come back to that. He went on:

That policy commits the Coalition Government to supporting the introduction of 999 year leases, but also recognises that this matter is ultimately a decision for the ACT Legislative Assembly to make.

Accordingly, the legislation I propose to bring forward to the Commonwealth Parliament will amend the Seat of Government (Administration) Act 1910 to allow the ACT Legislative Assembly to make laws to grant leases longer than 99 years.

That is unambiguous. It is not to allow the ACT Government to create leases longer than 99 years; it is to allow the ACT Legislative Assembly to make leases longer than 99 years. That is consistent with what I discussed with Mr Smith on 27 June, it is consistent with my statement on 12 December, it is consistent with what I said in response to Stein, and it is consistent with the Chief Minister's letter to Mr Smith I referred to earlier, which was tabled in December. It is consistent with all those things. Again, there is no evidence anywhere in any of that documentation to support the view that we were, in fact, seeking the creation of 999-year leases by the Federal Parliament or by the Federal Government - none of it, not a shred of it.

It is consistent, what is more, with my statement to the Property Council on 9 July this year. Much has been made of those remarks to the Property Council. With respect, it rests entirely on a single sentence - or, more precisely, a single phrase in a single sentence - I used when speaking to the Property Council. For the record, let me indicate to Ms McRae that I did not speak to Alex Sloan about this matter at any time during that day. What I think Ms McRae was actually playing over the air was my statements made directly to the Property Council.

Mr Moore: What Ms Sloan was playing over the air.

MR HUMPHRIES: What Ms Sloan was broadcasting was my statements made directly to the Property Council. There was an ABC reporter there. I imagine that he recorded my statements and that that was what was played. I was not interviewed by Alex Sloan, but what I said was played over the air before Mr Service was interviewed. I am not responsible for what Mr Service thinks about that matter; I am responsible for what I said. What I said was:

We have had discussions with the Federal Government and I'm hopeful that the legislative steps at the federal level will be taken before the end of the year -

I repeat "I'm hopeful that the legislative steps at the federal level will be taken before the end of the year", and that is what is now happening -

to allow us to create, to issue, or rather to automatically convert all the existing leases in the ACT that are of that kind into 999-year leases.

If the words "before the end of the year" had appeared at the end of the sentence - - -

Mr Corbell: There was not any proviso on that statement. It is there. You are doing it.

MR HUMPHRIES: I was referring to our creating those leases, but I was referring to one thing happening before the end of the year and that was for the legislative steps at the Federal level to be taken. If the phrase "before the end of the year" had appeared at the end of the sentence - that is, if I had proposed that before the end of the year two things would happen: One, the legislative steps would be taken at the Federal level; two, steps would be taken in the ACT to create those longer leases - then yes, Ms McRae would have me on toast; but I did not say that.

My comment about this happening before the end of the year came in respect of the legislative steps taken by the Federal Government. It is clear that what I was saying was that the Federal Government, I hoped, would take the steps at the Federal level to free up this power and we then would be able to create 999-year leases, "we" being the ACT Legislative Assembly.

26 August 1997

Ms McRae: Why would we? We have always said no.

MR HUMPHRIES: Because there is an election coming up, Ms McRae, and it is perfectly open for the Legislative Assembly to consider this issue, perhaps with a different membership, next year. You might equally ask why the Legislative Assembly should ask for the power to legislate in respect of euthanasia when we have already voted no to euthanasia legislation as well. We all believe collectively that the Assembly ought to have that power. Again, the comments I made on 9 July are consistent with what I was saying all along about this matter.

There is one last ground of consistency I will refer to, and that is my disposition towards accountability on the floor of this place. I have always gone out of my way to make reference in this place, publicly and repeatedly, to my view that Ministers in this place are accountable to this Assembly. As I have said before many times, we are well aware that as a minority government we are at the mercy of the Legislative Assembly; that we will dance to the tune that the Assembly plays. If the Assembly puts us on a short leash, then we stay on that short leash.

If I were to creep out and create 999-year leases by getting the Federal Government to do it for us in a flash and I were to say, "They have done it; we cannot do anything about it", I know what the consequences in this place would be for me as a Minister. I know what the consequences would probably be for the entire Government if we did that, knowing what we do know about the Legislative Assembly's views on this matter. That is why we have consistently always done one thing, pursuant to our commitments, and that is to bring the power back to the Legislative Assembly.

There is one other ground of consistency to which I want to point to prove my case. Members opposite are saying that we were working towards the creation of 999-year leases by an Act of Federal fiat that overrode the ACT Legislative Assembly's interest, but that is not even consistent with what the Federal Government has promised to do. Not only would we be breaking a promise on the floor of this place; the Federal Government would be breaking a promise it made to the Australian community at the last election.

Mr Corbell: But is it a core promise or not a core promise?

MR HUMPHRIES: That is a good question. I do not know, but I will read out what the Federal policy produced in February 1996 said about the ACT:

The Coalition supports the conversion of A.C.T. leases to leases in perpetuity (999 years) and believes that future leases should be issued on that basis.

The Coalition does, however, recognise that a decision to change the nature of A.C.T. leases should properly belong with the Territory Assembly and government.

That is the evidence.

Ms McRae: And the Government?

MR HUMPHRIES: Yes, that is right; both of them. It needs both of them, because if the Territory Assembly facilitates the issuing of longer leases it is then up to the Territory Government, not to the Territory Assembly, to issue those leases. That is why it mentions both of those. Clearly, the Territory Assembly is mentioned because it was foreshadowed by the Federal Government - I might say, on the basis of the views expressed by the ACT Division of the Liberal Party - that it should be the ACT electorate, through its elected representatives in the ACT Assembly, that makes the decision on this matter.

There is the consistency. There is the openness about this. Where have we gone - and I address this question particularly to the Greens - behind the backs of the Assembly at any stage? At every juncture when asked we have tabled the correspondence we have had with the Federal Government. I have said publicly what it is that we were doing with the Federal Government in our discussions with them. I had a meeting with Warwick Smith on 27 June. I freely described to a particular meeting I was at, with members of the media sitting in the front row, what it was I discussed with the Federal Government on 27 June. There has never been the least secrecy or deceptiveness in that approach - not the least. I would ask the Greens to consider seriously where the basis is for saying that we have acted behind the backs of the Assembly in this matter. Where in any way have we attempted to disguise or hide our intentions? Absolutely nowhere.

I accept that the Greens and the Labor Party strongly disagree with the proposal to create 999-year leases. I realise that. I know that Mr Moore is also opposed to that. I assume that Mr Osborne is as well, although I have not actually asked him.

Mr Moore: Yes, he is.

MR HUMPHRIES: Mr Moore says that he is. I assume that on these matters Mr Moore has some authority to speak. I assume that that is the case. That is why the Government has made a commitment, and it intends to stand by it - there is no evidence that we will not stand by it - that we will not take forward any proposal to create those 999-year leases in the life of this Assembly. But we have the right to hold the view that they should be 999-year leases. Are we to be censured or, worse still, am I to be removed from office on the basis of my stated belief that we ought to have those longer leases? Will it be an issue at the next election? The Greens have been arguing that they disagree with those things and therefore we should be moved against for that.

If the view is that we should be dealt with because of our stated belief, then we are in a very serious pass in this Assembly. We are saying that a member's statement of a view that other members disagree with is enough to sanction that member in some way. I do not think members have reached that point. The argument about whether 999-year leases are good things or bad things is irrelevant to this debate. The question is what we have done to take that forward in circumstances which hid our views or deceived the Assembly, and there is no basis for saying that we did that.

26 August 1997

I want to draw a parallel between this situation and the situation with euthanasia. The argument that has been put forward in respect of perpetual leases goes like this: The Assembly opposes perpetual leases, and the Government is trying to give the Assembly the power to create perpetual leases; therefore, the Government should be condemned for trying to give the Assembly the power to do something it does not want to do. If for "perpetual leases" you substitute "euthanasia", then you have a very interesting argument. The Assembly opposes euthanasia. That was the case the last time we took a vote on the subject. The Government is trying to give the Assembly the power to legislate for euthanasia. That is what Kate Carnell and I were arguing for when we went to the Federal Parliament. Therefore, the Government should be condemned for trying to give the Assembly the power to do something it does not want to do. Is that not consistent?

Mr Berry: No. You are wrong, Gary. You are sunk by your own argument.

MR HUMPHRIES: I think Mr Berry realises that there is a problem with the consistency of his argument. In the correspondence that Kate Carnell and I had with the Federal Government and in the meeting I had with Warwick Smith on 27 June, I never imagined at any stage that the Legislative Assembly would have concerns about our trying to bring the power to deal with matters affecting the lives of members of this community back to the Legislative Assembly. In fact, I would operate on the prima facie basis that whatever I sought to bring back to this Assembly as a power for this Assembly was in the interests of the ACT and in accordance with the wishes of the members of this Assembly.

Can anyone here tell me why it is that we would not want to exercise power over these matters? Let us forget 999-year leases for a moment. Should the Legislative Assembly not have the power to determine the details of the leasehold system, subject to that Federal constitutional requirement for there to be leasehold? Should it not have that power? Surely the answer is that it should. If we are to have that power, then I ask what possible objection there can be to the Chief Minister or I or any other member of this Government going to the Federal Government and saying, "Give that power back to the elected representatives of the ACT community. We are elected by this community. You Federal representatives are not". We are a fairly democratic institution. We have a better electoral system than the Federal Parliament uses, I would argue. Therefore, we deserve the right to be able to make those decisions on behalf of the ACT community and not have people from Wagga, Launceston or Perth making those decisions for us. They are our decisions to make.

I sought that power for the Assembly, and I believe I should not be condemned or censured or removed from office for seeking that power for the Assembly, but rather I should be commended. That is what I think members of this place would normally urge me to be doing. I have sought powers for this Assembly in other places and at other times as well. I had better get this off my chest in case I get another censure motion about this. I have argued with the Federal Government that we should have power over censorship matters. Censorship is a matter which has been reserved for the Federal Parliament under the self-government Act. I have argued that we should have power over censorship.

Any censure motions, anybody? I have argued that we should have more power over corporations in the ACT. The ACT Assembly does not have power to deal with corporations, and as a result does not sit on the Ministerial Council for Corporations, except as an observer. I have argued that the ACT parliament should have more power over corporations and that we should be consulted more on issues affecting corporations at the national level. I hope there will be no censure motion because I have argued for that power to come back to the ACT Assembly. I have argued in those cases that power should be given to the Assembly. It is extraordinary that we should even consider moving against any member for doing so.

Let me close by saying that I think it is important for this Assembly to clearly define the circumstances in which Ministers in particular are accountable to this place for the things that they do. We have already established some guidelines on that. If Ministers mislead this place, they most certainly must be facing censure, or perhaps a motion of no confidence. If such a motion is passed, they should resign. All of us on this side of the chamber accept that standard and will live by that standard. That is our view about the matter. Clearly, if we mislead, we should do that.

In my experience, motions of no confidence in the past certainly have been based on misleading, except in the case of a motion of no confidence in the Chief Minister, which is basically about bringing down the government. Motions against individual Ministers in the past have been about misleading. Ministers have been censured in the past for a range of things, but they should be things which the Assembly views as reprehensible at least.

I would argue that, both because we have been open and up front about our program and our way of dealing with that program and because we have been consistent in what we have said and we have done, there is nothing censurable about anything that we have done. I appreciate that some members have already made a decision about this matter. I appreciate that the Greens have already announced publicly what they are going to do about this motion, even before hearing the debate about this matter on the floor here; but I would appeal to them - - -

Ms Tucker: But we have talked to both sides about it.

MR HUMPHRIES: Yes, you have, but before the debate today. As I have said, there are quite significant changes in what has actually been alleged today about this matter, so I would hope that you are open minded enough to listen to what I have had to say about these matters and not jump to the conclusion that this is a matter for censure. I believe very sincerely that it is not a matter for censure at all.

MS TUCKER: Mr Speaker, I seek leave to make a further statement clarifying something Mr Humphries said on this matter.

Leave granted.

MS TUCKER: Mr Humphries seemed to be under the impression that we were really voting here on what we thought of the leasehold system. I want to make it clear that that is not how we are making our decision. I know that my colleague did speak at length about these issues today and took the opportunity to raise the general issues of leasehold

26 August 1997

and the concerns we would have if it were not in place any longer. We were arguing that in a way you had gone behind the back of the Assembly - I believe that is what my colleague said - but I want to make it clear that, while you are saying you have publicly shown the letter that you have written, we still believe that it is an inappropriate process to have done that before there has been full debate in this place about the issue. We still have a concern about the process and the way it has been run by you as Minister.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning): Mr Speaker, I seek leave to respond to that point very briefly.

Leave granted.

MR HUMPHRIES: It will be very brief. I accept that Ms Tucker does not accept that we should have done this; but the point I make is that we did this initially by letter that was sent to the Federal Government, I think, in September of last year. That letter was tabled here in December. Why have you waited eight months since it was tabled to bring this matter up in this way? You said that we had gone behind people's backs. We have been open about it at all stages. We brought this forward and we put it on the table in order to show our openness about this matter.

Mr Berry: You were forced to.

Ms Tucker: That is a matter of timing, not the essence of the argument.

MR HUMPHRIES: No; members asked us to table it and we did.

Mr Berry: Questions were raised and you were caught out and had to. Otherwise, you would have had a motion - - -

MR HUMPHRIES: The fact remains that the matter was put on the table. If members did not like it then, they should not have let it drag on for eight more months while we have been continuing discussions with the Federal Government to pursue the matter. We told the Assembly that we were doing that. Nobody objected to it at the time, and we proceeded to have further discussions and further encouraged the Government to do that. We can hardly be condemned now because we have taken the thing a stage further without there being any action by the Assembly to stop us from doing that.

MS McRAE (4.39): I will close the debate. Let me begin with the first bit of silliness that somehow the wording of my motion does not include "misled". Quite clearly, I have lost confidence in the Minister because he has misled. That was the point of my four bits of evidence and my argument. He has misled the Assembly on the nature of his handling of this matter. I made that quite clear by referring to his actions, what he told the Assembly and what he has subsequently done. That was the point of it. He has clearly misled, and that is why I have lost confidence in his way of handling the potential extension of tenure of leases in the ACT to 999 years.

The reason why the motion has come up now rather than eight months ago is that, whilst we were aware of the letter, we were not aware of the nature of the legislation. I think it is entirely reprehensible. The letter was written in September. It was not tabled in September. There were questions asked in December. It was tabled only then. The Minister, knowing that everyone in this Assembly opposed it, continued discussions without ever venturing once to mention it to one Assembly colleague or in any way say that this matter was coming up. I first heard of it from my colleagues on the hill, saying, "Hey, McRae, what do you know about these 999-year leases?". That is enough, in my opinion, for censure and no confidence.

Secondly, the nonsense about euthanasia that Mr Humphries raised, as Mr Berry quite rightly pointed out, shot his argument entirely in the foot. The Assembly had one opinion about euthanasia; the Commonwealth Government had another. The Assembly has one opinion about 999-year leases; the Commonwealth Government has now been taken to have another. It is not good enough. If you are doing something for the ACT Government on behalf of the Assembly, the Minister must keep us informed, and he did not. He moved from his intention. He told us nothing between September and now. Furthermore, he has actively worked within the business community to give an entirely different impression of what the legislation was all about.

We have a very fortuitous letter today from Warwick Smith. However, we still have not seen the Bill, so we are taking everybody at face value as to what the Bill actually does. There is no statute. There is no common law in regard to 999-year leases. There is no clear understanding yet of the potential impact - even if it is legislative law, whether it enables or does not enable the ACT - on Federal land, or other land. As Ms Reilly pointed out, it gives the Government the capacity. The capacity can be by regulation, by ministerial policy or by decree. We are being told that it is going to be by legislation, but we have not seen any of that. We have nothing to assure us of that. None of us have been taken into confidence. None of the Assembly colleagues whose support Mr Humphries will need to pass this legislation have been spoken to.

Mr Humphries has been going out of his way to systematically create an impression with his comments which have been quoted twice now. In speaking about Federal Government activity, the "us" in "allow us" suddenly becomes the Assembly. Of course, we cannot censure Mr James Service for what he says, but this is the impression that Mr Humphries created on the part of Mr Service, who listened to Mr Humphries's entire speech, the press, who listened to Mr Humphries's speech, and everyone else who listened to Mr Humphries's speech at the Property Council lunch. Mr Service, in his response, does not once say, "I will now go and lobby the Assembly members. I hope to get that recalcitrant McRae in line to fix up 999-year leases. I will go and get that dreadful Mr Berry and sort him out". Does Mr Service say that? No. The impression was clearly created. It was clearly and deliberately created with the Property Council.

Mrs Carnell: You cannot censure somebody for that, even if it is right.

26 August 1997

MS McRAE: The Minister is responsible for his own standing in the Assembly. If the Minister, with his words in the paragraph that I have quoted and the words that he says it turns on, has led me to believe that he could not care less what the Assembly thinks and has led me to believe that from everything that he has done, one letter tabled in December notwithstanding, then that is further proof that I am not just off on some solitary planet.

Mr Service, who is the head of the Property Council, is no idle player; he is one who is quite ready to come and kick us all in the knees when he is not happy. In an extensive interview he said:

Our response is a very positive one, Alex. It's part of the work that we've been doing - the Property Council have been doing for a number of years - to say to government that the ACT's land tenure system needs to be on as equal a footing as it can without competitive neighbours - that being New South Wales, Victoria and other states - and to say to the government that there is an option here to protect the land tenure system in terms of the community's position, but also an opportunity to continue to attract new investment opportunities to Canberra.

I have given you a copy of this. Not once in this whole lengthy debate does he say anything about the Assembly. The compere said:

So, is this a freehold, the freehold system you have when you can't have a freehold system?

Mr Service said:

Oh, I'm not sure that it's a freehold system when you can't have a freehold system. It still retains, as we understand it, all the protections necessary in a leasehold system from the government's perspective, but it offers investors a security of tenure which is as equal to freehold as you can get.

In response to a comment about constitutional reasons, he said:

That's our understanding, yes. That's certainly what the Minister has said. What we've been pushing for is a recognition that we need a more competitive system and that commercial and residential ought to be treated on an equal footing.

Not once does it say in this interview, which is the public accounting of this issue, "And I am going to talk to the Assembly and make sure that they fall into line. I cannot wait for the legislation to get into the ACT". That is fine. He does not have to know the detail. Mr Service said:

The Federal Government's changed that in terms of its decisions in relation to Canberra. And what we have to do is we have to, as a community and as a Territory, show the people that there are good opportunities to invest here and this is just another step ...

Mr Service is fully entitled to his opinions. I have no objection at all to them. I have known about his and his dad's opinions for the last 10 years. That is not a problem. I have nothing at all against him. My case is that this Minister, through his actions from the very beginning, had absolutely no intention of worrying about what this Assembly thought about 999-year leases. This whole movement has been to build up a perception with his constituency that he can deliver. He has not sought to correct that perception in any way. That is where he has misled the Assembly, that is where he has misled the people of Canberra and that is where he has not taken his job as Minister seriously.

All I hear from the crossbenches is that once in a while Labor has actually voted with the Liberals. Perhaps the Liberals should have paid a bit of attention to that, because on something as serious as this, if we are ever going to get anything moving in the ACT, perhaps we all ought to be treated as equal players. On something as serious as this, the Minister, until that letter happened to be tabled in December, has gone out of his way to keep this issue secret. We have not seen draft legislation. We have not been given copies of the Bill. We have not seen any clarification of what the Commonwealth is doing. We have to take his word, and his word changes. We have to take it from quotes like that of his remarks to the Property Council, in respect of which there was not a press release saying, "Alex Sloan quoted me wrongly on her program. I was wrong with the Property Council. I am terribly sorry. I was very interested to hear James Service's support of me, but James Service was wrong. I am waiting on my Assembly colleagues' response to this. I will be tabling legislation in the Assembly". We did not see any of that detail.

You can say whatever you like about the wording of my motion, but the clear reason why I and my party have lost confidence in this Minister is that his mismanagement of the extension of this process of getting the Commonwealth Government in line to take leases to 999 years has been duplicitous. We have been misled. We have not been taken into consideration, and we have no faith at all in him.

MR SPEAKER: The member's time has expired.

26 August 1997

Question put:

That the amendment (**Ms Horodny's**) be agreed to.

The Assembly voted -

AYES, 2

Ms Horodny
Ms Tucker

NOES, 15

Mr Berry
Mrs Carnell
Mr Corbell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mrs Littlewood
Ms McRae
Mr Moore
Mr Osborne
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

Question put:

That the motion (**Ms McRae's**) be agreed to.

The Assembly voted -

AYES, 6

Mr Berry
Mr Corbell
Ms McRae
Ms Reilly
Mr Whitecross
Mr Wood

NOES, 11

Mrs Carnell
Mr Cornwell
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mrs Littlewood
Mr Moore
Mr Osborne
Mr Stefaniak
Ms Tucker

Question so resolved in the negative.

MR BERRY AND MS McRAE
Motion of Censure

MRS CARNELL (Chief Minister) (4.54): Mr Speaker, I seek leave to move the motion of censure circulated in my name.

Leave granted.

MRS CARNELL: I move:

That this Assembly censures Mr Berry and Ms McRae for misleading the Assembly in relation to false statements they made on 26 June 1997 about a private company.

Mr Speaker, we will attempt to keep this debate to a minimum, at least from this side of the house, because I think the case is very much cut and dried. Members will be aware that on 15 August the Government flagged its intention to move a censure motion against Mr Berry and Ms McRae. At that stage, I wrote to members of the crossbenches and provided them with the background information about this issue.

I will be brief because, as I said, I think this is a relatively straightforward motion. It charges Mr Berry and Ms McRae with misleading the Assembly over statements they both made on 26 June in this house. During question time on that day, these two MLAs, along with other Opposition members, made a series of detailed accusations about a company that had been engaged by the Government - Fay Richwhite and Associates. Mr Berry, during his question, told the Assembly:

What does this say about the probity check you undertake of contractors, if a firm which has been involved in tax rorts to the extent that Fay Richwhite and Associates have - rorts that have defrauded governments of hundreds of millions of dollars - is employed by the ACT Government?

Mr Speaker, I want to emphasise two key phrases used by Mr Berry here - "a firm which has been involved in tax rorts" and "rorts that have defrauded governments of hundreds of millions of dollars". These statements were not presented by Mr Berry as mere allegations, but instead were represented by him as factual occurrences. The use of the word "defrauded" by Mr Berry was clearly intended to signal to members of this Assembly and the community that a criminal offence had actually been committed by this firm. Put simply, the intention of Mr Berry's statement on 26 June was to advise the Assembly that Fay Richwhite and Associates had been convicted of tax rorts by a court or other similar authority. There can be no other interpretation, Mr Speaker. In fact, I will be interested to know what other interpretation those opposite might put on those comments.

26 August 1997

Mr Speaker, I now turn to the other statement, by Ms McRae, on the same day. She told the Assembly:

When you engaged Fay Richwhite and Associates to conduct the audit of ACTEW were you aware that Fay Richwhite and Associates have been involved in tax rorts in the Cook Islands which are estimated to have cost the Australian taxpayers millions of dollars, and tax rorts which are estimated to have cost the New Zealand Government between \$2m and \$4m and the Japanese Revenue Office up to \$400m?

Once again, like Mr Berry's statement, this statement made by Ms McRae was one which would cause Assembly members and members of the community to believe that the company had been found guilty of tax-related offences - - -

Mr Berry: No; we said "tax rorts".

MRS CARNELL: No, you did not. You said that they had done it.

Mr Berry: Tax rorts, yes.

MRS CARNELL: You said that they had been involved in them.

Mr Berry: Yes, we did.

MRS CARNELL: Okay; spot on. So, we will continue on that basis, Mr Speaker.

The community could have been forgiven for believing that this company had been found guilty of tax-related offences against these governments. It was an unambiguous statement presented as fact by Ms McRae, not as an allegation which was yet to be proven or disproven. Mr Speaker, the questions by the Opposition related directly to an inquiry which was conducted by the former Chief Justice of New Zealand, Sir Ronald Davison, into allegations made by the new Treasurer, Winston Peters. Mr Peters alleged that a number of companies, among them Fay Richwhite and Associates, had engaged in fraudulent conduct over taxation deals in the Cook Islands and that the Inland Revenue Department and the Serious Fraud Office had been corrupt in failing to properly investigate these financial transactions. (*Quorum formed*) It was about these claims that Mr Berry and Ms McRae directed their questions to me on 26 June, but with one important distinction. They chose to present them not as allegations but as statements of fact. So, were they facts, Mr Speaker? Had they been proven by any court or board of inquiry? The simple answer is no.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being 5.00 pm, I propose the question:

That the Assembly do now adjourn.

Mrs Carnell: I require the question to be put forthwith without debate.

Question resolved in the negative.

MR BERRY AND MS McRAE
Motion of Censure

Debate resumed.

MRS CARNELL: Fay Richwhite and Associates have not been convicted by any New Zealand court of fraud or tax evasion in relation to any of these transactions. The so-called wine-box inquiry which looked at these claims reported to the New Zealand Parliament earlier this month after an investigation lasting 2½ years. In summary, the inquiry found no evidence of fraud, Mr Speaker - I will say again "no evidence of fraud" - in any of the transactions and no evidence of any conspiracy by any corporation, including Fay Richwhite, to defraud New Zealand's Inland Revenue Department; in other words, no evidence whatsoever that could sustain the comments made by those two MLAs.

There is no doubt that the statements by Mr Berry and Ms McRae were extremely serious charges. They were serious charges against the company and against the ACT Government. They were made specifically under the protection of parliamentary privilege, because both of these members knew that they were serious charges which, if found baseless - which, of course, they have been, Mr Speaker - would have exposed them to legal action and significant damages if they had been made outside this place. This is supported by the fact that neither Mr Berry nor Ms McRae wished to repeat their statements outside the Assembly when they were challenged to do so.

Mr Speaker, we, as members, have available to us an extraordinary power, which is denied to most of the community, and that is the right of parliamentary privilege. If we use this power to make specific charges against individuals or organisations, we also have a duty to be extremely careful because of the special protection that we, as members, are afforded. But what if we abuse that trust and protection? What if we act recklessly and make statements that we know to be false, Mr Speaker? We deserve to be censured by the Assembly, and indeed by the community, for misusing the trust that has been placed in us.

Mr Berry and Ms McRae recklessly misled this Assembly on two grounds. Firstly, they made statements of fact about a company which were completely and utterly false. Secondly, and most importantly, these MLAs knew these statements to be false at the time they made them to the Assembly, because when they asked their questions on 26 June Mr Berry and Ms McRae knew that the inquiry being conducted into the Cook Islands transactions had not yet been completed and that

it had not yet made any

26 August 1997

findings about Fay Richwhite's conduct. They also knew that the company had not been convicted in any court of offences related to these transactions. In other words, Mr Speaker, they knew that Fay Richwhite had not been found guilty of defrauding any governments and had not been convicted of tax rorts; but they decided to make the statements anyway, knowing that they would be afforded the protection of parliamentary privilege.

Mr Speaker, under any circumstances, that is a very reckless and irresponsible approach. Mr Speaker, if this Assembly does not choose to censure Mr Berry and Ms McRae, what chance does any company or any entity have of protecting itself against people who are willing to use parliamentary privilege in an unfortunate or irresponsible manner? The fact is that there is no proof whatsoever, and Mr Berry and Ms McRae actually knew that. That is what makes this conduct so disgraceful, Mr Speaker.

Mr Speaker, the other thing that really concerns me is that, since Mr Berry and Ms McRae obviously now know the outcome of the inquiry in New Zealand, we have not seen an apology. We have not seen anything from either of those two opposite. I hope that others in this Assembly also share my view that parliamentary privilege is something that we have to use appropriately if we are to protect it. In other words, Mr Speaker, parliamentary privilege is just that - a privilege. I commend the motion to the Assembly, Mr Speaker.

MR BERRY (Leader of the Opposition) (5.05): Mr Speaker, Mr Humphries referred to the custom of people who are the accused waiting until the last moment to speak on the matter. I think it is as well that I put my view in relation to this matter. Then members will know exactly where I stand in respect of this matter as they consider all of the issues.

Mr Speaker, I think this censure motion is press release driven. A press release was issued on 15 August, headed "Berry, McRae likely to face censure motion over false allegations". It quoted me as saying:

"... a firm which has been involved in tax rorts ... rorts that have defrauded governments of hundreds of millions of dollars".

It went on to make some similar accusations. It also referred to some statements by Ms McRae, about tax rorts again, and it went on to describe other matters in relation to the inquiry in New Zealand.

But what Mrs Carnell did not talk about was why the questions were raised in the Assembly. I will go to the questions which were raised in the Assembly, Mr Speaker, so that members can be fully aware of the issue. My question to Mrs Carnell, which has been selectively quoted from, was as follows:

My question is to Mrs Carnell in her capacity as Chief Minister. Chief Minister, I refer to the consultancy through which you have employed Fay Richwhite and Associates to do a study of ACTEW.

Yesterday, in answer to Mr Corbell's question about Fay Richwhite and Associates, you stated that you were happy to employ them and that they are "of very good standing". Are you aware that Fay Richwhite and Associates were found to be in contempt of the Davison Commission in New Zealand ...

You did not mention that in your press release. Would you like us to apologise for that too? No, thank you. The question went on:

a commission which was investigating the Cook Islands tax scams - and fined \$15,000 for spying on the head of the New Zealand First Party, Winston Peters, while he was giving evidence to this inquiry. Chief Minister, are firms who hold the law in contempt and sneak around filming politicians who are giving evidence at commissions of very good standing?

Mr Speaker, this brings me back to the issue. The issue here is whether or not this Government checks the probity of these companies before employing them to carry out important work on our major assets. No, they do not. All they were driven by was the knowledge that this organisation, Fay Richwhite, is an organisation which prepares government instrumentalities for privatisation.

Mrs Carnell: Rubbish!

MR BERRY: That is the only criterion that it had to fulfil.

Mrs Carnell: On a point of order, Mr Speaker: Mr Berry is not speaking on the issue whatsoever. The issue here quite categorically is that Mr Berry and Ms McRae stated that these companies were guilty of tax rorts.

Ms McRae: We said "were involved in". Quote properly.

Mrs Carnell: I am very happy to quote exactly what was said. They were involved in tax rorts to the extent - - -

Ms McRae: "Involved in". Repeat that, Mrs Carnell.

Mrs Carnell: And the answer is that they were not involved. They were found to be absolutely innocent, Mr Speaker.

Ms McRae: They were involved. That is not true.

MR BERRY: That is not true. Mr Speaker, the Chief Minister will have a chance to speak again. I thought that that was an argument - - -

MR SPEAKER: And I will listen carefully to the argument that you are putting; but I am aware, and you are aware, of the motion of censure.

26 August 1997

MR BERRY: Mr Speaker, yes. I know that you are like a hawk on these matters, and I will keep in mind, as I speak my every word, that you are watching like one. Thank you, Mr Speaker. I will go back to the question and read from the record:

... a commission which was investigating the Cook Islands tax scams - and fined \$15,000 for spying on the head of the New Zealand First Party ...

I have read the rest of that into *Hansard*. So, Mr Speaker, the very point that we were making in all of this was that this Government appoints people who are not of good character, because they have been fined \$15,000 - - -

Mrs Carnell: On a point of order again, Mr Speaker: What this censure is about is using parliamentary privilege to make comments such as that Fay Richwhite and Associates have been involved in tax rorts in the Cook Islands. It is not to do with other issues but to do with some very specific comments about Fay Richwhite and Associates having been involved in tax rorts. The fact is that they have not been, Mr Speaker - - -

Ms McRae: They were.

Mrs Carnell: The fact is that they have not been, Mr Speaker - - -

MR BERRY: They were. It just was not illegal.

Mrs Carnell: And you simply cannot use parliamentary privilege to do that. Mr Speaker, Mr Berry is not addressing those issues at all. In fact, he has not addressed that issue at all and should be ruled out of order.

Ms McRae: Mr Speaker, this is a very serious motion of censure. Mrs Carnell is choosing to interpret standing orders to her own ends and is seeking to ask for rulings that are completely irrelevant. Mr Berry has every right to defend his case. She is choosing to reinterpret words to her own ends. We said “were involved in”, not “guilty of”, and I greatly resent, Mr Speaker, the fact that you are not prepared to let Mr Berry put his case without this constant aggravation of irrelevant and tedious points of order.

MR BERRY: I will come to that issue, Mr Speaker.

MR SPEAKER: Just a moment. I am not going to get embroiled in interpreting “involved in” as opposed to “guilty of”.

Mrs Carnell: “Have defrauded governments”.

MR BERRY: I have not said that.

Mrs Carnell: You did say “have defrauded governments”.

MR SPEAKER: I will not involve myself. I will, however, allow you, Mr Berry, to develop your theme; but do not let it run for too long.

MR BERRY: That is right. The line of questioning that was raised by the Opposition on the date in question was about this Government not doing probity checks on companies whose character was in question in a commission of inquiry. Who would employ somebody who was a central figure in a serious commission of inquiry to do very serious work in relation to an important Territory-owned corporation? Nobody with any sense would, and that was the point that we were making in relation to the question.

Mrs Carnell: Mr Speaker, I take a point of order again. This is simply not the issue of the censure.

MR BERRY: It is the issue.

Mrs Carnell: It is not the issue of the censure. The issue of the censure is quite definite. Mr Berry and Ms McRae said that this company had been involved in tax rorts and had defrauded governments. Unless they can show that there is evidence that that is the case, it is out of order.

MR BERRY: That is not the point.

MR SPEAKER: It is out of order, Chief Minister, but they are certainly not making a case for themselves. If they wish to pursue that line, I suppose it will be evident to members of the Assembly whether they are making a case or whether they are not.

MR BERRY: Mr Speaker, I thank you very much for your learned comments in relation to whether I make a case or not, but it really is not your position to do so.

MR SPEAKER: No. I am actually upholding your right to continue the line that you are taking, Mr Berry. Whether that is a good idea or not is up to you.

MR BERRY: The very point I make in respect of this matter is that the questions - Mrs Carnell selectively quoted certain matters which were raised in the course of those questions - were pointed not so much at the issue of whether Fay Richwhite was good or bad but at the fact that the Government had appointed these people without doing probity checks on them. We proved that point; no question. And we proved that, while they had these question marks over their character, the Government was still prepared to employ them. So, that is the real point at issue, Mr Speaker, not the one that the Government has tried to use to divert attention from the fact that it failed the people of the ACT miserably in respect of that matter.

At the very beginning, I am willing to accept that I may have been presumptuous to have described the dealings of Fay Richwhite as fraudulent, and I withdraw that comment. On any assessment, the question of fraud was on foot in that commission hearing; but, as I have said, that was presumptuous of me, and I withdraw it unequivocally. However, I stand by my claims that the schemes that this company was involved in were rorts of the first order, that the Chief Minister was negligent and that she did not conduct probity checks of this company.

26 August 1997

Instead of my colleague and I being censured for raising these allegations about Fay Richwhite, we should be congratulated for bringing to the attention of the Government and the Assembly the fact that the Chief Minister had no idea that the company she had employed to review ACTEW - the Territory's largest public asset - was the subject of a royal commission in New Zealand. That was the point that we raised. Our questions in the last sitting were centred on this Government's administration of contracts and consultants.

We have seen the results of their cowboy style of management, and the Fay Richwhite contract cuts to the heart of this; no question. What you were doing was employing to review our most important asset people whose character was under a big question mark as a result of the commission. Nobody would employ somebody in that context. In particular, they were fined \$15,000 for spying on a politician over there. It is not as if this mob has a character which is as pure as the driven snow. What the commission did find was that there was no illegality in respect of their tax arrangements. But that does not remove the point that some of these arrangements are rorts.

Yet the Government is trying to censure me and not the Chief Minister, who had no idea that the consultants employed by her to delve into ACTEW's books were the subject of a royal commission. She did not have a clue. She had no idea that they were involved in unethical tax rorts - - -

Mrs Carnell: You just said that they were not.

MR BERRY: No.

Mrs Carnell: You just withdrew any - - -

MR BERRY: No. Let me make it clear. I said that it may have been presumptuous of me to have described the dealings of Fay Richwhite as fraudulent, but the question was on foot in the royal commission. There is no question about that. What I have said is that the Government had no idea that they were involved in unethical tax rorts - whether they were found to be legal or not. It had no idea that this company had been found to be in contempt of the commission for filming witnesses giving evidence. It had no idea of the series of allegations about this company's dealings with publicly-owned assets.

These allegations and facts are well documented in both the New Zealand and Australian media, in magazine and journal articles and even in books. Several television documentaries have explored and examined the dealings of this company and the allegations that it advises on the sale of public assets, only to be heavily involved in the purchase of the same assets. Yet the Chief Minister was oblivious to all of these allegations and facts. The question Labor continually asked in the last Assembly sitting was, "Did the Chief Minister know?". That is the point - - -

Mrs Carnell: Mr Speaker, on a point of order: Is there any relevance to the motion here?

MR SPEAKER: I will uphold that point of order. Come back to the point.

MR BERRY: What is that?

Mrs Carnell: That there is no relevance.

MR BERRY: About what?

Mrs Carnell: To this censure motion.

MR BERRY: You have selectively quoted out of context - - -

Mrs Carnell: But that is the thing I am censuring you for, not the rest.

MR SPEAKER: I am reading the censure motion. It says “in relation to false statements they” - that is Mr Berry and Ms McRae - “made on 26 June 1997 about a private company”.

MR BERRY: Mr Speaker, if you were to read *Hansard*, you would think that I had never said anything else on the matter, except what Mrs Carnell said. One is permitted to have the things in context, I am sure.

Mrs Carnell: Mr Speaker, I am not censuring Mr Berry for the other things that he has said; I am censuring Mr Berry for his false statements.

MR SPEAKER: Correct. I uphold the point of order. Mr Berry, address the censure motion.

MR BERRY: My statement in respect of tax rorts was not false. Mr Speaker, the question Labor continually asked in the last Assembly sitting was: Did the Chief Minister know?. And, no, she did not. We asked about the probity checks conducted on Fay Richwhite and other contractors and consultants. The Chief Minister was unable to answer. She should be embarrassed and squirming in her seat.

Mr Humphries: Mr Speaker, on a point of order: I think I should press the point made by the Chief Minister. This matter is a motion of censure in respect of one particular comment Mr Berry made. It may well be true that Mr Berry made lots of other comments which may or may not be true. They are not the subject of this debate.

MR BERRY: No; you would not want them to be.

Mr Humphries: The subject of this debate is a comment which is clearly not true, and which I understand Mr Berry has now admitted is not true.

MR BERRY: No. It is true. The tax rorts statements are true.

Mrs Carnell: Mr Speaker, if Mr Berry is saying, as he said, that he is not any longer suggesting that Fay Richwhite was involved in anything fraudulent and is willing to withdraw those things - - -

26 August 1997

MR SPEAKER: Then there is no censure.

Mrs Carnell: Mr Speaker, there is no censure. I am happy to withdraw it. It is that simple.

MR BERRY: I have withdrawn my intemperate reference to fraud.

Mrs Carnell: On that basis - - -

MR BERRY: I am - - -

Mrs Carnell: That is what this is about - about your saying that they were involved in fraud.

MR BERRY: But, as far as tax rorts are concerned, I am not prepared to withdraw.

Mr Humphries: Bully for you; but she is not pressing the censure motion, now that you have said that.

Ms McRae: It was included in the censure motion. Are you withdrawing that now?

Mrs Carnell: I am happy for you to apologise for saying that Fay Richwhite was involved in a fraudulent capacity. As long as you have said that and you have apologised, that is all that has ever been asked for.

MR BERRY: I have made no apology. I have withdrawn - - -

Mrs Carnell: You withdrew it.

MR BERRY: I have withdrawn my intemperate and presumptuous - - -

MR SPEAKER: And you withdrew unequivocally, Mr Berry.

MR BERRY: Unequivocally, but - - -

MR SPEAKER: Yes, you did.

Mr Humphries: The Chief Minister has sought to withdraw the censure motion. I think that ends the debate, with respect.

MR SPEAKER: Yes, that is correct.

Ms McRae: Does that take me out of it as well? Have we a form of withdrawal?

MR BERRY: No, wait a minute.

Mr Humphries: She is withdrawing the motion.

Ms McRae: This is outrageous, Mr Speaker. We are talking about the interpretation of standing orders here. Mr Berry ought to be allowed to finish putting his case. We are being ordered around in relation to how we should ask questions, after all. Mr Berry should be entitled to finish.

MR SPEAKER: The member's time has now expired. So, that rather settles the issue.

MR BERRY: I seek leave for a short extension.

Mrs Carnell: Mr Speaker, I have said that I accept Mr Berry's withdrawal of the comment of fraudulent.

MR SPEAKER: Is leave granted for the Chief Minister to withdraw the censure motion?

MR BERRY: No.

MR SPEAKER: Leave is not granted.

Mrs Carnell: Do you want to be censured? Mr Berry, this has to be the first time ever that anyone has said that they do want to be censured.

MR BERRY: I want to finish my speech. You can withdraw it when I have finished arguing my case.

Mrs Carnell: Mr Speaker, what is he speaking about if we have withdrawn the censure motion?

MR SPEAKER: We have not withdrawn it. Leave was not granted to withdraw it.

Ms McRae: You cannot. You do not play with this Assembly.

MR BERRY: You have accused both of us of certain things - - -

Mrs Carnell: And you said that you are sorry. You said that you withdraw "fraudulent".

MR SPEAKER: Do you want an extension of time, Mr Berry?

MR BERRY: Yes, I do.

Ms McRae: It is a censure motion, Mr Speaker, may I point out; it is not simply Mrs Carnell asking for a personal explanation. She has gone up hill and down dale, accusing us of all sorts of things, and now she laughs it off as if to say, "All I wanted him to say was 'Sorry' ". It is just ridiculous, Mr Speaker.

26 August 1997

MR SPEAKER: No, that is not correct, Ms McRae. The fact is that Mr Berry has withdrawn certain statements that he made. The Chief Minister said that she was happy to withdraw the censure motion on that basis. The fact is that the Opposition is not prepared to allow the censure motion to be withdrawn. Therefore, the motion stays with the Assembly. Do you want an extension of time, Mr Berry?

MR BERRY: Indeed, I do. I want to finish arguing my case.

Suspension of Standing Orders

MR HUMPHRIES (Attorney-General) (5.21): Mr Speaker, I move:

That so much of the standing orders be suspended as would prevent Mrs Carnell from withdrawing her motion.

Mr Berry obviously wants to be censured; but, since he has withdrawn the damning allegations, it is appropriate that the motion be allowed to be withdrawn. Only an hour ago we heard how keen this Opposition was to get on to question time. We heard how desperate they were to get on to question time and how terrified this Government was of question time. Okay, we want question time, guys. We are ready for question time. I have my folders. The Chief Minister has her folders. Everyone else has their folders here. Mr Kaine is ready. Mr Stefaniak is ready. We are all ready. We are ready for question time. Are you ready?

MR SPEAKER: Order! The question is: That Mr Humphries's motion be agreed to.

MR BERRY (Leader of the Opposition) (5.21): Now I get a chance to speak. Mr Speaker, I am appalled at the way the Government is behaving in relation to this issue.

Mrs Carnell: You said that you withdrew the "fraudulent" claims; fine.

MR BERRY: I did say that I withdrew my language, and I do not go back on that. But, Mr Speaker, the point we made - and I think it has been well made - was that the probity checks were not conducted - - -

MR SPEAKER: Mr Berry, you are discussing the motion that Mr Humphries has proposed.

MR BERRY: If the Government insists that its censure motion was not worth two bob, I am happy to go along with it.

Mr Humphries: It was, but you have withdrawn the allegation.

MR BERRY: What about tax rorts? I am still sticking with that one.

MR CORBELL (5.23): What an absolutely extraordinary turn of events from the Government! Either you are committed to this process or you are not. Either you believe that Mr Berry and Ms McRae did nothing wrong or you do not.

MR SPEAKER: Mr Corbell - - -

MR CORBELL: I am speaking on Mr Humphries's proposal, Mr Speaker.

MR SPEAKER: You are.

MR CORBELL: Either you are committed to that process or you are not. You do not move a censure motion just to get someone to apologise.

Mr Berry: So you agree that "tax rorts" is okay? I did not mislead on that?

MR SPEAKER: Order!

MR CORBELL: There has to be something grievously wrong in this place. You do not move a censure motion and then change your mind. Either you have your convictions or you do not, and clearly you do not. What an absolute waste of time this whole exercise has been.

MR SPEAKER: This is going to be a long session, members.

MR CORBELL: What an absolute waste of time this whole exercise has been.

Mr Kaine: On a point of order, Mr Speaker: Is Mr Corbell debating the Minister's motion or is he debating something else? I am not clear.

MR SPEAKER: The question is: That Mr Humphries's motion be agreed to. I call Ms Tucker.

MR CORBELL: Mr Speaker, I had not finished. I think Mr Kaine was taking a point of order.

Mr Kaine: I do not know what motion you are speaking to.

MR CORBELL: You either have the strength of your convictions or you do not. I am speaking against - - -

MR SPEAKER: Order! Now you are straying away from the debate, I am afraid.

MR CORBELL: I am not, Mr Speaker. The point I am making is that I do not believe that Mr Humphries's motion should be agreed to, for the reasons I am outlining now. That is the question to which I was speaking.

MR SPEAKER: Proceed.

26 August 1997

MR CORBELL: Mr Speaker, the Government deliberately put this motion up to waste the time of the Assembly and to play tit-for-tat politics in this Assembly. That is the only reason they did it. It is quite clear why they are backing away from this motion now. You either have the strength of your convictions or you do not. Clearly, you do not. Clearly, you do not believe that Ms McRae and Mr Berry did something wrong. If you agree now that your whole censure motion was a waste of time, we are quite happy to agree with that, Mr Humphries; but we want to hold you to your convictions. You either have a conviction or you do not. You are an embarrassment. You have wasted the time of this Assembly. You should just put up with having to deal with the censure motion. Let us get it over and done with and let us get on with question time.

MR SPEAKER: I do wish that we could get this out of the way.

MR MOORE (5.25): Mr Speaker, I think it is great. Now we can get on with question time and with the business of the house.

MS TUCKER (5.25): I also support letting this thing go and getting on to question time; but I want to make one comment. If all that was needed was an apology, I wish that we had gone that way to begin with. I was not going to be able to support the censure motion anyway, because I have seen just as much happening from this side of the house that could be regarded as abuse of privilege. There are mechanisms within this place to deal with that. I am concerned that the Government wanted to put up a censure motion at all.

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

MRS CARNELL (Chief Minister) (5.26): Mr Speaker, I withdraw the motion, on the basis that Mr Berry withdrew the word “defrauded”.

QUESTIONS WITHOUT NOTICE

Acton Peninsula - Demolition of Buildings - Inquiries

MR MOORE: My question is to Mrs Carnell. In order to have you understand the seriousness of the question, I will need to read from a letter, a copy of which I have received today. The letter is to Major General Smethurst of the board of inquiry. It reads:

Dear Sir,

I will not mince words. I believe the integrity of your Inquiry has been breached.

Let me explain. On 20/8/97 I made a brief submission to your Inquiry. I received an acknowledgment yesterday afternoon. There is no stamp on the envelope.

Mr Speaker, this will take a little more time than normal; but it is necessary, due to the seriousness of the issue. It is just one page. It continues:

This means it was hand-delivered. I have the envelope and would be happy to show it to you for corroboration if you wish. Was this at your instruction, I wonder? I doubt it.

I checked this morning with your assistant -

the person is named, but I do not think it is necessary for me to do so -

(who was very helpful, I hasten to add). She shared my concern. She said that your Inquiry simply does not have postal facilities, and sends the mail to the Chief Minister's Department to post.

The reality is that by the simple ruse of not providing you with postal facilities the Chief Minister's Department is able to monitor precisely every person you write to! Am I kidding? No.

Last night I had a phone call from -

the person is named; I shall not name him, although I am happy to table this letter for Assembly members to read -

of the Chief Minister's personal staff. He gave an apparently cogent reason for ringing me - we had spoken about one month before. However, I was intrigued, but it was only after his call that I realised something fishy was going on. That was when I checked your letter and realised it had been hand-delivered to my home. The hand-delivery is of itself not important, but the fact that the Chief Minister's Department knows that you are writing to me is. As many people may have put their personal and professional reputations on the line in coming forward to make a submission to your Inquiry, I believe this warrants immediate and high-level investigation. I am not particularly concerned for myself as I have no confidential information to protect, but other people may do. If it happened to me, it could have happened to anyone. By monitoring your mail they can have a full list of all the people who made submissions to your Inquiry. If they asked you for that list - would you give it to them?

Before I decided to make a submission to you I studied the Inquiries Act 1991, and took comfort from section 17.

I can read to you section 17, if members would like. The letter continues:

Now you know why many citizens were concerned at Mr Walker appointing his trusted aide as Secretary to your Inquiry. See how easily the protection offered by the Act has been bypassed.

26 August 1997

The letter is signed by Mr Denis Wilson of Reid. Mr Speaker, through you, to the Chief Minister: Mr Wilson had approached me prior to the implosion and asked me to check with you whether or not asbestos had been removed. You indeed found out that information and provided me with the answer. When I explained it to Mr Wilson he said, "I am very pleased about that", and was very satisfied with it. It is not a case of somebody who is just writing a crank letter. Chief Minister, it strikes me that there is a serious breach of protocol as far as this matter of mail goes. How can this happen? What other breaches of protocol are there? What are you going to do to resolve it?

MRS CARNELL: I can guarantee that there is no breach of protocol at all here. The reason that Mr Wilson was rung by my office yesterday was that he wrote to us, and there was an article in the newspaper over the weekend about an unnamed engineer. We were not confident that Mr Wilson was that unnamed engineer, as the letter he had written to me was somewhat similar. We rang to check whether he was that engineer and whether there was anything more we could do for him. My office has no idea whatsoever of who is putting submissions to the inquiry, but I understand that the names of the people who are putting submissions to the inquiry are quite public anyway. The names of the people who put forward submissions would be part of the public part of the inquiry, but I guarantee that my office has absolutely no idea who is putting submissions to the inquiry at this stage. But I am sure that, at the end of the process, that will all be made quite public by the inquirer. Again, if there are no postal facilities, we will make sure that there are some. There is no information to my office on who is putting in submissions.

MR MOORE: As a supplementary question, Mr Speaker, I seek leave to table a copy of the letter.

Leave granted.

Acton Peninsula - Demolition of Buildings

MR BERRY: My question is to the Chief Minister. In the *Canberra Times* of 16 July, in relation to the decision to use implosion as the method of demolition of the old Canberra Hospital, you said:

We were told, even by that time -

that is, December 1995 -

by the building industry, off the record, shall we say informally, that they believed implosion would be the cheapest way to go for large buildings.

Chief Minister, is there any record of that advice? If so, will you table it today in the Assembly? If not, will you give this Assembly an account of it; and will you be giving a copy of, or an account of, that advice to all of the inquiries which are proceeding?

MRS CARNELL: The answer is yes. My understanding is that that advice came from the Glenn inquiry and has been made available to the inquiry.

MR BERRY: When was that?

Mrs Carnell: Sorry?

MR BERRY: Mr Speaker - - -

MR SPEAKER: Do you have a supplementary question?

MR BERRY: In this house on 19 June, in relation to the proposal from the December 1995 Eagle Hawk strategy meeting - - -

Mrs Carnell: Is this a second question?

MR BERRY: No, it is not; it is a supplementary question. You said:

I did not express those opinions that went up on the whiteboard ...

Clearly, Chief Minister, the decision to bomb the building was made on the basis of the industry advice which you referred to in the *Canberra Times*. Why did you not tell us about that industry advice and your decision to bomb the building then?

MR SPEAKER: That is on 19 June, Mr Berry?

Mrs Carnell: Are we talking about 1995, Mr Speaker, or are we talking about - - -

MR BERRY: I will explain again. Mr Speaker, on 19 June Mrs Carnell made this comment:

I did not express those opinions - - -

MR SPEAKER: This year?

Mrs Carnell: Which 19 June - is it this year or last year?

MR BERRY: I think it was last year.

Mrs Carnell: I think you are talking about 1995.

MR BERRY: No; last year. In this house on 19 June last year, in relation to the proposal from the December 1995 Eagle Hawk strategy meeting that the buildings on Acton Peninsula should be bombed because of the sentimental baggage associated with the former hospital, you said:

I did not express those opinions that went up on the whiteboard ...

Why, then, did you admit to the *Canberra Times* that you had taken industry advice in relation to the matter and that the decision to bomb the building was made on the basis of that advice?

26 August 1997

MRS CARNELL: Mr Speaker, I think the new, third Leader of the Opposition is getting extraordinarily confused with his dates.

Mr Berry: Mr Speaker, no; I will clarify that again. On 19 June last year - - -

Mr Humphries: Mr Speaker, on a point of order: The Chief Minister has risen to start answering the question. It is perfectly clear what the question - well, to the extent that it is possible to work out what it is about - - -

Mr Berry: No; she said I was confused. I was just clarifying it.

Ms McRae: She said she was confused. She is confused.

Mr Humphries: No; she did not refuse; she was about to answer the question.

MR SPEAKER: Order! I call the Chief Minister.

MRS CARNELL: Mr Berry, in mid-1995, the then Federal Labor Government set a timeframe for the clearing of Acton Peninsula - we are talking about 1995 now - to make way for the Gallery of Aboriginal Australia. This was in accordance with the land swap. This is the first question, as I understand it. The timeframe called for the Acton Peninsula buildings to be cleared by June 1996. The advice to the Government from an independent consultancy, that is, the Glenn inquiry - in line with Mr Berry's first question - was that, in order to meet the Federal Labor Government's timeframe, the buildings on Acton would need to be imploded to save time.

Mr Berry: On a point of order, Mr Speaker: That is not my supplementary question.

MRS CARNELL: That is exactly what he is talking about.

Mr Berry: I will restate it so that it is clear.

MR SPEAKER: I think the Chief Minister is well aware of what the question is. How the Chief Minister chooses to answer the question is entirely up to her.

Mr Corbell: It has to be relevant.

MRS CARNELL: It is relevant. It is about the Glenn inquiry.

Mr Berry: She said she had industry advice and she formed the view - - -

Mr Humphries: Mr Speaker, I have to insist here. Mr Berry has read this question three times. It is perfectly clear what the question is.

MR SPEAKER: I uphold the point of order.

MRS CARNELL: Mr Speaker, the industry advice, as I explained in my first answer, was the Richard Glenn and Associates report. That was an independent consultancy which was put in place and which was asked for in order to be able to meet the timeframes on Acton Peninsula.

Mr Berry: In 1995.

MRS CARNELL: I just said it. No; by June 1996 was the timeframe that we had to implode the buildings by.

Mr Berry: No; when did you get the advice?

MRS CARNELL: It was actually early 1996, from memory. That advice was accepted by the Government; but the process was never advanced even to expressions of interest, let alone calling for tenders at that stage. That advice was already on the table.

Mr Whitecross: Mr Speaker, on a point of order: Mrs Carnell, in answering Mr Berry's supplementary question, has just indicated that this report was provided to the Government in February 1996. In answer to Mr Berry's original question she said that the Glenn report was the informal advice they took to a meeting in December 1995. Was this the advice they had in December 1995 or was it not the advice? You should be concerned about the procedures in this house.

MR SPEAKER: There is no point of order. Resume your seat. We are in question time. If you wish to pursue the matter you will have the chance.

MRS CARNELL: Mr Speaker, as I said, I am not confident as to when the Glenn inquiry - and that was exactly what I said - was actually put in place. I just said that. It came after, as I said, mid-1995 when the Federal Labor Government determined that they wanted the site on Acton Peninsula. Quite simply, that is the case. The Glenn consultancy was put in place. This document has gone to the inquirer and to the coroner already. The Glenn consultancy indicated that implosion would have to be used to meet the Federal Labor Government's timeframe of June 1996. With regard to the meeting at Eagle Hawk, the comments that I made then are the comments right now. There was butchers paper around the room and people were talking about what was appropriate or what could happen to change Canberra, to get jobs moving and so on. One of the comments made at that stage was that the hospital on Acton Peninsula would have to be got rid of, bombed. The reality is that those opposite - - -

Mr Hird: On a point of order, Mr Speaker: I would suggest, under standing order 39, that you take appropriate action against that rabble opposite. I am trying to hear the answer from the Chief Minister.

MR SPEAKER: There is no point of order. I will watch the matter.

MRS CARNELL: Again, the comment was made that the Acton buildings were going to have to be got rid of. Those opposite knew that as well. That was the outcome of that particular meeting.

Acton Peninsula - Demolition of Buildings

MRS LITTLEWOOD: Mr Speaker, my question is to the Chief Minister.

Mr Berry: Mrs Carnell indicates that yes, there was advice before the meeting.

MRS LITTLEWOOD: Mr Speaker, do I have the floor or is Mr Berry still rattling on?

MR SPEAKER: You do.

Ms McRae: Why do you not rattle on? Go on.

MRS LITTLEWOOD: I would like to, but I cannot because Mr Berry is rattling on. I agree with Mr Stefaniak. Shut up, Wayne. My question is to the Chief Minister in her capacity as Chief Minister. I refer to claims made yesterday by the third Leader of the Opposition, Mr “Shut Up, Wayne” Berry, that the total cost of the demolition of buildings on Acton Peninsula had increased to \$9.4m, yet again trying to politicise the death of a young girl.

MRS CARNELL: Mr Speaker, but again Mr Berry was not correct. This Assembly has recognised that, in Mr Berry, we are blessed to have amongst us Canberra’s leading expert on issues such as industrial relations, legal affairs, gaming, racing and private hospitals of course. He is Mr Business as well. But today he becomes Mr Money as well or, shall we say, Mr Shadow Treasurer. Mr Berry has now put himself in charge of the show as shadow Treasurer, even if he does not have a clue. It is his first day in the job, and he gets it wrong. He does not have a clue about financial issues. Nowhere was that more obvious than on his first day out as Labor’s financial commentator. Heaven help them!

Mr Berry issued another of his series of classic media statements and claimed that the cost of the Acton demolition had blown out by \$3.5m. He based this claim upon a gazettal notice issued in late July which listed four agreements in relation to the demolition. I know Mr Berry wishes now that he had rung my office and asked to check the facts. In keeping with his usual style, he ploughed right ahead regardless. You have to hand it to him, because not once in the last seven years in this place has he actually ever let the facts get in the way of a good story.

For Mr Berry’s benefit and for the benefit of those opposite - and those opposite might like to actually listen so that Mr Berry might learn a little now - I would like to explain exactly what is happening with the demolition contracts. I will try to do it really simply and slowly so that Mr Berry can understand. The original budget projection for the demolition was \$8.1m. When a project management agreement was signed with Project Coordination, providing for maximum expenditure to this amount, this was published in the *Gazette*. Again, I say “maximum expenditure”.

Here is where it might get a little tough for Mr Berry to follow. You might like to ask Mr Whitecross, but probably you will not do that either; so I had better take it a little slowly here. The other three amounts that appeared under this entry in the *Gazette* were actually part of the maximum figure provided under the project management agreement. Therefore, they make up part of the \$8.1m. Mr Berry, are you still with me? No; I think I have lost him. Anyway, I will keep going. What Mr Money did - and I still cannot work out why - was add up the four entries. Then he ran around claiming that somehow we had spent more than \$9m on the Acton project.

Funnily enough, I seem to remember that that was how Mr Berry put most of the health budgets together when he was Health Minister.

Mr Berry: The most successful one yet.

MRS CARNELL: I suppose I really should not be surprised. Mr Berry says, "The most successful one yet". Four budget blow-outs out of four! I suppose it is 100 per cent.

Mr Berry: What have you done? Your answer is \$80m on a private hospital.

MR SPEAKER: Order!

MRS CARNELL: Again, Mr Speaker, for Mr Berry's benefit - - -

Mr Berry: A \$100m deficit.

MRS CARNELL: Mr Speaker, he does not want to listen, it seems, because it is a bit embarrassing.

MR SPEAKER: Nobody in this place does, Chief Minister; everybody knows everything.

MRS CARNELL: That is true. Again, for Mr Berry's benefit, one phone call to my office would have told him that the expected final expenditure for the demolition project is about \$6m, or about \$2m less than was originally forecast. In other words, what the Government has been saying all along about achieving savings on this project is entirely accurate.

Where does that leave Mr Berry in his shiny new shadow Treasury clothes? I wonder whether he still has shiny shoes. I suppose he has. There is that old political saying which goes something like this: "Never put the Left of the Labor Party anywhere near money". After four health budget blow-outs, after the VITAB debacle, after seven years of not having a clue about basic budgeting, heaven help us when Mr Berry has to actually come to grips with accrual accounting. It is all too tragic to even think about. Why, in heaven's name, would you let this MLA anywhere near the Treasury? I, for the life of me, cannot understand. This being his first day in the Assembly as leader, I would like to be charitable. Mr Speaker, how about we have a little

26 August 1997

bit of charity right now? I would like to present Mr Berry with a small token of my appreciation by giving him a bit of a hand as shadow Treasurer. Mr Speaker, it is a solar calculator; and I am sure it will come in very handy for Mr Berry because, as well, it comes from the State Bank. I would have thought a State Bank solar calculator was absolutely perfect for somebody from the Labor Party Left.

Acton Peninsula - Demolition of Buildings - Inquiries

MS REILLY: Mr Speaker, my question is to the Chief Minister. Following the bungled appointment of the first inquiry into the failed hospital implosion, you belatedly moved to expand the terms of reference and set up a new inquiry. Questions about a perceived conflict of interest relating to a senior public servant from your own department who has been appointed as secretary to the Smethurst inquiry have been revealed by the *Canberra Times* of 13 August. The public servant appointed as secretary to the inquiry shares a management strata just below the head of administration's deputy. It was that deputy who answered questions in the Estimates Committee hearing in relation to the Acton demolition project. Considering the concern of the community about all the decisions and actions surrounding the failed hospital implosion, do you take these questions about a perceived conflict of interest seriously? What have you done to ensure the integrity of the inquiry?

MRS CARNELL: Mr Speaker, I did not move to change the terms of reference of the inquiry. Those opposite did that, and I think that is extremely important.

Mr Humphries: That is the question.

MRS CARNELL: That is it. That was part of the comment. She indicated that this Government moved. Wrong; those opposite moved.

The Smethurst board of inquiry is supported by a number of officers of the ACT Public Service, as is usually the case in any board of inquiry and as is required and expected under the terms of the Inquiries Act. There is no conflict of interest here, and this is the absolutely normal course of events. It happened with the Pearce inquiry; it happens with inquiries generally. While a number of these officers do have substantive positions within the Chief Minister's Department, while they work for the board of inquiry they are not subject to any direction from any person other than the board itself. If those opposite had bothered actually looking at the Act and looking at the way things work, they would know that. It is important to recognise that during the inquiry those officers work for the board of inquiry and not for the Government. The Government does not have the ability to interfere in the operations of the inquiry, and nor should it.

Again, I state that none of the officers supporting the inquiry have had any previous involvement in any of the matters that are covered by the inquiry's terms of reference. It is the appointed board that is responsible for the way it operates and any report or recommendations it makes. If General Smethurst is not happy with the support he is being given by those officers, then I will make arrangements for other officers to be made available; but I understand that General Smethurst has said that he is very happy with the

staff that he currently has. To suggest that these officers are somehow moles for the Government - and I assume that is what those opposite are trying to say - is both to denigrate the professionalism of those officers and to question the ability of General Smethurst to operate as a board and to manage his own staff. It flies in the face of all previous practices under the Inquiries Act by governments of both sides and it is muckraking of the worst kind.

I have to say, Mr Speaker, the *Canberra Times*, along with others, including those opposite, who have questioned the professionalism of these officers, should be ashamed. In doing so they also question the professionalism of General Smethurst, because he has the responsibility and the requirement under the Act to run this inquiry in line with the Inquiries Act. I come back to the comment I made earlier. None of the officers supporting the inquiry have had any previous involvement in any matters that are covered by the terms of reference of this inquiry.

MS REILLY: Mr Speaker, I have a supplementary question. Has the public servant who is secretary to the Smethurst inquiry been involved in the transfer of functions from Urban Services to Totalcare and the selection of senior officers of Totalcare? Has he at any stage been involved in any aspect of the demolition of the hospital buildings, whether it was in the earlier land swap or in the organisation of the implosion event?

MR SPEAKER: Order! I will not allow that. I think it is about time that I made a statement in relation to sub judice. It is a detailed statement, but I will simply highlight three points that come from *House of Representatives Practice*, to which this Assembly is linked through standing order 275. *House of Representatives Practice* states:

Matters before royal commissions or other similar bodies which are concerned with the conduct of particular persons should not be referred to in proceedings if, in the opinion of the Chair, there is a likelihood of prejudice being caused as a result of the references in the House.

Matters before royal commissions or similar bodies dealing with broader issues of national importance should be able to be referred to in proceedings unless, in the opinion of the Chair, there are circumstances which would justify the convention being invoked to restrict reference in the House.

Further, *House of Representatives Practice* states:

The contemporary view is that a general prohibition of discussion of the proceedings of a royal commission is too broad and restricts the House unduly. It is necessary for the Chair to consider the nature of the inquiry. Where the proceedings are concerned with issues of fact or findings relating to the propriety of the actions of specific persons the House should be restrained in its references.

I would draw all members' attention to that. I would ask members who are asking questions and members who are answering them to be aware of those words.

26 August 1997

MRS CARNELL: Thank you very much, Mr Speaker. I stated in my answer to the first question that none of the officers supporting the inquiry have had any previous involvement in any matters that are covered by the inquiry's terms of reference.

Acton Peninsula - Demolition of Buildings

MS HORODNY: My question is directed to the Chief Minister and relates to the building rubble generated from the demolition of the buildings on Acton Peninsula. Some months ago the Government announced that this rubble was going to be used to build noise mounds around the racetracks at Fairbairn Park. However, it was later revealed that a development approval for these noise mounds had not been obtained by the motor racing clubs and the initial dumping of rubble had to be stopped. We have now heard that the rubble is not going to Fairbairn Park at all and, in fact, is now being transported to the Boral quarry on Mugga Lane, supposedly to fill up that old quarry that has now closed. It sounds like the Government does not know what it is doing with this rubble. Could you tell us why the Government does not do what we said it should do all along; that is, take the rubble to the concrete recycling facility at Pialligo for it to be recycled into useful products like aggregate and road base, instead of just dumping it?

MRS CARNELL: Mr Speaker, I think in the Assembly at that particular time, when answering that question, we said that the rubble would go to Fairbairn only if preliminary assessment and all the necessary approvals were actually achieved. I think we actually gave an undertaking to this Assembly that the rubble would not go to Fairbairn unless that occurred. That did not occur; so, in line with the requirements of the Assembly, it has not gone to Fairbairn because the necessary approvals were not obtained by the organisation. The rubble from the site has been put to very good use. All of the steel has been recycled. This amounts to about 2,000 tonnes, I understand. Another 35,000 tonnes is being recycled through the building spoil facility at Pialligo. The balance, which will be up to 30,000 tonnes, has been taken to the Mugga quarry to assist in the rehabilitation of that site. It seems to me that the Greens might have a very narrow view on what good use of spoil actually is. I think that is a fairly good outcome and very much in line with what the Assembly required.

MS HORODNY: Mr Speaker, I have a supplementary question. Mrs Carnell, it is not appropriate to fill up holes with resources that, to replace, need more quarries to be built in other parts of the country. That is a very ignorant view of our natural resources. My question is: Does the Boral quarry have the necessary approval to allow this rubble to be dumped there? Its lease purpose is for quarrying operations and not for landfill. Would not a development application be necessary for the earthworks that this rubble will be used for?

MRS CARNELL: Mr Speaker, as I said in my answer to the first question, this is for the rehabilitation of the site. I thought the Greens would have been keen on that.

Acton Peninsula - Demolition of Buildings

MR WOOD: My question is to the Chief Minister. I have paid careful attention, Mr Speaker, to the comments you made a short time ago. Chief Minister, in answer to Mr Berry's question a short time ago, you said you received informal industry advice about the implosion before the Eagle Hawk bombing decision. Was this the Glenn advice or was it some other advice?

MRS CARNELL: Mr Speaker, I think I made it clear that it was the Glenn report. The Glenn report came in in two parts. The first part was received in mid-1995, pre August; and then there was a second supplement in February 1996.

MR WOOD: Mr Speaker, would the first half and the second half be available to be tabled?

MRS CARNELL: Mr Speaker, they have been made available to the inquirer.

Mr Berry: No; we want them tabled with us.

Mr Whitecross: To us; that was the question you were asked.

Mr Humphries: They are before the inquiry; that is the appropriate place for them.

Mr Berry: Are we not allowed to see them?

Ms McRae: Mr Speaker, he asked a supplementary question. Is she going to answer it or just chatter?

Mrs Carnell: I am sorry; that is in the hands of the inquirer now. They have all gone.

Mr Corbell: I take a point of order, Mr Speaker.

MR SPEAKER: Order! Would everybody on my left stop chattering while Mr Corbell takes a point of order.

Mr Corbell: Mr Wood asked the Chief Minister a supplementary question. She has not got to her feet and answered it. Can I ask you to direct her to answer that question.

MRS CARNELL: Mr Speaker, I thought I did answer the question. The documents that have gone to the inquirer or to the coroner are with the inquirer or the coroner.

Mr Berry: So the answer is no.

MRS CARNELL: That is where they are.

Public Housing

MR SPEAKER: I call Mr Hird.

Members interjected.

MR HIRD: Mr Speaker, when the natives settle themselves down, I have a question of the Minister for Housing, Mr Stefaniak. Has the Minister's attention been drawn to statements by the shadow spokesperson on housing, that is, from the Opposition, that ACT Housing has sold its housing stock at a loss of \$3.5m; that \$10.4m of Commonwealth-State Housing Agreement moneys has been handed back to the Commonwealth; that another \$5.4m will be handed back this financial year; that \$5m has been paid to commercial banks through the Kick Start home purchase scheme; that ACT Housing has also, it is alleged, underspent by \$7m on maintenance programs; and that waiting lists are over 4,000, with waiting periods in my electorate for one- and two-bedroom flats in Belconnen increasing to five years and 4½ years, respectively? What is the Minister's response to these very concerning statements?

MR STEFANIAK: I thank the member for the question. You are right, Mr Hird; some of them are very concerning. I must say, at the start, that these figures have been bandied about for some time; and I have indicated on a number of occasions already what the correct figures are. Ms Reilly, however, persists in distorting the facts in this matter. By making such misleading statements I think she causes unnecessary angst to a number of our tenants in government housing.

Mr Kaine: And she brings herself into discredit.

MR STEFANIAK: She does bring herself into discredit, too, Mr Kaine. This is not appropriate conduct from a member of this place. She has been briefed on the facts on a number of occasions, Mr Speaker.

Mr Berry: On a point of order, Mr Speaker: I think I heard Mr Stefaniak say that Ms Reilly makes misleading statements. I think that is a clear imputation - - -

MR SPEAKER: There was so much noise that I do not know what Mr Stefaniak said. I am sure that if he did say that he would withdraw it.

Mr Berry: I think he did, and he will withdraw it.

MR STEFANIAK: I said "very incorrect statements". If Mr Berry is offended by that, I would say "very, very incorrect statements", which have been pointed out - - -

Mr Kaine: You used the word "distortion", Bill.

MR STEFANIAK: Absolutely. They have been pointed out to her on a number of occasions. Mr Hird, the facts are as follows: Firstly, in relation to the amazing statement that she has made that Housing has sold its housing stock at a loss of \$3.5m, it certainly is true that ACT Housing has sold dwellings in the past year. We do so every year.

It also took place when the Labor Party was in office. The practice of selling houses has not changed. Whenever a house is declared either uneconomic to maintain or surplus to requirements, a valuation - - -

Ms Reilly: There are an awful lot more of them being sold.

MR STEFANIAK: Listen to this. I will say it for about the sixth time for you, Ms Reilly. A valuation is obtained from the Australian Valuation Office before the property is disposed of. In the last financial year we sold over 200 houses. In fact, instead of losing \$3.5m on valuation, we were \$66,000 above the valuation of those properties. For the record, over \$26m was realised from the sale of those properties - money that is poured back into housing; money that is poured back into new and more appropriate accommodation for our tenants.

Mr Berry: Would you sell your own house right now? Of course you would not.

Ms Reilly: Would you sell it for \$20,000 less than you paid?

MR STEFANIAK: Shut up, Ms Reilly. You, especially, need to listen. She has relied on 1994 valuations to make her outrageous claim. Of course property values have dropped over the past three years; you do not have to be blind Freddy to realise that. But that should not mean that we should stop selling unsuitable real estate. For Ms Reilly's benefit, we have a buying program as well; so there are swings and roundabouts in all of this. As you know, all the income derived from the sales must, under the Commonwealth-State Housing Agreement, be reinvested in housing. This has occurred. Sales revenues this year will be about \$19m; again, it will be reinvested in capital works, to buy new homes, to build homes or to undertake major renovations.

I heard an interjection from the new Leader of the Opposition about timing. Mr Berry, it does not really matter when we sell - whether the market is up or down - because we also buy in that market. What we might lose in one area we make up in the other. It is all about swings and roundabouts, and anyone with any knowledge of the market knows this. Unfortunately, Ms Reilly does not. Mr Berry - and one can understand this as he is a very solid member of the Labor Left - does not understand either.

Your next comment, Mr Hird, was about \$10.4m in Commonwealth-State Housing Agreement moneys having been handed back to the Commonwealth and another \$5.4m to be handed back. It is true, Mr Speaker, that a total of \$10.4m has not been taken up because of the need to make a contribution to fill the Beazley black hole. To offset this reduction in funding, we have transferred \$5m from the housing loan operation to the capital works program. This largely offsets the loss of Commonwealth money and has meant that the level of activity has been able to be maintained. In addition, thanks to the very capable negotiating skills of the Chief Minister at the Premiers Conference earlier this year, we were able to claw back \$5.4m from the ACT's contribution to your party's mismanagement of the Australian economy, Ms Reilly. God save us all if you get your hands on the piggy bank again.

26 August 1997

You say that \$5m has been paid to commercial banks for the Kick Start home purchase scheme. Mr Speaker, this one really is a doozy. Ms Reilly claims that we have provided \$5m to the commercial banks through Kick Start. Kick Start has been explained to you on a number of occasions, Ms Reilly. I am beginning to wonder whether you are ever going to get it right. That statement by you is not only wrong; it really reflects the ignorance of this member on this issue. She should know that Kick Start is provided as a grant - I will say that again - as a grant to an applicant; it is not paid to a bank or to a developer. Kick Start provides for \$5,000 to be provided as a contribution to the deposit on a new home, Ms Reilly. In addition, grantees can obtain further assistance such as stamp duty concessions and waiver of application fees. The total benefit under Kick Start is up to about \$7,500. Ms Reilly's comments are unnecessary and a completely incorrect distortion of the facts. I do not think that does you any credit there. You should, at least, know what Kick Start is about by now.

Also, there is this amazing comment by her that we have underspent by \$7m on maintenance. She has this wrong, because we are actually spending \$7m more this year. She is a bit off with her figures. For her to claim that the Government has underspent on maintenance would be laughable if it were not so serious. Not only, Mr Speaker, have we increased maintenance by \$7m this year - and that is also, interestingly enough, \$7m more than Labor spent in its last year of government - but this year's allocation is an actual increase, too, in real terms, over last year. We spent every dollar allocated to us for maintenance last year. As an example, we will be spending \$4m over the next two years at the Allawah and Bega flats to improve heating and ventilation and to upgrade kitchens and bathrooms.

Ms Reilly then talks about the waiting list, I hear you say, Mr Hird. This really is an absolute classic. She talks about the waiting list being over 4,000, with waiting periods increasing for one- and two-bedroom flats in Belconnen to five and 4½ years respectively. Again, Ms Reilly simply has her facts wrong. It is interesting, Mr Speaker, that in 1993 the waiting list reached 8,900. It dropped to about, I think, 7,300 only when this Government came to office. As at 30 June this year, the waiting list was 3,324. That is a reduction of over 4,000 during the term of this Government, or a reduction of over 50 per cent. We have halved the waiting list, whereas Labor could barely manage a 14 per cent reduction over a comparable period during its term in office.

As far as waiting times are concerned, a two-bedroom flat can be obtained, I am advised, Ms Reilly, in Belconnen in approximately 12 months' time. This type of misinformation, this distortion, is just needlessly concerning some of our clients; it is mischievous. I will give you some more briefings if you need them, Ms Reilly, but please try to get your facts right.

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

MR HIRD: Yes, Mr Speaker. My supplementary question is: Is it a fact, Minister, that the Opposition once again are scaremongering and have their facts wrong? Is that true?

MR STEFANIAK: Yes.

Year 2000 Computer Problem

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Chief Minister, a year ago today you put out a press release. On that day, 26 August, you put out a press release, and I quote from it:

An agreement to be signed by both parties at today's media conference will lead to the establishment of an accredited training and business services centre in Canberra to address the year 2000 problem, with the potential to generate more than a thousand jobs in Canberra.

Chief Minister, this is the press release. Just how many of the 1,000 jobs promised by you to the people of Canberra have been delivered by the Unisys People project?

MRS CARNELL: Mr Speaker, since last November we have had nine months in a row of increased jobs in Canberra; in fact, we have had 7,300 new jobs since last November.

Mr Corbell: Mr Speaker, I was asking specifically about a project. It is a very straightforward question. How many jobs have been created from this project? We know the business statistics from the ABS. We want to know how many jobs have been delivered from this project so far.

MR SPEAKER: Mr Corbell, the Chief Minister is answering the question. She got only about half-a-dozen words out. I do not know whether or not she is going to come back to that in detail. Please give her a chance.

MRS CARNELL: Mr Speaker, I would have thought that those opposite would be very interested to hear about 7,300 new jobs since last November, the vast percentage of those being full-time jobs. I understand that there are more than 5,000 more jobs in Canberra now than there were when we came to government. That is a pretty impressive exercise, Mr Speaker, taking into account the Federal Government downsizing. The ACT Government did enter into a formal arrangement with Unisys Australia on - - -

Mr Corbell: On a point of order, Mr Speaker - - -

MRS CARNELL: I am talking about Unisys right now.

Mr Corbell: Mr Speaker, if the Chief Minister is ignorant of how many jobs have been created, I would much rather she just said so. I invite her to table the data they have. But if she does know, I would ask her to answer the question.

MR SPEAKER: There is no point of order.

MRS CARNELL: Mr Speaker, the ACT Government entered into a formal arrangement with Unisys Australia on, I thought it was, 25 October last year. Anyway, whenever it was, the Government agreed to contract the CIT to provide agreed courses to train people to become millennium accredited consultants. For its part, Unisys agreed to assist

26 August 1997

the CIT in promoting and providing the agreed courses as part of the Unisys People approach. Unisys People is currently being established through a joint venture between Unisys Australia and Quasar Professionals, a firm specialising in contract and permanent information technology recruitment services. Five courses have been conducted to date. As at June this year, 11 people had undertaken the technical course. Four are registered with Unisys People as accredited millennium consultants. CIT report that interest in attending courses being marketed in Sydney, Melbourne and Canberra has been very strong. More courses will be undertaken in September, and further courses in November. Mr Corbell might be interested to know - - -

MR SPEAKER: Mr Corbell might like to listen.

Mr Corbell: I am listening, Mr Speaker.

MRS CARNELL: No; he is not interested at all, Mr Speaker. He might be interested to know that, all around Australia now, the millennium problem that those opposite indicated was absolute rubbish - if you remember, Mr Speaker, it did not exist - is now on every government's agenda; governments right around Australia are requiring, as are private sector companies, programs and proposals to be in place in the very near future.

I believe very strongly, Mr Speaker, that this program not only will step up significantly from here but also will bring back the things that matter for Canberra; that is, IT jobs, being seen as a centre of information technology and R and D. They do not want to know, Mr Speaker. There were 7,300 new jobs, nine consecutive months of job growth, and more jobs now than when we came to power, even with Commonwealth Government downsizing. Fujitsu is setting up its Asia-Pacific help desk recorders, with 900 full-time equivalent jobs. For all of those things, those opposite should be saying, "Good work, Government", instead of the approach that those opposite have taken.

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

MR CORBELL: Mr Speaker, I am pleased that four people have been accredited.

MR SPEAKER: Ask your supplementary question, Mr Corbell, with no preamble.

MR CORBELL: We still do not know how many people have got jobs. My supplementary question, Mr Speaker, is this: Chief Minister, since the majority of the training courses which have been run so far for this project have been in Melbourne and Sydney, not Canberra, can you inform the Assembly exactly how many of the jobs created so far - and we are still waiting for that figure, by the way - have been produced in Sydney and Melbourne, rather than Canberra?

MRS CARNELL: Mr Speaker, as I said, CIT are actually involved in providing these courses. I would have thought that sort of outsourcing was something that those opposite would have been very keen on. We always made it clear that these jobs would not be with government.

Mr Corbell: One thousand jobs in Canberra!

MRS CARNELL: We should have crossed that out and put "7,300 new jobs for Canberra". Those opposite are so embarrassed that we have created jobs in this city; not in the government sector, predominantly in information technology, in the service - - -

Mr Corbell: One thousand jobs in Canberra - where are they?

MRS CARNELL: Where are the 7,300 jobs?

MR SPEAKER: We do not have enough time to go through that.

MRS CARNELL: Mr Speaker, those opposite really are embarrassed.

Police Officers - Court Duties

MR OSBORNE: My question is to Mr Humphries as Minister responsible for police in the Territory. In the last budget you announced plans to replace the police officers who are required to do court duties each day with staff from Corrective Services as a means of providing 18 extra police for general duty for patrols. At the moment there are only 12 to 15 police on the day shift for the whole of Canberra. Obviously, an extra 18 will have a significant impact on police operations and are welcomed. Unfortunately, it appears that these 18 personnel will not be made available for general operational duties until January or February of next year. My question is this: Firstly, why has it taken six months for these changes to take place? Secondly, is there any way that you can fast-track it so that we can get those extra 18 police on the beat some time this year?

MR HUMPHRIES: I thank Mr Osborne for the question. I am aware of the comments made by the Australian Federal Police Association. To be frank, I think they have the wrong end of the stick on the proposals that have been put forward. A few corrections: First of all, there are not just 12 to 15 police on the day shift in Canberra; there are a great many more police than that. There might be only 12 to 15 on the Civic beat during the day. That might be true. But there are a lot more than 12 police looking after Canberra during the day; I can assure Mr Osborne of that.

Secondly, it is not true to say that none of the 18 police will be available until early next year. We are providing extra police in two ways: One, by getting extra from the Commonwealth; and, the other, by transferring police from duty in the courts to duties on the streets, on motor bikes, in squad cars and so on. The police we are getting from the Commonwealth, I think, have already arrived. We have already arranged for them to be transferred and they have already arrived. I will check that, but I am fairly certain that is the case.

The other 13 or so police who have been moved out of the courts are due to arrive on 1 January. The reason why that happened is that we announced that in the budget. The budget paper was accompanied by a series of press releases. In my press release of 6 May I said, in the third paragraph:

26 August 1997

The measures being announced today will see a minimum of 18 extra police on the beat by early 1998.

You cannot get any earlier in 1998 than 1 January. It does take a little while to do that because we are not simply taking police from one place to another. We have to backfill the police in the courts with those officers from Corrective Services who will do that job in their place. They have to be recruited, trained, properly equipped and given guidance by the police whose duties they are taking over. That is taking a little time, but it was always planned that it would take about six months. We are on track to do that. I think there is nothing to be concerned about.

MR OSBORNE: Mr Speaker, I have a supplementary question. Minister, will you admit that this whole issue has been designed to be nothing more than an election stunt prior to next February's election and that when the 13 police are put back on the beat you will use it in the lead-up to the next election?

MR HUMPHRIES: I know Mr Osborne would not even know what an election stunt was, so innocent is he of these devices that politicians use. He is not a politician; he is just an ordinary bloke who has landed in the Assembly. He would not know anything about stunts or things like that. I have to assure him that no, we conniving, experienced politicians do not do things like that.

Bruce Stadium Redevelopment

MR WHITECROSS: My question is to the Chief Minister. On the last day of the Estimates Committee hearings earlier this year, the committee was told that the Government would be given advice regarding the future of the Bruce Stadium redevelopment proposal. Chief Minister, could you inform the house as to what progress has been made since then in regard to the Bruce Stadium redevelopment? Have contracts been let? If so, which ones? Is the work to begin soon? Who has so far signed up to actually use the stadium?

MRS CARNELL: Mr Speaker, that is a reasonably detailed question, I have to say. Shall we work from the last bit towards the front, hopefully? Discussions are under way with all three codes. In at least one case an agreement has been signed, and the other two are very close to being signed. We hope to sign with SOCOG this week. It was going to be last week, but SOCOG are being a bit slow at the moment. Agreement has been reached with SOCOG. I hope that that will be signed this week. I did at one stage hope that it would be at least in the next few days, but obviously that is in the hands of SOCOG. But agreement has been reached.

With regard to the contracts that have or have not been let, I would have to take that on notice, because I do not have the information right at my fingertips and I cannot tell you which contracts have actually been let.

MR WHITECROSS: Mr Speaker, I have a supplementary question. Am I to take it from your answer, Chief Minister, that we currently do not have an agreement with SOCOG and we do not have an agreement with the codes?

MR SPEAKER: Order! Ask your question, with no preamble.

MR WHITECROSS: Mr Speaker, my question is: Has the Government, in fact, secured the private finance of \$15m necessary to do the stadium redevelopment? Is that the reason why SOCOG and the other players are reluctant to sign up? Is that why you do not know whether the contracts have been let? And is that why you do not know whether work is going to begin soon?

MRS CARNELL: Mr Speaker, on all of the above, no. We have reached agreement with SOCOG. We have signed an agreement with one of the codes. The other two, we are very close to reaching agreement with. The work, as I understand, is due to start in the next couple of months.

Electricity Supply Contract

MS TUCKER: My question is to Mr Kaine as Minister for Urban Services. When did you become aware of negotiations that ultimately led to the hedging contract between ACTEW and Yallourn Energy? When did you learn that Yallourn Energy had been chosen for that purpose? What steps did you take to caution ACTEW to give equal weight, in the consideration of such a major contract, to the principles of ecologically sustainable development, as is required under Schedule 4 of the Territory Owned Corporations Act? In asking this question, I remind members that, according to the former chief executive officer, Mike Sargent, this contract covers 85 per cent of the Territory's electricity purchases for three years, that is, 85 per cent of about \$120m per year; that in ACTEW's media release of 27 June 1997, which I am happy to table, it was claimed that this was an historic deal, the single biggest contract since vesting contracts were introduced to facilitate deregulation of the Australian electricity market; and that part of the result would be "a significantly enhanced energy market for Yallourn".

MR KAINE: Mr Speaker, I think the first part of the question was: When was I informed? I do not recall the date, but it was certainly after the agreement had been signed. Of course, that is quite proper because we established ACTEW as a Territory-owned corporation so that it could make these decisions on a commercial basis and without interference by politicians. It was quite appropriate that the board look at this option to secure the future supply of electricity under the deregulated system and that they, the board, having entered into such agreement - I think it was the chief executive - inform me that that decision had been made. I do not have any difficulty with that. I think it is a good agreement. I think the Greens have misunderstood the nature of the agreement. I hope that you no longer do. It is an agreement, as I said, which secures the position of the Territory in terms of access to electrical energy from the pool over a three-year period. We will buy what we want from the pool, from time to time, at the best price available to us.

26 August 1997

MS TUCKER: I have a supplementary question, Mr Speaker. Minister, maybe you did not hear my quote. I said that ACTEW's release refers to "a significantly enhanced energy market for Yallourn". I would argue that there are environmental implications. Given that you have answered that you were not aware of this before, that the contract has not been gazetted, that Territory-owned corporations are not required to do that, and that you have advised me that the contract is commercially sensitive and not available for release, will you recognise that a matter of major public concern has been raised, and will you use your powers under Part 3 of the Act to require ACTEW to show and justify the processes it used when deciding to award this contract to Yallourn and, in particular, in Dr Sargent's words, the process for assessing that "it causes no particular environmental change one way or the other"?

MR KAINE: You have been informed by ACTEW that there is some commercial sensitivity to the contract, and I am sure there is. As I said, we set them up as a commercial operation. They have to operate out there in the big wide world of competition. Their task is to ensure the supply of electrical energy for residents of Canberra at a reasonable price and to ensure that that supply is open to us. I would need to be convinced of the need to give a direction to the board to make available documents which, they say, have commercial sensitivity. There are two sides to every contract. It is not only ACTEW; there is another party to the contract. I would need to be convinced that there is sufficient reason for me to take the step that you are suggesting. If you can give me sufficient reason to do so, then I will consider that.

School-based Management

MS McRAE: My question is to the Minister for Education, Mr Stefaniak. Could the Minister explain what he intends to do for schools whose income is not sufficient to meet their obligation under school-based management and how many schools are facing such difficulties?

MR STEFANIAK: I thank the member for her question. Mr Speaker, the whole point of enhanced school-based management, because we have had school-based management in various forms in the ACT for some time, is to enable schools to have a little more say in terms of how they spend their money and to give them more flexibility in making arrangements. Ms McRae, in relation to schools that experience difficulties, we have, as you know, set up help desks in the department to assist them. Certainly this year and, I think, even going back to last year, you have raised similar issues on occasions in the Assembly. I have indicated to you that if any schools are experiencing any difficulties in any way they should contact the help desks; or if there are some particular problems with schools they should contact me. I understand the help desks are indeed being used; but, in terms of specific schools contacting me, no-one has.

In relation to not raising sufficient moneys, I would hope, because of school-based management, schools will have a greater capacity to raise money and a greater capacity to spend the money they have in the way they want to spend it, thereby giving them the opportunity to perhaps have a little more money available to them through more flexibility and savings they might make in terms of certain works they do and things like that.

I would hope in most instances schools would find themselves with perhaps a little more money. In terms of schools generally, we do have problems in raising sufficient money. That is one of the reasons why we also have the schools equity fund.

MS McRAE: Can the Minister give us a list of the schools that have actually contacted his department, as opposed to him? Will you answer the question in terms of what you actually intend to do? Are you allocating money from that equity fund or are you just going to leave them floundering?

MR STEFANIAK: In terms of the equity fund, Ms McRae, I understand the money has now been allocated.

Mrs Carnell: Mr Speaker, I ask that all further questions be placed on the notice paper.

Acton Peninsula - Demolition of Buildings

MRS CARNELL: I would like to add to an answer that I gave in question time. I was asked whether planning approvals had been given for the dumping of the rubble. I understand that both National Capital Authority works approval and Planning and Land Management approval have been sought and given for the dumping of the rubble.

Bruce Stadium Redevelopment

MRS CARNELL: I did take on notice a question with regard to the contracts that had been let for Bruce Stadium. Mr Speaker, CRI Project Management Pty Ltd, as those opposite would be aware, have been appointed as project managers for the redevelopment. CRI will carry out the duties of project manager, including management of design, consultancies, quality assurance and the program for the whole project. They will prepare documentation and a cost plan for the project; they will assess tenders and submit recommendations to the Territory for approval; they will administer contracts; they will submit monthly progress claims for the project for payment; and they will submit a monthly report to the Territory. Mr Speaker, in conjunction with CRI, Graf Consulting International have been appointed as a specified subcontractor. Graf's scope of works includes preparing the design brief, undertaking tenancy negotiations, preparing and implementing the business plan, and establishing a sales and marketing campaign with regard to finance.

As well as that, a number of Canberra companies are part of the redevelopment team. An integral part of the appointment of CRI Project Management Pty Ltd and Graf Consulting International is the use of local companies in various consultancy and construction roles. The design team of consultants are: Cox Architect, as coordinating consultants and architect, Barry Webb and Associates, Murtagh Bond, R.A. Young and Associates, WT Partnership, and Connell Wagner. All of these consultants are long-established Canberra-based companies. Expressions of interest were also received -

26 August 1997

I think earlier this year - from nine contractors to undertake the construction of the stadium. All nine companies are long-term Canberra-based companies. A short list of these contractors has been compiled and the following companies have been selected to commence to the tender phase: Civil and Civic Pty Ltd, Haskins Contractors Pty Ltd, G.E. Shaw and Associates Pty Ltd, John Hindmarsh ACT Pty Ltd, and Project Co-ordination (Aust) Pty Ltd. Tender documents for stage one works, civil excavation of the playing surface, were issued on Friday, 15 August 1997, to these companies. Work is likely to commence around about mid-September. Mr Speaker, that is a full answer.

Police Officers - Court Duties

MR HUMPHRIES: Mr Speaker, during question time I answered a question from Mr Osborne and indicated that I thought the five positions other than those that were being transferred by the police out of the courts had been filled. I am informed that they are not yet filled but that they have been identified and recruitment action has commenced. Certainly, I expect all the positions to be filled, as indicated in the original press release, by 1 January next year.

PERSONAL EXPLANATIONS

MRS LITTLEWOOD: Mr Speaker, under standing order 46, I would like to mention that during question time Mr Berry made a throwaway line which I believe, even for Mr Berry, was in unbelievably bad taste. That line was that this Government caused the death of a ratepayer during the course of - - -

Mr Berry: I did not. That is outrageous.

MR SPEAKER: Order! I would have to rule that this has nothing to do with a personal explanation under standing order 46.

MRS LITTLEWOOD: I am a member of the Government.

Mr Berry: That is outrageous.

Mrs Carnell: It is outrageous if you said it.

Mr Berry: I did not say it.

MR SPEAKER: I have just ruled it out of order under standing order 46.

MRS LITTLEWOOD: You said it, Wayne.

Mr Berry: That ought to be withdrawn, Mr Speaker; otherwise it will be on the record.

MR SPEAKER: You claim that you did not make the statement.

Mr Berry: I did not. I never - - -

MR SPEAKER: Thank you.

Mr Berry: It is just outrageous. I never made such a statement - - -

MRS LITTLEWOOD: Yes, you did; under your breath.

MR SPEAKER: Order! Mr Berry has said that he did not make the statement and he has asked for a withdrawal.

MRS LITTLEWOOD: He did make the statement. I will check *Hansard*. I know I heard it.

Mr Berry: No, you will not - - -

Ms McRae: No, no. Check first.

Mr Berry: The fact of the matter is that I never made that statement. I would not make such a statement, and it is outrageous of Mrs Littlewood to try to recreate history in that form. I require her to withdraw immediately.

MR SPEAKER: Would you withdraw, please, Mrs Littlewood.

MRS LITTLEWOOD: I will withdraw and check *Hansard*.

MR SPEAKER: Yes, that is perfectly in order. There is nothing wrong with that.

MS REILLY: I seek leave to make a statement under standing order 46.

MR SPEAKER: Yes.

MS REILLY: In answer to a question, Mr Stefaniak discussed certain matters about housing. I would like to correct a couple of statements that he made. I would not like to suggest that he was misleading in any way, but I would like to correct him. He said that I made a statement about the housing list being over 4,000. I would like to quote from a press release of 13 August 1997. It states:

I am sure the more than 3,000 people on ACT public housing waiting lists would like to hear the Governments explain their irresponsible decision to cut \$25m out of public housing.

I talked about more than 3,000 people being on waiting lists. I would like you to correct the statement that I was making statements about it being over 4,000. Would you like that to be tabled?

Leave granted.

26 August 1997

MS REILLY: Secondly, unless Mr Hird got completely lost at any time when returning home or visiting his own electorate, I do not think he lives in Tuggeranong. I put out a press release in June in which I talked about waiting times for four-bedroom family homes in Tuggeranong being more than six years.

LEGAL AFFAIRS - STANDING COMMITTEE
Reference - Immunisation of Children

MR OSBORNE (6.36): Mr Speaker, I ask for leave to move a motion altering the terms of reference of the Legal Affairs Committee's inquiry into the immunisation of children.

Leave granted.

MR OSBORNE: I move:

That the resolution of the Assembly of 20 February 1997 which referred the matter of the immunisation of children to the Standing Committee on Legal Affairs for inquiry and report be amended by omitting "by the first sitting day in August 1997".

Mr Speaker, when I raised this matter in the Assembly back in February I remember Mr Wood saying that this had the potential to be another fluoride situation. We have been quite staggered by the amount of material that has come in. We have been inundated with submissions. Also, over the last couple of months we have taken on the issue of the ACT having our own gaol and that has taken up a fair amount of time. Also, there has been a delay in receiving some submissions. Some have come in very late, but we on the committee felt it important to include as much material as possible on this issue. At this stage we have not completed our inquiry, and that is why we are seeking to have the terms of reference altered.

Question resolved in the affirmative.

FINANCIAL MANAGEMENT (AMENDMENT) BILL (NO. 3) 1997

MRS CARNELL (Chief Minister and Treasurer) (6.38): Mr Speaker, I ask for leave to present the Financial Management (Amendment) Bill (No. 3) 1997.

Leave granted.

MRS CARNELL: Mr Speaker, I present the Financial Management (Amendment) Bill (No. 3) 1997, together with its explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

That this Bill be agreed to in principle.

I ask for leave of the Assembly to have the introductory speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 1.

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

BANK MERGERS BILL 1997

MRS CARNELL (Chief Minister and Treasurer) (6.40): I ask for leave to present the Bank Mergers Bill 1997.

Leave granted.

MRS CARNELL: I present the Bank Mergers Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

That this Bill be agreed to in principle.

I ask for leave of the Assembly to incorporate my introductory speech in *Hansard*.

Leave granted.

Speech incorporated at Appendix 2.

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

LEGISLATION PROGRAM - SPRING 1997 SITTINGS Paper

MRS CARNELL (Chief Minister) (6.40): Mr Speaker, for the information of members, I present the Government's spring 1997 legislation program. I move:

That the Assembly takes note of the paper.

In the interests of brevity, I will not speak to it.

Question resolved in the affirmative.

PAPERS

MRS CARNELL (Chief Minister) (6.40): Mr Speaker, for the information of members, I present the following papers:

Ministerial Travel Report - 1 April to 30 June 1997.

Financial Management Act -

Consolidated Financial Management Report for the period ending 31 May 1997.

Pursuant to section 14, an instrument issued and a statement of reasons for giving it.

Pursuant to section 15, an instrument and a statement of reasons for the reallocation.

Pursuant to section 16, instruments and a statement of reasons.

Pursuant to section 18, a copy of authorisations issued under that section.

Instruments issued under section 17 and a reconciliation of the original 1996-97 appropriations to the final budget for each department.

I did that especially, Mr Speaker, so that Mr Berry has something to do.

MR HUMPHRIES (Attorney-General): Mr Speaker, I present, pursuant to standing order 83A, an out-of-order petition lodged by Mr Hird from 50 citizens relating to the sale and use of fireworks.

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS Papers

MR HUMPHRIES (Attorney-General): Mr Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices circulated in the chamber. I also present the notices of commencement of the Acts listed.

The schedule read as follows:

Adoption Act - Determination of fees - No. 115 of 1997 (S174, dated 23 June 1997).

Agents Act -

Exemption of Havelock Housing Association Incorporated from provisions of the Agents Act - No. 186 of 1997 (S239, dated 31 July 1997).

Instruments of appointment to the Agents Board of the Australian Capital Territory -

No. 172 of 1997 (S228, dated 22 July 1997).

No. 173 of 1997 (S228, dated 22 July 1997).

Architects Act - Determination of fees - No. 151 of 1997 (S208, dated 3 July 1997).

Bookmakers Act - Instrument of appointment to the Bookmakers Licensing Committee - No. 192 of 1997 (S250, dated 15 August 1997).

Building Act -

Determination of fees - No. 156 of 1997 (S208, dated 3 July 1997).

Notice of preparation of the Building Code - No. 169 of 1997 (S227, dated 21 July 1997).

Notice of revocation and adoption of the Building Code of Australia - No. 170 of 1997 (S227, dated 21 July 1997).

Australian Capital Territory Appendix to the Building Code of Australia - No. 171 of 1997 (S227, dated 21 July 1997).

Building and Services Act - No. 130 of 1997 (S194, dated 27 June 1997).

Bushfire Act - Bushfire Regulations (Amendment) - No. 22 of 1997 (S236, dated 31 July 1997).

Bushfire (Amendment) Act - Instrument to exempt land leased exclusively for agricultural purposes from requiring bushfire fuel management plans - No. 187 of 1997 (S237, dated 31 July 1997).

Canberra Tourism and Events Corporation Act 1997 -

Instruments of appointment to the Canberra Tourism and Events Corporation -

No. 142 of 1997 (S204, dated 1 July 1997).

No. 143 of 1997 (S204, dated 1 July 1997).

No. 144 of 1997 (S204, dated 1 July 1997).

No. 145 of 1997 (S204, dated 1 July 1997).

No. 146 of 1997 (S204, dated 1 July 1997).

Notice of commencement (1 July 1997) of remaining provisions (S203, dated 1 July 1997).

Casino Control Act - Determination of fees - No. 112 of 1997 (S173, dated 23 June 1997).

Cemeteries Act - Determination of fees - No. 132 of 1997 (S194, dated 27 June 1997).

Children's Services Act - Appointment of Official Visitor - No. 149 of 1997 (S207, dated 1 July 1997).

Electoral Act -

Determination of fees - No. 108 of 1997 (S187, dated 25 June 1997).

Determination of exemption of fees - No. 109 of 1997 (S187, dated 25 June 1997).

Electricity Act - Determination of fees - No. 157 of 1997 (S208, dated 3 July 1997).

Energy and Water Act - Determination of fees - No. 150 of 1997 (S208, dated 3 July 1997).

Hawkers Act - Determination of fees - No. 131 of 1997 (S194, dated 27 June 1997).

Health and Community Care Services Act - Determination of fees and charges - No. 135 of 1997 (S198, dated 30 June 1997).

Land (Planning and Environment) Act -

Determination of fees - No. 153 of 1997 (S208, dated 3 July 1997).

Land (Planning and Environment) Regulations (Amendment) (No. 7 of 1997) - Notice of commencement (24 June 1997) (S177, dated 23 June 1997).

Instrument of appointment of Commissioner for Land and Planning - No. 122 of 1997 (S186, dated 25 June 1997).

Land (Planning and Environment) (Amendment) Act (No. 3) 1996 - Notice of commencement (24 June 1997) of remaining provisions (S178, dated 23 June 1997).

Land Titles Act - Determination of fees - No. 147 of 1997 (S205, dated 1 July 1997).

Legislative Assembly (Broadcasting of Proceedings) Act 1997 - Notice of commencement (20 August 1997) of remaining provisions (S252, dated 20 August 1997).

Legislative Assembly (Members' Staff) Act -

Arrangements for employment of staff of non-Executive Members of the Legislative Assembly pursuant to subsection 5(2) - No. 136 of 1997 (26 June 1997) (S199, dated 30 June 1997).

Arrangements for employment of staff of non-Executive Members of the Legislative Assembly pursuant to subsection 10(2) - No. 140 of 1997 (26 June 1997) (S199, dated 30 June 1997).

Determination revoking certain determinations and providing terms and conditions of employment for staff of Executive Members of the Legislative Assembly pursuant to subsection 6(2) - No. 137 of 1997 (26 June 1997) (S199, dated 30 June 1997).

Determination revoking certain determinations and providing terms and conditions of employment for staff of non-Executive Members of the Legislative Assembly pursuant to subsection 11(2) - No. 138 of 1997 (26 June 1997) (S199, dated 30 June 1997).

26 August 1997

1996/97 financial year interim staff salary allocation employment for staff to non-Executive Members of the Legislative Assembly - No. 139 of 1997 (26 June 1997) (S199, dated 30 June 1997).

Determinations making technical amendments to Determination 1/1997 -

No. 164 of 1997 pursuant to subsection 6(2) being determination No. 3 of 1997 (14 July 1997) (S225, dated 18 July 1997).

No. 165 of 1997 pursuant to subsection 11(2) being Determination No. 3 of 1997 (14 July 1997) (S225, dated 18 July 1997).

Determination pursuant to subsection 11(2) providing for the provision of recreation leave to Part III employees - No. 166 of 1997 being Determination No. 2 of 1997 (30 June 1997) (S225, dated 18 July 1997).

Arrangements for the employment of staff of Executive Members made under subsection 5(2) - No. 167 of 1997 being Determination No. 2 of 1997 (30 July 1997) (S225, dated 18 July 1997).

Determination pursuant to subsection 6(2) providing for the provision of recreation leave for Part II employees and providing the form of contract of employment to be used for Part II employees - No. 168 of 1997 being Determination No. 2 of 1997 (30 June 1997) (S225, dated 18 July 1997).

Liquor Act - Determination of fees - No. 141 of 1997 (S201, dated 30 June 1997).

Motor Traffic Act - Determination of fees -

Vehicle licences and permits - No. 123 of 1997 (S194, dated 27 June 1997).

Administrative charge for parking and traffic infringements - No. 124 of 1997 (S194, dated 27 June 1997).

Drivers' licences - No. 125 of 1997 (S194, dated 27 June 1997).

Number plates - No. 126 of 1997 (S194, dated 27 June 1997).

Parking labels - No. 127 of 1997 (S194, dated 27 June 1997).

Registration of motor vehicles - No. 128 of 1997 (S194, dated 27 June 1997).

Maximum taxi fares payable - No. 148 of 1997 (S206, dated 1 July 1997).

Parking meters - No. 184 of 1997 (S232, dated 24 July 1997).

Motor Vehicles (Dimensions and Mass) Act - Determination of fees - No. 133 of 1997 (S194, dated 27 June 1997).

Nature Conservation Act - Determination of fees - Access to Tidbinbilla Nature Reserve - No. 134 of 1997 (S196, dated 30 June 1997).

Occupational Health and Safety Act - Instruments of appointment to the Occupational Health and Safety Council -

No. 116 of 1997 (S176, dated 23 June 1997).

No. 117 of 1997 (S176, dated 23 June 1997).

No. 118 of 1997 (S176, dated 23 June 1997).

Overseas Students (Registration and Regulation of Providers) Act - Determination of fees - No. 113 of 1997 (S174, dated 23 June 1997).

Plumbers, Drainers and Gasfitters Board Act - Determination of fees - No. 152 of 1997 (S208, dated 3 July 1997).

Psychologists Act - Determination of fees - No. 163 of 1997 (S222, dated 18 July 1997).

Public Place Names Act -

Determination omitting four street names in the Division of Gordon - No. 188 of 1997 (S245, dated 13 August 1997).

Determination of street nomenclature - Addition to 'Origin and Significance' details for Traynor Court in the Division of Melba - No. 190 of 1997 (S246, dated 13 August 1997).

Determinations of street nomenclatures in the Divisions of -

Mitchell - No. 189 of 1997 (S245, dated 13 August 1997).

Palmerston - No. 185 of 1997 (S233, dated 25 July 1997).

Nicholls - No. 159 of 1997 (S217, dated 11 July 1997).

Weston - No. 191 of 1997 (S246, dated 13 August 1997).

26 August 1997

Rates and Land Tax Act -

Determination No. 160 of 1997 (S220, dated 15 July 1997).

Determination No. 161 of 1997 (S220, dated 15 July 1997).

Rates and Land Rent (Relief) Act - Notice fixing rates of interest - Determination No. 162 of 1997 (S220, dated 15 July 1997).

Roads and Public Places Act - Determination of fees - No. 129 of 1997 (S194, dated 27 June 1997).

Supreme Court Act - Supreme Court (Remuneration and Allowances) Regulations (Amendment) - No. 21 of 1997 (S226, dated 18 July 1997).

Surveyors Act - Determination of fees - No. 155 of 1997 (S208, dated 3 July 1997).

Unclaimed Moneys (Amendment) Act 1997 - Notice of commencement (1 July 1997) of remaining provisions (S202, dated 30 June 1997).

Unit Titles Act - Determination of fees - No. 154 of 1997 (S208, dated 3 July 1997).

Vocational Education and Training Act - Determination of fees - No. 114 of 1997 (S174, dated 23 June 1997).

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 9 of 1996 -
ACT Cultural Development Funding Program - Government Response

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (6.41): Mr Speaker, for the information of members, I present the Government's response to Report No. 25 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Report No. 9, 1996 - ACT Cultural Development Funding Program", which was presented to the Assembly on 8 May 1997. I move:

That the Assembly takes note of the paper.

Mr Speaker, a statement is circulated with that paper, I believe, and I ask for leave to incorporate that statement in *Hansard*.

Leave granted.

Statement incorporated at Appendix 3.

Question resolved in the affirmative.

**MEDICAL TREATMENT - CONSENT
Paper**

MR HUMPHRIES (Attorney-General) (6.42): Mr Speaker, for the information of members, I present a paper entitled "Consent to Medical Treatment in the ACT - Issues Paper". I move:

That the Assembly takes note of the paper.

There is also a tabling speech circulated with that, and I ask that that be incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 4.

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

**ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Membership**

MR BERRY (Leader of the Opposition) (6.43): Pursuant to standing order 223, I move:

That Mr Berry be discharged from the Standing Committee on Administration and Procedure, and that Mr Corbell be appointed in his place.

Question resolved in the affirmative.

**ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Report on Broadcasting of Proceedings Legislation**

MR SPEAKER: I present, pursuant to the Legislative Assembly (Broadcasting of Proceedings) Act 1997, a report of the Standing Committee on Administration and Procedure entitled "Legislative Assembly (Broadcasting of Proceedings) Act 1997 - Principles for the authorisation of public broadcasts".

MR MOORE (6.44): Mr Speaker, I move:

That the report be noted.

26 August 1997

Mr Speaker, I draw members' attention to this report because it fulfils the requirements of the Legislative Assembly (Broadcasting of Proceedings) Act 1997 and sets out the principles on which an authorisation of public broadcasts can be arranged. I think there was a disappointment for members this morning. The proceedings we had before us this morning, which were so historic, would have been that much more effective had they been able to be broadcast with the protection of this legislation. I urge members to look at this carefully. Hopefully, we can bring it back on on Thursday. If members find that the report is satisfactory and that those principles can be considered, we can have this legislation in place and will be able to use it as quickly as possible.

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

**SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION -
STANDING COMMITTEE
Reports and Statement**

MR WOOD: Mr Speaker, I present Reports Nos 8 and 9 of 1997 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation, and I ask for leave to make a brief statement on the reports.

Leave granted.

MR WOOD: Mr Speaker, Reports Nos 8 and 9 of 1997, which I have just presented, were circulated when the Assembly was not sitting, on 8 July 1997, pursuant to the resolution of appointment of 9 March 1995. I commend the reports to the Assembly.

ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

That the Assembly do now adjourn.

Fay Richwhite - ACTEW Review

MR BERRY (Leader of the Opposition) (6.46): Mr Speaker, I want to talk about the company Fay Richwhite. We asked about probity checks conducted on Fay Richwhite and other contractors and consultants and the Chief Minister was unable to answer. She should be embarrassed and be squirming in her seat. What other embarrassing contracts could the Chief Minister have hiding? If the probity check she conducted on Fay Richwhite is evidence of the checks she conducts on other contractors and consultants, then there is every possibility that there are questions to be asked about other corporations and individuals that this Government has contracted.

The Government's attempted censure against me centres on the claim that I misled the Assembly because I said that Fay Richwhite was involved in tax rorts. The Chief Minister is claiming that the New Zealand royal commission absolved Fay Richwhite of any wrongdoing. Well, maybe in her books, but not in mine. This is how Commissioner Davison described the transactions he was commissioned to examine:

The transactions evidenced in the winebox documents were largely the result of tax planners devising schemes to reduce or avoid tax by making use of loopholes in the Income Tax Act. The purposes of the schemes were to shelter income of New Zealand taxpayers which would otherwise be subject to New Zealand income tax and to prevent it being taxable by the New Zealand authorities.

That sounds like a rort to me, whether it is legal or not, and it will sound like a rort to every battler in Charnwood and Banks.

According to the Chief Minister, the type of people who devise schemes to avoid tax are people of good character and the type she has no qualms about having examine ACTEW's books. Had Fay Richwhite been employed by ACTEW instead of by the Chief Minister, ACTEW may have been able to avoid paying the Government the \$100m dividend the Government is now ripping out of the corporation. Not surprisingly, it was Fay Richwhite who advised the Government on how to asset-strip ACTEW.

Getting back to the royal commission, there was no doubt to Commissioner Davison that these corporations implemented schemes designed to escape the impact of taxes - absolutely no doubt. The commissioner found that these schemes took advantage of loopholes in the New Zealand tax system as it stood at the time, albeit legally; but a rort does not have to be illegal to be a rort. To the punter in the street who has no option but to pay their tax as they earn, the news that the Chief Minister believes that a corporation that devises ways of avoiding millions upon millions of dollars is an okay firm to her would be insulting. Only a week ago the Chief Minister was backing her Prime Minister in his call for tax reform, including the introduction of the GST. If we were able to force large corporations like Fay Richwhite to pay their fair share in tax, then maybe we would not have to introduce such regressive taxes as the GST.

Commissioner Davison described the sorts of dealings of Fay Richwhite as a "tax industry" in which institutions and professional legal and accounting tax advisers sought to develop transactions to minimise the impact of taxation. He goes on to question the ethics of seeking to escape the impact of taxation, but finds that it was done within the letter of the law. I will go further. It is unethical for large multinational corporations to avoid tax in the country in which they do business. We give these corporations our business and the least we expect of them in return is to be good corporate citizens. But the people that the Chief Minister describes as beyond reproach are clearly responsible for what is arguably the most outrageous tax evasion scheme seen in the South Pacific. But, of course, according to the Chief Minister these rorts were legal and therefore acceptable. They will never be for me.

26 August 1997

The same company which the Chief Minister describes as being beyond reproach has been highly criticised for its deliberate lack of cooperation with the commission. Commissioner Davison said:

European Pacific -

the Fay Richwhite subsidiary -

from which the winebox documents were sourced, adopted the attitude that it would not assist the Inquiry. It would not make available to it for examination the members of the banking team which had been involved in many of the transactions the Commission wished to investigate. It would not respond to notices requiring production of documents, and it took steps to prevent the Commission obtaining evidence from former employees as were resident in New Zealand and had been subpoenaed to attend by the Commission. Attempts to prevent witnesses being heard, after the Commission had ruled that they do so, were taken to the Court of Appeal and then on to the Privy Council.

The commissioner goes on to describe other attempts to thwart the commission's inquiries, including uncooperative witnesses and corporations challenging claims for documents. This company explored every avenue to avoid examination by the commission. You have to ask yourself the question: Why? These are the people whom the Chief Minister describes as being "of good standing" and beyond reproach. The Chief Minister must have very different standards from the average person in the street.

In summary, the Chief Minister said I should have been censured for criticising corporations that illegally film witnesses at a royal commission and are found to be in contempt of the commission; that are privatisation specialists whose practices have been questioned after they have changed sides to advise the purchaser; that devised schemes to exploit loopholes in tax law to avoid paying millions of dollars in tax; that fought examination by a royal commission in New Zealand by every legal avenue possible; and that have been criticised by the commissioner for being uncooperative and trying to frustrate the commission. This is the corporation and their direct subsidiaries that the Chief Minister employs without any probity checks, and defends as people of good standing when she thinks she can score political points. She is very lucky that there is no censure of her for employing such a company to review the Territory's largest and most important public asset, ACTEW, having not done probity checks beforehand.

MR SPEAKER: The member's time has expired.

Fay Richwhite - ACTEW Review

MS McRAE (6.52): Mr Speaker, I was not given the opportunity to say a word this afternoon, yet what Mrs Carnell thought of my actions was well and truly put on the record. I found her claims outrageous. It was in question time that the accusations were made. She had every opportunity to say there and then, "I do not like your question. I do not like your sources. I do not like your allegations". She did not. She simply did not say, "I do not know what you are talking about". She did not admit to not having done any homework, and we see from what Mr Berry has now pointed out so cogently that there were plenty of things to be absolutely worried about and that the accusation of tax rort was spot on.

We have seen that this is a government that is willing to leap in with no probity checks, with no thorough examination of whom it is calling in to be consultants. It shows no concern even when questions are asked and treats this Assembly with contempt. It then attributes to us motives which are entirely inappropriate. We did not act recklessly. We acted on clear information which was correct. All the public commentary that I have heard since the wine box inquiry, certainly in Australia, has been that it is a very questionable interpretation of tax law that has been going on, and the practices are no longer accepted in contemporary tax law.

All the Chief Minister has done today is reinforce how foolishly she behaves in question time, how badly she regards this Assembly, and how little time she is willing to spend just thinking a bit before she leaps in and makes accusations about other members and their motives. Her actions today were reprehensible. The withdrawal of the motion was proof that she had leapt in without thinking of the consequences. I, for one, have nothing to apologise for.

Question resolved in the affirmative.

Assembly adjourned at 6.54 pm