# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

15 May 1997

**Thursday, 15 May 1997**

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The Assembly met at 10.30 am.

*(Quorum formed)*

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

## PUBLIC HEALTH BILL 1997

**MRS CARNELL** (Chief Minister and Minister for Health and Community Care) (10.32): I present the Public Health Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MRS CARNELL**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I have pleasure today in presenting the Public Health Bill 1997, which is the first part of an extensive modernisation of public health legislation for the ACT. Reform of the ACT's public health legislation is being undertaken as part of this Government's commitment to review pre-1980 legislation. It is also consistent with the Government's strong commitment to regulatory reform.

Older models of public health legislation have tended to rely on a narrow view of what constitutes a health risk and how best to implement measures that would address such risks when they arise. There has been heavy reliance on specific regulations that may be quite prescriptive about the application of the law but have not been able to account for all the circumstances that may arise. In most Australian States, these older models have been, or are in the process of being, replaced by new legislation which takes a broader view of the risks to public health and facilitates a more flexible, integrated and multifaceted approach based on notions of reasonable quality and best practical means.

ACT public health legislation currently consists of the Public Health Act 1928 and its associated regulations. The Act is now 60 years old and, although amended during its existence, it remains a reflection of society's attitudes in the 1920s. It does not provide a philosophical framework for the development of good public health practice which is responsive to current issues and trends. Several other outdated Acts and regulations, such as the Sexually Transmitted Diseases Act 1956 and the Tuberculosis Act 1950, will be repealed and better administered by this single, more flexible piece of legislation. Most of the regulations made under the existing Public Health Act will also be repealed and replaced with up-to-date codes of practice developed in partnership with the relevant stakeholders.

In order to more clearly establish the range of provisions required in updated public health legislation, a discussion paper entitled "The Reform of Public Health Legislation in the ACT" was circulated to individuals and professional and community groups in December 1994. A period of four months was allowed for comment. The discussion paper described the limitations of the existing public health legislation and outlined proposals for a new Public Health Act.

The Ottawa Charter for Health Promotion, produced by the World Health Organisation in 1986, advocates better control over health risks, especially those outside the individual's immediate control, so as to allow individuals in society to achieve their greatest potential. The principles which underpin the Ottawa Charter form the basis for the principles of the Public Health Bill. These are:

a. to protect the public from risks associated with facilities, equipment, services, products, activities and agents not adequately controlled by other specific legislation;

b. to monitor disease patterns in order to provide the public with information about health risks and design appropriate prevention and control policies and programs; and

c. to provide for a rapid response to public health risks while ensuring that there is not undue infringement on individual liberty and privacy.

The major provisions in this Bill have been canvassed during the extensive consultation that occurred following the release of the discussion paper entitled "The Reform of Public Health Legislation in the ACT" in December 1994. Mr Speaker, I would like to highlight some of the major features of the Bill. The Bill requires that a biennial report be provided to government about the public health indicators in the ACT with respect to the following issues: Trends and indicators in health status; potential public health risks; mortality and morbidity; notifiable conditions; and any other relevant matters.

The Bill provides for a more extensive use of codes of practice, instead of Acts or regulations, to establish minimal operating standards so as to minimise the impost on business without endangering public health. Such codes of practice would be disallowable instruments. The Bill provides for an expansion of the range of public health diseases that may be notified through the use of a single list of notifiable conditions. This would allow for all conditions of public health importance, such as lead poisoning, to be notifiable. The Bill places more stringent controls on the powers of the Chief Health Officer as well as authorised officers. The Bill requires that any actions taken to control a public health hazard should be the least restrictive and should be relevant to the degree of public health risk, rather than the potentially unlimited powers that currently exist in relation to some public health hazards.

The Bill also provides that, for routine complaint investigations, authorised officers will be able to enter a residential property only with the consent of the occupier or with a search warrant. In an emergency situation where there is a serious public health risk that needs urgent attention, an officer would not need consent or a warrant.

**Mr Berry**: When did this start?

**MRS CARNELL**: In 1994, Mr Berry. In both instances the officer is not entitled to remain on the property if he or she does not show his or her identification when requested to do so. One of the significant implied principles of the Bill is that a person should be given all reasonable opportunity to voluntarily comply with any direction or notice before legal enforcement is used. The Bill contains very strict provisions in relation to the privacy of an individual who has or may have a notifiable condition, such as controls on what information is collected and how that information can then be used.

The Chief Health Officer's approval must be obtained before a medical practitioner or counsellor informs the contacts of a person with a transmissible notifiable condition. In deciding to grant the approval, the Chief Health Officer has a number of factors to consider: The degree of risk of the contacts having contracted or contracting the condition; the possibility of causing undue anxiety to the person with the condition or a contact; and any other relevant matters. The general community is also afforded a degree of protection by this Bill, because there is an obligation for people who engage in activities that may result in the transmission of a notifiable condition to take all reasonable preventative measures. One of the significant new features of the Bill is a provision for authorising the notification of a contact of a person with a notifiable condition in a manner which safeguards both the rights of the individual and the health of the community.

The Bill also provides a framework for controlling activities and procedures which may give rise to significant public health risks, including licensing if necessary. It also contains mechanisms to exempt a person from the licensing requirement if the person is accredited with an approved scheme. Equity is an important principle recognised by the Government. A component of this is that the health of the greatest number is promoted and protected to the greatest capacity. This has particular implications for those who are in the higher risk groups, such as infants, older people and other groups more vulnerable to ill health. It creates an obligation to remove as many barriers to good public health as possible. It is a fine balance to protect an individual's right while also protecting the community at large. I believe the proposed legislation effectively achieves this balance by combining a range of powers with sufficient protection of civil liberties. The community expects government to take all reasonable measures to ensure the safety of food, air and water and to minimise exposure to a range of public health hazards.

Mr Speaker, I commend this Bill to the Assembly as a much-needed reform of public health legislation for the ACT. It will ensure that there is flexible legislation in place to serve the ACT community into the twenty-first century.

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

## ENVIRONMENT PROTECTION BILL 1997

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning) (10.42): Mr Speaker, I present the Environment Protection Bill 1997, together with its explanatory memorandum and exposure drafts of the associated regulations and explanatory statement.

Title read by Clerk.

**MR HUMPHRIES**: I move:

> That this Bill be agreed to in principle.

The Environment Protection Bill 1997 is one of the most important the Assembly will consider this year. At present environment protection in the Territory is achieved principally through the administration of five separate pieces of legislation, namely, the Air Pollution Act 1984, the Water Pollution Act 1984, the Noise Control Act 1988, the Pesticides Act 1989 and the Ozone Protection Act 1991. The Environment Protection Bill will repeal these Acts and replace them with a single law. The Bill will also provide a mechanism for the ACT to meet several of its national obligations under the Inter-Governmental Agreement on the Environment.

The first obligation is to give full effect to national environmental protection measures made by the National Environment Protection Council. Although these measures will automatically become part of the law of the Territory under the National Environment Protection Council Act 1994, in many cases more detailed implementation measures will be required. The Bill will provide scope to do this, particularly through the regulations and environment protection policies that can be made under it. A second significant national obligation which can be implemented under the Environment Protection Bill will be a move over time to a full polluter-pays charging system. I should also say that this principle reflects a key element of the Government's approach to regulation in using economic instruments and incentives to achieve environmental objectives.

Mr Speaker, I turn now to look at the Bill in more detail. The key objectives of the Environment Protection Bill are: First, to protect the environment; secondly, to achieve an appropriate balance between economic, social and environmental factors in decision-making, consistent with the principle of ecologically sustainable development; thirdly, to establish a single and integrated regulatory framework for environment protection; and, finally, to encourage the community at large to accept responsibility for their actions in relation to the environment. These objectives are set out in detail in the objectives clause of the Bill.

Consistent with its objectives, the Bill facilitates a proactive coregulatory approach tailored to specific activities. For example, the Environment Management Authority established under the Bill can work with a business to identify environmental risks and for the parties to put in place a strategy to deal with these. Depending on the circumstances, such a strategy might be implemented through a non-binding environment protection agreement, through an accredited environment improvement plan or through conditions

of authorisation that provide for increased performance over time. If developed in cooperation with industry generally rather than with individual businesses, an environmental strategy might take the form of an industry code of practice recognised under the Act and tabled in the Assembly.

This is not a Bill that applies just to business. Under Part III of the Bill, each and every member of the community is obliged to do everything reasonable to prevent or minimise environmental harm in going about their daily business. A breach of this duty can be enforced by an environment protection order. This could be as simple as a direction to turn a stereo down at 3.00 am. The Bill therefore contributes to protecting the neighbourhood environment as well as the environment at large.

I have already touched on the inclusion in the Bill of economic measures for achieving environmental objectives. This is the cutting edge of environmental protection and covers mechanisms such as tradable permits and so-called load-based licences, under which fees increase or decrease with the level of emissions. The use of such fees, which will be introduced by determination under the Act, provides the most effective of incentives to regulated businesses to maximise their environmental performance. I should add that the development of load-based fees is a complex process that will be the subject of its own consultative process.

The Government is committed to environment protection, but it is also committed to encouraging business, wherever possible, to meet environmental standards in their own way. This is why the Bill provides for codes of practice, for non-binding environment protection agreements and for accreditation or protection to be given to voluntary environment improvement plans and voluntary environmental audits. For businesses that are committed to achieving recognised standards and best environment practice, the tools are there to do it under their own steam and in their own way, and there is the added incentive of the lower fees payable where an authorisation holder achieves accredited status.

Another key objective of this Bill is to deliver business certainty in dealing with environmental requirements. Accordingly, the Bill makes it possible for environmental authorisations to be issued on an indefinite basis for ongoing activities. Annual review will still be required - review is triennial for accredited or best practice authorisations - but business will not have to go through the rigmarole of applying each year. In addition, the scope of environmental authorisations could be tailored to suit the needs of specific businesses. For example, activities at different sites which would normally require several authorisations could be eligible for a single, multisite authorisation. Similarly, a single authorisation could cover a number of activities on the one site. To ensure transparency, policies and procedures will be publicly available in the form of environment protection policies. Public consultation is required on environment protection policies, while key records of the authority, such as details of authorisations, will be publicly available at all times. To ensure accountability, appeal rights will be extensive.

Integration with the development and building application processes under the Land (Planning and Environment) Act 1991 is another feature of this legislative package. Rather than require separate applications, an application under the Land Act that has environment protection implications will be referred to the Environment Management Authority for comment. The authority will initiate discussions with the proponent, if necessary. For development applications involving an environmental authorisation, this can be issued at the time the development application is approved, on condition that the activity not commence until all environmental requirements are met. This will provide business certainty, particularly for new businesses.

Although I have emphasised cooperation with business in meeting environmental standards, I want to stress also that the Government will not resile from taking tough action where necessary. We would want it to be a last resort, but the tools for tough action are there if they are needed. The EMA will be able to impose tough licence conditions on those with a poor environmental record. Those conditions might include a compulsory environmental audit, improvement plan or financial assurance, which is a kind of environmental bond. Of course, if the record is bad enough, the licence can be refused or cancelled. If the damage has already been done, there are fines of up to $1m for pollution which causes serious environmental harm. There is also provision for environment protection orders, clean-up orders and injunctive orders by the court.

The Bill will be supported by subordinate legislation in the form of regulations. Regulations usually contain the detail of regulatory frameworks, and the exposure draft regulations I have just tabled for public comment are no exception. The regulations are, however, a vital part of this legislative package and contain a number of innovations. The regulations contain or incorporate ambient water and air standards. These are important policy benchmarks and will be updated as national environment protection measures are made, commencing later this year.

For the first time, the laws of the Territory will treat hazardous materials as a single group of environmentally harmful substances. Some hazardous materials, such as pesticides and ozone depleting substances, have been regulated for some time. Treating them as a category in themselves will make it easier to introduce frameworks for dealing with substances not previously regulated, such as polychlorinated biphenyls, or PCBs as they are commonly known. The draft regulations also contain a completely new framework for managing environmental noise. They also prohibit backyard burning. Finally, the draft regulations contain a number of on-the-spot fine provisions to deal with minor matters at both the neighbourhood and commercial levels.

Mr Speaker, I conclude by saying that this is a major piece of legislation that will enable the ACT to apply national best practice in environment protection. I welcome the close scrutiny the Bill will undoubtedly receive, and I hope that members will acknowledge the enormous advance that this Bill represents on previous measures to regulate and enhance the protection of our environment. I commend the Bill to the house.

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

## ENVIRONMENT PROTECTION (CONSEQUENTIAL PROVISIONS) BILL 1997

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning) (10.52): Mr Speaker, I present the Environment Protection (Consequential Provisions) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: Mr Speaker, I move:

> That this Bill be agreed to in principle.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*Document incorporated at Appendix 1.*

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

## COMMISSIONER FOR THE ENVIRONMENT (AMENDMENT) BILL 1997

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning) (10.53): Mr Speaker, I present the Commissioner for the Environment (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Members will recall that, in its response to the 1995 ACT State of the Environment Report, the Government signalled its intention to amend the Commissioner for the Environment Act 1993. The Government was acting on the advice of the commissioner that it is not necessary, from an ecological perspective, to produce a major report on an annual basis. Indeed, annual reporting may become formulistic and is certainly a major drain on the time and resources of the commissioner.

Accordingly, this Bill provides for a state of the environment report to be prepared for the preceding triennium and presented to the Minister by 31 March in each pre-election year. The Bill will not prevent the commissioner from preparing interim annual reports to provide updated information or a topical report card, as he or she wishes. Presentation of the report by 31 March in each pre-election year will enhance the community's ability to judge the government of the day on its environmental record, yet still allow time for necessary action to commence. As members are aware, the first triennium ACT report will be produced late this year as part of a regional state of the environment reporting process.

The Assembly will also recall that on 28 February 1996 it passed a resolution calling for a public inquiry into the use of chemicals for the control of pests, animals and pest plants in the ACT. Section 12 of the Commissioner for the Environment Act 1993 gives the commissioner the power to conduct investigations but does not provide for the hearings to be conducted in public. This Bill will allow the commissioner to conduct hearings in public if so directed by the Minister.

In his review of the legislation, the commissioner raised a concern about some perceived ambiguities and repetition about specific items to be addressed in his reports. I have therefore decided, in the interests of clarity and consistency, to adopt the same definition of "environment" as proposed for the Environment Protection Bill. The Bill will also remove an inconsistency in terminology where the existing Act provides for the commissioner to conduct investigations, yet paragraphs 21(a) and 21(c) and section 25 refer to an inquiry. The term "inquiry" is irrelevant and is either deleted or replaced with the term "investigation" in this Bill.

Mr Speaker, I believe that this Bill delivers on the Government's promise to improve state of the environment reporting in the ACT and to enhance the capacity of us all to recognise and act on environmental trends. I commend the Bill to the Assembly.

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

## RESIDENTIAL TENANCIES BILL 1997

**MR HUMPHRIES** (Attorney-General) (10.56): Mr Speaker, I present the Residential Tenancies Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: Mr Speaker, I move:

> That this Bill be agreed to in principle.

In September 1990 the then Attorney-General referred to the Community Law Reform Committee, the CLRC, a review of the Landlord and Tenant Act 1949, the Housing Assistance Act 1987, the Recovery of Lands Act 1929 and the general law directly relating to residential tenancy in the ACT. Attempts to review the law prior to self-government had failed, as the relevant stakeholders had not been effectively engaged in review processes.

After extensive consultation with the community, and in particular tenants, owners and agents, the CLRC issued Report No. 8: Private Residential Tenancy Law, which I will refer to as the report, in December 1994. Nearly 100 individuals made independent submissions following the release of the issues paper, with a further 80 supporting a submission from a local real estate agent. Over 40 organisations representing the public and private sectors made submissions. Submissions and comments from interstate and overseas organisations were also received.

The report contained 182 recommendations for a new Residential Tenancies Bill for the ACT. The recommendations represent a careful balance between the different interests of owners and tenants. The approach of the CLRC and the majority of its recommendations in the report received support from stakeholders during the consultation process. Subsequent to the tabling of the report, the CLRC has mediated and collated responses to the report. To assist consideration of the CLRC's recommendations, I tabled in the Assembly in December 1995 an exposure draft of the proposed legislation. More recently, the CLRC has been involved in preparations to include the Housing Trust within the scheme of the proposed legislation.

The need for an Act to replace the Landlord and Tenant Act 1949 has been accepted by all stakeholders involved in the process leading to and following the publication of the report. The 1949 Act is considerably dated, being made in the postwar environment of returning service personnel. One of the aims of the original reference was to realign the balance of interests between the parties and to standardise residential tenancy arrangements.

The recommendations of the CLRC have attracted careful consideration and critical support from all stakeholders. Following discussions with stakeholders during the preparation of the draft Bill by the CLRC and my department, I believe a number of departures from the recommendations of the CLRC are justified. These departures have been kept to a minimum and should not affect the overall balance sought by the CLRC. The most important departures from the original recommendations relate to the capacity of the parties to a tenancy to negotiate a tenancy agreement on the basis of the standard terms and the application of the proposed Bill to public housing.

In relation to the nature of a tenancy agreement, the CLRC recommended that the legislation include a standard tenancy agreement that would form the basis of all ACT tenancy agreements. The CLRC proposed that parties would not be able to contract out of this arrangement, although they would be able to include additional provisions in the agreement, provided they were consistent with the agreement.

While I accept the desirability of standardised obligations, I believe that parties should have more latitude in the way in which the tenancy agreement is drawn. Accordingly, in the exposure Bill I tabled in the Assembly in December 1995 the concept of the "standard tenancy agreement" was replaced by "standard terms". In the absence of negative comment and following further discussions with the Law Society and the Real Estate Institute, the proposed Bill confirms this approach and permits parties to contract out of the standard terms where they have had the protection of independent legal advice.

I believe that this approach captures the significant benefits of the original recommendations made by the CLRC, while allowing parties the capacity to craft their own agreements consistent with standard terms or, if they wish, by simply incorporating the standard terms. Provisions in the Bill accommodate the few cases where parties may need and agree to contract out of the standard terms.

In relation to public housing, while the Housing Trust has controlled a significant share of ACT rental housing stock, it has not been bound by the provisions of the 1949 Act. This has placed the trust in a position of competitive advantage in relation to private sector rental property owners. For example, it has not been required to issue notices to quit when evicting tenants. In discussions mediated by David Hughes of the CLRC, preparations for the inclusion of the Housing Trust in the proposed legislation have been concluded to the point where the private and public sector markets might be merged within the same basic legal regime under the proposed legislation.

Mr Speaker, I want to thank the many parties who have been involved in working through a very long process of public consultation over the Residential Tenancies Bill. I believe a very satisfactory outcome has been achieved in the process. I commend the Bill to the Assembly.

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

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1997

**MR HUMPHRIES** (Attorney-General) (11.02): Mr Speaker, I present the Legal Practitioners (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: Mr Speaker, I move:

> That this Bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*Document incorporated at Appendix 2.*

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

## JURIES (AMENDMENT) BILL 1997

**MR HUMPHRIES** (Attorney-General) (11.02): I present the Juries (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: I move:

> That this Bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*Document incorporated at Appendix 3.*

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

## MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL 1997

**MR KAINE** (Minister for Urban Services) (11.03): Mr Speaker, I present the Motor Traffic (Alcohol and Drugs) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR KAINE**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, drink-driving and speeding continue to be the cause of most road accidents in the ACT. Of the 23 road deaths in Canberra during 1996, around a quarter involved alcohol. This Government has taken steps to discourage drink-driving through these current legislative measures. We have toughened up penalties for drink-driving offences to give the message that drink-driving is not acceptable. The amendments will provide a greater deterrent to drink-driving and irresponsible driving than ever before. They will change the way the courts will apply penalties for all drink-driving offences. They will also toughen up laws for people appearing before the courts for repeat and high-level drink-driving offences.

To add cross-border consistency to drink-driving laws, this Government has sought to improve the penalty provisions by introducing a tiered system like that in place in New South Wales. Some changes have been made to offences with a blood alcohol concentration between .05 and .08 by removing the current provision which allows the police to issue a traffic infringement notice. The courts will now have the option to cancel a licence or impose a fine for these offences.

This Government has also made it easier for the court system by removing the need for offenders to return to the courts to have their licences restored. When a licence cancellation period ends, people will now be able to obtain a licence from the Registrar of Motor Vehicles. Of course, people who the courts believe have ongoing alcohol problems will still need to return to the court to have their licences restored.

To help people with alcohol problems, this Government has provided the courts with the option of allowing the person to attend an approved alcohol rehabilitation course at their own expense, instead of paying a fine. People who fail to satisfactorily complete the course must return to the courts to have their penalty reviewed. The changes to the Acts reinforce the message that drink-driving is an unacceptable social offence. Mr Speaker, the message is clear: Drink and drive and you will lose the right to your drivers licence.

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

## MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1997

**MR KAINE** (Minister for Urban Services) (11.06): I present the Motor Traffic (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR KAINE**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, as a result of the amendments made to the Motor Traffic (Alcohol and Drugs) Act 1977, amendments have also been made to the Motor Traffic Act 1936. The penalties for serious non-alcohol-related offences in the Motor Traffic Act 1936 were also examined, to ensure that they were consistent with the new penalties applied for drink-driving. The Government has not sought to increase fines for non-drink-driving offences, as we believe the current levels available to the courts are appropriate. The changes to this legislation are not a revenue-raising exercise.

The only substantial increase in the penalty provisions is the minimum licence cancellation period for culpable driving. This penalty is increased from a minimum of three months to a minimum of six months, to more adequately reflect the seriousness of the offence. The social and economic impact on the families of people who lose their licence and can potentially lose their employment are recognised by this Government. A special licence will still be available to certain people whose licences are cancelled by the courts for alcohol-related or serious non-alcohol-related driving offences. However, these people will be required to prove that exceptional circumstances exist before the courts can grant a special probationary licence to allow these persons to drive under certain conditions. That is opposed to the present circumstances, where they simply have to prove that they have a work-related difficulty.

We have provided the courts with clear guidelines to enable them to establish what are considered to be exceptional circumstances under which they can grant a special probationary licence. The amendments make it more difficult for a person to get a special probationary licence for work purposes. A person whose special probationary licence is cancelled will no longer be eligible to apply for any licence until their original

disqualification period expires. This means that offenders have a second chance, but only one, when driving on a special probationary licence. As people with these licences can lose only two demerit points before having them cancelled, offenders with special probationary licences must drive carefully to avoid losing their right to drive altogether.

A change which will reduce the workload of the police is that ACT drivers will now have to carry their drivers licences with them every time they drive. At the present time drivers have three days in which to produce their licence to police. This creates some additional workload for the police in following that up. The new requirement to carry a drivers licence at all times will remove that workload from the police and it will bring us into line with New South Wales.

Mr Speaker, this Government is committed to improving road safety in the ACT. We are taking steps to introduce a competency-based driving system, and we are now tightening up other laws related to drink-driving particularly but also to some more serious non-drink-driving-related offences. These amendments, the Government believes, will ensure that the laws related to unsafe driving remain consistent, whether they are related to alcohol or not, and that people are removed from the roads where their actions are proved to be irresponsible.

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

## VOCATIONAL EDUCATION AND TRAINING (AMENDMENT) BILL 1997

**MR STEFANIAK** (Minister for Education and Training) (11.10): Mr Speaker, I present the Vocational Education and Training (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

**MR STEFANIAK**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I am pleased to present the Vocational Education and Training Amendment Bill 1997. The Vocational Education and Training Act 1995 is being amended to place providers registered prior to 1996 on the same footing as providers registered after the commencement of the Act and to bring the annual report provisions into line with the Annual Reports (Government Agencies) Act 1995. The proposed amendments to the Acts are minimal but will enhance the efficient functioning of the vocational education and training sector. Current provisions in the Vocational Education and Training Act in relation to reporting requirements are inconsistent with those of other ACT agencies. The changes to the Act are administrative in nature and have no policy or revenue implications.

It was the intention that training providers registered prior to 1996 under administrative arrangements would be included within the scope of the Vocational Education and Training Act 1995. Legal advice is that the Act does not extend to these providers, and the inclusion of a new provision, section 19A, overcomes this problem. Bringing these providers registered prior to 1996 within the coverage of the Vocational Education and Training Act 1995 will ensure that all registered providers enjoy the advantages and obligations of the quality assurance arrangements offered by registration. Mr Speaker, the Bill as presented contributes to the efficient operations and functioning of the Vocational Training Authority and the ACT Accreditation and Registration Council. I commend the Bill to the Assembly.

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

## ECONOMIC DEVELOPMENT AND TOURISM - STANDING COMMITTEE
## Inquiry into Very High Speed Train

**MR HIRD**: Mr Speaker, pursuant to the order of the Assembly, I wish to inform members that the Standing Committee on Economic Development and Tourism resolved on a reporting date for the inquiry into the very high speed train. On Thursday, 10 April this year, the Assembly asked the Standing Committee on Economic Development and Tourism to inquire into and report on the economic impact of the construction of a very high speed train. The motion which referred the inquiry to the committee asked that the Assembly be informed of the "reporting date for the inquiry during the May sittings". At its meeting on Monday, 12 May of this year, the committee agreed to report on or before Tuesday, 2 December 1997, on this matter.

## PETROL PRICING - SELECT COMMITTEE
## Alteration to Resolution of Appointment

**MR WOOD** (11.14): Mr Speaker, I move:

> That the resolution of the Assembly of 27 June 1996 which appointed the Select Committee on Petrol Pricing be amended:
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> (1) by omitting "and shall report to the Assembly by the last sitting day in June 1997"; and
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> (2) by adding the following new paragraphs:
>
> "(2) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, circulation and publication; and

(3) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.".

Mr Speaker, it is necessary to do this, as the committee is not yet in a position to report. Indeed, we begin our public hearings shortly.

Question resolved in the affirmative.

## NEW PRIVATE HOSPITAL - SELECT COMMITTEE
### Appointment

Debate resumed from 8 May 1997, on motion by **Mr Berry**, as amended.

**MS TUCKER** (11.15): The Greens will be supporting the appointment of this select committee to look at the implications for the public health system of increasing provision of private health facilities. I think it is a critical issue for the community not just in the ACT but Australia-wide. There are obviously worrying trends in the United States and the United Kingdom, where there is definitely a two-tiered health system and if you can afford to pay for health treatment you receive treatment and if you cannot you may not receive treatment at all or, if you do, it may not be of the same standard as those who can pay will receive.

I am not saying that this is what is happening in the ACT, but what I am saying and agreeing with Mr Berry on is that it is an important issue. We need to look at it. It would be a good opportunity for a select committee to look at what is happening in other places and what the implications have been when there have been a lot of increased private facilities. It would also give the community an opportunity to talk to members of this Assembly about this matter. I have received correspondence on this issue in my time here. As it is an issue that I have not been able to give my full attention to before, I welcome the opportunity to do that on this select committee.

**MR HUMPHRIES** (Attorney-General) (11.17): Mr Speaker, I understand that an amendment is being circulated by Mrs Carnell, but I want to make some comments. I need leave to speak, because I have already spoken.

Leave granted.

**MR HUMPHRIES**: I spoke to an amendment I moved previously, which I think has now been incorporated into the motion. I want to make a general comment about the overall motion itself. I pick up a comment I made on the last sitting Thursday. The Assembly already has a large number of inquiries going on at the moment. A further reference to a further committee, in this case a select committee, is likely to be seen in one of two ways. There are wide-ranging issues in this motion. The committee is being asked to report on a wide range of matters, which is likely to result in much time being consumed for a purpose which is not immediately clear, if one takes a charitable view of this motion, which - - -

**Mrs Carnell**: It is very clear!

**MR HUMPHRIES**: One has to be very charitable to take that view. On the basis that the motion is about getting information and clarifying a picture, then a great deal of effort will be needed to do that. If that is the case, then we will find ourselves consumed with much work in that regard. When I say "we", I mean members of the committee, which obviously will not include me. That will be a very time-consuming exercise.

Looking across at Mr Berry and the broad smile he has on his face at the moment, I have to say that I have a rather more cynical view about what the motion is all about. It is, I suspect, about doing a job on the private hospital. Having listened to the comments Mr Berry made when he introduced this motion, one can have absolutely no doubt about what Mr Berry thinks about private hospitals. We know what Mr Berry's view about private hospitals has been on many occasions in the past. We know that Mr Berry is adamantly opposed to almost any form of private involvement in the public health system.

**Mr Moore**: That is not true. He would have closed them when he was Minister if that were the case.

**MR HUMPHRIES**: I think Mr Berry would have liked to close them if he could have got away with it. Mr Berry certainly adamantly opposed the opening of so much as a single further private hospital bed in the ACT - a decision that, in fact, was so nonsensical that when he lost office and was relieved of his duties as Minister for Health by the Assembly in April of 1994 - - -

**Mr Berry**: No; he resigned.

**MR HUMPHRIES**: Okay; he resigned before he was pushed. He jumped off the bridge on which the horde was - - -

**Mr Moore**: Gary, you are standing on thin ice here. I do not know that I would pursue that one any further.

**MR SPEAKER**: You are on very thin ice, too, Mr Moore, if you continue to interject. Mr Humphries has the floor.

**MR HUMPHRIES**: If Mr Moore prefers, before Mr Berry fell through the thin ice into the cold water, he adamantly refused to license extra private beds at John James Hospital. Immediately after that point, when Mr Connolly became Minister for Health, one of his first decisions was to say, "Yes, it is sensible and logical to provide extra private hospital bed authorisations for John James Hospital". Indeed, he did do that. As I recall, he provided obstetric beds at John James Hospital. As a person who had one of his children born in one of those beds, I have to say I am very grateful that that was the case. It is an indicator of how very dogmatic and ideological Mr Berry's view about private hospitals and private hospital beds is.

I accept Mr Berry's view; I accept that he has a very strongly held view about that sort of thing. That is fine. But, if he has that strong view, how likely is it that we are going to get a balanced report out of this committee? We know what we are going to hear from this committee. It is going to be all about how nasty private hospital beds in the ACT are, how there must be some secret Government plan to produce a wind-down of the public hospital system to force people into the private hospital system. It is going to be all about taking resources off the public hospital system for the benefit of the rich. That is what we are going to hear. I would be very happy to be proved wrong, but I have seen this so many times before. Mr Berry has made these comments time and time again in this place. If he has this hatred of things private, particularly in health, that is fair enough; but ought he to be, as I suspect he will be, chairing a committee inquiring into this area? I have grave doubts about it. To be quite frank, what is the point of having a committee the result of which is a foregone conclusion right now?

You are doing a job on the private hospital that Mrs Carnell indicated a year ago she was going to implement. Now we get complaints about the fact that a contract was signed when Mr Berry's motion was imminent. His motion should have come on a year ago if he had been serious about holding up the process while he explored private hospital need in the ACT. The question has to be asked: Why has he waited for a year after the Government announced its intentions to move for this inquiry?

**Mrs Carnell**: Because it is a political stunt.

**MR HUMPHRIES**: The answer, as Mrs Carnell has just indicated, is very clear. It is a political stunt. Sitting on that table in front of him Mr Berry probably has the recommendations of the committee written out already. If he has not, I can tell you what they will be. I can dictate them to you right now. What is the point in having three people sidelined for two or three months - or whatever it is - to come out with Mr Berry's views on these matters and have them put before the Assembly and have a debate about what we all know already is the view of Mr Berry on these matters? I think it is unnecessary to have that waste of time occur. I acknowledge that the support is there for this motion. It is going to happen. But I simply say to the Assembly: In the circumstances, given the amount of work on the plate of the Assembly already and the foregone conclusion we know that this exercise will be, is there really any point in doing this?

**MRS CARNELL** (Chief Minister and Minister for Health and Community Care) (11.24): Mr Speaker, I seek leave to move two amendments together.

Leave granted.

**MRS CARNELL**: I move:

(1) Paragraph (2), omit the paragraph.

(2) Paragraph (4), omit the words "if the Assembly is not sitting when the Committee", substitute the words "the Committee shall report by 31 August 1997 and if the Assembly is not sitting when the Committee".

Mr Speaker, as I have indicated to the Assembly on a number of occasions lately, the contract to go ahead with the private hospital has been signed; but, of course, further contracts may need to be entered into for the ongoing building of this $20m facility, with 230 construction jobs. There are planning requirements and all sorts of things. I am suggesting that we delete paragraph (2). As the Assembly has indicated that it is not interested in stopping a $20m development with 230 jobs - - -

**Mr Berry**: I am.

**MRS CARNELL**: Apart from Mr Berry, who has indicated that he would like to do that.

**MR SPEAKER**: By interjection, which is out of order.

**MRS CARNELL**: I am sure that other members of the Assembly do not want to slow down a project of this nature.

The second amendment sets a reporting date. It is a rather strange select committee that has no reporting date. I am suggesting 31 August as the reporting date for this committee.

**Mr Berry**: If we cannot make it, we will come back.

**MRS CARNELL**: It is always the option of any committee to come back if they cannot make it, but it would be unusual for us to set up a select committee that had absolutely no reporting date. The reporting date of 31 August is 3½ months away, and it is during a period when the Assembly has quite a lot of time. After the estimates process is over, there is a break. That gives the committee an opportunity to focus on this issue.

Even with the deletion of paragraph (2) and the adding of a reporting date, I see absolutely no benefit in this motion. In my speech previously, I actually answered the questions for the Assembly. I went through them all and gave the Assembly the answers, so it will be quite quick for the committee to look at it. Mr Humphries was right when he said that this is just a stunt; it is just Mr Berry having a bit of a problem with a private hospital. We are all pretty used to that sort of approach.

This side of the house will have to consider whether we put somebody onto the committee. Everybody is fairly busy at the moment. That is obviously a matter that we will take a decision on. The reason for making that decision is that we know the answers to the questions because we have already done the work. We are very happy to make all of that work available to the committee. The bottom line here is that we must not hold up a $20m, 230-job project that is due to start, as I understand it, in June or July. We must allow that project to happen. We must allow jobs to be created in the ACT and choice to be created in Canberra. If Mr Berry wants to pull political stunts, that is fine too.

**MR BERRY** (11.28): Mr Speaker, I also move an amendment circulated in my name.

**MR SPEAKER**: Just a moment. We are dealing with Mrs Carnell's amendments.

**MR BERRY**: While I am on my feet, can I move my amendment?

**MR SPEAKER**: No.

**MR BERRY**: I will do it later. I draw members' attention to a foreshadowed amendment which has been circulated in my name. It merely changes the date upon which the Speaker is to be notified about the respective members of the committee. It needs no more contribution from me than that.

So far as Mrs Carnell's amendments are concerned, there is nothing unusual about committees having open reporting dates. In this case I see a little bit of nervousness from Mrs Carnell about the issue dragging on for too long and too much being exposed. If the committee cannot resolve the matter by 31 August - I have no particular objection to it being resolved by 31 August - then we would come back to this Assembly in the normal course of events and tell the Assembly that we cannot report by 31 August. That is normal practice. I do not have any difficulty with that particular amendment, although it seems unnecessary. I would hope to have the inquiry out of the way by then anyway. I do not care, really. The amendment which seeks to delete paragraph (2) is a more serious issue. On the one hand, Mrs Carnell says, "We want you to finish the inquiry quickly". This tends to argue against her amendment which seeks to remove reference to further contracts. I would ask members to pay particular attention to this issue. This goes to what can be covered up by commercial-in-confidence clauses. Mrs Carnell obviously has in mind the need to sign contracts which include commercial-in-confidence clauses, which will then be argued as a reason for not giving information to the committee. We saw how Mrs Carnell operated in relation to the last signing of the agreement or contract when on the 6th of this month - - -

**Mrs Carnell**: Mr VITAB, who would not give the contract to the Assembly ever.

**MR BERRY**: You are still stinging about that, are you not? On the 6th of this month, the hospital advertised to the people of Garran that they were consulting with the community. "We are negotiating", they said. Very clearly, no contracts had been signed at that point, but as soon as this motion appeared on the notice paper the matter was signed off. Mr Hird found out about it on the Tuesday, at the Administration and Procedure Committee meeting, and would have communicated that to the Government.

It was signed to ensure that the contract covered up access to commercial-in-confidence information. I am softening in my attitude to commercial-in-confidence and how much weight it has. It is being abused by this Government. *(Quorum formed)* Mrs Carnell's attempt to strike out the "no further contracts" clause is entirely farcical. It is clearly a move similar to that which she adopted when she signed off the contract knowing full well that the matter was about to be debated by the Assembly. In fact, she cheated this Assembly of the opportunity to discuss the issues that might be dealt with in a contract in relation to this important issue for the health system in the Australian Capital Territory.

Mr Humphries tried to create the impression that this member is opposed to private hospitals. Absolute rubbish! I have no difficulty with the private hospital system operating in the marketplace. That is their business. It is a matter of fact that private hospitals make a contribution to the provision of health services throughout this country. What I am concerned about, and will fight to the death on, is the diminution of the public system as a means of costs shifting. It should never be said again, and cannot ever be said, that this member or any members of the Labor Party are inherently afflicted with some mad opposition to the private health system. That would be quite untrue. For Mr Humphries to say it again would be an act of dishonesty.

I have suspicions about this private hospital system. I think I understand what Mrs Carnell is up to in relation to the issue. What I am concerned about as a Canberran is the effect that this new private hospital might have on existing private hospitals and their viability. It seems to me that they do not care about this. I am concerned about it, because that is an issue that obviously has not been looked at by this Government. You cannot inject 100 extra beds into the ACT health economy and expect it not to affect people. It will affect the existing private hospitals. It will affect the existing public hospitals. The extent of the effect will be discovered by this committee of inquiry.

Mr Speaker, this is a sensible inquiry. The urgency of it certainly came to me when I was notified by officials that the Government was about to sign the contract. There had been no open consultation with the community about what the Government intended in relation to this private hospital, and it was time that the community became aware of it. Mrs Carnell now seeks to blindfold the committee of inquiry again by striking out other issues which may be covered up by the signing of contracts. She gave a list of contracts that may be signed for the building of this hospital. I would like to know the contracts that remain to be signed in relation to the provision of services by that hospital and the contractual arrangements between the Government and the provider of those services in that hospital. Let us not forget what happened in Port Macquarie and how much that has cost the New South Wales Government.

All of these issues have to be closely scrutinised. I remind members again of the sneaky way that Mrs Carnell approached the signing of the contract after the matter of the committee emerged. When the committee of inquiry emerged, Mrs Carnell found out about it and signed the contract to prevent the committee from looking at those issues. It is as clear as a bell. That is proven by the fact that the Canberra Hospital advised the local community that they were negotiating with Health Care of Australia and asked the community for their input in relation to the matter. Two days afterwards, coincidental with the emergence of my move for this inquiry, Mrs Carnell quickly signed the contract to stop all of us, each member in this Assembly, from finding out anything about those contracts. That was her intention.

I do not accept that we are prohibited from finding out what little secrets are buried in those contracts. I will be going after those secrets to make sure that the community finds out. I expect that Mrs Carnell will observe the same standards as she once observed in relation to these matters. I thank members for their support. *(Extension of time granted)* Members can support or not support the date for reporting which has been moved by Mrs Carnell. I am indifferent about it. Basically, we will cop the call. Her move to strike out "further contracts" is just another attempt to stop each member of this Assembly from

finding out what is likely to be signed by the Government. That is what this is about. We may indeed find out that there have been commercial-in-confidence arrangements between the Government and the proposed private provider in respect of a whole range of things, to prevent this Assembly from finding out about what is planned for this hospital and to stop this community from finding out what is planned for this hospital. Mr Speaker, this amendment must be prevented.

I give an undertaking that this inquiry will not be dragged out for the purposes of preventing anything from happening. This inquiry will be conducted as quickly - - -

**Mrs Carnell**: We would have to finish it by the end of this month, because the building is starting in June.

**MR BERRY**: It may not. I give an undertaking that I will not be dragging out this committee of inquiry for the purposes of delaying. The inquiry will take as long as it needs to take to discover all the issues.

**Mrs Carnell**: You are anti-jobs.

**MR BERRY**: Mrs Carnell, you set the dates when you signed the contract. You signed the contract when you found out that this committee of inquiry was about to proceed. You signed the contract after your own hospital had advised the local community that they were negotiating and prepared to consult, and indeed indicated that they were prepared to take into account the views of the community. You signed the contract once you heard about this inquiry. You tried to keep things away from this Assembly. You have tried all along to keep things away from the community. This inquiry is about preventing you from doing that. I urge members to oppose that amendment.

**MR MOORE** (11.41): When Mrs Carnell stood up to speak, she said - and I am intending to take this quote out of context - that Mr Humphries was right. She then gave an example of when he was right. I think he was also right when he made the most famous of his comments in this Assembly - "I can be honest now that I am in opposition". Indeed, he was right then.

**Ms McRae**: We will give them a chance next year to test it again.

**MR MOORE**: I hear Ms McRae interjecting that perhaps he will have the opportunity again next year. Indeed, that may be the case.

Mr Speaker, I will be supporting the motion to refer this matter to a committee. I will be opposing the amendment to change the date, Mrs Carnell's second amendment. I believe the date is much too tight, particularly considering that the Estimates Committee is operating at around that time and members will be involved in that. Although our practice has been to set dates for select committees, there have been enough precedents for leaving it open. In this case it is left open in the knowledge that we have another six or seven months before the election. I would expect to see this matter resolved before Christmas. Our committees have always worked as quickly as they possibly can to examine issues, to resolve them, and to get back to the Assembly, and I expect that that is what Mr Berry will do.

Mrs Carnell has moved for the deletion of paragraph (2), which provides that no further contracts be entered into. I am interested in this committee reporting on broad concepts about the relationship between private and public hospitals, about whether private hospitals can ease the workload of public hospitals or whether private hospitals simply take the lucrative part out of public hospitals and effectively make public hospitals more expensive, and about the impact that would have on hospital funding and waiting lists - matters which Mr Berry always takes a great interest in. That is the sort of outcome I want to see from this committee.

In supporting the appointment of this committee, it is certainly not my intention to stop in its tracks the process by which this private hospital is set up. Because of that, I shall be supporting the first amendment that has been moved by Mrs Carnell to delete paragraph (2).

**MS TUCKER** (11.45): I am prepared to support the amendment to delete paragraph (2). It had not been my impression that the function of this committee was to stop what was happening. A contract has already been signed. I take Mrs Carnell's word for that. She says that it has been signed and that the process is under way. If that proves to be wrong, then it will be on her head.

I will not support the other amendment moved by Mrs Carnell to impose a reporting date on this committee. I take the work of committees very seriously. It is obviously a very short time. I would not support that date being imposed on the committee before I have had a chance to look at the amount of work that is going to be required.

**MR SPEAKER**: I will put the amendments seriatim.

Question put:

That amendment No. 1 (**Mrs Carnell's**) be agreed to.

The Assembly voted -

| *AYES, 11* | *NOES, 6* |
|---|---|
| Mrs Carnell | Mr Berry |
| Mr Cornwell | Mr Corbell |
| Mr Hird | Ms McRae |
| Ms Horodny | Ms Reilly |
| Mr Humphries | Mr Whitecross |
| Mr Kaine | Mr Wood |
| Mrs Littlewood | |
| Mr Moore | |
| Mr Osborne | |
| Mr Stefaniak | |
| Ms Tucker | |

Question so resolved in the affirmative.

Amendment No. 2 (**Mrs Carnell's**) negatived.

**MR SPEAKER**: There is a typographical error in paragraph (4). Is it the wish of the Assembly to omit the word "Assembly", second occurring, and substitute the word "Committee"?

Leave granted.

**MR BERRY** (11.51), by leave: Mr Speaker, I move:

> Paragraph (3), omit "13 May 1997", substitute "15 May 1997".

This amendment merely alters the date by which members have to indicate their interest in being on this committee.

In winding up debate on the issue, I thank members for their support for the establishment of this committee. It is, nevertheless, a grave disappointment to me that the Health Minister and Chief Minister of the Territory, in a most sneaky fashion, would encourage the signing of contracts on the eve of a committee of inquiry into the matter. I repeat that the Canberra Hospital circulated to the residents of nearby suburbs, or at least Garran - - -

**Mrs Carnell**: Mr Speaker, I take a point of order on the ground of relevance. Is there any relevance in Mr Berry's remarks to changing the date from 13 May to 15 May?

**MR SPEAKER**: There is certainly repetition involved.

**MR BERRY**: I am winding up as well.

**MR SPEAKER**: You certainly are.

**MR BERRY**: Would you like me to crank it up a bit further? It is a matter of great disappointment to me that such a sneaky act was carried out. It flies in the face of the commitment that Mrs Carnell gave repeatedly to the people of the ACT that she would be open and consultative. How many of us still have that ringing in our ears? We are reminded that none of those promises meant anything. Certainly, the people of Garran - an area which I understand that you, Mr Speaker, are particularly interested in - will be disappointed with the Chief Minister's approach as well. To tell the community that you are negotiating one day and ask them for their input and sign the contract a day or so later is an outrage.

Amendment agreed to.

Motion, as amended, agreed to.

## PLANNING AND ENVIRONMENT - STANDING COMMITTEE
## Report on Administration of ACT Leasehold and Government Response

Debate resumed from 27 February 1997, on motion by **Mr Moore**:

That the report be noted.

Debate interrupted.

## EXECUTIVE BUSINESS - PRECEDENCE

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

That, pursuant to standing order 77(d), Executive business be called on forthwith.

## DEBITS TAX BILL 1997

Debate resumed from 13 May 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

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

## FIREARMS (AMENDMENT) BILL 1997

Debate resumed from 6 May 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR WOOD** (11.55): Mr Speaker, the Opposition will be supporting this Bill. In doing so, we expect that we will be maintaining the national thrust of gun control measures following that event in Port Arthur. We note that it is retrospective legislation. Mr Humphries said in a letter to me that the amendments will apply retrospectively; however, they will not seek to adversely affect any person's rights beyond what was intended by the Assembly. We certainly note that, and I think there is general agreement that retrospective legislation is to be avoided if at all possible. In respect of another matter which came to the Scrutiny of Bills Committee, we would firmly say that that is a principle that ought to be maintained at all times, not just on this issue.

It is not intended to affect anyone's rights beyond what was intended by this Assembly; but it is certainly the case that it does affect the people's right, that has long been held, to hold weapons. It was the whole thrust of legislation around Australia to modify that right; in fact, to effect some form of cultural change. It certainly does affect people. I understand that there has been a strong response to the requirement for the surrender of weapons. Gun owners, generally - not perhaps totally - have complied with that legislation, and they are to be complimented for doing so.

I want to raise in this debate a couple of responses that I have had from very responsible gun owners, one of whom sent an open letter to members of this Assembly only the other day. In fact, it was this gentleman who took a case to the ACT courts, which he successfully fought and which has brought about this legislation today. He makes what seem to me to be a couple of valid points, and the Minister might comment on them. He makes the point that, if it were not guns that were being bought back but motor vehicles, you would expect a different valuation for a Holden Calais as against a standard Holden Commodore. That is the point he made about his weapon. His weapon was as purchased from a shop. He disputes that it was modified. It was, in my terms, an up-market version. He believes that there ought to have been a list price for compensation for that weapon. It seems to me to be a valid point. At the time of the debate, I acknowledged that it was important that compensation be paid to encourage people to surrender their weapons, but in that circumstance not every owner in Australia relinquishing a weapon would receive the level of compensation that might be determined by a very accurate assessment of its worth.

He makes another point, and this is one about which I am interested in hearing from the Minister. He says that the Minister is concerned that weapons could come into Canberra and then be challenged through our court processes; but that could not happen, because they are illegal weapons and could not be brought into Canberra. The Minister might respond to that point for me. It is clear that this gentleman is a genuine Canberran who has complied with the legislation.

There was another, very detailed, case brought to me. It raised, among other things, the fact that there is no appeal. I can understand that, if appeal rights were written into that legislation around Australia, there would be a very big load placed on whatever appeal body was established. This other writer, who also surrendered his weapon, makes the point that acquisition should be on just terms. I think it would be the intention of this Assembly that the terms should be as just as could be achieved in the circumstances.

I want to take the opportunity while debating this Bill, which is an amendment to the Firearms Act, to raise a question brought to me by another constituent concerning three starting pistols that he has had. This is a sports official who is now officiating at the very highest levels in athletics competitions, and for that he needs appropriate starting pistols. In his case, he has two .445 calibre Webley revolvers and one .38 calibre Webley. These are weapons that I understand he needs in order to start at very senior levels. He hopes to be a starter in the Olympic Games. To my mind, he certainly has the background of experience to be able to do that.

There has been some problem with the ACT Weapons Registry. For some time, starting pistols were not required to be registered, as they were not considered to be weapons under the terms of the Act. Post-Winchester, however, there has been - understandably, perhaps - a change of attitude, and there is now some difficulty in having these starting pistols registered, or preferably having it acknowledged that they are not really weapons but starting pistols. They have been modified. The cylinders have been shortened. They cannot fire rounds. They can fire only blanks. That is the mode of the starting pistol that is needed for high-level events.

I will be taking up this matter with the relevant Minister - the Attorney-General or the Minister for Sport, who, I think, has also had an approach on this matter - to see whether a proper accommodation can be made for what is a very enthusiastic official in athletics events and, I believe, one who ought to be encouraged to carry on. I do not believe that there is a problem. I expect that it can be sorted out.

**MS TUCKER** (12.03): Mr Speaker, the Greens will be supporting this Bill, which gives the Minister explained in his introduction speech and a letter circulated earlier, this legislation, retrospective to 14 April, is necessary to prevent the ACT from being exposed to possible claims from firearms owners, not only from within the ACT but also from other States. Mr Speaker, gun law reform has perhaps been the only issue on which this Federal Government has displayed some real leadership. In the ACT alone, over 4,000 illegal weapons have been handed in as a result of the new laws. We still have further to go. As long as there are any gun deaths in this country, we should not rest on our laurels. In the ACT alone, it was reported that there were over 20,000 guns, I think. So, although there are now 4,000 of the most dangerous weapons out of our community, there are many more still around.

The ACT has, historically, been a leader as far as gun laws in Australia are concerned. I hope that we can continue to demonstrate leadership on this issue. Thank goodness we did not bow to pressure last year to water down the laws. It was interesting to read in the paper this week that a number of States are being criticised because they have watered down their legislation by providing loose interpretations of the "genuine reason" clause. This is exactly the sort of watering down that concerned the Greens last year. Thanks to a cooperative approach, I think the ACT can be proud that we came up with a much tighter definition of "genuine reasons" than that existing in some other States. It is not good enough to own a gun just because you want one to protect your family. I hope that we can all continue to work together to ensure that we have the toughest gun laws in the country.

**MR STEFANIAK** (Minister for Education and Training and Minister for Sport and Recreation) (12.05): I may be aware of Mr Wood's constituent. I recall someone showing me something similar to what he talked about. I know that they were .455 Webleys. I thought it might have been a .38 Smith and Wesson, extensively modified so that it could not possibly shoot and for starting pistol purposes only.

I understand also, Mr Wood, that there are national guidelines, which we, of course, follow, in relation to starting pistols. Indeed, I think the question of starting pistols was specifically raised during the gun debate, because they are a completely legitimate form of sporting equipment and really unrelated to actual firearms use, as such. That is why we have national guidelines. If you and Mr Humphries and I can have a chat about that, hopefully, we will be able to work out something for your constituent.

I want to make a couple of other points. I note that the buyback scheme in the ACT has been highly successful, in terms of the number of weapons handed in. In fact, I think it is greater than the number that were actually out there as registered. It has gone exceptionally well. I understand, too, that it has been extended to September. I think it is important in this debate now, once we have these very strong pieces of legislation in place, not only here but also interstate, that people do not lose sight of the fact that there are a number of bona fide, appropriate and proper uses of firearms, which are dealt with in the Act.

There is a large number of law-abiding citizens who still have firearms, who use them entirely for a law-abiding purpose, certainly in the sporting shooters arena, where competitions are very well controlled. There is a large number of ACT residents, and indeed Australians generally, who derive much enjoyment from that form of activity. I think their rights have to be respected in this debate, too. Whilst there are now very appropriate restrictions on other uses of firearms, obviously people in our rural areas still have a very legitimate need for firearms. Whilst there are most sensible requirements now in place in relation to people engaged in recreational hunting, which have tightened up a lot of possibilities for potential abuse, they also have legitimate rights.

I think the citizens of the ACT, the gun owning public, in general have responded very well to the amnesty, to the requirement to hand in weapons that have become unlawful. I think generally the buyback scheme in the ACT has been handled very well indeed. I commend my colleague and his department for that. Especially, I would commend the actions of and the dedication shown by the members of the Australian Federal Police who have been involved with that scheme on a daily basis since its inception. Firearms owners I have talked to, in the main, are quite commendatory of the efforts of the police, and I think that should be put on record.

**MR HUMPHRIES** (Attorney-General) (12.08), in reply: Mr Speaker, in closing this debate, let me thank members for their support for this important piece of legislation. It was necessitated, of course, by an unexpected decision in the Magistrates Court; but, with hindsight, one might have anticipated such a result. It is therefore gratifying to see that, notwithstanding the retrospectivity involved, members are prepared to confirm that the buyback arrangement will continue and that the amounts being paid and that have been paid under that buyback will be the amounts which have been agreed already by the various jurisdictions and which have been the basis for payment over the last 12 months; namely, the schedule prepared by the Commonwealth Attorney-General's Department.

Let me just say about that generally that it is true that that process results in some people getting less for their gun than it is actually worth. It is absolutely true. It is also true that some people get more for their gun than it is actually worth. The reason we have a nationally agreed schedule is that there are literally millions of guns in Australia at the

present time - I do not know how many, but it must run into tens of millions - and very large numbers, in excess of a million, I think, are now expected to be handed in under this gun amnesty. If those weapons are handed in and they all have to be individually valued, then the logistical problems doing that would be enormous.

More importantly, people would be delaying handing in their guns while they were waiting for the backlog to clear for their gun to be valued. That would, of course, result in a defeat of the very purpose of this legislation, enacted a year ago by this Assembly, as the first jurisdiction in Australia to do so, to get those guns out of the community at the first available opportunity. So, I accept that there are some people who win and there are some people who lose. I suppose that I am asking the gun owning community of Australia to accept that that is a problem that we simply cannot avoid and that this is a process which does not result from any niggardly approach by the Government - the Commonwealth Government, in this case - towards their claims.

Mr Elliott, to whom Mr Wood referred, has raised a number of issues in his letter. What I will do in a moment is table the advice I have received from my department on the points raised by Mr Elliott. I understand that his letter has been circulated to all members. It might be convenient if everybody is able to see what my department says about the matters he raises. To address the specific points raised by Mr Wood, since they were put on the floor here, I understand that Mr Elliott claims that his firearm was not a modified version of the firearm listed on the schedule, as indicated in my presentation speech. He concedes in his letter that the firearm does have a ventilated rib - a device attached to the top of the barrel - and a Win-choke, both of which are attachments to the standard model.

He argues, I think, that, because those things were added to the gun by the manufacturer, they must be standard, and therefore his weapon is not a modified version but a standard version issued by the manufacturer. My department's argument is that, if they are not what appears on the models generally made available to members of the public who purchase such things, then, by definition, the gun must be a modified version. That may be a slightly esoteric argument. I concede that I would not know a Win-choke from a windcheater; but I will say that the argument has been put and the response is as I have indicated. Mr Wood says that he can understand the argument that a different valuation would be expected for a modified weapon. That is true; but, as I have indicated, only certain modifications can be picked up and compensated for without effectively applying an individual valuation for each and every weapon handed in across Australia, which, of course, would be a huge problem.

Finally, Mr Wood referred to the argument that Mr Elliott put, that there is no argument about a floodgate because the weapons which we said could come in from other parts of Australia are illegal and therefore they cannot be brought in from other parts of Australia. The fact that it might be illegal and whether that would stop people from doing it is one argument, which I will put to one side. But, more importantly, Mr Speaker, it is not illegal to transport a weapon, in that sense, to any greater extent than it is already illegal

to possess that weapon. There is no requirement that a person handing in a weapon either prove ownership of that weapon or prove that he or she lives in the ACT. So, I can live in New South Wales and simply roll up to a police station in the ACT with an armful of banned weapons, lodge them and get compensation for them and not be asked to prove where I got the weapons, whether I own the weapons, how I came into possession of the weapons or whatever. So, in those circumstances, the possibility of a floodgate opening is very real.

**Mr Wood**: Is that just during the amnesty, or at any time?

**MR HUMPHRIES**: Yes, it is just during the amnesty. That applies only during the amnesty, which will now run until 30 September. But, if gun owners who have held back their weapons - and there are very considerable numbers in New South Wales alone - felt that they could get higher valuations in the ACT, for their weapons, the modified ones, for example, that Mr Elliott refers to, then undoubtedly many would try to do so. They would bring their weapons to the ACT and attempt to hand them over, and they could legally do so - except, of course, that it is illegal to possess them in the first place.

This is one thing not understood about the amnesty. The amnesty does not mean that it is legal to own the weapons which are now banned. It merely means that it is legal to hand them in. And you can do so and get compensation without having difficult questions asked by the police - unless, of course, the weapon has been used in a crime, for example, and there is evidence of that. Otherwise, Mr Speaker, the situation is that a floodgate could be a very real issue if this loophole is not closed immediately.
concerns raised by Ms Tucker, I certainly think, are real. I hope that we have continued to protect the integrity of the legislation that we have passed already in this place. I thank members for the unanimity that they have shown towards this very important national project.

**MR SPEAKER:** Are you tabling any documents, Mr Humphries?

**MR HUMPHRIES**: Yes, Mr Speaker. Thank you for reminding me. I table the minute that I referred to.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1997

Debate resumed from 8 May 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

**MR WHITECROSS** (Leader of the Opposition) (12.16): Mr Speaker, the Opposition will be supporting this Bill. The intention of the Bill is to update the Act so that, instead of referring to people "of good fame and character", it puts a more objective test on that, in terms of having been convicted of an offence involving fraud or dishonesty, an offence involving unlawful gambling, an offence against a tax law of the ACT, or an offence against the Gaming Machine Act. Mr Speaker, I think that the approach being proposed by the Government is a good one. The approach also extends the test of bona fides to cover directors and influential persons in clubs, not simply the actual holder of the licence. I think that these are appropriate changes to the law, Mr Speaker.

I have two concerns in relation to this legislation. The first is just a matter of general principle. There is some indication that the law is being changed because of an application currently before the commissioner, where the commissioner is concerned about the issuing of the licence and wants to change the law. It should always be a matter of some concern to a parliament where a law is being changed part way through a process in order to create a law which will assist a person in considering an application that is already before that person.

Mr Speaker, the other matter of some concern to me is that the period during which relevant offences are taken into account is five years. That means that, if someone has been convicted of offences relating to unlawful gaming, say, 10 years ago, the commissioner cannot take account of that in issuing a gaming machine licence; or, if they have been convicted of offences against the Gaming Machine Act itself more than five years ago, that cannot be taken into account in deciding whether to issue a gaming machine licence. That seems to be slightly different from some other laws, say, in relation to bookmakers or auctioneers.

Mr Speaker, I have been advised that this reflects current practice and the provisions of the Crimes Act in relation to taking into account prior convictions. On that basis, I am happy to go with the legislation as it exists. But I think that is something that we should just note - that people who have prior convictions for unlawful gaming or convictions under the Gaming Machine Act itself could, under these provisions, obtain a gaming machine licence, whereas they might not obtain one under the good fame and character test. Someone, for instance, who had operated an illegal casino might not have passed the good fame and character test, but under this test they may well pass, if those convictions date back more than five years. Mr Speaker, on balance, the Opposition will be supporting the Government's legislation.

**MR MOORE** (12.20): Mr Speaker, in rising to support this legislation, I would like to start by asking a question of the Chief Minister. Chief Minister, my understanding is that when you introduce legislation like this, which is amending another piece of legislation, it automatically kicks in a requirement under our national competition policy, to which you committed the ACT Government - - -

**Mrs Carnell**: No; Rosemary Follett did.

**MR MOORE**: I take the interjection. All right, the previous Chief Minister did. There is a commitment under the national competition policy that, when an amendment to an Act is introduced, that Act be reviewed to assess whether or not gaming - in this case - is operating consistently with the national competition policy. It would seem to me on the surface, Mr Speaker, that it is not.

That is why there is a notice on the notice paper for a Bill to modify the gaming legislation. Its purpose is to clarify this and to ensure that appropriate competition, as agreed to by the previous Labor Government and as agreed to in principle by Mrs Carnell, is taken into account. There is, of course, the public interest test; but it still requires a review. So, I would like you to explain to us what action you have taken to begin the review of this.

**Mr Whitecross**: What does this have to do with the Bill before the house?

**MR MOORE**: What does this have to do with the legislation in front of us? I am saying that the legislation in front of us, having been introduced and having been debated, automatically requires a review, under our national competition policy guidelines and agreement. So, clearly, it is very relevant to any piece of legislation that comes before the house. It is one of the factors that are relevant.

I can understand why the Labor Party would resist it, of course. They are the very clear beneficiaries of this lack of competition policy. So, of course, you would get worried; because you are looking after yourselves. It is quite clear that you would get very nervy when there may be some impact on the Labor Club, which funds you. Of course, you are going to get a bit unsettled about it.

**Mr Whitecross**: I just want to understand what you are talking about.

**MR MOORE**: Mr Whitecross does not understand what I am talking about. Mr Speaker, I will take this opportunity in the in-principle stage of the consideration of this legislation to explain what I am talking about. What I am talking about, Mr Speaker, is the fact that, by the time the election comes around, the Labor Party will have been receiving a little bit less than $1m over three years in order to assist them in their work. That comes to them with a significant advantage, having no competition, because they get money from the Labor Club and other licensed clubs which provide them with funds. So, of course, it is a factor.

Mr Speaker, whenever we speak in the in-principle stage of an amending Bill, it puts the Bill as a whole into context. That is the context in which I am speaking on that issue. I can understand why the Labor Party would resist an investigation into competition policy, including an investigation into the public interest aspects. Under the public interest aspects of this issue, Mr Speaker, I am sure that, in a fair and open investigation, what would be revealed - - -

**Mr Berry**: On a point of order, Mr Speaker - - -

**Mr Humphries**: He is feeling the heat over there.

**Mr Berry**: I am not feeling the heat at all. Mr Moore, by his comments, imputes improper motives to members of the Labor Party in this place, and I would ask him to withdraw them.

**MR SPEAKER**: We have been through this before. A collective attack is not regarded as an attack on an individual. If Mr Moore had attacked individuals, he would most certainly have had to withdraw.

**Mr Berry**: So, if they are a bunch of - - -

**MR SPEAKER**: So, there is no point of order. It has been discussed before, Mr Berry.

**MR MOORE**: Mr Speaker, I can understand why Mr Berry is feeling, to use his term, the blowtorch on the belly - although it is a while since we have heard him use that term. He is feeling the pressure because he knows that, when he stands at the next election, he will be at a huge disadvantage if things change. He and every other member of the Labor Party have an advantage - - -

**Mr Berry**: I rise on a point of order. Mr Moore says that I have improper motives in considering this issue, and I would ask him to withdraw it.

**MR SPEAKER**: No. I do not believe that Mr Moore has been suggesting that there are any improper motives. If so, I would certainly ask him to withdraw. I think he said that there was going to be some disadvantage to everybody in the Labor Party.

**Mr Berry**: I think Mr Moore was suggesting - - -

**Mr Whitecross**: He said "Mr Berry".

**MR SPEAKER**: If you take offence, I am sure that Mr Moore would - - -

**Mr Berry**: Mr Moore was suggesting that the way I deal with this legislation in this place is influenced by our association with the Labor Club. That is imputing an improper motive, Mr Speaker, and I would ask him to withdraw it.

**MR SPEAKER**: You personally, or all members?

**Mr Berry**: No; me.

**MR SPEAKER**: Very well, if you take it - - -

**Mr Whitecross**: He was named.

**MR SPEAKER**: Order!

**MR MOORE**: Mr Speaker, I did actually say "Mr Berry". I shall withdraw "Mr Berry" and replace it with "all members of the Labor Party who have been elected to this Assembly". Mr Speaker, I can understand why they would resist an investigation under the national competition policy guidelines. It would expose a clear conflict of interest for them in dealing with, I would say, almost any piece of gaming legislation. Mr Speaker, it may not be a conflict of interest in the sense of the self-government Act. That is a technical matter. Everybody in this community knows that, when somebody is getting in the order of $1m, they are not going to be able to just ignore that when it comes to any range of issues that affect them and affect their vote. I will raise this issue again when we deal with the smoking legislation, probably this afternoon.

Mr Speaker, that having been said, with this specific piece of legislation, the protection from licences being given to people who have committed offences in the way that this legislation sets out is very important. It is also important that the legislation recognises that some people make mistakes, get caught out and then go back into the industry and work in an open and honest way. Hence, the five-year gap. I have some reservations as to whether that should be five years or 10 years. However, this is certainly an appropriate way to start, and that is why I will be supporting the legislation.

**MS TUCKER** (12.28): Mr Speaker, there is growing concern in the community about gambling. I am glad to see that the Liberal Party is taking up this issue and that Labor is attempting in some way to address the issues as well, although how well is questionable. Strengthening the accountability of clubs is very important. Obviously, the legislation before us will assist with regulation of the gaming industry in the ACT. But, in a sense, what we are doing is fiddling around the edges. We all know that a lot of politics surrounds gaming in this town, and this debate has been just another example of that. It is an enormous industry. Canberrans spend, on average, $800 per year on gambling. Even if governments do come to terms with the need for additional funds for counselling and welfare services for problem gamblers and their families, this is a very cynical move if, on the other hand, we keep allowing massive increases in the availability of gaming.

Mr Whitecross is very concerned about extending licences to hotels. He should be equally concerned about the expansion in the availability of gaming machines in clubs. That is why there needs to be a thorough inquiry into the gambling industry in the ACT which includes an examination of the current legislative framework. Our legislation, as this Bill demonstrates, is simply not up to the task of regulating an industry that is growing at a very rapid rate and is becoming more and more complex.

I am pleased that Mr Whitecross is demonstrating concern about the social impact of gambling in the ACT. However, he also says that he does not like the blunt instrument of legislation, and he also does not support our calls for an inquiry. While I am glad that he has picked up on our calls for more adequate research - - -

**Mr Berry**: I take a point of order on relevance, Mr Speaker.

**MR SPEAKER**: I uphold the point of order. Relevance, Ms Tucker.

**MS TUCKER**: What was that?

**Mr Moore**: You have to be relevant to the Bill before us. You did not see me being irrelevant.

**MS TUCKER**: No. Mr Moore was very relevant.

**MR SPEAKER**: You did explain that you were directing your comments to the Bill itself.

**MS TUCKER**: I do think it is relevant, and it is related, because this is about legislation for the regulation of gambling and the gambling industry in the ACT. The whole debate that has been occurring in this place and that will no doubt occur in the future, I would have thought, was relevant. But that is fine. I will just say again that I support this legislation because it is a way of dealing with one of the issues. However, it is not a holistic approach to the whole question of gambling, and I hope to see this coming from the Liberals, at least, in the near future.

**MR BERRY** (12.31): Mr Speaker, a lot of the irrelevant remarks in relation to this legislation have been focused around the relationship of Labor members in this place and the licensed club industry. Mr Speaker, we do not - - -

**Mr Moore**: And your conflict of interest.

**MR BERRY**: Mr Moore interjects. I thank him for his interjection, "and conflict of interest". Mr Moore also said in his speech that there is no conflict of interest, in accordance with the self-government Act, and that is where the matter lies. The fact of the matter is that the attack that has been directed against Labor Party members in this house is merely because of the success of the Labor Party, not for any other reason. There is this lime-green envy about the success of the Labor Party. It is not about conflict of interest at all. They do not care about conflict of interest; otherwise they would have dealt with other people in this place who do have a conflict of interest, and they have not done that.

What Mr Moore is concerned about is, of course, the success of the Labor Party politically. He will use any device to attack the Labor Party. The Liberal Party will do likewise. We are used to that, and we can cope with that quite well. The Greens as well would use any device to attack the Labor Party, because they feel that the Labor Party is an inadequate opponent for them. But we have proven that to be wrong. What I suggest you do is direct your attention to the Bill before the house, rather than get yourself involved in your little envy sessions about the Labor Party. It would be much easier for us to deal with the legislation, about which there is no conflict of interest.

**Mrs Carnell**: On a point of order: Mr Berry called for relevance previously, Mr Speaker. I think it might be - - -

**MR SPEAKER**: I uphold the point of order.

**MR BERRY**: I have finished; thank you, Mr Speaker.

**MR SPEAKER**: I call the Chief Minister, to close the debate. I was about to say "mercifully, to close the debate".

**MR WHITECROSS** (Leader of the Opposition): Mr Speaker, your enthusiasm for editorialising is not appreciated by all in this place.

**MR SPEAKER**: But enough, Mr Whitecross.

**MR WHITECROSS**: You might want to consult the green book about editorialising from the Chair. Mr Speaker, I rise to make a personal explanation under standing order 46, because I claim to have been misrepresented by Mr Moore.

**Mrs Carnell**: He did not mention your name once.

**MR WHITECROSS**: Mr Moore indicated that the Labor Party and I myself opposed an investigation of the Gaming Machine Act under the national competition policy principles.

**Mr Humphries**: On a point of order, Mr Speaker: I think Mr Moore referred to the Labor Party. He did not mention Mr Whitecross at any stage. Mr Whitecross might resume his seat while I am making my point of order.

**MR SPEAKER**: No; he did refer to them collectively. You are quite right.

**MR WHITECROSS**: Mr Speaker, if it will assist you and assist the house, I will seek leave to make a statement.

Leave granted.

**MR WHITECROSS**: Mr Humphries is obsessed with wasting the time of the house. Mr Moore, in his remarks, indicated that the Labor Party opposed the idea of an investigation of the Gaming Machine Act under the national competition policy principles. Mr Speaker, not only has no proposal like that ever been put to me until Mr Moore raised it today, and Mr Moore is wrong and presumptuous to presume to know what the Labor Party's response to that is; but, Mr Speaker, I can reassure the house that the Labor Party supports the national competition policy principles.

I understand fully the arguments that Mr Moore is alluding to about the appropriateness of looking at the Gaming Machine Act under the national competition policy principles. However, Mr Speaker, it should be said that, in any such investigation, as Mr Moore did rather briefly acknowledge, issues of public interest would need to be taken into account. It is appropriate, if any such inquiry does take place, that it take into account the situation in other States as well and that it take account of public interest issues. Even in other States, there is unequal treatment of gaming machines between different entities with gaming machine licences.

**Mr Moore**: The reality is that the community misses out the way we are at the moment. Much less money goes into the community than would be the case if we were just taxing it fairly.

**MR WHITECROSS**: All I am saying is that this is an issue with national implications, because across Australia there are different treatments of different kinds of licensees under gaming machine Acts and there are public interest reasons that have been advanced for that. Mr Speaker, at the end of the day, I suppose that it is up to this house to test the validity of those reasons. In the end, we will have to make laws in relation to those matters. That is something we should consider.

Mr Speaker, in relation to the issue of conflict of interest, I believe that the Labor Party's support for the widening of a test of the bona fides of people with interests in and in influential positions in relation to licensed clubs is a good thing. I do not see how that discloses any prejudice for or against any particular people with gaming machine licences, Mr Speaker. In fact, if we were to believe Mr Moore, we should be opposing this Bill because this increases the scrutiny which the Revenue Commissioner can have of a particular group of licensees in relation to - - -

**Mr Moore**: No; because you are comfortable, but it would exclude others. It might exclude others. That is why you like it.

**MR WHITECROSS**: No, Mr Moore.

**MR SPEAKER**: Order! If you want to have a talk about this, both of you go outside and do it.

**Mr Moore**: It was a healthy interjection, Mr Speaker.

**Mrs Carnell**: Could we hurry, please?

**MR WHITECROSS**: No; because I have a point I want to make. The point I want to make, Mr Speaker, is that the Government has proposed what we think are good amendments to the Gaming Machine Act which, for all licensees, sharpen up the definition - and I have raised a couple of concerns with that - and in relation to licensed clubs, which are the main operators of existing licences under the Gaming Machine Act, actually extend the opportunities for the Revenue Commissioner to reject an applicant for a gaming machine licence. Mr Speaker, I think that they are appropriate changes. I support the legislation. I think it is an appropriate way to go. I do not believe that it, in any sense, discloses a conflict of interest. To reiterate my first point, I do not believe that Mr Moore is entitled to presume to know what would be our attitude to a proposal to review the Gaming Machine Act in the light of national competition policy principles.

**MRS CARNELL** (Chief Minister and Treasurer) (12.39), in reply: Mr Speaker, to quickly answer Mr Moore's question with regard to competition policy, my advice is that competition policy does not necessarily come in, in this circumstance, because the amendment involved does not affect the competitiveness of the Bill. So, you do not necessarily get a full review of a piece of legislation. On a minor amendment, it does not actually affect the substance of the legislation, as I am advised, Mr Speaker. Of course, any more major Bill that did affect the running of the Bill or the competitiveness inside the Bill would trigger a competition - - -

**Mr Moore**: There is one on the notice paper.

**MRS CARNELL**: Yes. That was not the question, though. With regard to the competition policy, the important issue is community benefit, Mr Speaker. It is quite all right to have legislation that may not be totally compliant with competition policy, as long as there is a demonstrated community benefit. That might be an issue that we spend a lot of time debating in the future.

Mr Speaker, I am very pleased that the Assembly will support this legislation. I am interested that Mr Whitecross has not read the legislation; otherwise, he would realise that it is not retrospective. The club that he has anything to do with would not be affected by it anyway. I am pleased that everyone will support this legislation. I think it will produce a significantly better system.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

**Sitting suspended from 12.41 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Cheese Packaging Plant

**MR WHITECROSS**: I have a question without notice for the Chief Minister. Chief Minister, I refer to your current attempt to have a cheese packaging factory relocated from Bega to the ACT. Are you aware that the Bega Chamber of Commerce and Industry are concerned that, should the "bribe" by the ACT Government result in the loss of this development from the Bega region, it will be the last straw for their economically beleaguered community? Chief Minister, how does this reconcile with the statement you made on ABC radio last week that there would be no jobs lost in Bega as a result of this deal? Are you aware that more than half of Bega's 5,000 residents have signed a petition pleading for the plant to be kept in their town? How do your actions in seeking to steal this plant from under the noses of our regional neighbours reconcile with your frequent protestations of support for the national capital region, or do you see the national capital region as just another media opportunity? Finally, Chief Minister, given the damage that your actions are causing to relations with other centres in our national capital region, will you now abandon your short-sighted and opportunistic attempt to poach Bega's plant for Canberra?

**MRS CARNELL**: That is just a tragic question, Mr Speaker. The Bega Cooperative approached the ACT Government, not the other way round. They approached us because they were looking at setting up a new packaging plant. This is not an existing packaging plant. There will be no jobs lost in Bega, Mr Speaker. This is a new packaging plant. In fact, at least some of the packaging of Bega cheese is currently done in Victoria, not in the Bega area at all. There is no doubt that, just as our Chamber of Commerce would like Bega to come to Canberra, their Chamber of Commerce would like the new factory to be in Bega. Is that a big surprise? In fact, if the Chamber of Commerce had come out with a statement saying, "We would love the new packaging plant to go to Canberra", I would have been very surprised. Similarly, I would be surprised if our Chamber of Commerce suggested that they would like the new packaging plant to go to Bega.

Mr Speaker, we all compete to get new jobs to our own areas. We were very pleased when the Bega Cooperative came to Canberra, came to us, not the other way round, and asked us what we could do for them in the setting-up of the new factory. The sorts of things that we put to them were the business incentive approaches that we have been putting to lots of companies. There were no bribes; no bribes at all. We negotiated a position between the Bega Cooperative and the ACT Government - one that includes, as I understand it, some payroll tax exemptions, some land and, I think, a small amount of relocation or location money. This is not an existing plant, Mr Speaker, but poor old Mr Whitecross does not understand that. It is not a question of moving a plant that actually exists. It is a brand-new plant. The reason why Bega were keen to come to Canberra was that there were problems at that stage, and still are, with the building of this plant on the site adjacent to the current Bega factory. It is on a flood plain and the Bega Cooperative believe it would cost them an extra $2m to build it there. I understand that members of the Bega Cooperative are currently seeing the New South Wales Government. I am sure that the New South Wales Government will suggest some alternative approach, but far be it from me to make that point.

Mr Speaker, the bottom line here is that they believe they can build this plant in Canberra for $2m less than they can build it for on the site in Bega. The benefit to Canberra is not only a state-of-the-art packaging plant with over 100 jobs. They are also looking at having a viewing platform in the factory and cheese tastings to encourage tourists to know more about Bega cheese and the Bega area. I understand that we are looking at an approach which would include Canberra and district wines in that tourist facility. The ACT gets 1.7 million tourists a year, significantly more than the Bega area does. The Bega Cooperative believes that by giving tourists an opportunity to see the Bega product in a tourist-type facility at the plant they will encourage more tourists to go to Bega. That sort of facility would not achieve the same thing at Bega.

**Mr Whitecross**: The Bega Chamber of Commerce does not seem to think so.

**Mr Humphries**: What a surprise!

**MRS CARNELL**: What a surprise, Mr Speaker! Mr Speaker, they approached us. I think they have a very good proposition. Whenever a company interested in setting up in the ACT and creating more than 100 jobs in Canberra wants to come and talk to my Government, we will talk to them, Mr Speaker. The bottom line is that it means more jobs.

**MR WHITECROSS**: I have a supplementary question, Mr Speaker. Chief Minister, is it the case that, not content with driving the ACT economy into recession, you are now intent on taking down all of the other regional economies as well?

**MRS CARNELL**: Pathetic; absolutely pathetic! What would you expect, though, from somebody who earlier this week was out there campaigning to stop development of the Chisholm site going ahead? You could not possibly have another fast food outlet at Chisholm because it would affect the traders. Then who bought it, Mr Speaker? The traders.

**Mr Whitecross**: No, they did not. You have just misled parliament.

**MR SPEAKER**: The house will come to order. The Chief Minister is answering the supplementary question.

**MRS CARNELL**: Mr Speaker, I think Mr Whitecross just gained the Mr Business title from Mr Berry. Quite honestly, Mr Speaker, what a stupid, stupid comment.

With regard to the Bega Cooperative, they approached us. They are interested in setting up a state-of-the-art plant. They believe that this could be an important site for them on the basis that, hopefully, Canberra will be an international freight hub in this area - something that this side of the chamber is pushing hard for. That side of the chamber obviously is not interested in that at all, Mr Speaker. The Bega Cooperative believe that having access to airports and to tourists - plus an opportunity to deal with a government that is very keen to have their business here - is a good idea. If it does end up in a bidding war with New South Wales, I have no doubt that New South Wales will win. They are significantly bigger than us, Mr Speaker; but we have put a very good deal on the table.

## Regional Cooperation

**MR HIRD**: My question is to the Chief Minister and it relates to regional cooperation. We know the effort that the Chief Minister has put into - - -

**Mr Whitecross**: Into stealing things from the region.

**MR HIRD**: Be quiet, or I will skitch Ms Horodny onto you. She does not like battery hens, so you want to be quiet. I know the effort that the Chief Minister has put into regional development and the way regional development has come forward. Chief Minister, can you inform the parliament whether or not there has been any fallout from claims made by the Opposition yesterday - this came from Ms McRae - that poor people live in Queanbeyan and the rich in Canberra? What is the implication for the region, in particular the 17 mayors and shire presidents, let alone the State members?

**MR SPEAKER**: I will warn the next person who interjects.

**MRS CARNELL**: Mr Speaker, like many others in this place, I was dismayed yesterday - I am sure you were too, Mr Speaker - at Ms McRae's comments in this place. She ignored the facts and the comments were intemperate and highly insensitive.

Mr Speaker, I take pride in the fact that in the past two years we have worked extremely hard to position Canberra as part of a broader region. Indeed, through the regional leaders forum - an initiative of the Mayor of Goulburn, Margaret O'Neill, and me - we have created a new identity for the Australian capital region and a new era of regional cooperation. Through the forum, we are pursuing a regional approach, looking at such important things as environmental issues and economic development. The leaders have jointly signed letters on such things as international airports and the opportunity for an international freight hub out of Canberra. The region supports Canberra as a regional hub for transport. They support Canberra as a hub for international freight out of this region. Unfortunately, those opposite did not know that. Regional cooperation is not just a catchy phrase. It is vital to Canberra's future.

One of the great criticisms levelled at Canberra by the rest of Australia, as all of us here would know, is that somehow we have been cut off from the real world. Being part of the region is about establishing ourselves very much as part of Australia and of a very important region. In view of yesterday's efforts by Ms McRae, it is not hard to see why the rest of this country has an outdated view, Mr Speaker. You cannot blame the rest of Australia for thinking, "Dearie me, those Canberrans do not know anything", if they heard Ms McRae speak yesterday.

We have spent years - certainly, this side of the house has - breaking down artificial barriers between Canberra and the region and identifying Canberra as part of regional Australia. Yesterday, Ms McRae sought to rebuild the wall. It is no surprise that the reaction was one of outrage from citizens of Queanbeyan, particularly prominent citizens of Queanbeyan. Many of us would have heard the Mayor of Queanbeyan this morning on radio make some pretty interesting comments about Ms McRae's statements. The Mayor of Queanbeyan, just last week, was out here in the rat-race run to raise money for Barnardos. The Mayor of Queanbeyan and a team from the Queanbeyan City Council were here in Canberra taking part in a fund-raising operation - something that was very important. But what did he have to do this morning, Mr Speaker? He had to go on radio and defend Queanbeyan from the ill-advised attack that Ms McRae launched yesterday in this place. The member for Monaro, Peter Cochran, even saw fit today to put out a media release and he described Ms McRae as insolent and arrogant. He went on to say, "What a pompous, conceited person she is to make such an ill-informed statement about the residents of Queanbeyan". They are not my words; they are the words of the member for Monaro.

It might come as some surprise to those opposite; but, to use the words Ms McRae used yesterday, Canberra actually has poor people as well. And guess what? Queanbeyan actually has rich people too. I think it is absolutely a tragedy for Ms McRae or for this Assembly to perpetuate the old "struggle town" nonsense that I think Queanbeyan has done an enormous amount to get rid of over the last few years.

Certainly, this side of the house has done so too. I hope that Ms McRae has not done permanent damage to the efforts that we have made to generate a regional identity and to break down the artificial barriers that have existed in the past, and that obviously Ms McRae clings to. We will certainly be doing everything in our power to undo the damage that Ms McRae has done.

Mr Speaker, just last week we had the Opposition Leader, Mr Whitecross, calling for a regional industry strategy. Well, we see what he meant by that. The cat is out of the bag. Labor's view of a regional industry policy is to push all those poor people over the border and try to retain an oasis of wealth here in the ACT or here in Canberra. All I can say, Mr Speaker, is that it is chardonnay socialism at its worst.

## Tobacco Consumption

**MR BERRY**: Mr Speaker, my question is to the Chief Minister in her capacity as Minister for Health.

**Mr Humphries**: Mr Corbell was on his feet first, Mr Speaker.

**MR SPEAKER**: Mr Berry stood first earlier.

**MR BERRY**: Chief Minister, given the number of tobacco-related deaths in the ACT, many of which would have occurred in our own hospital system, the financial impact of smoking on the community as a result of those deaths, and, of course, as a result of the impact of illness on our hospital system - those people you will find in our coronary care unit as a result of heart attacks - - -

**Mrs Carnell**: At least we are going to have a coronary care unit.

**Mr Corbell**: Why do you not just listen to the question?

**MR BERRY**: Indeed. Consider the people in our rehabilitation unit, many of whom have lost limbs as a result of smokers disease, and the alarming number of young people, particularly women, who take up smoking each year. Chief Minister and Minister for Health, do you believe that reduced tobacco consumption would assist in reducing pain, suffering and early death in the ACT and, as a consequence, the high impact of illness on our hospital system?

**MRS CARNELL**: Mr Speaker, I think this Assembly - certainly, those on this side of the house - is very proud that our legislation on smoke-free areas is leading the rest of Australia. We have been very proud to be part of that sort of legislation.

**Mr Berry**: Labor's legislation botched up by you, you mean.

**MRS CARNELL**: Mr Speaker, Mr Berry says, "Labor's legislation botched up". The last time I looked, the amendments to Mr Berry's legislation were recommended by an Assembly committee that I was not on but that I think Mr Moore was very much part of. So, Mr Berry, you had better be careful of what you are saying if you believe in the committee system in this place. Mr Speaker, we will be doing everything in our power to reduce smoking in our community. Far be it from me to pre-empt debate later today, Mr Speaker, but what we will do is make sure that legislation that we have in place is enforceable and brings the community with us. I would like to quote from what was said by a member of the Assembly on 20 September 1994.

**Mr Berry**: What was his name?

**MRS CARNELL**: Mr Berry. His name is Berry.

**Mr Humphries**: Is it Wayne Berry?

**MRS CARNELL**: I think it is, yes. I think it is W. Berry, Mr Speaker.

**Mr Berry**: Read all of it then, not part of it.

**MRS CARNELL**: Yes, I am going to read all of it. He said this:

> What we had to understand at the same time was that, in our culture, we had a couple of hundred years of tobacco consumption behind us, particularly in licensed premises ...
>
> It also ought to be a gradual process because of the long-term impact of tobacco consumption in places like pubs and clubs. It is something that has to be worked out gradually with the industry.

Mr Speaker, need I say more?

**MR BERRY**: I ask a supplementary question. Chief Minister, how do you sleep at night, when you are planning to proactively encourage tobacco consumption which will promote ill health, pain, suffering and early death?

**MR SPEAKER**: First of all, Chief Minister, how you sleep at night is of no importance to anybody. It is an expression of opinion. I do not know what you should do with the rest of the supplementary question, frankly.

**MRS CARNELL**: Mr Speaker, I sleep very well at night and I can guarantee that I have never promoted tobacco consumption.

**Children with Disabilities - Funding**

**MS TUCKER**: My question is for Mr Stefaniak. Mr Stefaniak, in the recent budget, $50,000 of new money was announced for vacation and after-school care for children with a disability over 12 years - a move that was welcomed by the community concerned, who have suffered extreme hardship and anxiety because of the lack of services available to them over the years. However, in correspondence to me and in the response to the Social Policy Committee's report on the inquiry into the Commonwealth-State Disability Agreement it was stated that funding for the existing program, the employer assistance program, was in doubt, depending on the availability of funding. Can the Minister confirm for the Assembly that these existing services are at risk?

**MR STEFANIAK**: I think that program is run by my colleague, the Minister for Health. I will transfer the question to her, Ms Tucker. She can supply you with an answer to that question.

**Mrs Carnell**: Would you ask it again, Ms Tucker.

**MS TUCKER**: I am asking about the existing programs for children over 12 years with a disability for vacation and after-school care. I have written to Minister Stefaniak and he has never referred me to you before, so I am not sure why it is your area. The Minister, Mr Stefaniak - - -

**Mrs Carnell**: Now I cannot hear you.

**MR SPEAKER**: Order! The Chief Minister wants to hear the question.

**MS TUCKER**: The Minister has told me that there is an evaluation going on, which I accept, but also that the funding is not definitely there, even if the evaluation is positive. I am assuming it will be, because of the feedback everyone has been getting on that issue. In the response to the Social Policy Committee when we looked into the Commonwealth-State Disability Agreement it was also stated that whether these programs would be continually funded was dependent on the availability of funding. Is it true that only existing programs are at risk now?

**MRS CARNELL**: Mr Speaker, I can only answer questions on my own budget, on the budget that we brought down in the area of disability. Certainly, that budget has increased, and increased quite significantly, this year, last year and the year before. In this budget we have made available $50,000. I can guarantee that the $50,000 is available for holiday programs for children with disabilities. The $50,000 included in the budget will help for holiday programs for children with disabilities as well - another issue that I have been lobbied hard on. Programs already are run in Belconnen and Tuggeranong, Mr Speaker, and there is no indication that those programs are under any threat. Although listed as an additional new initiative, funding is from internal parts of the department. As a result of the lobbying that I got, we managed to find money so that we could make holiday programs and after-school care available for children with disabilities who are over the age of 12.

I cannot answer questions on what might be Commonwealth money, but I was very pleased to see in the Commonwealth budget yesterday an actual increase in the amount of money for disabilities. Of course, we do not have all of the details of what that means; but there was an actual increase, which was good news.

**MS TUCKER**: I have a supplementary question, Mr Speaker. I was informed by the Chief Minister in a letter recently that it was Minister Stefaniak's area. I think my question must be: Who is taking responsibility for this issue?

**MR STEFANIAK**: I do not know whether it is what you refer to, Ms Tucker, but there is some program which a constituent wrote to me about which is up for review and would recommence on 1 July. It is being reconsidered and I think that - - -

**Ms Tucker**: That is what I am talking about.

**MR STEFANIAK**: That is being evaluated. I have not received any recommendations yet as a result of that evaluation of that particular program.

**Ms Tucker**: So my question still stands.

**MR STEFANIAK**: If that is what you are after, we might be talking about the same thing. I recently asked the department, I think yesterday, in relation to that particular program, to get back to me as soon as possible, so I could respond to that constituent who has a little boy who would receive considerable assistance, as would the family, as a result of that program. If that is what you are referring to, Ms Tucker - - -

**Ms Tucker**: It is.

**MR STEFANIAK**: I am chasing up the department on that. As well as getting back to my constituent, I will get back to you, so you can get back to your constituent.

## Cheese Packaging Plant

**MR CORBELL**: Mr Speaker, my question without notice is to the Chief Minister. Chief Minister, I refer to your recent attempt to have the Bega cheese packaging plant located in the ACT. Chief Minister, as you are aware, the directors of the Bega Cooperative are planning to approach the New South Wales Government to see whether they are willing to counter your offer of land and tax incentives in order to keep the plant or to have the plant in Bega. Are you also aware of reports that the ACT offer for the Bega plant is now $6m, not $5m, as reported last week? Last week, on ABC radio, you said you would not get into a bidding war over the Bega plant. Is it not the reality that your attempt to poach a major employer from a regional centre has landed you in a bidding war with New South Wales - a point you have already confirmed by the fact that they approached you?

**MRS CARNELL**: It is a pity that those opposite cannot change their questions during question time after you already answer one. I am very pleased that Mr Corbell listens to me, but obviously he does not listen very hard. I made it clear on radio last week that $5m was a ridiculous figure; that the offer that had been made was payroll tax concessions, some land and a very small amount of money. I made the point on radio that we were talking about something in the area of $100,000, not $5m. I can also guarantee that the offer to Bega cheese has not been increased over the last week. I am fascinated that it tends to be being rolled up by some people, but the offer has not been increased. I stand by the view that we will not be involved in a bidding war with New South Wales.

**Mr Whitecross**: But you are.

**Mr Corbell**: Are you not already?

**MRS CARNELL**: No, we are not involved in a bidding war with New South Wales. We have put a good offer on the table. I made it very clear that Bega have agreed that it is a good offer. Obviously, they are going to talk to New South Wales to see what they will be offered from New South Wales. As I said in the answer to Mr Whitecross's questions, if New South Wales really want to outbid the ACT they can do so. They are lots bigger than us. We put an offer on the table. We will be sticking to that.

I am still fascinated that those opposite will attempt to undermine 100 jobs for Canberra - 100 jobs in an area that desperately needs them. The other day we heard Mr Corbell say in this place about Bega cheese that this was not the sort of business - - -

**Mr Corbell**: Why do you not stop competing with the region and build on industries we already have?

**Mr Humphries**: We cannot hear what the Chief Minister is saying.

**MR SPEAKER**: Order!

**MRS CARNELL**: Mr Speaker, last week, or maybe it was earlier this week, we heard Mr Corbell say that this was not the sort of business that we should be out negotiating on.

**Mr Corbell**: Is it not about building business that is already in Canberra?

**MR SPEAKER**: Order! The backbench may have overlooked or not heard what I said. I will name - - -

**Mr Wood**: From which side?

**MR SPEAKER**: I will warn the next person who interjects.

**Mr Wood**: From which side? Both sides?

**MR SPEAKER**: Yes, I am reminding everybody.

**MRS CARNELL**: Mr Speaker, Mr Corbell said that he did not think this was the sort of business that the ACT Government should be involved in with regard to business incentives because it did not fit our niche market, which he thought was IT, R and D, and that sort of high-tech stuff. Mr Corbell might not have realised that not everybody can work in those sorts of areas. Not everybody has the skills or the educational background, or even the desire, Mr Speaker. When we look for a balanced business base for Canberra we are looking for exactly that - a balanced base that will give people an opportunity to work in the industries that they have the talent for and that they are interested in. That is not always IT. It is such things as cheese packaging plants, possibly. It might be lots of other different ones.

**Mr Humphries**: We can get the poor from Queanbeyan to come over.

**MRS CARNELL**: Oh, no. We will not do that.

**MR SPEAKER**: Order!

**Mr Wood**: He interjected.

**MR SPEAKER**: He spoke to the Chief Minister.

**Mr Wood**: So?

**MRS CARNELL**: He was talking to me. It was all right. Mr Speaker, in this particular scenario, the ACT will not be getting into a bidding war. We have put a very good deal on the table, and I come back to the comment I made before. I cannot understand why those opposite are trying to undermine a project involving 100 jobs and a $20m investment.

**MR CORBELL**: Mr Speaker, I have a supplementary question. Chief Minister, will your offer to the Bega cheese company be your final offer if you are not in a bidding war? Will you inform the Assembly of the total cost of the package you are offering to have the cheese packaging plant located in Canberra, including payroll tax exemptions, relocation fees, land grants, cash payments and reduction in rates payments? If you will not, why not?

**MRS CARNELL**: Mr Speaker, I am not willing to negotiate on the floor of the Assembly. The whole basis of negotiation is to be able to negotiate on the floor of - - -

**Mr Whitecross**: It sounds like a bidding war again.

**MRS CARNELL**: No, we are negotiating with the Bega Cooperative, Mr Speaker. I will not negotiate on the floor of the Assembly for any of our ACTBIS approaches, and I have to say - - -

**Mr Whitecross**: We are back to negotiations.

**MR SPEAKER**: I warn Mr Whitecross.

**MRS CARNELL**: I have to say that what would happen if I did - - -

**Mr Wood**: He was not the first to interject.

**MR SPEAKER**: I warn Mr Wood.

**MRS CARNELL**: Mr Speaker, if we did go down that path, if every time there was an ACTBIS proposal between the ACT Government and a company that had not been signed, that had not been accepted, we ended up with the details on the floor of the Assembly, it would make it absolutely impossible for the ACT Government to negotiate in the future. I think those opposite are trying to undermine our approach to get jobs to Canberra, our approach to try to get new businesses here. I think that is a tragedy, and I think the people of Canberra should know that. I think the people of Canberra should know that they will do anything - - -

**Mr Corbell**: I raise a point of order, Mr Speaker. I asked the Chief Minister whether this will be her final offer, and she has not answered the question.

**MR SPEAKER**: There is no point of order.

**MRS CARNELL**: Mr Speaker, and nor will I, because I will not make our negotiating position public at this stage. All that would do is ensure that our capacity to make this deal work for Canberra was undermined. That certainly will not be happening. Mr Speaker, this is $20m. This is over 100 jobs. This is important for Canberra. Those opposite seem to think it is just a cheap political stunt, or they are trying to pull one.

**Mr Corbell**: No; we want an open process, Chief Minister.

**MR SPEAKER**: Order!

**MRS CARNELL**: They are trying to pull a cheap political stunt. I have to say, Mr Speaker, that if we do not get Bega cheese it will not be because of New South Wales; it will be because of those opposite.

## Rural Housing

**MRS LITTLEWOOD**: Mr Speaker, I want to ask a question. I am slightly confused. I thought I was in the ACT Legislative Assembly. I would like to ask a question of the member for Bega actually, Mr Whitecross, as to what he would do with the unemployed in Tuggeranong. I looked at the notice paper and I saw that in fact I am in the ACT, so I have a question for the Minister for Housing. I recently read an article in the *Canberra Times* on village housing planned for Uriarra. Can the Minister for Housing advise the Assembly what plans he has for rural housing in the ACT and how that will benefit the ACT Housing tenants?

**MR STEFANIAK**: I thank Mrs Littlewood for the question. Ms Reilly laughs. Well, you should, Ms Reilly, I suppose. I do not know that you have had a terribly good role in this. There was a quite good article in both the *Canberra Times* and the *Chronicle*. Mr Speaker, my department has briefed Ms Reilly extensively on the issue of rural housing in the ACT; but, on reading her statements in her latest release on 11 May this year, either she has not understood the issues or she chooses to be quite mischievous and run another scare campaign such as she did with the issue of people with disabilities in the Weston Creek area.

Let us get a few facts clear, Mr Speaker. Firstly, ACT Housing does not have leases on the land, but it does manage the houses. Secondly, the properties do require considerable maintenance, as many of them are very old and are of timber or cement sheeting. Thirdly, essential infrastructure requires major expenditure, such as the provision of water and sewerage services, roads and maintenance of the surrounding areas. There is also a low client demand - something that Ms Reilly might be interested in - for these properties due to their isolated location, the consequent lack of community services and the condition of the houses.

Let us also be clear, Mr Speaker, that we are not talking of minor funds here. There is probably around half a million dollars at issue here, and that is not a small amount when you take into consideration the very small size of this community. ACT Housing has only three families on the waiting list for rural properties and it is reluctant to put welfare clients in these situations because of higher personal costs and lack of access to services associated with living in rural housing. Maintenance of houses is funded internally by ACT Housing - I hope Ms Reilly realises that - and these rural houses are expensive to maintain. I really wonder, Ms Reilly, whether you expect the majority of public housing tenants who rely on welfare payments for income to fund the lifestyle choice of a minority.

However, Mr Speaker, as is indicated in the articles, ACT Housing does recognise the desire of tenants in rural areas to maintain their rural lifestyle and social connections and, therefore, we will make every effort to assist where possible. It is not our intention to move them out if a financially viable solution to the property and infrastructure issues can be found. That is something that I and other areas of government, such as Mr Humphries's area and Mr Kaine's area, are looking at. That is something we are considering. The consultation process - there have been a couple of meetings, I understand, so far - has gone very well.

**Mr Kaine**: Offer one of them to Ms Reilly. She might like to go and live there.

**MR STEFANIAK**: You never know, Mr Kaine; she might. This whole process is about core business for ACT Housing. ACT Housing is not in the rural housing or rural lifestyle business. I think we need to make that clear. It is only because ACT Housing feels an obligation to assist those tenants to find a workable financial and lifestyle decision that it continues to involve itself and work at identifying solutions, rather than just standing back and throwing uninformed rocks, as Ms Reilly seems to be doing on this issue and a number of other issues.

Out of this process, Mr Speaker - and a detailed process it is, and one that is going very well to date - I am very confident that realistic options can be put to tenants, and perhaps others who have the lifestyle option of living in the area. Our proposals would need community backing, Mr Speaker. A lot of work needs to be done, and a lot of work will be done. I think ACT Housing is doing a very good job in relation to this, and Ms Reilly, who has had extensive briefings on the matter, I think, should appreciate that.

## Noise Control Laws

**MR MOORE**: Mr Speaker, my question is to Mr Humphries as Minister for the Environment. Mr Humphries, your colleague Mr Stefaniak, the Minister for Sport, announced yesterday that the Government has decided to bring ACT's noise control laws into line with those of New South Wales, in one respect at least. Is it correct to say that you, as Minister for the Environment, will bring about a reduction in the overall protection from noise limit from five decibels above background to 10 decibels above background? Will this environmental vandalism be achieved through legislation or subordinate legislation, or some other method?

**MR HUMPHRIES**: Mr Speaker, to answer the last part of that question first, the Assembly now has before it the environment protection package. The Government, as always, will put things before the Assembly in a forthright and fair manner, for members to comment on. It will be possible for members to consider that legislation when it is put to the Assembly.

We realise that there is a trade-off here between issues concerning the environment and issues concerning the activity of an important sport in the ACT. Nice as it would be to be able to reflect a five-decibel limit in that part of the ACT where motor sport is taking place, we have to acknowledge also that in doing so we would be effectively saying that motor sport in the ACT can disappear. There is a choice between having motor sport in the ACT, and it has to be at Fairbairn Park, or maintaining the noise levels as they stand at the moment. The Government has decided that a different regime should be put in place in order to ensure that an important sporting activity remains a part of the ACT sports scene.

I also point out that the noise level being applied in the case of Fairbairn Park is the same noise level that would be applied if Fairbairn Park were in New South Wales. The noise limit for motor sport activities is 10 decibels above background noise for established parks.

**Mr Moore**: What about the new racetracks in New South Wales? What about his new racetrack?

**Mr Stefaniak**: It is not a new racetrack, Michael. They have been there for 20 years.

**MR SPEAKER**: Order!

**MR HUMPHRIES**: For new racetracks, yes, Mr Speaker, there is a lower noise limit. This is not a new racetrack. It has been there for more than 20 years. Therefore, I would argue that it should be treated as a racetrack as if it were in New South Wales.

**Mr Moore**: What about any new tracks within the complex?

**MR SPEAKER**: Mr Moore, you will be able to ask a supplementary question.

**MR MOORE**: Thank you for the invitation, Mr Speaker. I will ask a supplementary question. I know that will take you by surprise, Mr Speaker, but I will this time.

**MR SPEAKER**: And it saves you interjecting, does it not, and getting yourself warned?

**MR MOORE**: Indeed, Mr Speaker. Interjecting is a very risky business at the moment, is it not? This very matter, Mr Humphries, was the subject of a report by the Commissioner for the Environment more than a year ago. If my memory serves me, it was around two years ago. Why have you ignored the recommendations of the Commissioner for the Environment? In fact, why have you not tabled a response to his report?

**MR HUMPHRIES**: Mr Speaker, Mr Moore should know that the response to the report is on the program for today. He is going to see it in about half an hour.

**Mr Moore**: Ah, lucky!

**MR HUMPHRIES**: You would know that if you had studied the program for today. Obviously, you have been too busy doing other things. Mr Speaker, as I have indicated already, a choice had to be made between the maintenance of motor sport and the acceptance of the commissioner's recommendations. The Government has decided to accept that motor sport in the ACT is an important sport and should be allowed to continue to provide recreation to many people in the ACT and, no doubt, also provide a source of recreation for others in the region who come here to enjoy this sport.

**Mr Moore**: Mr Speaker, under standing order 46, I would like to make a very brief statement. The daily program today, Mr Speaker, simply says, "Papers and Subordinate Legislation - Mr Humphries (Minister for the Environment, Land and Planning and Manager of Government Business)". It does not say what is going to be tabled.

**Mr Humphries**: It is the draft program I am referring to; the one you saw.

**MR SPEAKER**: Thank you. Point taken.

## ACTTAB - Kaleen Agency

**MS McRAE**: Mr Speaker, my question is to Mr Kaine in his capacity as Minister for Urban Services. Minister, can you explain why ACTTAB has chosen not to renew its agreement with the Kaleen agency?

**MR KAINE**: I do not know in particular why the Kaleen agency is being closed, but ACTTAB is constantly reviewing its activities and providing its services in places which it judges as being best for the service it provides. If it has decided to close Kaleen - I take it from the question that Ms McRae believes it has - I can only assume that it is for an operational reason. ACTTAB is a government-owned corporation which operates under its own board. It does not seek directives from me, nor should it. Unless there were very good reasons, I would not seek to intrude into any operational decision that it makes. I am not aware of the circumstances, but I will take that part of the question on notice and find out for Ms McRae what the reasons were for its closure.

**MS McRAE**: Thank you. Mr Speaker, perhaps I inadvertently misled the Minister. I believe it is an agreement with a particular agent at Kaleen. I am not sure that the agency is actually closing. The representation put to me is that there is a level of personal difference going on; so, Minister, I would appreciate an explanation of that. I understand from your general reply that you do not actually interfere in it. That is what I needed to know. Beyond that, if you could give me an explanation in private, that would be very good.

**MR KAINE**: Mr Speaker, I am happy to ascertain the circumstances and provide them.

## Motor Sports

**MS HORODNY**: My question is directed to Mr Stefaniak in his capacity as Minister for Sport and Recreation. I refer to the media release, Mr Stefaniak, which you issued yesterday and in which you announced that Fairbairn Park has been designated as the permanent home for motor sports in the ACT. I assume you are referring to the fact that the Fairbairn Park Control Council, the organisation which manages the site, currently has only a short-term lease on that site and that it has been renewed on a quarterly basis for a number of years. Minister, can you explain to me the legal basis on which you have made this decision to allow motor racing to be sited permanently on this location, when the Motor Sports Council has not yet even completed a preliminary assessment of its application for a 20-year extension of the lease over block 306 Majura and sought public comment on this assessment, which it is required to do under the Land Act? Are you suggesting that the processes under the Land Act are a mere formality for the Government?

**MR SPEAKER**: Mr Stefaniak, you are aware, of course, that you cannot give a legal opinion.

**MR STEFANIAK**: Yes, thank you, Mr Speaker. No, the Government believes in process, Ms Horodny, and that is exactly what is happening here. I am aware that the Motor Sports Council, the people involved at Fairbairn Park, are working with my colleague Mr Humphries's land and planning people in relation to the preliminary assessment. Obviously, that will be produced and the relevant process will flow from that. You are correct, Ms Horodny; I understand that they are seeking a 20-year lease.

You might be unaware, or maybe you are aware, that it started in the dying days of the Follett Government. A detailed assessment was made of a likely future motor sports site throughout the ACT and about five sites were looked at. All but one were rejected for environmental and/or cost reasons. The other one, somewhere around Majura, could be suitable for motor sport on environmental grounds but would involve significant costs, running, I am advised, into well over $10m. That certainly is not feasible for government or for the motor sport community.

Motor sports in Canberra have used Fairbairn Park, as my colleague Mr Humphries said earlier, for over 20 years. They have been operating on short-term leases. Again you are quite right. If my memory serves me correctly, they were basically quarterly leases. This Government has decided, after exhaustive investigations - some three environmental reports by various people, including renowned sound expert Louis Challis, over the years, and also this exhaustive survey of alternative sites conducted by the Bureau of Sport, Recreation and Racing since late 1994 - that the most desirable, sensible and cost-effective permanent home is at Fairbairn Park.

You are well aware, probably from my statements, statements by Mr Humphries and also statements by the Chief Minister, that we have a great window of opportunity here now not only to ensure a permanent home for motor sport but also to use, after all the recyclables have been taken out, the spoil from Royal Canberra Hospital and the dirt from Bruce Stadium to construct noise abatement measures and beautification of the area.

**Ms Horodny**: I take a point of order, Mr Speaker. My question is this: How can you make this announcement about creating a permanent site there when the preliminary assessment has not been done? Could you please answer that question?

**MR STEFANIAK**: I do not think that is a point of order. The Government can indicate what its policy is and what its desire is, Mr Speaker. The Government has always maintained that due process would follow here. Do you want motor sport to disappear, Ms Horodny? Maybe you do.

The Government announced three matters in that press release of mine yesterday. The first was a long-awaited permanent home for motor sports. It is not as if they have not been there, Ms Horodny. They have been there for over 20 years. We are just trying to give them a proper legal basis. Secondly, we announced improvements to the area which will benefit the surrounding residents of Oaks Estate and of New South Wales. Thirdly, the same noise level that applies in New South Wales will apply at Fairbairn Park, and that is 10 decibels above background noise. I think, all in all, it is a very good three-point package which will benefit Canberra and the region, and give many citizens in Canberra, especially a lot of young citizens in Canberra and the region, including a lot of people from Queanbeyan too, I understand, security of usage of a very important sporting and recreational facility.

**MS HORODNY**: I have a supplementary question. So it seems the whole consultation process is a sham yet again, Mr Stefaniak.

**MR SPEAKER**: That is a preamble.

**MS HORODNY**: Does the granting of a permanent home for this activity include block 515, the block next-door on the corner of Pialligo Avenue? Could you please table the information about that?

**MR STEFANIAK**: I have no idea what block 515 is, Mr Speaker. I do not have a map in front of me. I would have to get back to Ms Horodny on that one. I will take that on notice. I am unaware of the boundaries of the particular blocks mentioned.

## Ambulance Service

**MR WOOD**: Mr Speaker, my question is to Mr Humphries. I refer to an occasion when an ambulance went to the wrong address when called to an emergency in Kaleen. The coroner's inquest on the matter has just concluded, I understand, with a recommendation that protocols be revised to prevent a recurrence. Minister, can you assure the ACT community that you have not waited the 10 months since, but acted immediately at the time to change procedures so that such an event did not and could not happen again?

**MR HUMPHRIES**: Mr Speaker, I thank Mr Wood for that question. It is a very timely question. I can assure him that I have not waited for the coroner's report to act on a number of issues which clearly this incident gave rise to. Immediately after the incident and after I had spoken to officers in Emergency Services and members of the family that was affected by this tragic incident, I instituted a number of changes to procedures. The changes that have been effected include better ascertainment of the address to which an ambulance is sent. It is now procedure that this information, when supplied to the ambulance crew in the station, should be ascertained in some way, I think by reading back to the communications centre the name as understood by the ambulance crew. There is some issue that comes out of the coroner's report as to how that might be better refined, but I think that is a matter that has been addressed already to some extent.

Another is the question of the practice of reclining in stations. It is now the case that reclining in the communications centre has been discontinued. Reclining is the euphemism for sleeping. The issue of reclining in the ambulance stations from which ambulances are dispatched is an issue which will have some industrial relations implications, and not just perhaps for the Ambulance Service.

**Mr Berry**: I think the coroner was wrong.

**MR HUMPHRIES**: I could not hear you, Mr Berry. I would be very interested in what you have to say about that.

**Ms McRae**: He is not allowed to interject. He will be thrown out.

**MR SPEAKER**: Order! And do not provoke it, Minister.

**MR HUMPHRIES**: Yes. I wish on this occasion he could.

**Ms McRae**: He asked - - -

**MR SPEAKER**: I know.

**MR HUMPHRIES**: Mr Speaker, it does have serious implications, but I think the coroner has placed squarely on the table the question of reclining, and I intend to pursue it with the industrial organisations concerned. I cannot indicate to the Assembly what the outcome of those discussions will be, because it is the Government's preferred approach that it discuss such issues with industrial implications with the industrial organisations affected. The issue has been placed very squarely before the ACT community and it is my determination, as Minister responsible for Emergency Services, that we prevent these circumstances from arising again, and that necessitates addressing all of the issues that the coroner has placed before the community.

**MR WOOD**: Mr Speaker, I thank Mr Humphries for his response. Does that mean, Minister, that you are now satisfied that all calls can be responded to speedily, especially in the terms set out in the performance criteria?

**MR HUMPHRIES**: I am not quite sure that the supplementary question follows the first question. You did not mention the procedures in the first part of the question. I will have to take that on notice. In this particular case, to the best of my knowledge it is not a question of the procedures having been violated. I do not believe the procedures in this case were necessarily violated. There is, for example, as far as I am aware, or there has been up to date, no procedure that banned reclining. It was and is a common practice for those working on night shifts, not only in the Ambulance Service but also in the Fire Service.

**Mr Berry**: Across Australia.

**MR HUMPHRIES**: And across Australia, says Mr Berry, and that may well be the case. That is one of the issues to be examined.

In terms of response times, the place where this incident occurred was in the southern part of Kaleen. There is an ambulance station at Belconnen. In theory, a response well within the eight minutes which we specify as our target was certainly eminently possible in this case; but, for the reasons the coroner identified yesterday, it did not occur within that time. I believe it is important that we address the reasons why it did not occur. If procedures need to be tightened to achieve that, then that will occur. I am not sure that there is any issue about the present state of procedures. I think, with great respect to Mr Wood, the issue is not so much what present procedures say; it is what procedures ought to say.

**Rental Assistance**

**MS REILLY**: My question is to the Minister in his capacity as Minister for - - -

**Mr Humphries**: Which one?

**MS REILLY**: I am sorry; my question is to Mr Stefaniak in his capacity as Minister for Housing.

**MR STEFANIAK**: Hello there. Yes, Housing. All right.

**MS REILLY**: You have trouble remembering who I am as well. It is in his capacity as Minister for Housing, not his capacity as Minister for developing private rural enclaves. Minister, in his budget speech the Federal Treasurer, Mr Costello, announced that one of the savings measures would be the removal of payment of rent assistance to those sharing with public housing tenants. In Budget Paper No. 2, at page 133, it states that the introduction of this measure will require the cooperation of the State and Territory governments. Will you, Minister, be taking part in this mean-spirited measure which is targeted at those in the community on the lowest incomes; a measure which will force families apart and cause hardship to older people in our community, as their children will be forced to leave home and stop providing support, and force those with disabilities to live without support?

**MR STEFANIAK**: Mr Speaker, I will see whether I have something on this. No, I have not. If this is what I suspect it is, Mr Speaker, what the Commonwealth is concerned about is effectively double-dipping. People in public housing are entitled to be paying the normal rebated rent in the ACT. That is always less than 25 per cent of their income. If they have other people living there who also have an income, they pay 10 per cent of that particular income up to the market rent. The market rent is ultimately the most you can pay. Say you have a mother who is on some form of pension. She might pay 24 per cent of her actual income, that being her assessed rent for the premises. Let us say she has an 18-year-old son on unemployment relief of $160, or whatever, a week. He would be expected to pay 10 per cent of that - $16 a week - and that is the case for any income over $100 a week.

I understand from that part of the Federal budget that the Federal Government was giving some rent assistance to some people who could be accused effectively of being in a double-dipping type of situation. I understand that that is what they are trying to get around there. If that is what you are asking me, if that is the case, we would be very keen to see Federal dollars used as effectively as possible for the maximum benefit of Housing Trust tenants. If they are attempting to get around a double-dipping situation, that is not unreasonable.

**MS REILLY**: I would suggest to the Minister that he look at the papers again. He does talk about it as a savings measure.

**MR SPEAKER**: Is this a supplementary question?

**MS REILLY**: I am just trying to help the Minister in - - -

**MR SPEAKER**: The Minister does not need any help.

**MS REILLY**: It is page 133, Minister. You indicated in your answer that you think this seems to be a good idea. What action will you be taking in the ACT to counter the problems which this miserly action by the Federal Treasurer will create? It is likely that this will cause waiting lists to blow out even further and create more need for already stretched home support services.

**MR STEFANIAK**: Ms Reilly, naturally, yes, following the Federal Government budget, we will be looking very closely at any possible ramifications for the ACT; but, if the Federal Government's intention is as I suspect, I would not necessarily expect any real change to our situation. I hark back to the example I gave you. If, for example, a person in that situation got topped up by Federal rent assistance, and the Federal Government is trying now to redirect that money to people who need it more in the housing area, then I would not necessarily see any disadvantage to that person in terms of housing. If there is any disadvantage as a result of the Federal measures you are talking about which concern ACT Housing, we would naturally be looking at that, just as we would address any aspects of the Federal budget, be they positive ones in terms of where we can utilise some more money, or be they negative ones, such as less money being available in certain areas. We would assess the impact on us and consider what steps we could take to address the situation, bearing in mind that our duty is always to do the best we can for our tenants, which is something that ACT Housing has traditionally done very well. It continues to do so.

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

## Transport Reform Advisory Group

**MR KAINE**: Mr Speaker, I would like to provide an answer to a question asked earlier in the week by Ms Horodny. She is not here to hear it, but I guess she can read it in the *Hansard*. Her question had to do with why environmental groups such as the Conservation Council are not included in the membership of the Transport Reform Advisory Group when there was such membership on an earlier committee. Secondly, she asked why on this new group there are not any representatives of groups of public users, such as youth and the ageing.

The Transport Reform Advisory Group was convened only in April - last month - to provide advice and to make recommendations to government for improving the operational efficiency and effectiveness of public passenger transport services. The group is designed to deal with operational transport issues such as the introduction of accreditation for public passenger services and the accessibility of such transport services to the community, and the membership of the group reflects that charter. The group can, of course, invite other interested parties to meetings to present viewpoints on issues, as appropriate. For example, while there are community representatives there, they may not necessarily be directly representing the interests of the ageing, but the group can invite the representatives of the ageing if they believe that it is warranted.

In regard to the environmental representatives on the earlier committee to which Ms Horodny referred, I understand that she was probably referring to the old Transport Reform Advisory Committee. That committee dealt with strategic planning issues relating to passenger transport. It completed its report to the Government and has been disbanded. There is no relationship between what that group did and what the new group is convened to do. In connection with youth and the ageing, to whom Ms Horodny referred, the Transport Reform Advisory Group does include representatives from both the community and persons with disabilities because we believe that they will have something to say about the kinds of services that are provided. As I have already indicated, the group is able to invite representatives from other special interest groups.

Finally, Mr Speaker, the Government announced in the budget the development of an integrated land transport strategy. All stakeholders will be involved in the process, and initial discussions have already been arranged for this Saturday with the sustainable transport group of the Conservation Council. This is, I believe, a more appropriate body for input from the Conservation Council on the kinds of issues they would want to discuss than is the advisory group, which essentially exists for and focuses on operational issues.

## Motor Sports

**MR STEFANIAK**: Mr Speaker, Ms Horodny asked me a question in relation to block 515, which is on the corner of Sutton Road and Pialligo Avenue. That is currently used by an ACT resident to run horses on a week-by-week agistment basis. I understand that the Fairbairn Park Control Council may have to make application - using due process, of course - to lease that parcel in relation to proposed works that might be undertaken at the whole complex for beautification and noise abatement.

## PERSONAL EXPLANATIONS

**MS McRAE**: Mr Speaker, I wish to make a personal explanation under standing order 46.

**MR SPEAKER**: Proceed.

**MS McRAE**: During the course of question time I was misrepresented by the Chief Minister, who continued the misrepresentation that was perpetrated in the *Canberra Times*, in particular in the headline to the article, which did accurately quote what I said as recorded in *Hansard*, and I refer people back to *Hansard*. In *Hansard* it will be seen that at no point did I talk about the wealth of Canberra. The context of my debate was to talk about the effect of the regulation of shopping hours on the poor in Canberra and on the poor who happen to live in Queanbeyan, and I wanted to point out that it had a bad effect on the people of Canberra as well as on people who choose to live in Queanbeyan because it is a cheaper place in which to live, who are poor, who have to travel to Canberra, and who were further disadvantaged by the regulation of shopping hours.

If Mrs Carnell wishes to perpetuate the misrepresentation in the headline, it is her choice, not mine. There is no direct quote from me about wealth, either in the paper or in the *Hansard*.

**Mr Humphries**: It is pretty clear, though.

**MS McRAE**: You may make whatever inferences you choose, Mr Humphries. This is my personal explanation. I at no point juxtaposed wealth against poverty. I spoke about poor people.

**Mr Humphries**: You said poor people live in Queanbeyan. You did say that.

**MS McRAE**: Poor people live in Queanbeyan, and I will say it again, thank you, Mr Humphries. That is not the point. The point is, and I will explain, that I am being misrepresented. I was talking about the effect of the regulation of shopping hours and the double effect it has on people who are already disadvantaged.

In the course of the day I have had a call from a woman in Queanbeyan, who said that she cannot vote for me but if she lived in Belconnen she would. She said, "At last here is a politician who understands about poor people. I was very moved by Ms McRae's description of poor people, and the sentiments expressed were right".

**MR BERRY**: I seek leave to make a personal explanation under standing order 46, Mr Speaker. My personal explanation is in relation to an attempt by Mrs Carnell to mislead the community about a statement I made in this house some time ago on smoke-free public places. Mrs Carnell was very careful to make sure that the full context of the quote was not made public again. The fact of the matter is that I was commenting on Labor's proposal for dealing with a smoke-free workplace, which was a two-pronged process that involved the Occupational Health and Safety Act - - -

**MR SPEAKER**: Mr Berry, you are beginning to debate this now.

**MR BERRY**: No, I am not.

**MR SPEAKER**: Just read the context. Never mind two prongs or a packet of 20 or anything like that.

**MR BERRY**: That involved the Occupational Health and Safety Act and the Smoke-Free Areas (Enclosed Public Places) Act, which was introduced by Labor. The Government has ignored both.

## OFFENSIVE WORDS AND PERSONAL REFLECTIONS
### Statement by Speaker

**MR SPEAKER**: Prior to the luncheon break, I made a ruling against a point of order taken by Mr Berry on a comment from Mr Moore. I wish to advise members, and Mr Berry in particular, that my ruling was incorrect, and I apologise to members and particularly to Mr Berry. On 27 August 1996, we did reverse exactly what I said. Whilst I do not intend to read the entire statement, I think it is important to read what Speaker Snedden stated in 1981, which was the basis for the ruling I made on 27 August 1996. He said:

> I think that if an accusation is made against members of the House which, if made against any one of them, would be unparliamentary and offensive, it is in the interests of the comity of this House that it should not be made against all as it could not be made against one. Otherwise, it may become necessary for every member of the group against whom the words are alleged to stand up and personally withdraw himself or herself from the accusation.

I can only repeat what I concluded with in August 1996:

> Accordingly, I call upon members to cease using unparliamentary expressions against a group or all members which would be unparliamentary if used against an individual.

I apologise to the house.

## ANSWERS TO QUESTIONS ON NOTICE

**MRS CARNELL**: Mr Speaker, for the information of members, I present further information in relation to question No. 382 relating to exemptions under the Rates and Land Tax Act 1926.

## PUBLIC SECTOR MANAGEMENT ACT - CONTRACTS
### Papers

**MRS CARNELL** (Chief Minister): I present, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of contracts made with Verity Bondfield, Richard Clarke, Damien Farrell (termination), and Annabelle Pegrum (short- and long-term contracts).

## HOSPITAL WAITING LISTS
### Papers

**MRS CARNELL** (Chief Minister and Minister for Health and Community Care): Mr Speaker, pursuant to the resolution of the Assembly of 14 May 1997, I present the following copies of papers in relation to the adjustment of figures for hospital waiting lists:

Review of a Waiting List Reporting - Quote - Letter from Walter and Turnbull to the General Manager, Resources, Canberra Hospital, dated 24 February 1997.

ACT Board of Health - Internal Audit Review of the MediLinc System, dated February 1997.

Canberra Hospital - Review of Waiting List Reporting - Appendix B - Summary of recommendations, dated March 1997.

Elective surgery waiting list numbers - January and February 1997 - Brief to Minister for Health and Community Care from Executive Director, Financial Management and Contracting, Department of Health and Community Care, dated 23 April 1997.

The Canberra Hospital, Calvary Public Hospital and all public hospitals -

Throughput data for January and February 1997.

Waiting lists for elective surgery by speciality 1996-97.

Waiting list issues - Possible question - Question brief - 6 May 1997.

Extracts from the National health data dictionary -

Item P58: Patient listing status.

Item P66: Reason for removal.

## LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION TO THE TERRITORY PLAN
### Papers and Ministerial Statement

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning): For the information of members, I present the approval of variation No. 58 to the Territory Plan for the residential land use policies, pursuant to section 29 of the Land (Planning and Environment) Act 1991. In accordance with the provisions of the Act, this variation is tabled with the background papers, a copy of the summaries and reports, and a copy of any directions or report required. I seek leave to make a short statement in respect of it.

Leave granted.

**MR HUMPHRIES**: This variation was released on 10 February 1996 and replaced draft variation No. 33, which was withdrawn on the same day. During April and May 1997, the draft variation was considered and endorsed by the Standing Committee on Planning and Environment. In its report the committee made two further recommendations:

> The Standing Committee on Planning and Environment recommends that the Government review the procedures and processes used to handle draft Variations, with the aim of significantly reducing the time taken for a draft Variation to reach the Planning and Environment Committee and, subsequently, the Legislative Assembly.

It further went on:

> The Standing Committee on Planning and Environment recommends that the Government speed up the review of B1 and quickly announce the Government's response to the review, including its response to the desirability of new Guidelines - and then facilitate their speedy referral to the Standing Committee on Planning and Environment. This recommendation reflects the Committee's disappointment - and frustration - about the Government's delay in bringing forward revised proposals for the B1 Areas.

In respect of the recommendation concerning a review of processes and procedures to reduce the time it takes to bring draft variations to the committee, I should say that I, too, would like to see the timeframe reduced. However, this needs to be considered in relation to a number of factors. First, as the committee members would well know, the variation process is subject to a number of actions and timeframes prescribed by the Land Act. These provisions are there to ensure transparency and accountability of processes. Secondly, the time taken to assess and respond to comments made during the public consultation process is directly related to the number and complexity of the issues raised in those comments. Thirdly, any steps to reduce the timeframe for dealing with draft variations should balance the need for speedy resolution of draft variations with the need for adequate public consultation. Finally, in the case of this variation, I was particularly keen for the LAPACs to have an opportunity to develop and test their community value statements before finalising the changes to the Territory Plan.

Mr Speaker, I also should observe that comments were made about the matter having rested in my office and that being the cause of delay for much of the time it took to get from the presentation stage to the community to presentation in the Assembly. I have had the records checked, and there was a period between November 1996 and February 1997 during which the documents were lost or not accounted for. I can report, though, that records show that the documentation concerned left the office of Mr Prattley to go to the office of Mr Turner on 21 November, but there is no record of it having been received by Mr Turner's office. It follows from that, I think, that it is unlikely they ever reached my office, since they had not been recorded as having reached Mr Turner's office.

I certainly have no record of having received the documents. I have to indicate very clearly that, although I am concerned about any delays, I do not accept any responsibility for that particular delay, except to the extent that anything that happens within my department is my responsibility in the Westminster sense.

The other recommendation of the committee concerned the B1 area. Let me say that I reject the comment that the Government has delayed consideration of this issue. The Government has been engaged in an extensive consultation process involving the LAPACs and a range of other interested groups and individuals. Members of the committee would be aware, and I think must agree, that the issues relating to the B1 area in North Canberra especially are complex and cannot be resolved quickly. I personally have discussed the issues with members of LAPACs, with members of the Assembly, with members of the Urban Design Advisory Committee, and with numerous other people, both personally and by correspondence. I think it was important for the Government to try to improve on the present position with B1 before releasing the guidelines, which will be released on Saturday and on which members of the Planning and Environment Committee will have a briefing tomorrow morning, I think. Members of the committee were advised by members of the Planning and Land Management Group that the review was almost complete when that comment was made. Those are the issues to do with the timetabling. However, I am pleased that the variation has now been tabled, and I commend it to the Assembly.

## COMMISSIONER FOR THE ENVIRONMENT
## Report on Management of Noise from Motor Sports in the ACT and Government Response

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning) (3.44): Mr Temporary Deputy Speaker, for the information of members, I present the Commissioner for the Environment's report, "Management of Noise from Motorsports in the ACT", and the Government's response. I move:

> That the Assembly takes note of the papers.

This is a government that is committed to the environment in general and to the principle of ecologically sustainable development in particular. It is also a government that is committed to economic development and to maximising the freedom of individuals to live their lives however they choose, including their choice of sporting and recreational activities. Sometimes these principles or freedoms come into conflict with each other and a balance has to be struck, one that delivers the greatest possible benefits to the greatest number of people. The Government's response to the Commissioner for the Environment's report, "Management of Noise from Motorsports in the ACT", strikes just such a balance.

Environmental noise is a common and ongoing problem in our community, particularly in and adjacent to residential areas. Things people do on a daily basis, such as mowing the lawn and running airconditioners, can be the cause of considerable irritation and even distress to their neighbours; but the solution does not lie in banning lawn-mowers or

airconditioners. The solution lies in keeping the noise from these everyday legitimate activities within reasonable bounds by balancing the right of residents to quiet enjoyment of their homes with the rights of their neighbours to go about their daily lives as they choose. The same approach should be taken to motor sport.

I turn now to deal specifically with noise from motor sports at Fairbairn Park. The Government shares the concerns of the Commissioner for the Environment about the need to put all aspects of motor sport, including leasing and management arrangements, on a properly developed and long-term policy basis. We have set processes in train to do this. In fact, we have gone further by proposing new noise management arrangements for Fairbairn Park in the broader context of a completely new environmental noise regime and, indeed, a completely new environmental protection framework.

While we agree with the commissioner about the need for proper long-term arrangements at Fairbairn Park, I regret that the Government cannot agree with the thrust of his central recommendation that noise limits be reduced gradually to standard noise limits over five years. We cannot agree with the commissioner because the effect of such a proposal would be to prohibit several types of motor sport at Fairbairn Park, leaving little other than minibikes and go-karts to operate on a long-term basis. We do not believe that this would represent an appropriate balance between the right of nearby residents to quiet enjoyment and the right of motor sport enthusiasts to participate in a perfectly legitimate sporting and recreational pursuit.

The Government, under the guidance of my colleague the Minister for Sport, has looked at alternative sites for motor sport. The difficulty is that the cost of developing an alternative site would be prohibitively expensive in the current climate. Perhaps this is an option that can be explored in more buoyant economic times. For the moment, we have to accept that Fairbairn Park is the only cost-effective site for motor sport in the ACT at this time.

I return to my theme of striking an appropriate balance between environmental, economic and social considerations. The Government believes that an appropriate balance lies in adopting the noise limit for Fairbairn Park that we took to the electorate at the last election. That limit was 10 decibels above background noise at the nearest affected residence, which compares with the general standard under the current law of five decibels above background. The Government is conscious that a noise limit of 10 decibels above the average background noise may not be acceptable to the residents of the Ridgeway estate. It is equally conscious that 10 decibels above background will restrict motor racing at Fairbairn Park and that to set a lower limit would restrict motor sport effectively to go-karts and minibikes. This would have been an unacceptable result for motor sport groups and for the ACT economy. We have had to balance competing environmental, economic and social considerations and take a very difficult decision. Mr Temporary Deputy Speaker, I commend that decision and the Government's response to the Commissioner for the Environment's report to the house.

Question resolved in the affirmative.

## PATIENT ACTIVITY DATA
### Papers

**MR HUMPHRIES** (Attorney-General): For the information of members, I present information bulletins relating to patient activity data for Calvary Public Hospital and the Canberra Hospital for February and March 1997.

## SUBORDINATE LEGISLATION
### Papers

**MR HUMPHRIES** (Attorney-General): Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for specified trading hours.

*The schedule read as follows:*

Trading Hours Act -

Specified trading hours of large supermarkets on Thursday, 24 April 1997 - No. 66 of 1997 (S98, dated 17 April 1997).

Specified trading hours of large supermarkets - No. 75 of 1997 (S132, dated 8 May 1997).

## TOTALCARE INCINERATOR REPORT
### Paper and Ministerial Statement

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning): I present the Totalcare incinerator report for the period 14 April 1997 to 13 May 1997. I ask for leave to make a statement in relation to the Totalcare incinerator report.

Leave granted.

**MR HUMPHRIES**: Yesterday I advised the Assembly that I would table today a report prepared by the Pollution Control Authority using data provided by Totalcare Industries on the operation of the Totalcare incinerator during the last month. In doing this, I am complying with the commitments I made in answering a question from Mr Osborne on 9 April. In tabling these figures, I can confirm that no pesticides were incinerated during the month covered by this report.

The report, however, does indicate three what are described as anomalies in the operation of the incinerator, that is, times when the temperature of the incinerator fluctuates outside normal ranges. The Pollution Control Authority has informed me, first, that the nature of the waste being incinerated at the time and the temperatures involved are unlikely to have

presented any danger to the community; and, secondly, that the anomalies involved the operating temperature of the incinerator and not the emission control equipment forming part of the incinerator system. I am concerned to ensure that there are proper processes and controls in place to prevent such anomalies occurring, irrespective of their cause. In this context, the Pollution Control Authority has informed me that he will be writing to Totalcare seeking a detailed explanation of the cause of these anomalies in the operation of the incinerator and the actions taken to prevent this from recurring. I move:

That the report be noted.

Question resolved in the affirmative.

## LIQUOR HOURS TRIAL EVALUATION
### Papers

**MR HUMPHRIES** (Attorney-General) (3.51): For the information of members, I present the evaluation of the trial of restricted liquor trading hours in the ACT, Stage 2, relating to the existing crime prevention strategies, and Stage 3, which is the final report, entitled "The Effects of 4 am Closing on Crime, Anti-Social Behaviour and Public Perceptions in the ACT". I move:

That the Assembly takes note of the papers.

This report has just been received by me and I have tabled it for members of the Assembly. I have not read it fully at this point, so I do not propose to say very much about it. What the Assembly as a whole does about the sunset clause on the present restricted trading hours arrangements for licensed premises is a matter that will have to be addressed in the June sittings of the Assembly. I would suggest that members study this report now and come back to consider their position in the June sittings.

Question resolved in the affirmative.

## REGULATORY REFORM
### Ministerial Statement

**MR KAINE** (Minister for Urban Services and Minister for Regulatory Reform): Mr Temporary Deputy Speaker, I must say how delighted I am to address you while you are in the chair. Through you, I ask for leave of those few members of the Assembly who are interested to make a ministerial statement on regulatory reform.

Leave granted.

**MR KAINE**: Mr Temporary Deputy Speaker, the future of this city depends on the success of our business sector. Red tape and excessive regulation, however, can eat away at the small margin that often separates a profitable business from a failed venture.

It is for this reason that the Government has put in place a number of significant measures to slash red tape and to rationalise the myriad of regulations that have accumulated over the years. I must emphasise that the Government recognises that some regulation is essential. Good regulation is critical to ensuring, for example, that goods and services meet the standards of health, safety and quality we all expect and demand. The Government believes that high standards and minimal red tape and regulation are not mutually exclusive. It should be a simple process to set up and run a business in a manner that meets required standards. To help tell us how best to do this, the Government commissioned the Red Tape Task Force, chaired by Elizabeth Whitelaw, in 1995. That task force reported in October 1995, and in February 1996 the Government embraced the recommendations of the task force. Since that time, the Government has been implementing those recommendations.

The change in the regulatory culture of the ACT Public Service brought about by the Government's implementation of the Red Tape Task Force report has benefited businesses in many ways. It has increased business access to succinct, user-friendly information about regulations, which is so critical for the smooth operation of businesses in the ACT. ACT businesses now have direct electronic access to ACT laws and programs for business through ACT Law Net. This service, one of the first of its kind in Australia, takes the pain out of locating and deciphering the various legal and technical requirements that businesses are obliged to meet in the ACT. ACT Law Net has grown to be one of the largest government collections of Australian legal information available on the Internet.

Business is now able to have direct input into the quality of Government on-line services through the On-Line Services Group. The group provides advice to the Government on how to improve the delivery of its electronic information. In these days of the information superhighway, government must be able to deliver compatible, up-to-date electronic information to businesses quickly. Prospective business people will have access to a greatly improved business licence information service, ACT BLIS, which will be relocated from New South Wales to Canberra. ACT BLIS has been operating under the auspices of the New South Wales Department of Fair Trading since May 1992. The service, which provides information on licence requirements, is underutilised, and many ACT businesses seem to be unaware of the services it provides. For this reason, the Government has set aside funds in the budget to upgrade and market ACT BLIS. The Government will transfer the service to Canberra by early 1998.

The quality of information provided to business on regulatory requirements has improved and will continue to improve. For example, streamlined standard training agreements and improved guidelines to assist training providers in the accreditation and registration process have been produced. Business-oriented, user-friendly information packages on the Food Act have been produced. Businesses can now meet their tax obligations in a more timely and efficient manner as a result of improved, more user-friendly and concise information sheets and booklets on taxes - that is if taxes can be friendly. The child-care licence application form has been modified and written in simple, plain English. A single, user-friendly liquor licence renewal form has replaced the multitude of forms previously required. Agencies are now obliged, as part of their annual regulatory plan cycle, to review the quality of explanatory material on regulatory requirements they provide to business.

Business can now take advantage of improved business information, advisory and referral services provided by those who know the needs of business. Sometimes the best people to provide information and services to business are not public servants but those who work in the private sector. They know the difficulties faced by business people in dealing with government and they understand their own information needs. Therefore, the Government has contracted to the ACT Chamber of Commerce and Industry the provision of an advisory and information service, called Business Link, to businesses in the ACT.

Much of the frustration faced by business when dealing with our unique and complex planning and land development system has been removed. The Land Act has been simplified. The recent significant revision of the Land (Planning and Environment) Act 1991 has reduced its complexity. Clear and concise plain English explanations of the complex legislative rights, responsibilities and application requirements for development and building proposals have been widely distributed. Presentations on the building and development application processes have been given to a wide range of community and industry groups. It is easier for business to deal with building and development issues as a result of the establishment of the Planning and Land Management Group within the Department of Urban Services. More efficient administration of planning and land development has been achieved by combining planning and land management functions under PALM. A single PALM shopfront has been established.

The notification and lease renewal processes and building and development application processing requirements have been greatly simplified. Businesses applying to undertake several different activities as part of a development or building project are no longer required to undertake separate applications, notification, approvals and appeals processes for each activity. Self-assessment approaches assist business further. The unit title application process, for example, has been reduced from six weeks to three weeks by allowing self-certification. Businesses making a building or development application now need deal with only one point of contact, due to the establishment of the applications secretariat. A case officer is assigned to each application. Business can deal with building, electrical, plumbing and standard residential approvals and inspections at one place. This one-stop shop is a first for Australia. Small business owners can lodge plans at any time it suits them, as a result of after-hours lodgment boxes at building electrical and plumbing control regional offices.

Business saves time and money as a result of the combining into one of five former processes required to complete a development application. In many cases, businesses have benefited from major reductions in fees as a result of the cost-saving effect of single building application and development application processes. The time between completing a facility and having it approved has been reduced as a result of combining stormwater and sewerage inspections. Business saves a great deal of time and money as a result of the new application processes. A business can now attend a free preapplication meeting where any issues can be dealt with early to avoid later delays.

Development applications are dealt with much more quickly, so that, instead of taking up to 80 days, applications are now dealt with in a maximum of 30 days. Businesses are now able to save fees and time by lodging a single building or development application which covers all aspects requiring approval, such as design and siting, heritage and leasing, and enables the public to comment on all aspects of the proposal in one step.

The change in the regulatory culture of the ACT Public Service brought about by the Government's implementation of the Red Tape Task Force report has benefited businesses by removing many unnecessary regulations. Seventy-five Acts have already been repealed and a further 650 Acts have been identified for possible repeal in the near future, as part of the review of all pre-1980 legislation. New legislation is more in tune with the needs of business. As part of the Government's systematic review of all ACT legislation, unnecessary regulation is being removed and convoluted and fragmented legislation is being replaced with streamlined, integrated legislation which can be understood by all users. Furthermore, all reviews of existing legislation are subject to the rigour of the new business impact assessments. The impact on business of environmental legislation was fully considered in the development of the Environment Protection Bill. A business impact assessment was undertaken as part of the process of developing the legislation.

Health professionals and businesses in Canberra will benefit from the flexible, industry-based codes of practice resulting from new public health legislation. The legislation is based on a co-regulatory approach to regulation rather than the traditional restrictive command-control approach. Public health legislation will be more business oriented because codes of practice will be established only if they are endorsed by peak bodies involved in the health professions and business. Streamlined cross-border arrangements for workers compensation will result from the passage of amendments to the workers compensation legislation which is currently before the house.

Dealing with payroll tax will be a simpler matter for business. The Chief Minister's Department has developed a range of user-friendly information sheets on payroll tax. It is also currently developing a simplified system for the collection of payroll tax in consultation with business and has introduced a self-assessment approach to payroll tax reconciliation. Administration will be simplified for businesses that operate in more than one jurisdiction as a result of the work of the interjurisdictional working parties on stamp duty and payroll tax. The aim is to provide, as far as possible, uniform legislation across all jurisdictions, together with a uniform approach to tax administration. Business can be assured that all legislation will be thoroughly examined to ensure that it does not inhibit competition without very good cause. The Government will commence the review of all legislation which imposes restrictions on competition by the end of this year, two years inside the timeframe required by the Government's national competition policy commitments.

The number of licences required in the ACT has been reduced. For example, and this will be a popular one, beekeepers are no longer required to register their hives, and most customers do not need a permit before they can buy fireworks. The egg licence and licences under the Mining Act 1930 have been abolished - a very significant repeal.

It is anticipated that in the near future newspapers, printers, second-hand dealers and collectors, and pawnbrokers will no longer be required to be licensed. Agencies are using the opportunity provided by the systematic review of legislation to closely examine all licences, and the Government has asked agencies to bring forward proposals for the abolition of licences identified as unnecessary by the end of 1997.

Greatly reduced paperwork for business will result from the common licence application form currently being developed for all businesses in the ACT. The Government is working with the Commonwealth on this project, which is being implemented nationally. Rather than having to deal with numerous application forms to start a business in Canberra, the most common licences will be dealt with on the one application form and through one point of contact. Businesses will also save time and money as a result of work being undertaken on industry licence application processes. These will enable a person wishing to establish in a particular industry - for example, the food industry; perhaps even Bega cheese - to complete one application form to seek approval for all licences required in that industry. The industry licence application scheme is being developed in conjunction with work on the common licensing scheme I referred to earlier.

As a result of implementing the recommendations of the Red Tape Task Force, the momentum for regulatory reform in the ACT Public Service will be maintained. The profile of regulatory reform has been raised. The first Minister for Regulatory Reform was appointed early in 1996, and the role of the business regulation review unit in the Department of Business, the Arts, Sport and Tourism has been refocused to concentrate on promoting best practice in regulatory reform across government. The unit will soon be conducting training programs for senior management and officers involved in the development of regulations.

Agencies are expected to regulate only when it is absolutely necessary. A manual for regulatory reform has been produced and will be incorporated into the public sector management standards and so become the management standard, recommended by the Red Tape Task Force, against which the regulatory performance of agencies will be assessed. When proposing regulations, agencies must in the future undertake a regulatory needs analysis, develop a series of regulatory options, consider mutual recognition issues, consider alternative ways to enforce regulations, prepare a business impact assessment, and, if necessary, prepare a comprehensive cost-benefit analysis if the proposed regulation is likely to restrict competition. I think they are some significant barriers to the mindless introduction of regulation.

Agencies have taken on board the message from business to improve the way they regulate. The customer commitment program has fundamentally altered the way the ACT Public Service sees its customers. It is the rock on which a culture of regulatory reform is based. As a result, agencies have conducted customer focus groups, specified response times, established single points of contact for clients, trained their staff to be customer oriented, established consultative mechanisms such as newsletters, public forums and advisory groups, and undertaken market research and surveys.

The removal of red tape and excessive regulation is now built into the mainstream business of agencies. Red tape and regulations have a habit of proliferating in bureaucracies, so a number of measures have been instituted to prevent this.

Indeed, agencies will need to consider long and hard whether regulation is needed at all. Regulations will be the last and not the first resort. Agencies are now required to provide a copy of their regulatory needs analysis to the business regulation review unit for comment before they decide on a particular regulatory approach. Agencies must also complete a regulatory reform check list when developing regulations, to demonstrate that they have considered regulatory reform issues. Agencies have also been asked to develop annual regulatory plans. This is not seen as an onerous task; rather, as one that will remind agencies of the need to reduce regulations and red tape. They must report against their regulatory plans in their annual reports. As the Minister for Regulatory Reform, I intend to table the first regulatory plans for 1997-98 in the Legislative Assembly before 30 September this year.

Much of the work of the ACT's Red Tape Task Force is mirrored in the report of the Small Business Deregulation Task Force, *Time for Business*. The Small Business Deregulation Task Force was established by the Commonwealth Government to review the regulatory burden on small business. That task force was chaired by the managing director of McDonald's Australia, Mr Charlie Bell, and the task force's report was delivered to the Commonwealth in November 1996. It contains 62 recommendations, of which 26 require Commonwealth-State-Territory cooperation to implement. It seems that red tape and excessive regulation are endemic throughout Australia. The message of that report is that the time spent by small business people in filling out forms or trying to sort out a myriad of tax obligations is time better spent running the business, and that is a proposition this Government totally agrees with. The Government agrees with this message and supports the general thrust of the report because it reflects our own strong commitment to reducing the regulatory compliance burdens and red tape that reduce the productivity of many businesses.

In conclusion, the Government has done much to progress regulatory reform in the ACT. We gave a commitment at the last election to review the red tape burden. This resulted in the establishment of the Red Tape Task Force. The great majority of the recommendations of that task force have been implemented or, in the few cases where implementation is not fully completed, a program for full implementation is in place. I am pleased to report that the actions of the Government in implementing the recommendations of the Red Tape Task Force have been fully endorsed by that task force.

Lastly, I would like to take this opportunity to thank the members of the task force and, in particular, its chair, Mrs Elizabeth Whitelaw, for the time and effort they put into that report. The implementation of their recommendations has done much to reduce the red tape and regulatory burdens on business in the ACT. I present the following paper:

> Regulatory Reform - ministerial statement, 15 May 1997.

I move:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

## DEBITS TAX BILL 1997

Debate resumed.

**MS TUCKER** (4.11): The Greens will be supporting this Bill. Taxing is never a very popular exercise; and, as far as taxes go, the debits tax - a tax on withdrawals from financial institutions with cheque writing facilities - is certainly not one that you would rate highly in terms of either efficiency or equity. As far as I can see, it also does not meet any other taxation objectives, such as meeting environmental objectives. It is, however, a tax that all other States have, and it is estimated to bring in some additional revenue for the ACT. We will also soon be part of a national scheme that will extend the debits tax to all accounts.

State taxes generally tend to be regressive. I know that I have said it before, but I would like to reiterate that a commitment to improving the tax base and making it more equitable should be a priority for a Federal government. Unfortunately, it is not; and this week's Federal budget is a terrible disappointment in this regard. As a proportion of GDP, revenue is decreasing, according to the budget forecast. The Greens are always interested to look at new revenue proposals. We do, however, have considerable concerns about this tax before us today, because it will, in our opinion, impact disproportionately on lower income people without meeting any other taxation objectives. So, we have to look at other ways of mitigating the impact on poor people in Canberra.

One of the first concerns I have about this tax is that, from personal experience, I know that people on lower incomes are often much more likely to have to pay bills in small instalments over longer periods of time. That means that they are likely to make withdrawals more frequently than people on high incomes do. Although, on the face of it, making the tax lower for smaller withdrawals appears to somewhat mitigate the regressive nature of this tax, if you are forced to make five smaller withdrawals or write five small cheques for a bill of $100 rather than pay in one go, you will be paying $1.50 rather than 70c. So, you can see how the better-off person who can write just the one cheque is actually advantaged.

The Government has proposed to offer a rebate to some social security recipients - people in receipt of an age pension, a disability support pension, a carer pension, a sole parent pension, a widowed person allowance, a wife pension or a Veterans' Affairs pension. The Government has also included a provision for charitable organisations, some hospitals, universities, colleges and schools to hold accounts that are excluded from the tax. The Opposition has come up with some amendments to extend this scheme to all health care card holders and also to make the exemption up front, with the introduction of certificates of exemption. Their argument, which I think has merit, is that, if we are targeting one group of lower income people, we should target all of them and not single out particular groups. I think this is a very important point to make in the discussion this evening, and it will be made in the discussion of the proposed amendments.

On Monday night, there was a lengthy discussion in the Chief Minister's office about the Opposition's amendments. The Government put forward some compelling arguments about tax avoidance and additional administrative costs, particularly with the exemption scheme. The Government's counteramendments are to keep the rebate system but to extend the rebate to long-term unemployed people. The Greens are happy to keep the rebate system, because we agree that the administrative costs and the possibility of tax avoidance are quite significant. We do, however, believe that all health care card holders should have access to the rebate, and we have prepared our own amendments which we will move before the Government's amendments are moved.

It is not appropriate to decide to focus on just one group of disadvantaged people in the community, for whatever reason. If it is not efficient to be targeting all of them, then you wonder why this initiative was started at all. It does not make sense to say, "Because this is difficult to administer and it is inefficient, we will target only this one particular group". That is very unfair, and I cannot see how the community would have confidence in that sort of decision. We are stepping onto dangerous ground when we start singling out groups, when the Commonwealth has come up with a comprehensive definition of disadvantage.

By far the most significant cost, as far as the proposals Labor has put up are concerned, is in relation to the exemption scheme. The administrative costs associated with extending the rebate scheme to all disadvantaged persons are only $100,000, and the added revenue forgone - if all the people who are estimated to apply for a rebate do - will be $0.5m, although Mrs Carnell has just told me that those figures are not correct and that there is actually another $280,000 on top of that, which would bring it up to $880,000.

There is one further thing I would like to add. The Government should think very seriously about how it can advertise this rebate to people - if this is successful - so that it assists the people who need it and want it. I do not know whether there is a possibility of banks including some information when they post out account statements. Newsletters of community groups should also, obviously, be targeted. I think we will have to keep close tabs on this to make sure that the people who are supposed to benefit actually do. I will propose my amendments later in the debate.

**MRS CARNELL** (Chief Minister and Treasurer) (4.17), in reply: Mr Speaker, this is obviously going to end up being a quite long debate. I am disappointed that that is the case. We announced in last year's budget that we were going ahead with a debits tax Bill. We have now extended the concessions from just pensioners through to the long-term unemployed as well. That comes at an extra cost. I think that is more than reasonable, taking into account that no State other than Tasmania has a rebate scheme at all - which means that the people who end up with concessions in our Bill would not do so if they happened to live over the border.

Mr Speaker, to answer Ms Tucker's question, the reason that we chose that one particular group was that that one particular group of pensioners - particularly older pensioners - tend to be the group in our community that still use cheques. What has actually happened, as we all know, is that the use of cheques by individuals has decreased significantly. Certainly, businesses still use cheques; but that is not the issue. It was put

to us by the Council on the Ageing in Canberra that older people, who still tend to write very small cheques quite often, could be significantly disadvantaged - in fact, disadvantaged more than any other group - simply because of their continuing usage of cheques. That was the reason that we chose to go down the path we did. We did not want to disadvantage one group over another, Mr Speaker.

I would like to ask all members of the Assembly to think seriously before they go down the path of changing a money Bill. It is, I think, an extremely bad precedent to set in this place. If we change the financial or revenue raising capacity of this Bill, it is money that has to be found somewhere else in the budget. That, obviously, will come at the expense of services. We are simply not in a position now to raise other taxes. The budget has already been presented. Mr Speaker, I think that it would be very unfortunate to go down a path right now, with the current economic situation in the ACT, where we had to cut services in some particular place or provide fewer services to the community, simply because this Assembly chose to posture in this area. Certainly, a cost of $880,000 is not insignificant.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 and 2, by leave, taken together, and agreed to.

Clause 3

**MR WHITECROSS** (Leader of the Opposition) (4.21): Mr Speaker, I seek leave to move together amendments Nos 1 and 2 circulated in my name.

Leave granted.

**MR WHITECROSS**: I move:

> Page 2, line 35, subclause (1), insert the following definition:
>
> " 'disadvantaged person' means -
>
> (a) a person who is a disadvantaged person; or
>
> (b) a person in relation to whom a declaration by the Secretary to the Department of Social Security of the Commonwealth, that he or she is a disadvantaged person, is in force;
>
> under Part I of the *Health Insurance Act 1973* of the Commonwealth;".

Page 4, line 11, subclause (1), insert the following definition:

" 'pensioner' means -

(a) a person to whom, or in respect of whom, 1 of the following pensions or allowances under the *Social Security Act 1991* of the Commonwealth is being paid:

(i) an age pension under Part 2.2;

(ii) a disability support pension under Part 2.3;

(iii) a wife pension under Part 2.4;

(iv) a carer pension under Part 2.5;

(v) a sole parent pension under Part 2.6;

(vi) a widowed person allowance under Part 2.7;

(vii) a widow B pension under Part 2.8;

(b) a service pensioner within the meaning of the *Veterans' Entitlements Act 1986* of the Commonwealth;

(c) a person to whom section 22 of the *Veterans' Entitlements Act 1986* of the Commonwealth applies, who is being paid at the maximum rate referred to in subsection 22(3) of that Act;

(d) a person to whom a pension under Part II of the *Veterans' Entitlements Act 1986* of the Commonwealth is being paid and to whom -

(i) subsection 22(4), section 23 or 24 or subsection 30(1) of that Act applies; or

(ii) section 27 of that Act applies by virtue of a war-caused injury or war-caused disease of a kind specified in item 1, 2, 3, 4, 5 or 6 in the table in subsection 27(1); or

(e) a person who is, or is within a kind or class of persons that is, prescribed for the purposes of this paragraph;".

Mr Speaker, these are the first of the provisions in my package of amendments, and they will allow us to test the will of the chamber in relation to my amendments. My amendment No. 3 is the action amendment, which inserts into the list of accounts which are excluded accounts for the purposes of the debits tax accounts kept with a financial institution where the account holder is a pensioner or a disadvantaged person or, if there are two or more account holders, where all the account holders are pensioners or disadvantaged persons.

Mr Speaker, I am moving these amendments today in response to my concerns about the Government's original proposal. It should be noted at the beginning that the Government's original proposal, announced in last year's budget, did not contain any rebates for anybody. The package of amendments involved a reduction in financial institutions duty which involved a concession for deposits of social security and other income support payments in relation to financial institutions duty. In shifting the balance of the taxing regime by reducing financial institutions duty and inserting a debits tax - - -

**Mrs Carnell**: In line with New South Wales.

**MR WHITECROSS**: Mr Speaker, it will assist the house if Mrs Carnell does not interrupt every five minutes.

**MR SPEAKER**: Continue, Mr Whitecross.

**MR WHITECROSS**: Thank you, Mr Speaker, for your courageous defence of the right of members of the house to speak. Mr Speaker, the Debits Tax Bill introduces a new tax and, as originally proposed, without any recognition of the fact that this imposes a new tax burden on pensioners and other disadvantaged people in our community. In the version that Mrs Carnell presented in the last sittings, she introduced a rebate system for pensioners in recognition of that effect.

Mr Speaker, our concerns with the scheme proposed by the Government relate to three different areas. The first is that it is restricted to pensioners and does not apply to other income support recipients and other disadvantaged people in our community, who, I think, have a right to expect that their needs would be taken into account just as the needs of pensioners were taken into account. Mr Speaker, the second concern is that the concession is paid in arrears. So, the recognition of the disadvantage of these people and the potential financial hardship caused by having to pay this additional tax is somewhat muted by the fact that they are expected to pay this tax and they do not get a rebate of the tax for up to 15 months after they paid the tax in the first place. Thirdly, Mr Speaker, the scheme, as proposed, is not administratively very effective. The scheme will risk a very low rate of take-up by pensioners, because they simply will not know that the scheme is available; they will not get their act together in the three-month window that the Government proposes; and they will not necessarily have suitable records to enable them to make their claims under the scheme. In our opinion, the scheme proposed by the Government fails on all three counts.

Mr Speaker, our alternative scheme, we believe, is a much more effective approach. It provides the benefit up front. It provides for the benefit to be available without lots of record-keeping of how much bank account debits tax individuals have paid. Importantly, it extends the range of people to whom the benefit is available from pensioners to all disadvantaged people, including the unemployed, recipients of sickness allowance, special beneficiaries, other disadvantaged persons, and students. I think that all three of those things are important principles and ought to be supported in this place.

Mr Speaker, the Government has mounted several lines of defence against the extension along the lines that we have proposed. The first is the argument that the administrative costs of the scheme we propose would be about twice the administrative costs of the current scheme. I believe that this is an extraordinary claim, and I am disappointed to hear that people like Ms Tucker have been duped into believing the Government's claims in relation to the administrative costs of the scheme I have proposed. The scheme I have proposed should certainly not involve greater administrative costs per person than the scheme that the Government has proposed, because it actually requires a lower level of checking. I simply fail to understand how checking only that a person is in one of the eligible categories can take longer to do than checking that they are a member of the eligible category and checking that they have incurred the debit taxes. But, somehow, the Government has managed to persuade others in this place that that is the case.

Mr Speaker, the exemption scheme that we are proposing also allows for the duration of the certificate to be at the discretion of the Revenue Commissioner. For example, age pensioners could be offered a certificate which is much longer in duration than that for pensioners whose pension status is likely to change or for unemployment beneficiaries whose status is likely to change. That means that the administrative costs for a very large proportion of the people who would be eligible for this scheme might be incurred only once - forever. I cannot see how that can lead to higher administrative costs, as the Government claims. So, Mr Speaker, I do not think that that is a very substantial argument.

The second concern raised by the Government is that the costs associated with this scheme will be higher because of the greater range of people who will be able to avail themselves of the scheme. Mr Speaker, that is certainly the case. There will be more people who are able to avail themselves of the scheme, and they will be disadvantaged people. They will be low-income people, who are entitled to be advantaged by the scheme. I do not apologise at all for the fact that more disadvantaged people will be able to access the scheme under our proposal. A lot of those people are people who were advantaged by the former arrangements involving financial institutions duty, but they are people - unemployed people, students, recipients of sickness allowance - to whom the Government has chosen not to extend the arrangements under the new scheme.

So, Mr Speaker, I do not apologise for the fact that the costs will be higher, because more people will be eligible. Nor do I apologise for the fact that this will apply to people whose bank account debits tax liabilities might be less than $15, who will not be able to apply at all under the Government's scheme. Nor do I apologise for the fact that pensioners and other disadvantaged people who make more than three withdrawals a week will get a higher benefit under this scheme than they would under the Government's scheme. I do not apologise for that either, because they are using their

accounts, they are incurring the tax and they are entitled to relief. They should not be told by the Government that they have to limit their withdrawals to a certain number of withdrawals a week. Mr Speaker, for those reasons, I do not think there is anything to apologise for in the greater program costs associated with the Labor Party's proposal.

The other argument that has been proposed is that there is a significant risk of avoidance. The Tasmanian experience was cited. Mr Speaker, the avoidance in Tasmania needs to be considered in the light of the following: In Tasmania, every account owned by someone under the age of 19 is exempt. So, it is very possible for parents with a power of attorney over their child's account to avail themselves of an exemption from debits tax in the Tasmanian system and operate that account for their own purposes while using their child's name. That is not possible in the ACT under these arrangements. Secondly, in Tasmania the exemptions are granted by the financial institution, whereas in the ACT the exemptions will be granted by the Revenue Commissioner. Mr Speaker, I would have thought that, in 1997, people would understand that, if someone who is administering a scheme has nothing to gain or lose by how the scheme is administered, they are not going to administer it as well as if it is administered by the Revenue Commissioner, whose revenue is at stake. The simple fact is that the banks would err on the side of generosity if they were administering the scheme. That is why I think it is more appropriate that the scheme be administered through certificates of exemption issued by the Revenue Commissioner.

Mr Speaker, the third thing that should be noted about the Tasmanian experience is that the Tasmanian experience did not have any real review mechanism to ensure that exemptions, once granted, were still applicable. As I have already indicated, because of the mechanism for ensuring that the duration of the certificate is appropriate to the risk that the person's circumstances will change, the chances of that occurring are minimised. People who are likely to have changes in circumstances can be issued with certificates for limited periods, which will ensure that those people do not continue to get exemptions long after their eligibility for those exemptions has disappeared. Mr Speaker, for those reasons, the experience of Tasmania is not really applicable to the ACT. The opportunities for avoidance, which have existed at least in the past in Tasmania, do not appear to me to have anything like as high a risk in the ACT.

Mrs Carnell, in private discussions, would wheel out the anecdote about the doctor who used their grandmother's account to do all the transactions for their multi-thousand-dollar medical practice. I do not know the truth or otherwise of that anecdote. Anecdotes have a habit of being hypothetical and not based on real-life experience. But I am willing to concede that perhaps it is based on real-life experience.

**Mr Berry**: It is sometimes fashioned to meet the circumstances.

**MR WHITECROSS**: It is sometimes fashioned to meet the circumstances, Mr Berry; but I am happy to concede in this case that perhaps it did occur. It is one of the unfortunate facts of life that there are people out there in the community who will try all sorts of things to get around concessions which are legitimately offered to people who deserve them.

Mr Speaker, how often do we hear stories told about how we have to tighten up eligibility for unemployment benefit, supporting parent pension, disability pension or sickness allowance because John Laws or somebody else has thought of a story or heard a story which suggests that somebody somewhere might be rorting the system? I do not believe that we should be basing our laws, which are designed to assist disadvantaged people, on anecdotal stories about somebody somewhere who is allegedly rorting the system. We have to make laws for the majority of law-abiding citizens who are going to do the right thing. Sure, we have to do everything we can to ensure that our laws are not abused, that people do not obtain benefits they are not entitled to; but we should not go berserk. We should not be turning around and saying, "We are not going to provide a benefit to a group of people who are in need, who have some legitimate claim to a benefit", simply because of anecdotes which suggest that somebody somewhere was desperate enough to abuse the system.

Mr Speaker, I believe that the amendments we have proposed will achieve some significant improvements to the Government's scheme. They will provide the benefits up front, rather than in arrears. They will provide an administratively simple way for the clients to access these benefits, which means that, once they have applied for and got the benefit, their only further obligation will be to reapply if they are still eligible when the certificate expires, if they have a term-limited certificate.

The third benefit, and perhaps the most important in my mind, is that it will be extended to the full range of disadvantaged people and not restricted to pensioners. Mr Speaker, I know that other disadvantaged people will create additional administrative problems which do not exist for age pensioners, whose entitlement tends not to change. I know that that is a problem. But I do not think we should be abrogating our responsibilities to other disadvantaged people in the community just because their circumstances are not as neat and tidy as those of age pensioners or service pensioners. So, Mr Speaker, the appropriateness of providing this concession to pensioners is clear, but I think it is equally appropriate that it be provided to other disadvantaged people. I commend my amendments to the house.

**MR MOORE** (4.37): Mr Speaker, I must say that, on reading these amendments, I was considerably attracted to them. In fact, I went to the Chief Minister and said, "It seems to me that the issues raised by Mr Whitecross are very good, and they are matters that you should seriously take into account. The amendments that he proposes will be a much fairer way of dealing with a range of people than that which you have proposed". I hope that she will allow me to give an indication of her response. Her response was something like, "Yes, we originally pursued this sort of line; but, in the end, on advice from our public servants, we determined that basically it could not be done and still get a reasonable return from the tax". Mrs Carnell may disagree with me, but I think that is a fair representation of what took her about 10 minutes to say.

I pursued the matter further. I and my staff had quite a number of discussions with Mr Whitecross and also a series of briefings with officers from Mrs Carnell's department. I certainly appreciated those. They were very frank briefings, and the officers concerned were particularly helpful in all the matters that I asked about.

Mr Speaker, I was delighted that Mrs Carnell came to some compromise over those proposed amendments. I see further amendments put up by the Greens. The reality is that I have my hands tied, in the same way as I had my hands tied in dealing with the Labor Government. When it comes to matters of taxation, when it comes to matters of budget Bills, even where I think that there is a much fairer system than that proposed by the Government, I am tied to allowing the Government to govern.

It seems to me, Mr Speaker, that sometimes I can put some pressure on governments for change. Indeed, that is what I did by going to Mrs Carnell and asking her not only to look much more carefully and much more seriously at the amendments that Mr Whitecross had put up but also to say what is the principle behind those amendments; what is it that he is trying to achieve. The answer to that is fairly simple. What he is trying to achieve is a fairer outcome for poorer people. That compromise was reached with the effort of Mr Whitecross and Ms Tucker in a quite long round table discussion and with a series of negotiations on this issue that have been going on for some weeks between all members.

That having been said, Mr Speaker, I feel that I am left in the position that I have no choice but to support the Government's legislation. It is part of the problem, as I see it, of being on the crossbenches with a minority government when it comes to budget Bills. I am very pleased that some compromise was reached and the matters were extended by Mrs Carnell. I do not know what the outcome of the vote today is going to be; but, much as I would like to see further changes made to this legislation, I feel that, if we are going to have here a system where a government can govern and we still allow the primacy of parliament, we have to have enough people who form a majority who are going to say - whether Labor is in or whether the Liberals are in - "You are the Government. You have your budget Bills", and that is the final crunch.

**MRS CARNELL** (Chief Minister and Treasurer) (4.41): Mr Speaker, the amendments to this Bill that Mr Whitecross has put forward really do come at a considerable revenue loss to the ACT and would add significantly to the costs of administering the legislation. Further, the confusion caused by the broad definition of disadvantaged persons would render decision-making less certain and would increase compliance complexity for the taxpayers and for the industry. The Government's Bill provides a debits tax rebate scheme for a well-defined group of beneficiaries.

As Mr Moore said, in our round table discussion, as I think is appropriate, the Government was willing to give a bit; that is, we have expanded the classes of people who would get concessions to include the long-term unemployed. They are people who have been unemployed for longer than 12 months. The Government amendments will extend the rebate to long-term unemployed persons in the ACT, because both classes of beneficiaries that we are talking about, pensioners and long-term unemployed people - we hope that all the long-term unemployed people will get back to work, of course - will not tend to move in and out of the system regularly, as many other people would. That means that we have a system that we are able to administer under the sort of administrative expenditure that we have in the Act.

Mr Whitecross's approach has no caps. As we know, our system will allow people to claim up to $50. So, we can assess just what the exposure for the Government is in this area. We can determine what level of rebate people may be likely to claim. In an uncapped system, there is simply no way of doing that. If we pass Mr Whitecross's amendments, there is no way of knowing exactly what the Government will be up for. That must make it bad legislation, Mr Speaker. There is a significantly broader group of people than the Government has in its legislation and an uncapped amount of money that each one of those people would be able to not claim back, but get up front. So, again, there is no way of being able to determine just how much revenue would be lost.

If the classes of beneficiaries are broadened considerably - and it could be by 10,000 to 15,000 people, which is again a significant number of people - you can imagine the significantly greater amount of administration that would be required there. The Revenue Office, we believe, could be required to process some 40,000 applications. That is a huge number of applications. I do not believe that that is an appropriate approach. As we all know, nobody likes levying taxes or bringing in new taxes. When we announced this in last year's budget - there has been a quite long time for members of the Assembly to get up to speed on this particular issue - we did not expect the new tax to be welcomed by the community. But, equally, what we have to do in the ACT is attempt to increase our revenue raising capacity wherever possible, to bring ourselves into line with New South Wales. Let us be fair; we are only over the border from them, and I think to have similar taxation approaches is very sensible. As we all know, we need more revenue in the ACT to provide for the services that the people of Canberra have a right to expect.

If we go down the path that Mr Whitecross wants us to go down, we will lose, I understand, something like $2m. Think about the things that $2m can provide. Two million dollars can provide an awful lot of surgery for people on our elective waiting lists. It can provide a lot of police. It can provide some very important services in education for disadvantaged people. I do not believe that it is a good way to spend money. I think that it would have been appropriate for Mr Whitecross to listen to the briefing that he got the other night and to understand the amount of work that has gone into this particular legislation to ensure that - No. 1 - we target the people who do have cheque accounts, older people who tend to use cheques more often. This is unlike the approach of any other State, apart from Tasmania, Mr Speaker. Nobody else even has concession approaches. In other States, pensioners and the long-term unemployed pay this tax.

The Government has gone a long way to attempt to accommodate people who could end up being adversely affected, to any extent, by this legislation. But Mr Whitecross's approach manages to totally undermine the revenue raising capacity of the legislation. That might be a nice thing to talk about out there in the community, to say, "Hey, I changed the tax base, and now you do not have to pay it". That is lovely. But, Mr Speaker, at the end of the day, we still need to pay for education, health, police and all of the other things that ACT-based taxes and charges are levied for.

**MR WHITECROSS** (Leader of the Opposition) (4.47): Mr Speaker, there are only a couple of things I want to say. I am fascinated by the suggestion by Mrs Carnell that spending money on alleviating tax burdens on disadvantaged people in the community is a waste of money that she could find much better uses for. I listened very carefully to the briefing the other day. Unfortunately, Mrs Carnell did not show the same listening ability. At the time, and again today, I put up some fairly cogent arguments, in my view, as to why the administrative costs that she is claiming for this scheme are unrealistic.

Mrs Carnell said in her remarks that it was a very complicated, confusing and vexed matter to identify the people who are included in my amendments under the category of disadvantaged persons. Mr Speaker, the definition I have included is a standard definition which is used all over the Commonwealth. It is fantastically easy to administer, because the Commonwealth identifies all the people in that category for you, and all you have to do is give the people identified the concession. It is not a complicated matter at all. A disadvantaged person is a person in relation to whom a declaration by the Secretary to the Department of Social Security of the Commonwealth, that he or she is a disadvantaged person, is in force under Part I of the Health Insurance Act 1973; that is, they have a health care card. Mr Speaker, all you have to do is say that you have your health care card, and you are in. I do not think that is terribly complicated. I am sure that, if Mrs Carnell believes that it is, it is because she has not listened when it has been explained to her how easy it is to identify disadvantaged persons under the Health Insurance Act.

Mr Speaker, it is simply a matter of principle, a matter of judgment, whether it is a fair thing to allow all disadvantaged people in the ACT to have the advantage of a concession or to restrict it to pensioners; whether it is a fair thing, if we think the concession is worth providing, to provide it up front when people need it or to provide it in arrears long after they have paid it; and whether it is a fair thing to ensure that the concession is easy to access and will not require an arrangement which a lot of people who are in real need simply will not access. That is the problem with the Government's approach, and that is why I have moved these amendments. At the end of the day, this is about a matter of principle.

Mrs Carnell does not believe that conceding a small amount of the gains that she has made from moving from a FID to a combination of FID and debits tax is worth it, to ensure that disadvantaged people are not adversely affected by the change. I think that is money well spent. I am disappointed to hear that the Chief Minister thinks that she has better uses for the money than assisting disadvantaged people adversely affected by this legislation.

Question put:

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

The Assembly voted -

| *AYES, 6* | *NOES, 11* |
|---|---|
| Mr Berry | Mrs Carnell |
| Mr Corbell | Mr Cornwell |
| Ms McRae | Mr Hird |
| Ms Reilly | Ms Horodny |
| Mr Whitecross | Mr Humphries |
| Mr Wood | Mr Kaine |
| | Mrs Littlewood |
| | Mr Moore |
| | Mr Osborne |
| | Mr Stefaniak |
| | Ms Tucker |

Question so resolved in the negative.

Clause agreed to.

Clauses 4 and 5, by leave, taken together, and agreed to.

**MR SPEAKER**: Mr Whitecross, was your amendment to clause 6 conditional upon those amendments?

**Mr Whitecross**: It was, Mr Speaker. I will not be proceeding with my amendment No. 3.

Clause 6 agreed to.

Clauses 7 to 13, by leave, taken together, and agreed to.

**MR SPEAKER**: Mr Whitecross, your amendment No. 4 was possibly conditional on the same thing, was it?

**Mr Whitecross**: Yes. I will not be moving my amendment No. 4, Mr Speaker.

Clauses 14 and 15 agreed to.

Clause 16

**MS TUCKER** (4.56): I move:

> Page 13, line 23, subclause (1), insert the following definition:
>
> " 'disadvantaged person' means -
>
> (a) a person who is a disadvantaged person; or
>
> (b) a person in relation to whom a declaration by the Secretary to the Department of Social Security of the Commonwealth, that he or she is a disadvantaged person, is in force;
>
> under Part I of the *Health Insurance Act 1973* of the Commonwealth;".

The amendments I am putting forward are basically the same as Mrs Carnell's, but they are extending the rebate scheme to cover all disadvantaged persons who are health care card holders, not just long-term unemployed people. Mr Speaker, the proposal we have put forward means that we still have a rebate system. It means that there is still certainty and transparency as far as revenue forgone is concerned, and the processing time for rebate applications is less onerous than in the exemption scheme proposed by Labor.

It does, however, have the advantage that the ACT is not picking and choosing the people we think are disadvantaged. I was not impressed by Mrs Carnell's argument that the original group was targeted because they used cheques. Within a year or two, because of the national changes, all debits are going to be subject to this tax. So, we need to focus on the whole group that could be disadvantaged. Our amendments have the advantage that the ACT is not picking and choosing the people we think are disadvantaged. There are very strong equity arguments for applying the rebate to all health care card holders, particularly as a debits tax will be extended in the future to apply to all accounts in the ACT.

There are a couple of other issues that were raised in the debate and that I would like to mention briefly. If it is so expensive to administer a rebate, I wonder why this scheme was proposed at all. I would also make a comment on the timing here. Mr Moore said that he felt that he was in a bind because it was a money Bill and it is his position with a minority government always to support money Bills. We have had this legislation only since April. We have not had time to do much more than we have done. The budget has already been tabled. So, I am not quite sure why Mr Moore was put into that position at all and whether it was necessary that he was. I think it would have been more appropriate if he could have had an opportunity to look at the equity implications of this and make a judgment accordingly, before it became a so-called money Bill. So, I would stress that I am concerned about that timing. Maybe Mrs Carnell has an explanation for that.

Basically, I repeat that there will be some increase in costs, obviously, in our amendment. They will not be nearly as great as the costs in the Labor amendment. I believe that we have come up with a compromise, if you like. There will still be revenue for the Government out of this debits tax, if it is passed with our amendment, although it obviously will be $800,000-odd shorter; but I am afraid that that might just have to be the reality of the situation.

**MRS CARNELL** (Chief Minister and Treasurer) (4.59): There are a number of problems with Ms Tucker's approach. By extending the rebate to all people with health care cards, we get back to the situation of people who have health care cards for part of the year and all those sorts of difficulties, which increase the level of administration and the costs. As well as that, it increases the number of people involved by somewhere between 7,000 and 10,000, and that comes at a cost of about $280,000. Mr Speaker, $280,000 may not seem like a lot to Ms Tucker, but it is a lot to the Government. It is an enormous amount of money.

**Ms Tucker**: I did not say that. I acknowledge that it is a lot of money, Mrs Carnell.

**MRS CARNELL**: I am sorry; Ms Tucker said, "It is a lot of money"; so, she obviously - - -

**Ms Tucker**: It is the price you might have to pay for equity.

**MRS CARNELL**: Where is it going to come from? The issue here, Mr Speaker, is that the Government has been willing to give on this issue, to determine that we will have to find extra money to cover the long-term unemployed that we did not anticipate in our original Bill; but, because we were attempting to find a middle line here between the different parties of the Assembly, we determined that the long-term unemployed could be included. To start with, they are long term; they have been unemployed for 12 months; they do not tend to move in and out of the system - all of the sorts of things I have said before, Mr Speaker.

Debate interrupted.

## ADJOURNMENT

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

> That the Assembly do now adjourn.

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

Question resolved in the negative.

**DEBITS TAX BILL 1997**
**Detail Stage**

Debate resumed.

**MRS CARNELL**: Mr Speaker, the Government was already willing to move on the long-term unemployed because the arguments in that area put by members of the Assembly were good; but to move further again, at an extra cost of $280,000, on top of the cost for the long-term unemployed that we had not budgeted for, is simply impossible without actually cutting services. Where else are we going to get the money from? The budget is down. We have allocated the revenue that we thought we would get from this particular piece of legislation. If we extend it again by $280,000, I do not believe that we can do it without reducing the level of service that the very people, I suspect, that Ms Tucker is trying to help actually avail themselves of. Are we looking at cutting education or health - again, services that the people of Canberra want? I do not believe that this is a very sensible approach. It is a money Bill, Mr Speaker. We have a budget in place. To spend, in a fairly ad hoc fashion, over a quarter of a million dollars on top of what we have already given I do not believe is appropriate. I certainly do not believe that it is the sort of decision that this Assembly should take.

**MR WHITECROSS** (Leader of the Opposition) (5.02): Mr Speaker, the Opposition will be supporting Ms Tucker's amendment, for the reasons I have already articulated. It would have been preferable to have gone down the path that we proposed before. We welcome Ms Tucker's amendment, because it is an attempt, within the framework of the rebate approach, which the majority of members here seem to prefer, to pick up Labor's suggestion of extending the concession to the full range of disadvantaged persons, rather than restricting it to pensioners, as originally proposed by Mrs Carnell, or to pensioners and people who have been unemployed for more than 12 months, as she now proposes.

Mr Speaker, quite frankly, I think Mrs Carnell insults the intelligence of members in this place if she suggests that in a budget of $1.4 billion she has got down to the last quarter of a million dollars before it has even been passed. Mr Speaker, last year she gave us a budget where she said that she was going to raise $10m from stamp duty on marketable securities, and she has raised $31m so far. Mr Speaker, this year she is budgeting to raise $15m from a tax for which she has raised $31m in the current financial year. I do not think Mrs Carnell adds anything to her credibility when she comes into this place and suggests that she has got this budget down to the last quarter of a million dollars.

**Mr Wood**: We can spend money on stadiums like that.

**MR WHITECROSS**: That is right. If the mood takes her, Mrs Carnell decides - - -

**MR SPEAKER**: Mr Whitecross, are you addressing me?

**MR WHITECROSS**: Yes, I am, Mr Speaker.

**MR SPEAKER**: You might like to face me.

**MR WHITECROSS**: Mr Speaker, if you listen carefully, you will hear what I am saying. If the mood takes Mrs Carnell, she can find $300,000 for a futsal slab on the lakeshore; so, I am sure that she can find $280,000 to assist the most disadvantaged people in our community, if she wants to. Mr Speaker, I would not be surprised, quite frankly, if there is $280,000 loose just in this debits tax alone; but we will have to wait and see. Mr Speaker, quite simply, the approach of extending the rebate to disadvantaged persons - as proposed by Labor and as picked up by the Greens - I think is a good approach. I commend Ms Tucker for adopting it in relation to the rebate scheme. There is no reason for us not to do it. The administration of it is quite manageable.

Mrs Carnell said in her speech that the fact that people would move in and out of eligibility would create administrative worries for the Revenue Office in administering this. Indeed, there are additional administrative things associated with that. But, Mr Speaker, what Mrs Carnell did not say was that it is a self-assessment system. What Mrs Carnell did not say was that she is going to accept a statutory declaration from people, basically saying, "This is my liability", and they are going to say, "Fair enough. Here is the cheque", and then they are going to check every 10, every 50 or every 100 to see whether people told the truth. That is how they plan to administer the system. Mr Speaker, what that means is that it is the disadvantaged person applying who is going to have to do the work to establish their eligibility and how much bank accounts debits tax they have paid, not the Government and not the officials. They will have to do it for a small proportion of people that they choose to audit.

Mr Speaker, I think it is a perfectly reasonable approach that Ms Tucker has proposed. It is consistent with the objectives that Labor was trying to achieve. I think the hoary old chestnuts, about administrative difficulties and where the money is going to come from, that Mrs Carnell is continuing to run simply do not stand up in this case. It is a small amount of money involved. The administrative difficulties are far from insurmountable. Mr Speaker, I think that it would be more appropriate for her to show her willingness to concede the disadvantage that these people experience, by extending the concessions to the full range of disadvantaged people. Otherwise, what she is going to find is that she is creating anomalies; that there are some disadvantaged people, like students, who will miss out on the concession, while other disadvantaged people, like the long-term unemployed, will get it; that some people, like special beneficiaries or people who have been in and out of employment but are not long-term unemployed or people on sickness allowance who are also disadvantaged, will not get this benefit, while one particular disadvantaged group, which she has plucked out of the air, will get it.

Mr Speaker, Mrs Carnell's approach is an approach which will produce anomalies. The approach proposed by the Labor Party and the approach adopted by the Greens here, we think, is a correct approach. It is one which ensures that there are not going to be anomalies and inconsistencies and that all the disadvantaged people in the community are going to be treated the same. I commend Ms Tucker for moving the amendment. I think it is an appropriate amendment. The Labor Party will be supporting it.

**MS TUCKER** (5.08): I thank Mr Whitecross for the Labor Party's support for this amendment. I know that it is not what they really wanted, but it is a compromise. I am very concerned that our amendment is not going to get up. I want to support what Mr Whitecross just said. It is a very ad hoc process when you target one group and when the explanation for targeting that group holds no water anyway. The explanation was that older people use cheques. But we know that the debits tax will be extended in the future to apply to all accounts in the ACT. So, that is just going to look really silly, apart from anything else, as a rationale for choosing this particular group.

The other thing I am not happy with is the fact that the figures from this Government keep changing. Yesterday I was given one set of figures for the cost of administering the proposal in our amendment, and now we have another $220,000 put onto that. I know that things have been hasty, but I do not think it is a good process for sound decision-making and good policy. I do not know why we did not have an opportunity to have this debate before the budget. Then we would not have had so much pressure put on all members of this place. Because of concerns of equity and consistency in a process, we are going to cause some other group in the community to suffer. Which program will be cut and which program will not receive funding because we took this stand on some kind of consistency in the process of targeting which group would achieve and receive some kind of subsidy for this new tax? It is a very unsatisfactory process all round, and I am very sorry to hear that Mr Osborne also is not going to support this amendment.

Question put:

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

The Assembly voted -

| *AYES, 8* | *NOES, 9* |
|---|---|
| Mr Berry | Mrs Carnell |
| Mr Corbell | Mr Cornwell |
| Ms Horodny | Mr Hird |
| Ms McRae | Mr Humphries |
| Ms Reilly | Mr Kaine |
| Ms Tucker | Mrs Littlewood |
| Mr Whitecross | Mr Moore |
| Mr Wood | Mr Osborne |
| | Mr Stefaniak |

Question so resolved in the negative.

**MRS CARNELL** (Chief Minister and Treasurer) (5.12): Mr Speaker, I ask for leave to move together amendments 1 to 5 circulated in my name.

Leave granted.

**MRS CARNELL**: I move:

> Page 14, line 18, subclause (1), add the following definition:
>
> " 'unemployed person' means a person who has been, for a period of not less than 12 months -
>
> (a) registered as unemployed with the Commonwealth Employment Service; and
>
> (b) receiving an allowance in respect of unemployment under the *Social Security Act 1991* of the Commonwealth;
>
> disregarding any period not exceeding, or periods in the aggregate not exceeding, 4 weeks during which the person was not so registered or was not receiving such an allowance.".
>
> Page 14, line 19, subclause (2), omit "may, within 3 months", substitute "or an unemployed person, who is a resident of the Territory may, within 12 months".
>
> Page 14, line 22, subclause (3), omit "3", substitute "12".
>
> Page 15, line 1, subclause (9), after "pensioner" insert "or an unemployed person".
>
> Page 15, line 7, subclause (10), after "pensioner" insert "or an unemployed person".

I think we have already had the debate on these amendments. Hopefully, the majority will support them. I present a supplementary explanatory memorandum to the Bill.

Amendments agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

**MR WHITECROSS** (Leader of the Opposition) (5.13): Mr Speaker, I will not be moving the remaining amendments circulated in my name, because they are all consequential. I did want to raise one matter which I raised with officials in a briefing some time ago but which does not seem to have materialised in amendments.

I was hoping that the Chief Minister might be able to enlighten me. Clause 22 of the Bill refers on a number of occasions to subsection 9(1) of the Act. As far as I could tell from the briefing - and it was confirmed to me by officials - those references should all be references to subsection 10(1). I understood that a Government amendment was going to be forthcoming to fix that.

Mr Speaker, I apologise to the Treasurer for not raising this earlier, but it was not until I was going through my amendments during the debate that I noticed that my amendments referred to subsection 10(1) but did not cover all the occasions on which subsection 9(1) is referred to in the Bill. I thought I should bring that to the attention of the Government at this stage, because it would appear, on the face of it, that this might render the legislation inoperative. Notwithstanding Mrs Carnell's comments, I would like to make sure that the revenue is protected and that the legislation can come into effect as intended.

**MRS CARNELL** (Chief Minister and Treasurer) (5.15): It has not been brought to my attention before that there is a numbering error in the legislation. It can be fixed by a Clerk's amendment, I understand.

Remainder of Bill, as a whole, agreed to.

Bill, as amended, agreed to.

## ESTABLISHMENT OF A NEW PRIVATE HOSPITAL - SELECT COMMITTEE
### Membership

**MR SPEAKER**: Pursuant to the resolution of the Assembly of today, 15 May 1997, I have been notified in writing of the nominations of Mr Berry, Mr Hird and Ms Tucker to be members of the Select Committee on the Establishment of a New Private Hospital. Although these nominations were received after 4.00 pm, I understand that it is the wish of the Assembly that I accept them.

**MR HUMPHRIES** (Attorney-General) (5.16): Mr Speaker, I move:

> That the Members so nominated be appointed as members of the Select Committee on the Establishment of a New Private Hospital.

I am sure the delay was a reflection of everyone's feelings of enthusiasm about the select committee.

Question resolved in the affirmative.

## SMOKE-FREE AREAS (ENCLOSED PUBLIC PLACES) (AMENDMENT) BILL 1997

Debate resumed from 6 May 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

**MR BERRY** (5.17): Mr Speaker, in speaking to this proposed amendment to the legislation, I propose to deal, in roughly this order, with the influence on ACT health, the history of legislation in the ACT, the legislation, its origins and so on, and the arguments about the effectiveness of this legislation. In respect of the influence on health in the ACT, I think it is interesting and important that the Assembly note a few facts. In the ACT there are somewhere between 200 and 300 deaths per year that are associated with tobacco consumption. That is about five or six a week. There are about 46 per day across Australia. The overall bill is around $7 billion per year. So it is not an insignificant issue. Some 15 per cent of deaths from all causes and 75 per cent of drug-related deaths are attributable to tobacco use - I use as my source the ACT drug strategy 1995-1997; cancer and ischaemic heart disease account for 35 per cent and 26 per cent respectively of tobacco-related deaths.

I have indicated the cost nationally, but I am informed that there is a clash in the figures. One source I have says $7 billion around Australia; another source says $9.2 billion. Either way, it is a lot of money. The $9.2 billion translates to a cost to the ACT of about $276m, and when this document was drawn up it said that it was more than the entire annual ACT health budget. Mrs Carnell wishes! It might have been that amount when a Labor government was in power, but it is certainly more than that under the Liberals, and I think it will be a long time before we see those figures again. The effects of tobacco consumption on health in the Australian Capital Territory and across Australia are significant issues and must be taken into account when people consider this legislation and the decision they are about to make on the extension and promotion of tobacco consumption in licensed premises.

I would now like to talk about the history of the ACT and tobacco legislation. Not long after self-government was established in the Australian Capital Territory, Labor came to office, and it was certainly my intention to introduce stronger tobacco laws in the Territory. I issued some drafting instructions to draw up legislation. As history will record, regrettably, I did not have the opportunity to introduce that legislation into the Assembly; Mr Humphries introduced legislation which tightened up the tobacco laws in the Territory. And guess who the first people were to come out against it. The tobacco industry. I refer now to an article in the *Canberra Times* on 10 March 1990. I suppose what I am trying to draw attention to is the record of submission to the tobacco industry, if you like, along the way. I do not blame Mr Humphries for this; I think he was leant on fairly heavily.

The article quoted the chief executive of the Tobacco Institute of Australia, Richard Mulcahy, and you might recall that Richard Mulcahy is the head of the Australian Hotels Association at this point. So there has always been this strong connection between the tobacco industry and the Australian Hotels Association. In many ways,

the Hotels Association has been a mouthpiece for the tobacco industry because the tobacco industry worked out a long time ago that they could never defend their case. It is a lost cause as far as the argument is concerned, but the AHA has been doing pretty well on their behalf, and I understand that. The proprietors of pubs and clubs do not want to change, the same as restaurants and others did not want to change in the past. Mr Mulcahy said:

> I made it quite plain to the Chief Minister that we believe that confrontational approaches are not in the best interests of the public and not in the best interests of business.

That is a bit rich coming from the Tobacco Institute. He continued:

> The Chief Minister has given me an assurance, after I appealed to him to intervene in this affair, that he will direct the Health Minister to resume talks with the interests I represent -

that is, the tobacco interests -

> and will also direct him to resume consultations with other affected groups in the ACT that appear not to have been approached on this issue.

That is one in a chain of events where the Tobacco Institute or the industry, by one means or another, has tried to slow down the process. In this case, one assumes from this article that Mr Humphries was leant on by the then Chief Minister. Mr Humphries complained about the Tobacco Institute trying to drive a wedge between him and the Chief Minister, and he said then:

> I think that the industry is playing a little bit dirty.

They still are, Mr Humphries. Nothing has changed.

**Mr Humphries**: Why are you telling me this? I know all about it already. You are not telling me anything I do not know.

**MR BERRY**: Those who are not as grey as you are or as bald as I am from being in this place may not recall these events too clearly. That is an important part of history in relation to the legislation. Later on, Labor came back to office and proceeded to draw up more legislation to deal with the issue.

Mrs Carnell dealt rather scantily today with some comments I made in relation to the legislative process Labor had undertaken. That legislation was in the form of smoke-free areas in enclosed public places. It was intended that it would not apply to licensed premises in the first place but would apply to restaurants and that in the longer term there would be a process involving legislation which set out certain areas where people could smoke but, at the same time, would rely on the Occupational Health and Safety Act to ensure that tobacco consumption was reduced in the workplace. That would not surprise anybody, given Labor's commitment to workers and safety in the workplace.

It was meant to apply to all workers - not just to workers in the hotel and club industry, but to all workers. I do not think anybody in the liquor licensing area was too happy about the legislation put forward by Labor. None of the licensed clubs was really happy about it and the pubs and taverns were certainly unhappy about it.

As time passed, a smoke-free workplaces code of practice developed. It was gazetted on 25 May 1994. The timetable that was presented by the Occupational Health and Safety Council was that the development of the policy should occur within 12 months; but this could be brought forward by agreement between employers and employees, the code says, with the policy to be fully implemented within three years of the code's gazettal on 25 May 1994. It should have been fully gazetted by 25 May 1997. In due course, Labor lost office, and what did this Liberal Government opposite do in relation to the smoke-free workplaces code of practice? Nothing. Not a thing. And that is where the problem lies.

I will now talk about the Moore-Liberal amendments to the legislation. What are the politics of them? The politics are that there was an election in the offing, much the same as there is now, and the Australian Hotels Association put the pressure on these people and campaigned very strongly against Labor's tobacco laws. Mr Moore and the Liberals leapt on the bandwagon with them and sold out to the tobacco companies. It is as clear as that. There is just no other way of describing it. It was the first sell-out. We are now approaching the second. The approach that was taken by the Liberals and Mr Moore then followed in the wake of an inquiry described as *Clearing the Air*.

**Mr Moore**: The report was called *Clearing the Air*. That is another thing you have not got quite right - something else that is not quite right.

**MR BERRY**: Mr Moore is starting to flinch a little bit, and he is starting to get a bit agitated because he has been attached to the tobacco companies well and truly. We are fixing him up, because he is now pretty well known as attached to the tobacco industry. In a submission to the inquiry which resulted in the *Clearing the Air* report - - -

**Mr Moore**: On a point of order, Mr Speaker: I understand that imputations are highly disorderly. If Mr Berry sees me as attached to the tobacco companies, I wonder whether you would ask him to explain in what way.

**MR BERRY**: It is not a point of order to ask me to explain, but I am quite happy to.

**MR SPEAKER**: Thank you.

**MR BERRY**: Mr Moore would like to add the AHA and the tobacco industry to his short list of friends. I am not for a moment suggesting - I have said this before in this place - that Mr Moore is on the take from the tobacco industry or from the Australian Hotels Association, because I think they have worked out that it is not worth the money.

**Mr Moore**: Whatever the reasons, Wayne, it does not matter; I am not. Thank you.

**MR BERRY**: Mr Speaker, I just enjoy making Mr Moore twitch over this. He is allegedly a very progressive politician who likes to deal with issues out there in health. He studies matters concerned with health and he knows and understands the effects of tobacco consumption. I want to sheet home to him at every opportunity the mistake he is making. In the AHA's submission to the inquiry I referred to, they said:

> Restaurants, taverns and hotels will lose trade and accordingly be forced to offset the reduction in business activity. Staffing levels will be the first area to be cut in an effort to reduce costs.

Smoking was banned in restaurants some time ago and the only feedback I have received in relation to restaurants is good feedback from patrons who have said, "Gee, that was a good idea, a great idea". The AHA will always bleat that the end of the world is nigh when these sorts of things are proposed. In the end, the AHA won the day. They also said:

> The AHA has proposed a more realistic five point plan to address this issue.

They proposed the establishment of a working party and so on, and they said:

> At the expiration of the two year period the Working Party will have achieved significant progress towards achieving cooperation and industry self-regulation.

They have done nothing, and neither has the Government. They have done nothing at all to prepare the licensed premises for the full effect of the legislation that is proposed to take effect on 6 June.

**Mr Moore**: Did you propose the legislation, Wayne?

**MR BERRY**: In our legislation, Mr Moore, and I will read it to you again in case you did not hear earlier, the development of the policy, that is, the smoke-free workplaces code of practice - not partly smoke-free - should occur within 12 months, but this can be brought forward by agreement between the employers and the employees and the policy fully implemented within three years of the code's gazettal on 25 May 1994. Add three years - 25 May 1997.

This Government has done nothing. The former Minister for Industrial Relations did nothing at all in relation to this code of practice. Ask how many extra resources were put into the occupational health and safety arm of government to make sure that these sorts of policies were adhered to, and the answer you will get is nothing. It has been a half-hearted approach from the start. So what happens? The tobacco industry comes along to Michael Moore and Kate Carnell, the millionaire pharmacist, and says, "Business is going to be hurt by this - - -

**Mrs Carnell**: Mr Temporary Deputy Speaker, I am very happy to have been elevated somewhat; but Mr Berry might be misleading this house, certainly with regard to my financial position but, most importantly, because the tobacco industry has never approached me and, I suspect, has never approached Mr Moore either.

**MR TEMPORARY DEPUTY SPEAKER** (Mr Hird): Chief Minister, there is no point of order.

**MR BERRY**: The Government has done nothing in the intervening period. Indeed, they made it quite clear to the people of the ACT that, once this period had expired, that was it, all bets were off. They said, "We are giving you a one-off chance and plenty of time - something like two years and nine months - to get your house in order". They said this to the whole of the industry to make sure that licensed clubs and licensed pubs were all fully aware that this was the last time.

People came to the front doorstep of the Government and said, "We are hurting. The sky is going to fall down". It does not fall down when it happens to restaurants and it was not going to when it happened to them; but straightaway Mrs Carnell and Michael Moore weakened and said, "It is the tobacco industry and the AHA. We will back off. But be warned that 2½ years hence you are done. You will have to do it". Two-and-a-half years hence they came up with the same tired old arguments, and what did the Government say? They said, "We will give you another year-and-a-half". This is from the Health Minister who cannot find enough money for her health system. From the report that I referred to earlier, she knows that the full cost of tobacco-related illness in the ACT is about as much as the health budget. This legislation has been developed against a background of pressure from the tobacco industry - there is no question about that - and it is a matter of great shame that the Government and Mr Moore have folded in front of this pressure.

The earlier attempts at legislation to extend this were quite discriminatory. It was intended at first that this should apply only to a small group of hotels and taverns with a small floor area, and it became very clear that the rest of the industry did not matter. It was only small taverns that the Government was interested in. The AHA have had their way. This amendment was at first intended to apply only in respect of pubs and taverns. That was highly discriminatory, but it tells you a little bit about where the pressure is coming from. Other people who intended to observe the law had spent the money to put the machinery in to make sure they complied with the law. I make no apologies that Labor opposed this legislation in the first place because of its frailties. Mrs Carnell admitted the other day, when introducing this legislation, that the air-handling system will not work. She said that it does not work; that it cannot be guaranteed to prevent smoke-related illness. It cannot prevent it. Every informed person knows that.

Legislation was considerably weakened by Mr Moore and Mrs Carnell to make sure that ventilation standards allowed people to smoke. That was to please the hotel industry. That certainly was in their submission to the inquiry, which incidentally did not result in a unanimous report. It was well contested. The law was weakened and it is going to be weakened again. Later on the legislation took a different form. It was to apply to clubs and pubs, as I understand it. That is fine. *(Extension of time granted)*

There is an attempt to weaken the legislation again for the AHA. When earlier legislation was introduced, the Heart Foundation was strongly opposed to it, because it did weaken what Labor intended, and they made it clear that they opposed it. This time the community groups have been bluffed into believing that if we do not go down this path, if we do not compromise, the legislation will not work. I think they are more concerned about their future funding than they are about anything else. I must say that I have been extremely disappointed with the Cancer Society. They are usually leaders in relation to these issues, but they have gone a bit soft on them, as far as I can make out. I am sure that they will come back at the gallop in due course.

This legislation is not only bad in health terms. It is a front for a backdown. It will not work. I draw attention to one particular section to point that out. It is badly drafted and it was never intended to work. It was intended to have holes in it everywhere. The explanatory memorandum states:

> An intended effect of the transitional arrangements is for many provisions of the Principal Act to still apply, including those concerning responsibilities of the occupier under 14(4) and 14(A) to take reasonable steps to prevent tobacco smoke from penetrating smoke-prohibited areas.

Subsection 14(4) states:

> Where smoking is prohibited in a part of an enclosed public place, the occupier shall not, without reasonable excuse, fail to take reasonable steps to prevent smoke from penetrating that part from another part of the public place where smoking is not prohibited.

Let us consider the effect on a small pub or tavern of what Mrs Carnell proposes. We are talking about an area three times the size of the office of an MLA - a normal MLA, not Mr Moore, who everybody knows has a big office. We are talking about an area the size of a 15-square house. It is a very small pub or tavern. You put in a bar, cut out 25 per cent where people can smoke - or 30 per cent if Mr Osborne has his way - and put a few plants on the floor and pretend that the smoke from this mob is not getting into that mob. What a joke!

**Mrs Carnell**: They are reasonable steps.

**MR BERRY**: Are a few plants reasonable steps?

**Mrs Carnell**: As long as you keep the people over there.

**MR BERRY**: Yes, we keep them all in the enclosed place with the doors shut and the heater on in the wintertime and pretend that the smoke from the 30 per cent space where all the people are smoking - they move backwards and forwards a bit - does not get over to them. What a joke! This is laughable. Have a go at this:

> An intended effect of the transitional arrangement is for many provisions of the Principal Act to still apply, including those concerning responsibilities of the occupier under 14(4) and 14(A) ...

Subsection 14(4) states:

> Where smoking is prohibited in a part of an enclosed public place, the occupier shall not, without reasonable excuse, fail to take reasonable steps ...

Is a reasonable step just drawing a white line on the floor, perhaps? Do you reckon a row of planter boxes with a few little shrubs would be better? Yes, that would make a lot of difference! Perhaps they could be smoke-devouring shrubs or smoke-resistant shrubs. That tells us how laughable this legislation is.

Mr Osborne proposes to amend it. I am afraid, Mr Osborne, that this makes it even more laughable. Then 30 per cent of the floor area will be marked out with a white line or a row of planter boxes, and you can smoke your head off over there but not over here, and that is seen to be a responsible action that will prevent people over the other side of the planter box from being affected by smoke. This is just laughable. It demonstrates how much this is a complete collapse in front of the tobacco industry. These people want to encourage tobacco consumption, and they have a Health Minister who helps them. Not too many Health Ministers would like to take the championship belt on that one, but Mrs Carnell has got it, unquestionably.

We come back to the final crunch point. The Government is saying, "If you do not like our legislation and you are not going to adhere to it or it is too hard for you, come and see us and we will dump it for you". It does not matter about the effects on the community. It does not matter about the money that people pour into our health system. It does not matter about the people in the coronary care unit. It does not matter about the people in the rehabilitation unit waiting for an artificial leg. It does not matter about any of those. The Government will just dump it. For another year-and-a-half we will just put the old gearbox in neutral and let it all go on.

What do you think will happen in another year-and-a-half? They will be back on your doorstep saying, "We have not done it yet. We have had a bad time. The sky will fall in if you do not back off on this legislation". It is outrageous. Rothmans have said to licensed premises that they will give them some extra money to make sure that they put in air-handling equipment. They will give them an advance on money they receive from cigarettes to put in air-handling equipment so that they can encourage more smoking in the places. Mrs Carnell, our Health Minister, our revered Health Minister, our big spending Health Minister, is prepared to cop all of this.

This is outrageous legislation. Members, it must be resisted. It sets us back again and it shows that this Assembly, which earlier supported very strong legislation and a strong stand against leaders in this country in relation to tobacco consumption, has gone weak at the knees. We have gone weak at the knees because there is an election in the offing. The tobacco companies and the AHA have leant on the Liberal Government and they have folded. They have leant on Mr Moore and he has folded.

I have to say that it was not a terribly popular move when Labor decided to introduce this legislation. Boardrooms of licensed clubs right around the Territory were not very happy, owners of restaurants were not very happy and smokers were not very happy. A large number of people were not very happy about it. But it was a principle that was worth fighting for. If you want to be a populist and respond to the pressure of people like the tobacco industry and the AHA, you can do so; but you have to be prepared to be named for it. If you want to be principled, develop policies within a party structure, sell them to the community and stick by them, then you deserve to hold your head up high. But you do not deserve to hold your head up high if you are unprincipled on this issue. You do not deserve to hold your head up high if you are not concerned about the future health of the community. You should bow your head in shame if you vote for this legislation.

**MR MOORE** (5.46): Mr Berry says, "If you want to be principled, take some action". I wonder what he has been reading to get these ideas. The very reason that the legislation that has made restaurants smoke free has been so widely welcomed around Canberra and so successful is that it took into account what people needed and what people wanted, but at the same time sent a very clear message.

**Mr Berry**: You hypocrite!

**Mr Humphries**: I raise a point of order, Mr Speaker. Mr Berry used the word "hypocrite". I think that has been outlawed in the past, and I ask that he withdraw it.

**MR SPEAKER**: Did you use the term, Mr Berry?

**Mr Berry**: I did. I am sorry. Michael, I am so glad you are on your feet painting the picture for us.

**MR MOORE**: Thank you. The reason that legislation was so successful is that there was a compromise made from a fascist approach taken by Mr Berry. It was simply modified.

**Mr Berry**: Mr Speaker, the term "fascist" is entirely unbelievable. People know that I come from a different direction.

**MR SPEAKER**: Mr Moore, did you use the term "fascist"?

**MR MOORE**: I said "a fascist approach", which I think is probably in order; but I withdraw if any offence was taken.

People like me enjoy going to a smoke-free restaurant. People who are particularly keen on smoking can go to a restaurant not too far from here that I use regularly. There smokers sit in appropriately airconditioned space and have their cigarettes, and it does not affect me one iota. I am very sensitive to cigarette smoke. I am also reasonably sensitive to comments that Mr Berry made earlier about the tobacco industry. I do not recall being lobbied on this issue by the tobacco industry. I do recall at some stage

meeting a lobbyist of the tobacco industry; but, interestingly, I believe it was when I was involved in an inquiry into container deposit legislation quite some years ago. On the issue of smoke-free places, I verify what Mrs Carnell indicated before. I checked the record of the inquiry to see whether the tobacco industry put in a submission to the inquiry. They did not; nor did they appear.

Unfortunately, one of the things influencing Mr Berry in this situation is his close association with the Labor Club. The Labor Club, being one of the larger clubs in this town, has many tax benefits and other benefits that others do not have. Mr Berry takes this approach because they already have the wherewithal and are ready to go with their airconditioning. They will be able to meet the requirements. If we were talking about somebody who was principled about this - Mr Berry raised the issue of being principled - and strongly opposed smoking because of what it does to people's health, you would think that he would be part of a movement to refuse to take any money from a lobby organisation, an organisation closely associated with the Labor Party, namely, the Labor Club.

You would think that Mr Berry, recognising that smoking is widespread, would ban smoking and protect their workers. But, of course, the principled approach on these things does not go that far. I think it is an appropriate time to quote from the Crimes (Offences against the Government) Act.

**Mr Berry**: Mr Speaker, that was an imputation that I had taken money from the Labor Club.

**Mr Humphries**: You have, have you not? Do you not get money from the club?

**Mr Berry**: No, I do not.

**Mrs Carnell**: It says it in their annual report. It says that the Labor Party got money.

**Mr Berry**: Mr Berry is not the Labor Party. Mr Berry is an MLA and he does not take money. He does not sell out for anything.

**MR MOORE**: I would like to quote from the Crimes (Offences against the Government) Act 1989.

**Mr Berry**: Mr Speaker, I raised a point of order.

**MR SPEAKER**: You did not actually say it was a point of order. You simply got up and started talking, which you do frequently. If you find that particular remark - - -

**Mr Berry**: I would like you to rule that it is out of order. That is all.

**MR SPEAKER**: Very well. Yes, I am happy to rule that the imputation is out of order. Do you want Mr Moore to withdraw it, though?

**Mr Berry**: I would have thought that you would have asked him to; but yes, I do.

**MR SPEAKER**: I do wish you would make up your mind. You either want me to rule it out of order - - -

**MR MOORE**: To make it easy for you, Mr Speaker, the import of my comment was not that money went directly into Mr Berry's personal pocket.

**MR SPEAKER**: Thank you, Mr Moore.

**MR MOORE**: Mr Speaker, allow me to read from the Crimes (Offences against the Government) Act 1989. Section 15 says:

> (1) A member of the Legislative Assembly who asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any property or benefit of any kind for himself or herself or for any other person, on an understanding that the performance by the member of his or her duty, or the exercise by the member of his or her authority, as such a member will, in any manner, be influenced or affected, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.
>
> (2) A person who, in order to -
>
> (a) influence or affect a member of the Legislative Assembly in the performance of his or her duty, or the exercise of his or her authority, as such a member; or
>
> (b) induce a member of the Legislative Assembly to absent himself or herself from the Legislative Assembly or any committee of the Legislative Assembly;
>
> gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the member or any other person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

I quote that to point out that it is a serious issue when we are talking about - - -

**Mr Berry**: Clearly, Mr Speaker, Mr Moore is trying to impute that I am on the take from somebody. He should be ordered to withdraw that.

**MR SPEAKER**: We are all aware of standing orders. If there are to be any such suggestions, then there will have to be a substantive motion under standing order 117(d), as we all know.

**Mr Berry**: I do not get anything from them, not a thing.

**MR SPEAKER**: But I do not know that Mr Moore is actually saying that.

**MR MOORE**: I do not think I am, Mr Speaker. All I have done is read from the Crimes (Offences against the Government) Act.

**MR SPEAKER**: I have not heard any allegations.

**MR MOORE**: It seems to me that when Mr Berry comes into this house and accuses people of - - -

**Mr Berry**: Mr Speaker, Mr Moore - - -

**MR SPEAKER**: Order! Mr Berry, if you continue to interject - - -

**Mr Berry**: No; I am raising a point of order.

**MR SPEAKER**: Very well.

**Mr Berry**: I may raise them under the standing orders. Mr Speaker, Mr Moore imputed by his reference to those documents which he just read into *Hansard* that in some way I was guilty of some crime. He should be ordered to withdraw that imputation, if in fact he made it. He should be ordered to withdraw the imputation, unless he denies that there is an - - -

**MR MOORE**: Sit down, Wayne. You were talking about people on the take from the tobacco companies. Sit down.

**Mr Berry**: Mr Speaker, I never said that.

**MR SPEAKER**: Order! Mr Moore, as far as I am aware, read some legislation. I did not hear any imputation.

**MR MOORE**: Exactly. Just to make it easier for Mr Berry, I shall explain the relevance of that legislation. It is a serious piece of legislation which Mr Berry ought to look at very carefully, along with other members of the Labor Party, because the Labor Party has taken around $1m - - -

**Mr Berry**: Mr Speaker, what is the relevance?

**MR SPEAKER**: There is no question of relevance at the moment. Mr Moore is explaining why he read that section.

**Mr Berry**: What is the relevance to the debate?

**MR SPEAKER**: He is coming to it now. He just explained to you that he was about to explain to us what the relevance was.

**MR MOORE**: The relevance is very simple. It is the same as the relevance of Mr Berry raising the issue of tobacco companies and the AHA influencing people. It is about the influence of people in terms of this particular piece of legislation and how people develop their attitudes and how they do not develop their attitudes. It is quite clear, Mr Speaker, that the Labor Club will be significantly advantaged - - -

**Mr Berry**: Mr Speaker, on a point of order - - -

**MR SPEAKER**: What point of order can you possibly raise?

**Mr Berry**: Mr Speaker, Mr Moore is trying to impute, and has imputed repeatedly, that I am in some way influenced by - - -

**MR SPEAKER**: No, he has not. If you continue to take frivolous points of order, I will have to deal with you, Mr Berry. Mr Moore stated "the Labor Club".

**MR MOORE**: Exactly. Perhaps Mr Berry thought I had said "the Labor Party". The Labor Club has put the best part of $1m into the Labor Party. It is quite clear that Mr Berry seeks in this legislation to ensure that the Labor Club has an advantage - they have already put their money into their airconditioning and so forth - over other clubs. So when he sees a move in this Assembly to allow small clubs and taverns to continue in existence, that puts the Labor Club at a disadvantage.

Can Mr Berry or any other member of the Labor Party sitting in here really sit here and say, "I have had no influence; a mere $1m, give or take a little bit, coming into the party to help us has had no influence at all on me."? It does, because there is a clear conflict of interest for the Labor Party, for members of the Labor Party and for Mr Berry in particular to stand up here and accuse other people of being influenced by tobacco companies and the AHA. For him to sit there like that when he has been part of a small group of people who have been elected with the benefit of around $1m from the Labor Club is just not acceptable. Mr Berry certainly ought not to do this. There is a very clear conflict of interest for each and every one of the Labor Party members.

**Mr Berry**: Mr Speaker, I think that is clearly an imputation. It is not allowed under the standing orders. A clear conflict of interest is determined by the Assembly.

**MR SPEAKER**: That is true, actually. There is an imputation there, Mr Moore, that there is a conflict of interest.

**Mr Berry**: You must withdraw it.

**MR SPEAKER**: Please.

**MR MOORE**: Mr Speaker, there is a clear conflict of interest. I am not in a position to be able to withdraw. It is simply a clear conflict of interest and I think that what really ought to be happening is that the Labor Party ought to stand aside from voting on this piece of legislation, as they should have on the gaming legislation.

**Mr Berry**: Mr Speaker, on a point of order: I insist.

**MR MOORE**: I have no intention of withdrawing, Mr Speaker.

**MR SPEAKER**: I will have to take the appropriate action, Mr Moore.

**MR MOORE**: I understand that, Mr Speaker. I am not in a position to be able to withdraw that.

**MR SPEAKER**: Very well. I am afraid that I have to name you, Mr Moore.

**MR MOORE**: I understand that, Mr Speaker.

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

> That Mr Moore be suspended from the service of the Assembly.

**MR SPEAKER**: Mr Moore, you are suspended from the service of the Assembly for three sitting hours.

*Mr Moore accordingly withdrew from the chamber.*

**MR STEFANIAK** (Minister for Education and Training) (6.01): I was listening to Mr Berry. I am not going to make any comments in relation to conflicts of interest or anything like that. However, a few points Mr Berry raised are quite ludicrous.

**Mr Berry**: It is a good idea. I will have no-one to argue with.

**MR SPEAKER**: But if you continue to interject I will deal with that, too.

**MR STEFANIAK**: I would ask you to do that, Mr Speaker. Mr Berry kept talking about the tobacco industry. He implied that the tobacco industry lobbied people in relation to this legislation. The only people lobbying in relation to a very reasonable extension of time to enable struggling businesses to comply ultimately with this law are the Australian Hotels Association, which I believe those three gentlemen up the back represent. They are, quite properly, trying to protect their members, many of whom are struggling in small taverns and many of whom have patrons who smoke and will probably continue to smoke regardless of whether these amendments are passed or not. They are not going to make one iota of difference to whether many of those people stop smoking or not.

What Mr Berry is aiming for and what this Government is aiming for in terms of discouraging people from smoking is not going to be served one way or the other by what happens to this legislation. The aim is to assist some very small and struggling businesses in Canberra to get over a difficult period by giving them a reasonable but fairly limited period of time - only 17 months - to come to grips with the legislation and put in smoke extraction machines. Quite clearly, because of their problems at present, they cannot do that now.

Their request is not unreasonable. They are not asking that moves by this Government and previous governments to discourage people from smoking be overturned. The time is being extended to enable them to get through a difficult period. It is a perfectly reasonable request. They are not asking for a huge amount of space to be made available in taverns for people who wish to smoke. A large percentage of the patrons of taverns are in fact smokers. There is a real danger that if taverns do not have some reasonable time in which to adjust, in the difficult economic circumstances they find themselves in today, a number of these small businesses will go broke. A number of workers in the ACT will be without jobs. Mr Berry supposedly champions ACT workers. He is not doing much to help workers in the ACT by his blinkered, narrow-minded objection to this sensible piece of legislation.

What the Chief Minister is proposing, and is being supported in by some other members of this house, is just a commonsense approach to enable a large number of small ACT businesses to buy some time so that they can comply with the law. It is all about jobs. It is jobs for Canberra. It is jobs for a large number of people in small businesses, families staying in employment and not going on the dole queue, which will happen if these businesses are forced to comply and buy expensive equipment. It is all right for the big clubs. They can afford it. They can put in smoke extractors. They have the money for that. For smaller clubs and the little taverns, it is hard. The Chief Minister has just acceded to a very reasonable request for more time for struggling businesses in Canberra, and I think Mr Berry should be ashamed of himself. If he is successful in opposing this legislation, there will be a number of Canberra workers without jobs in the next 12 to 18 months. I certainly hope members of this house will not adopt a blinkered attitude but will vote for this legislation as proposed by the Chief Minister.

It is true that this Assembly has been in the forefront in the campaign against smoking in Australia. That is something that we on this side of the house are very proud of. I can remember being a member of the Alliance Government when we introduced a number of measures to assist people to kick the smoking habit, but the fact is that a percentage of people in our community still smoke. Tobacco is still a legal substance. People are still entitled to smoke. People like smoking in pubs, taverns and clubs. While some people have been able to comply with the legislation and put in expensive extractors, others are having difficulty. All we are doing is respecting that difficulty and giving them a little extra time. To do otherwise is to adopt a very narrow, blinkered, anti-employment approach in this difficult time in the Territory's history.

**MS TUCKER** (6.07): This has been a very difficult decision for the Greens to make. I would support most of what Mr Berry said about the consequences of environmental tobacco smoke. They are obviously well documented. Tobacco smoke is a class A carcinogen, and protecting the community from such a health hazard is obviously an important obligation of government. I would be careful about talking too much about jobs, Mr Stefaniak, because I think jobs in hospitals are going to come from smoking. The consequences of cigarette smoking are very well documented.

Having listened to the community groups that are acknowledged as having as their focus public health and the issue of smoking lobby us to support the Government on this extension, we have decided to support the Government. The reason given by those groups and by the Government is that unless an extension is granted this legislation may

well be unworkable. Obviously, there is no point in having law that does not work. I have also listened to the Hotels Association speaking about the difficulties they have experienced. I am not totally sure that their arguments alone would have made me support this Government's proposal. What has swung the Greens is the fact that, if we are to successfully make public areas smoke free, it is quite possibly necessary to grant a longer period of time for particular businesses to become smoke free. I also understand from the Government that within this extension there will be a planned progression of how hotels or clubs will become smoke free, so that at the end of the 17 months we will not get a repeat of what is happening now. It is quite clear that people will have to make a commitment to ensuring that their areas are smoke free within that period of time.

I would agree with Mr Berry that it is a bit of a joke if you think that, by having 25 or 30 per cent of the floor area designated for smoking, the other two-thirds will not feel the impact of smoke. I do not think that is the purpose of designating a percentage of floor space. The aim of that designated area is to bring about a cultural change. It is a gradual step. It is allowing people who smoke to understand that they are going to have to move if they want to smoke. I do not really know whether that is going to work or not. It might be just as irritating to them after 17 months to find they have to move right out. They might be in a hotel or club which by that time has ventilation and they might be able to stay inside. I would not die in a ditch over whether the floor space is 33 or 25 per cent. I really doubt that anyone is going to get out a set square and work out exactly the percentage of floor space. I cannot see that as a major issue. I think it is really just a gesture that people will have to move to a particular area before they have a cigarette.

The groups that have agreed with the Government on this are the Cancer Society, whom I have spoken to; ASH, whose Dr Shroot I have spoken to; and the AMA, whom I have spoken to. I have not been able to get in contact with the public health people, although I have rung several times. The three groups that I have talked to have all been of the same opinion, so I think it is something that needs to be supported. It is a very pragmatic approach. It is not purist and hard line, saying that it has to happen now; but I think there are good reasons for that if we are to end up having smoke-free places.

I know it is too late to do anything about it, but I have concerns about the idea that you can have an exemption if you have appropriate ventilation. I think there is an equity issue. Smaller businesses would always find it difficult to find $40,000-odd to install ventilation. It is not a level playing field really, because smokers would be inclined to be patrons of those clubs that had the ventilation. I think the legislation is a bit flawed in that aspect; but, as it is already the case, there is not much I can do about it. We will be supporting this response from the Government.

**MRS LITTLEWOOD** (6.12): Mr Speaker, I just want to make a few comments. I would like it to go on record that I fully support the comments made by my colleague Mr Stefaniak. I would also like to put on record that I feel that Mr Berry's comments about the AHA were quite offensive. The AHA are in fact doing what they are being paid to do, and that is to look after their members and endeavour to keep some jobs in Canberra.

**MR OSBORNE** (6.13): I will be supporting the Government on this issue. I must admit, though, that I have done an about-turn. When I was first approached, my initial reaction was that a law is a law and when it is in place we should stick by it. I have since spoken to a number of smaller clubs and smaller taverns in my electorate. One in particular, the Tuggeranong Buffalos, is really only a very small organisation that, quite honestly, could not afford at this stage the extraction system needed. They are at the bottom of a three- or four-storey building, with many offices above them. For them, it would be quite expensive.

I would imagine that when this law was introduced it was not designed to give the clubs or the pubs an advantage or a disadvantage, whichever way you would like to look at it, compared with one another. Given the current economic climate, some of the big clubs could afford to get the extraction system in place without placing too great a burden on their resources, and this would give them a decided advantage over the smaller taverns and smaller pubs.

Mr Speaker, being a non-smoker, I agree very much with many of the things said by Mr Berry; but, given that it is only 18 months, I am prepared to support the legislation. I will speak further when I move my amendment later. Mr Berry implied that we were bowing to the tobacco companies. I would just like to state that I have not had any discussion with, or been approached by, any of the tobacco companies. The only people I have spoken to about this are, as I said, some of the smaller clubs and taverns. I had a meeting this morning with the AHA, but that was after I had made my decision to go the way that I have.

**MRS CARNELL** (Chief Minister and Minister for Health and Community Care) (6.15), in reply: Mr Speaker, I think that the approach taken in this area by the Assembly, except Mr Berry, is very sensible. At this time in Canberra's economic circumstances, we do not want to do anything that would cause businesses a very real problem. I have listened to a lot of small businesses that have indicated that to go totally smoke free from 6 June would cause them enormous problems. I am the first to admit that they have had 2½ years to try to sort it out, but they have not done it; so I think we need to put in place the transition period that we have been speaking about, to allow people in licensed premises to get used to moving to an area where they can smoke, instead of lighting up a cigarette at the bar.

Mr Speaker, it is interesting to note that Mr Berry indicated that, if they had been in government, all premises would now be totally smoke free. He indicated that by 25 May - which is in a week or so's time - he would have made sure that the occupational health and safety regulations for a smoke-free environment were in place. Mr Berry does not support extraction systems. On that basis, we would end up, on the 25th of this month, with all of our pubs, clubs, taverns and everything else absolutely smoke free. Now, come on! We are not talking about jokes.

I agree very strongly that people have a right to smoke-free air, Mr Speaker; but in question time today I read a quote from Mr Berry in which, the last time we debated this, a few years ago, he indicated that you had to bring the industry with you; you had to have a phase-in period. Unfortunately, that was only when it suited Mr Berry. I think that the

approach of having 33 per cent of licensed premises available for smoking, under all of the conditions that I have already laid out, for a period of 17 months, with a proper timetable involved that our people will oversee, is the appropriate approach. It will save jobs in Canberra. It will give smaller premises an opportunity to either become smoke free or put in extraction systems. I think that is the sensible approach and I think the majority of the Assembly feel the same.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Bill, by leave, taken as a whole

**MR OSBORNE** (6.18): Mr Speaker, I move:

> Page 2, line 31, clause 5, proposed paragraph 22(2)(b), omit "25%", substitute "one third".

What my amendment does is increase the floor space from 25 per cent to one-third. I have done this because a number of the smaller organisations that I spoke to said to me that the 25 per cent was unworkable. Yesterday I received a fax from a person in an organisation - it was a tavern in Weston, I think - who said that they did a survey one night. They had 91 people in their tavern. Of the 91 people, 78 were smokers. He said to me in the letter that he would have to place that many people in one-quarter of his tavern, which was unworkable. I agreed; so, I have moved this amendment. I might add that it was the space that was raised with me when I first had my discussion with Mrs Carnell.

Mr Speaker, I would like to add a couple of things. Mrs Carnell said that, if the Labor Party had been in government, then all clubs, pubs and taverns would be smoke free. I would argue, as Ms Tucker did, that the legislation as it stands now is flawed. I do not know who was involved in the drafting of it, but I think you need to make a decision. Either you have smoke-free clubs or you do not. My preferred option is that everybody goes smoke free, because unfortunately it creates an advantage for the bigger, more wealthy organisations.

Mr Speaker, I was amazed at the number of phone calls I received today from members of the LCA. I had a phone call from the president of the LCA asking me why I was supporting this. I had phone calls from a number of larger clubs asking me why I was doing this. Mr Speaker, what it did was reaffirm to me that I had done the right thing. I think they see this legislation as a tool by which they can gain a further advantage over the smaller pubs and taverns. I do not think it was designed to do that. I have moved this amendment to raise the floor space from one-quarter to one-third, and I commend the amendment to the Assembly.

**MR BERRY** (6.21): Mr Speaker, to us it does not matter whether it is 30 per cent, 33 per cent or 25 per cent. The notion of these areas is just silly, because they will have no effect in relation to preventing the inhalation of somebody else's tobacco smoke. I would like to refer to another point that Mrs Carnell made. I think she said that I would "bring the industry". I am not as narrow-minded as that. What I have always said - if my recollection is correct - is "bring the community with me". That includes the industry. You do not focus on just business and just the industry. What we have to talk about is the effects on workers here. Mrs Carnell also made a point in relation to my comments about bringing the community with us and in relation to smoke-free workplaces. I said that workplaces would have been smoke free within three years if Labor had had its way. That is what the smoke-free workplaces code of practice developed by the Occupational Health and Safety Council argues for. Certainly, Labor would have stood behind that code, to make sure that workers were not affected by the smoke of other people.

Mr Osborne made the point again in relation to the air-handling equipment in clubs and so on. Aside from the fact that air-handling equipment does not guarantee that you will not be affected by somebody else's smoke, it was always seen as an expensive option for the well-off premises. This legislation makes it easier for the well-off premises to compete on a very unlevel playing field. Because they have resources, because they can borrow money and because they have money, they can install these things. I do not think any of my clubs - I am a member of several - were too happy about the requirement to put in this sort of air-handling equipment. I certainly know that the board of the Labor Club would have preferred it if I had never talked about smoking, because it was not something that they particularly wanted to change in the Labor Club. But we had a principled policy position that we intended to pursue, and I think anybody who stands in the way of it deserves to be roundly criticised.

It is, essentially, about providing a safer place for workers. That is what it gets back to. That is why this workplaces code of practice was developed. While ever we ignore the interests of workers, I do not think we are a very humane society. What will happen if we adopt these sorts of standards and silly extensions? This is not a transition; this is a second transition. The first one was for 2½ years, or two years and nine months - nearly three years - and the next one is for 18 months. What happens next?

This is not a Government or an Assembly that is leading the country in relation to the development of safer places for workers and changing the culture of tobacco consumption. It, in fact, is fostering it. That is why, as the Opposition spokesperson on health, I have always maintained the view that sometimes you have to observe principles instead of favouring vote-grabbing impressions that you might wish to create.

Mrs Carnell argues for jobs. I do not think there are many people out there who want a job at the expense of somebody's health. In the end, sometimes you have to make these decisions. Every time this comes up, people argue, "It is about jobs. Businesses will go broke". They said that in relation to restaurants, and it did not happen.

**Mrs Carnell**: We did not say it with regard to restaurants.

**MR BERRY**: The restaurant people said it and the AHA said it. I have no particular objection to the AHA. We have a political difference on this issue, and we will fight like cats and dogs over it. I suspect that we will never agree. They play hard ball, and on this question I am happy to play hard ball too. It is as simple as that.

The issue is one of concern for the community. It is an issue of community health, and it is a principle that you cannot afford to walk away from. Bottom lines and community health do not often mix. I am afraid that the bottom line has won out on this one. That is regrettable, because I think this puts off a chance to do something - watered down, yet better than what existed before. Those are the facts of the matter. But, at the end of the day, it puts into somebody else's hands in the future - who knows who it will be - a decision about whether there is another extension. Mr Speaker, I have said as much as I need to say about that. I think it is another backward step. I do not think the ACT will be held in high regard by people right across the country - indeed, across the world - who understand these issues.

**MRS CARNELL** (Chief Minister and Minister for Health and Community Care) (6.27): Let me say very briefly, Mr Speaker, that this legislation will place us at the forefront of smoking legislation in Australia. It will keep us at the forefront. The fact that, in pubs, clubs and taverns, you will be able to smoke in only 33 per cent of those areas, you will have to be 1.5 metres away from the bars and all the rest of it, or in 50 per cent of the premises, if there are smoke extraction systems, means that we will be a country mile ahead of any other jurisdiction in Australia and ahead of most in the world. But, as well as being ahead of other jurisdictions in Australia, we will be able to make sure that the legislation that we put in place here is workable and is legislation that we actually can enforce. That is absolutely essential, and that is what this is about. I think it is the way to go.

Amendment agreed to.

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

Bill, as amended, agreed to.

## BAIL (AMENDMENT) BILL 1997

[COGNATE BILLS:

CRIMES (AMENDMENT) BILL (NO. 2) 1997
DOMESTIC VIOLENCE (AMENDMENT) BILL 1997
MAGISTRATES COURT (AMENDMENT) BILL 1997]

Debate resumed from 10 April 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR SPEAKER**: Is it the wish of the Assembly to debate this order of the day concurrently with the Crimes (Amendment) Bill (No. 2) 1997, the Domestic Violence (Amendment) Bill 1997 and the Magistrates Court (Amendment) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also address their remarks to orders of the day Nos 6, 7 and 8.

**MR WOOD** (6.30): Mr Speaker, these amendments flow from the review that was commenced by Mr Terry Connolly when he made a reference to the Community Law Reform Committee to look at domestic violence laws. That was a most comprehensive undertaking. It involved wide consultation and a close scrutiny of a wide range of Acts of this Territory. In the end, some five years after the reference, a well-considered report of two volumes came to this Assembly. We are now considering just part of that as we look at these amendments to the legislation today.

I trust that the Government's reaction to this report will be in keeping with the effort that went into its presentation. I have to say that there is still a very long way to go. Some good work has flowed already. You may recall Ms Follett's anti-stalking legislation that went through late last year and a couple of other amendments that went through. The Minister spoke of improvements to processes flowing from the construction of the new Magistrates Court and he also claimed that there have been some changes to police procedures. But I must emphasise that there is much more to come. We have hardly touched the surface of this comprehensive report. In particular, we have yet to deal with the Domestic Violence Advisory Council. That Bill has been tabled and it will be debated during the next session. That council is a key component of the changes that have been recommended.

I should comment that the report contained two strong, vital threads. First of all, there was the strengthening of the criminal justice response to domestic violence. Secondly, there was the strong demand for a coordinated interagency response to domestic violence. Today we have some, just some, of the significant recommendations arising from the report and from those two strands. The Opposition will certainly be supporting these amendments tonight.

I have two requests of the Minister, Mr Humphries. First of all, on behalf of many in the community, I seek a statement from the Government about its intentions as to the rest of the recommendations in this report. We have done only a little at this stage, and the community at large would be very keen to know what the Government intends to do

in the future. When the Minister tabled these two volumes he made a good statement, but it was still fairly cursory and did not go into any detail. I understand that in amending the legislation, and in other processes, there is an enormous amount of work to be done. We have only about three items coming up in these amendments tonight, but they cross over four Acts and they go right through the four Acts. There is a lot more work in amending the Acts than is really reflected by the small number of recommendations being accepted. The community, especially the community concerned with domestic violence, is very keen to get a detailed statement from the Government about its future intentions. That has not been done at this stage and I think it is important that we move on to that.

My second request of the Minister - I have mentioned this to him personally - is that we review the position of the domestic violence project coordinator. When Mr Humphries tabled one of the reports, he said:

> ... the committee's report has produced a blueprint for action incorporating the essential features of a model that originated in Duluth ...

That was a key part of these reports. Not explicitly, but by those words, the Minister seemed to suggest that he endorsed that blueprint. It appears not to be flowing through in action. In fact, following my conversation with him, it is quite clear that it is not flowing through in action. Those who produced these reports - bear in mind the enormous amount of effort that went into them - were absolutely emphatic that there needed to be a domestic violence project coordinator to put together all that work.

One of the problems confronting the people in this area was that there were so many departments, and so many groups and linkages, and they were not getting put together. They needed that domestic violence project coordinator. What has happened is that Mr Humphries has indicated that he is going to marry that coordinator into a new position, or not too new position, with VOCAL, the Victims of Crime Assistance League. He is going to get two jobs for the price of one, and I think that is going to be to the detriment of both jobs. The Victims of Crime Coordinator is a very competent, very good person, but she is now going to be required to do two jobs that are not quite similar. They have quite distinct strands to them and I do not think it is going to work well.

That Duluth model required a comprehensive, collaborative, interagency approach, as I said. It requires case flow monitoring. I do not believe it is a sufficient response from the Minister to lump that very large amount of work onto a person who already has been appointed to do a different job. Maybe there are some cross-linkages, but she is going to be doing a different job, and I do not think it is going to work. I know that the Chief Minister has met that person and has spoken with her. No doubt she is a very competent and able person, but I do not think it is fair to ask that those two jobs be compacted into the one. So, that is my second request to the Minister - that he review the situation before we discuss this Bill in the next session and see whether he can find the resources to fund the stand-alone position of coordinator for domestic violence upon which so much emphasis has been placed. I will say more about that when the debate on that arises in a month or so.

Mr Speaker, these amendments are appropriate. There are not many of them, although there is a fair bit of work there. I repeat that we want to know what else is happening. For example, what is to happen about the extension of protection orders, which was a very important part of these reports? We do not know whether the Government is going to accept that, or when it is going to move on it. We need to know what steps can be taken towards the specialist police unit and/or the specialised training for the police additional to what has happened. We need to know these things. As I endorse these amendments, I urge the Government to keep to the spirit of these very important reports. Tell us what more you are going to do, because I think there is a quite large program ahead of us, so that we can move ahead in this very troubled area and get the very best system that is possible.

**MRS LITTLEWOOD** (6.38): Domestic violence is a serious and costly problem for our community which can be quantified both socially and economically. Since 1993 all Australian States and Territories have introduced specific legislation to deal with domestic violence, giving public recognition to the fact that violence is unacceptable behaviour under any circumstances.

I would like to congratulate the Government for introducing the nation's toughest domestic violence legislation. This legislation has the potential to significantly diminish the likelihood of repeated offences, and there are two particularly impressive proposals. Firstly, there has been, and in most instances of crime there still is, a presumption that if one has been charged but not yet convicted of a crime one should be eligible for bail. The proposed amendments remove this presumption. In the case of alleged victims of domestic violence, the police granting bail have to state in writing how they have concluded that the alleged victim is no longer in danger. Further, the alleged offender will have to appear in court within 48 hours. This has the effect of giving the alleged victim a chance to request that the bailee be detained.

The other particularly impressive proposal is to allow police to confiscate guns, firearms licences and ammunition from an alleged offender; and people against whom a domestic violence order has been issued or who have been convicted of a domestic violence offence would not be allowed to own a gun for at least 10 years. That is very commendable, I think, Mr Speaker.

There has been a great deal of debate in this house about domestic violence. Most often we have directed these discussions towards the effects it has on the spouse or the partner who has been the victim of this crime. But what have we heard about the impact of domestic violence on the other family members, particularly the children? There is research that indicates that severe childhood trauma is something which the majority of female prison inmates have suffered. One study I am referring to in particular relates to the population of female prisoners in South Australia. It was made by W.J. Craig and is entitled "Posttraumatic Stress Disorder in Female Prison Population".

The research has shown that criminal activity is probably only one of the consequences of traumatic childhood experiences. The most common traumatic events in early life that the women cited in this particular study suffered from related to intra-familial violence against them or others with whom they shared an intimate relationship. I suggest that these others are parents or guardians who have been victims of domestic violence. There appears to be a complex interaction between childhood trauma leading to post-traumatic symptoms and then a divergence into psychotic disorders, including depression and anxiety.

I propose that any consideration of the prevention and then the treatment of domestic violence has to largely consider the needs of children who unfortunately get caught up in a domestic violence situation. The research shows that children are so deeply affected that they carry the experience around with them for years until finally they crack and rebel, which is a trend that the statistics relating to prison populations clearly demonstrate. Initially, there needs to be an increased awareness that the children who are victims of or witnesses to domestic violence are a group in need. I believe the research demonstrates that they are a group in need of much greater psychiatric attention.

There are four main agencies involved in domestic violence cases in the ACT, namely, the AFP, the ACT Magistrates Court, the Domestic Violence Crisis Service and the ACT Legal Aid Office. They all work closely together in these matters. It would be sensible and responsible to implement a follow-up procedure for children identified as being at risk by virtue of their involvement in domestic violence situations. These children could then be offered appropriate support and counselling. I would hope that this issue could be referred to the Domestic Violence Prevention Council for further consideration.

**MS TUCKER** (6.43): Mr Speaker, the Greens will be supporting these Bills. I think it is appropriate that we should be debating these Bills on the same day that we debate the firearms laws again in this Assembly. Violence in our society is a very serious issue. While all the public debate about gun laws and Port Arthur was overdue and very welcome, it is unfortunate that there is not such a high level of debate about domestic violence, and also about the more subtle but very important underlying causes of violence in our community and the complex consequences which Mrs Littlewood has just covered in regard to the effect on children.

I am very pleased to be supporting the four Bills we have before us today. The focus of three of the Bills is to expand the powers of the court in relation to seizing firearms, firearms licences and ammunition. Domestic violence is acknowledged as a serious problem in most communities, with very serious consequences for the victims. The ACT is no exception. The Community Law Reform Committee reports into domestic violence found that domestic violence is a serious problem in the ACT and also said that the majority of victims are women and children. Since 1986 we have had the Domestic Violence Act in the ACT, and, since 1988, we have had the Domestic Violence Crisis Service. These followed recommendations of the 1984 Australian Law Reform Commission report into domestic violence in the ACT.

Mr Speaker, it is now time for a major overhaul of that piece of legislation, and an overhaul of systems responses and delivery of services for domestic violence victims. As the CLRC report said, despite the extensive activity which is under way, the ACT is now behind developments in other Australian jurisdictions in relation to the development of a strategic plan for a multisystems response to domestic violence. Reforms to the law must be supported and parallelled by activities in other relevant areas, and all activities must be coordinated. I would support Mr Wood's statements about the need for a stand-alone coordinator.

The CLRC reports have made a number of recommendations to update and reform domestic violence responses and legislation in the ACT. One of the pieces of legislation before us today is implementing a recommendation of the CLRC report. That is the Bail (Amendment) Bill, which removes a presumption in favour of police bail when a person is charged with a domestic violence offence. Bail is therefore to be provided only when a police officer is satisfied on the balance of probabilities that there is no danger to the alleged victim or an associated person. The intention of the Bill is to reinforce police awareness about the risks of domestic violence. The Government has also tabled the Bill to establish the Domestic Violence Protection Council and we will be looking at it over the next few weeks.

Mr Speaker, we have to make sure that the very good recommendations of the CLRC do not just remain on paper. I am also concerned about the speed, or lack of it, with which many of the recommendations are being implemented. I did prepare amendments in relation to the issue of domestic violence which, for a range of reasons, have not yet been completed by the drafters. I will, therefore, be putting them forward as a private members Bill, hopefully within the very near future. I have discussed this with Mr Humphries and I look forward to the Government's support.

Briefly, the purpose of the amendments I will be putting forward is to extend the duration of protection orders, which Mr Wood just raised, and to remove the requirement for an applicant for a protection order to prove that they fear for their safety or that the respondent is likely to engage in a further domestic violence offence. Legislation which I am foreshadowing will also amend the Domestic Violence Act to require the court, in determining an application for a protection order, to have regard to any history of domestic violence, including the details and circumstances of any previous protection order. Obviously the legal response is only one aspect of domestic violence measures. A system-wide response is also necessary, and obviously it is critical that we do not focus just on improving legislation in this area.

**MS REILLY** (6.47): This is important legislation and I support the words said by the previous speakers. I think it is important that we look to improving the legislation and the way in which it could be better integrated. The saddest thing is that domestic violence is not decreasing or diminishing in our society. I think the need for this legislation is ongoing within our community. I think we are all very pleased with the legislation on guns that was introduced last year following the events at Port Arthur. In Australia, nationally, in any year, more than 52 women or children are killed in domestic violence incidents, but we do not seem to be able to make the same major response to domestic violence as we do to one incident on one day in Tasmania. It is not just crime, it is not just guns; what we are talking about is an imbalance of power within our community.

It comes from relationships that are not working and a community that is not supporting families, is not supporting both men and women to ensure that we could have more equality of relationships, not just within the workplace but also within the home.

It is not just a matter of looking at legislation. We actually have to look at a broad range of responses. We in the ACT can be proud of our long history of support for strong legislation on domestic violence. We have strong State action which is quite often negated or reduced by Federal Government action. Consider the cuts in legal aid. One of the issues is women having access to legal aid. In cases of domestic violence, with the complexity of a number of issues, you are dealing with both Commonwealth and State legislation which cuts across some of the little boxes that legal aid dollars are put into.

If you are looking at trying to protect your house so that you and your children can continue to live in some safety, you go through the Family Court. If you are looking at taking out a domestic violence order in relation to the perpetrator, you go to State legislation. Obtaining legal aid dollars and funding at times is extremely difficult for a number of women in this area, even though the attitudes of the court, the police and others in the area have improved over the years. Currently, there is a fee of $65 for people to access legal aid. This fee, for a number of women, is too high. They are so poor and so disadvantaged, and have so little money, that they cannot afford the fee of $65 to be able to use a legal aid lawyer at the time of their court case. Consequently, you have women appearing in court without legal representation, often facing a male with more resources who is able to appear with a lawyer, and this immediately puts the woman at a disadvantage. Women, and quite often children, continue to live in fear and insecurity because they cannot obtain the necessary legal advice and the legal outcome that they require to live in safety in our community.

Another aspect of domestic violence that is not always considered as being directly applicable is access to housing. It is easy for women who have housing or who have managed to get a property settlement; but for women who have had to leave a home because it is so unsafe, women who have to move into refuges, it is quite often extremely difficult to find any exit from those refuges. At times women end up living in refuges for a lot longer than they were originally set up for. I think it is important that we register that there is need for women to be able to exit refuges or medium-term accommodation. There has to be more provided for public housing to assist these women. There is also the question of access to funds for emergency accommodation in particular times of dire need, and last year the budget for this was cut.

It is not just a legal response that we need to domestic violence. We need a coordinated, cooperative response across a number of areas. We need more education, more assistance to young men and young women when they are growing up, particularly for young men to help them deal with anger. For a number of them, because of modelling they may have received within their own homes or the community, their way of dealing with anger is to hit out. Quite often the person who suffers from this is their partner or the children of that marriage or relationship. These are the people who suffer. We need to look at ways of providing more assistance and more education for young men in particular, so that we can reduce the amount of domestic violence within our community.

It is not just a matter of having good legislation, and strong legal and police powers. We must work towards having increased community education, towards empowering all people within our community to improve the balance of relationships, and ensure that there is a reduction of domestic violence so that women and children within our community can live in safety. I commend this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## CRIMES (AMENDMENT) BILL (NO. 2) 1997

Debate resumed from 10 April 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## DOMESTIC VIOLENCE (AMENDMENT) BILL 1997

Debate resumed from 10 April 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## MAGISTRATES COURT (AMENDMENT) BILL 1997

Debate resumed from 10 April 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## ADJOURNMENT

Motion (by **Mrs Carnell**) proposed:

That the Assembly do now adjourn.

### Children with Disabilities - Funding : International Family Day

**MR STEFANIAK** (Minister for Education and Training and Minister for Housing and Family Services) (6.54): Mr Speaker, midway through the afternoon I went upstairs and sought a response to my question to the Department of Education and Training in relation to a point Ms Tucker raised. I am happy to advise Ms Tucker that, as a result of that information, I have been able to extend the program she refers to until 30 June 1998 in terms of funding. I also advise Ms Tucker that a joint working party comprising people from my area and the Chief Minister's area has been working away on this, consulting with all relevant stakeholders and looking at the broader issues in terms of longer-term strategies and programs to assist in this area and ancillary areas. I think some very good things will come from that.

I also take the opportunity of the adjournment debate to indicate to members, if they have not realised already, that today is International Family Day. It also marks in the ACT the first meeting of the Family Advisory Council of 16 people. They met for the first time today under the chairmanship of Uncle Dave Rugendyke, well-known country cop and president of the ACT Foster Carers Association. I look forward, as the relevant Minister, to working with that council, which will be advising the Government on matters in relation to the family, and, through the Government, the Assembly and the wider Canberra community. I look forward to a long and happy working relationship with that new council, which I think can bring a lot of insight and assistance in family matters to the ACT.

Question resolved in the affirmative.

**Assembly adjourned at 6.55 pm until Tuesday, 17 June 1997, at 10.30 am**

## ANSWERS TO QUESTIONS

## MINISTER FOR HEALTH AND COMMUNITY CARE

## LEGISLATIVE ASSEMBLY QUESTION

### Question No 392

### Illegal Drug Use

**Mr Moore**: To ask the Minister for Health and Community Care -

(l) How many deaths occurred because of heroin in the ACT in 1996.

(2) How many deaths occurred because of all other opiates in the ACT in l996.

(3) How many deaths occurred because of all other illegal drugs in the ACT in 1996.

(4) Did any deaths occur from marijuana in the ACT in 1996.

(5) How many deaths occurred in the ACT in 1996 in which illegal drugs were a contributing factor but for which illegal drugs were not listed as the cause of death.

(6) How many drug overdoses were ambulance drivers called out to in 1996.

(7) What ages were those overdose victims.

(8) What education programme is the Government undertaking to inform young people of the problems of addiction.

(9) What education programmes are in place in ACT Schools to teach children about addiction.

(10) What amount of time is allocated to such programmes in Schools.

(11) How many people are on the methadone programme.

(12) Is there a waiting list of people wanting to go on the methadone program.

(13) Are any people being denied treatment on the methadone programme.

(14) What are the conditions for placement on the methadone programme.

(15) What programmes other than methadone are available or are being considered for heroin dependent people.

(16) What is the cost in the ACT for administering illicit drug laws (Broken down by costs for Police, the legal system, ambulance services, hospital services, other medical and administrative services).

(17) What proportion of those people who are currently in prison for crimes in the ACT are there for reasons (a) directly attributable to illegal drugs; and (b) indirectly attributable to illegal drugs.

**Mrs Carnell** - the answer to the Member's question is:

There were a total of 14 overdoses recorded in the Coroner's Court for the 1996 calendar year. Out of those 14 deaths, there are 4 outstanding inquests which have not been dispensed with by the Coroner.

(1) There were 3 deaths by heroin and 2 by heroin mixed with other prescription drugs in 1996.

(2) There was 1 death by morphine and 2 by morphine mixed with other prescription drugs in 1996.

(3) There have no recorded deaths by other illegal drugs in 1996.

(4) There were no deaths occurring directly from marijuana use, however there were 3 deaths recorded by suicide from carbon monoxide poisoning in which the deceased were habitual users of the drug.

(5) There were 9 deaths recorded for either overdoses, suicide or asphyxia in which drugs, both prescription and illegal, were present in the deceased's body. It would be imprudent to say that drugs, whether legal or illegal were a contributing factor, however one could speculate that they were.

(6) Ambulance paramedics were called out to 164 drug overdose patients in 1996.

(7) Electronic records do not contain this information. This data could only be provided by a manual inspection and collation of all ambulance case sheets. I am not prepared to authorise the use of the very considerable resources that would be involved in providing the detailed information required to answer the Member's question.

(8) The ACT Alcohol and Drug Service (ADS) has targeted young people's alcohol and cannabis use and safe behaviours in their health promotion activities this financial year. A range of activities have been implemented. The venues have included Australian National University, Canberra University and all youth centres. In addition the ADS has undertaken the following activities:

The Drug Information Kit was launched in March 1997 and offered to all schools, this is a valuable resource for both students and teachers.

Training will be held in the coming weeks titled "Alcohol and other drug issues for workers with young people", this will be provided by accredited Alcohol and Drug Service trainers.

ADS have reviewed and revised their parenting course "Young people, parents and drugs." The course targets parents of Year 6 students. The first pilot group will be run at Curtin Primary School. Expressions of interest for this course have been received from other primary schools.

A one off session "Parents with teenagers who are using drugs" will be held at Belconnen Community Services.

(9) and (10) All schools in the ACT base their curriculum development on the ACT Curriculum Frameworks for Health and Physical Education. Drug education is addressed in Health of Individuals and Populations and Safety and Human Relations strands of ACT Curriculum Frameworks. Schools approach drug education topics in a variety of ways to suit their students' needs.

The exact time allocated to drug education in ACT Schools cannot be calculated. However, in ACT Schools drug education is included in the key learning areas of Health and Physical Education. The Department of Education and Training actively promotes a range of drug education initiatives throughout the system as part of a comprehensive health and social education program. 1996 saw an expansion of the provision of Drug Education support provided to schools in the ACT government education system.

(11) As at 9 April 1997 the ACT Methadone Program had 286 clients and the private program had 110 clients registered.

(12) There is a waiting list for the public methadone program. The waiting time varies between one - two weeks. At any one time there are between 10 -15 people of the waiting list.

(13) There are a few situations when, based on individual assessment, a client may be refused methadone treatment on the public program. Examples of these situations are; clients who are assessed as not being dependent on opioids or people under duress. On rare occasions clients may be involuntarily withdrawn from methadone, usually due to violent behaviours or repeated misuse of their methadone dose. Each client situation is assessed individually and all clients are referred to alternative services.

(14) Conditions for placement on the public methadone program are as follows: demonstrated opioid dependence; willingness and ability to participate in the program; ACT resident and availability of treatment places in ACT (currently restricted to 400 places).

Generally treatment is for people over the age of 18 years, however, each client is assessed individually, therefore clients under 18 years will be treated occasionally.

(15) Other treatments are available for people dependent on heroin including: detoxification, counselling, therapeutic communities.

The feasibility of trialing other pharmaco-therapies is being considered in Victoria. Specifically the drugs under consideration are LAAM, bufrenorphine, naltrexone and slow release morphine. The proposed ACT Heroin trial is being considered nationally.

(16) The following costs have been estimated by the agencies and should only be regarded as approximations. The cost for administering illicit drug laws are:

| Agency | Cost |
|---|---|
| Department of Health and Community Care, Alcohol and Drug Service<br>Administering and coordinating the Treatment Referral Program in accordance with Part IX of the *Drugs of Dependence Act 1989* | estimated cost of $79,000 pa |
| Department of Health and Community Care, Pharmaceutical Services Section<br>Administration of parts of the *Drugs of Dependence Act 1989* | estimated cost of $20,000 pa |
| Department of Health and Community Care, ACT Government Analytical Laboratory<br>Analysis of suspect drugs, including receipt, analysis and storage | estimated cost of $125,000 pa |
| ACT Ambulance Service | estimated cost of $32,800 pa |
| Australian Federal Police, ACT Region | The Australian Federal Police does not specifically record the cost of policing illicit drugs. |
| Legal Aid Office (ACT) | Total Cost for 1995/96<br>$22,393 |

(17)(a) As at 1 March 1997, of 115 ACT prisoners in NSW prisons, 12 were identified as being sentenced to imprisonment as a result of crimes in the ACT which are directly attributable to illegal drugs.

(17)(b) The ACT currently only records the most serious offence and not subsets of that offence. As an example if a heroin addict committed murder in order to gain money for drugs, the only offence recorded would be that of murder, not drug addition.

**ATTORNEY-GENERAL OF THE AUSTRALIAN CAPITAL TERRITORY**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NUMBER 396**

**Court Transcript Costs**

**Mr Wood**- Asked the Attorney-General:

**Question 1:** In relation to the provision of transcripts of lower court proceedings which are provided on contract by Auscript:

(1) Is it the case that these transcripts are on-sold by the Government through the Magistrates Court at a profit.

(2) Does the Supreme Court also require that appellants provide (and therefore pay) for the transcripts it needs.

(3) Is this an imposition on people, especially those who have limited financial means, to be fair and in the interests of providing justice for all.

(4) Is it true that in a recent court case the judge required the court to provide a transcript because the appellant could not.

(5) Will you accept this precedent and provide the transcripts free, at least to those people who would qualify for legal aid.

**Mr Humphries**: The answers to the members' questions to the Attorney-General are as follows;

**Question 1:** No. Auscript charges the ACT Magistrates Court $8.25 per page in the ordinary course of events, and $10.25 per page for priority transcripts. The ACT Magistrates Court charges applicants at the lower rate of $8.25 as prescribed by the Magistrates Court Act 1930.

**Question 2:** Generally the appellant is required to provide, and pay for, any transcript required for the purpose of an appeal to the Supreme Court. Successful appellants can seek an order for costs, including the cost of transcripts, against the other party.

**Question 3:** It is recognised that the cost of Court transcript may have a significant impact on some litigants seeking access to the Court. It is for this reason that the fee charging regime was recently amended to provide that applicants can be given an audio cassette of proceedings at a cost of $30 and the Court has recently purchased high speed dubbing equipment, which will facilitate this service. Auscript also currently provides assistance to litigants by providing reading rooms for them to listen to sound recordings of proceedings and to read the transcript. Auscript does not charge for this service. Both facilities assist litigants to assess whether or not to proceed to an appeal.

**Question 4**: No. Enquires made of judges' associates reveal that in a recent case in the criminal jurisdiction of the Court a Judge requested the Director of Public Prosecutions to provide a self litigant with a copy of the transcript of the Magistrates Court proceedings. The appellant had only ordered an extract and was not possession of a full transcript, which would not be the normal case.

**Question 5:** Neither the Magistrates Court or the Supreme Court receive transcripts free of charge from Auscript. The Supreme Court pays Auscript for transcript at a rate of $6.50 per page and last year paid $158,893 for transcript required by the Court itself. Auscript records proceedings for the Supreme Court as well as offering a transcription service and the lower page rate is part of an overall package. Last financial year the ACT Magistrates Court paid Auscript $43,100 over and above what it collected from parties and other applicants for transcripts. The Court also pays further surcharges for disks and cassettes and Court staff actually record the proceedings. None of these costs are passed on to applicants. The Court also provides transcripts of committal proceedings free of charge to parties committed to the Supreme Court for trial, which is in accordance with the Magistrates Court Act. A significant number of these defendants would be legally aided.

The practices surrounding the supply and payment of transcripts for ACT Court's is similar to practices adopted in other jurisdictions. In NSW, transcripts for committal proceedings are supplied free of charge to defendants, whereas a fee of $6.50 per page is charged to applicants for transcripts for sentence hearings and appeals where the proceedings are under 3 months old. Where the proceedings are more than 3 months old, a fee of $7.50 per page is charged to both defendants and appellants.

The provision of transcripts represents a significant cost in the running of both Courts and at present there is an increased demand for transcripts in relation to both Court and Tribunal matters. At present there is some 10-12 weeks delay in obtaining transcripts from Auscript for Magistrates Court matters, even though less than 5% of cases are transcribed. A decision to provide transcript free of charge to all applicants who would qualify for legal aid and/or to appellants in general, would likely to involve the Court in additional costs amounting to tens of thousands of dollars each year, and at the same time impinge on Auscript’s ability to deliver the service demanded.

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 401**

**Business Incentive Scheme**

**MR CORBELL -** Asked the Minister upon notice on 8 April, 1997. - For the following businesses, as recipients of assistance under the ACT Business Incentive Scheme -

Diskdeed Printing Technologies
Woolhouse Australia
Drink World
Capital Air Services
ACT Rugby Union
Sustainable Technologies
Transborder Express
Capital Plastics Australia
Pacific Noise and Vibration
Olivetti Australia
Modernfold Australia
BioLogic International

(l) In relation to concessions received on payroll tax or other taxes and charges

(a) which of the businesses listed received concessions;

(b) what were the details of these concessions; and

(c) what was the value of these concessions in each case.

(2) Which businesses (a) received business assistance grants and (b) what was the value of these grants in each case.

(3) Which businesses (a) received direct grant of land, (b) where is the land and (c) what was the value of these grants in each case.

(4) Which businesses (a) received work force development assistance, (b) what are the details of this assistance and (c) the value of this assistance in each case.

**MRS CARNELL -** The answer to the Member's question is as follows:

(1) In relation to concessions on payroll tax and other taxes and charges'

(a) Two of the above listed companies received concessions. They are the ACT Rugby Union and Sustainable Technologies Australia

(b) The details of these concessions are as follows:

ACT Rugby Union - payroll tax waiver for a period of two years Sustainable Technologies Australia - stamp duty waiver on the granting of a lease of land.

(c) The value of these concessions is as follows:

ACT Rugby Union - to a maximum of $75,000 per year Sustainable Technologies Australia - $5,5l5

(2) The businesses which received business assistance grants and the value in each case:

| Applicant | Amount/Value |
|---|---|
| Drinkworld | $35,000 |
| Capital Plastics Australia | $50,000 |
| Pacific Noise and Vibration | $60,000 |
| Olivetti | $90,000 over 2 years |
| Modernfold Australia | $85,000 |

There are three businesses which have been approved under the program and which for various reasons have yet to take up the funds:

| Applicant | Amount/Value |
|---|---|
| Woolhouse Australia | $100,000 |
| Capital Air Services | $ 60,000 |
| BioLogic International | $ 80,000 |

(3) The businesses which received direct grants of land, the location of this land and the value of the land in each case:

| Applicant | Location | Value |
|---|---|---|
| Sustainable Technologies | Symonston | $200,000 |
| Transborder | Mitchell | $100 000. |

NOTE: Transborder has been approved for a discount on the purchase of an existing lease but has yet to finalise a formal assistance agreement.

(4) The businesses which received workforce development assistance, the details and value of this assistance in each case:

| Applicant | Description | Value |
|---|---|---|
| Diskdeed | in-house-training by Canberra Institute of Technology. | $60,000 |

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 402**

**Business Incentive Scheme**

**MR CORBELL-** Asked the Minister upon notice on 8 April, 1997:
For the following businesses, as recipients of assistance under the ACT Business Incentive Scheme:

Diskdeed Printing Technologies
Woolhouse Australia
Drink World
Capital Air Services
ACT Rugby Union
Sustainable Technologies
Transborder Express
Capital Plastics Australia
Pacific Noise and Vibration
Olivetti Australia
Modernfold Australia
BioLogic International

(l) What requirements has the Government placed upon these businesses in relation to compliance for continued assistance under the scheme.

(2) What compliance has the Government required of each of the businesses listed above, in relation to commitments made regarding:

(a) type and size of employment generation;

(b) contribution of the project to export and/ or import replacement;

(c) new skills or technologies to be introduced;

(d) no undue detriment to existing business; and

(e) demonstrable multiplier indirect effects on the ACT economy including;
(i) indirect employment generation;
(ii) sourcing of inputs from the ACT and region; and/or
(iii) use of ACT and region-based services.

**MRS CARNELL -** The answer to the Member's question is as follows:

(1) Businesses which receive funding through the Business Incentive Scheme are required to sign an assistance agreement with the ACT Government. The agreements are of a standard format and require certain obligations of the funded business, a summary of which follows.

A company must provide reports to the Territory, at six monthly intervals, for the length of the agreement, which must contain details of how the funds were spent, the number of employees engaged and other achievements of the funded project. The first of these reports must be provided six months after the execution of the agreement.

A company must also provide a copy of its next two financial statements by 31 August each year. The assistance must be clearly identifiable. If these are not audited financial statements, the Company must provide an acquittal statement prepared by a certified practising accountant or a chartered accountant, confirming that the assistance has been used in accordance with this Agreement.

If the company is in breach of any provision of the agreement the company shall, upon written notice of demand by the Territory, repay the assistance, or such part of the assistance as a notice of demand may specify.

There are some minor variations to individual agreements which are additional compliance obligations.

(2) As explained in my answer to question (l), each business that accepts assistance, must sign an agreement with the Territory. Compliance with the obligations undertaken by each business is monitored through the requirement to submit six monthly reports for the term of the agreement. Failure to do so can result in a demand to repay the assistance. The reports are a monitoring device to ensure that businesses meet the objective of the Scheme which is to expand and develop Canberra's business base.

These reports do not require compliance with all of the eligibility criteria as detailed by Mr Corbell. These criteria are for assessment purposes, which once met, are always met.

Importantly, however, each business must report on the level of employment generated and the progress of the funded project. Such reports would generally highlight turnover, sales and major investments including investment in new technologies.

The exception to date is Sustainable Technologies which has specific employment targets as a best endeavours obligation under the agreement.

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 403**

**Business Incentive Scheme**

**MR CORBELL -** Asked the Minister upon notice on 8 April 1997:

What processes does the Government have in place to ensure that businesses receiving assistance from the Business Incentive Scheme comply with the criteria they were required to address in applying for assistance under the scheme?

**MRS CARNELL -** The answer to the Member's question is as follows:

The Government, through the Department of Business, the Arts, Sport and Tourism, monitors the performance of each business receiving assistance. It undertakes this task through the requirement on each business to provide a report on the progress of the assisted project. These reports are required on a six monthly basis for the term of the agreement.

The Department is presently implementing a formal process to ensure that businesses provided with assistance report regularly as agreed in the assistance agreements signed with the Territory.

Prior to instituting the formal process, the project officer involved in assessing and processing the initial assistance application, was responsible for ensuring that progress reports were received from those businesses which received assistance. The Department is now focussing resources to comprehensively monitor businesses approved for assistance through a regular system of follow-up.

The new process will involve each business being sent a reminder notice prior to the date that a report is due. If the report is not received within two weeks of it being due, a further reminder notice will be issued. If still not received within four weeks of it being due, the responsible project officer will telephone the business to ascertain when the report will be received.

Should a business fail to comply with this requirement it will be considered a failure to fulfil the obligations agreed under the terms of the agreement and will result in the Territory terminating the agreement and any obligation by the Territory to provide any part of the assistance which has not yet been given to the applicant and where specified in the agreement, to request repayment of any assistance already provided.

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 404**

**Industry Assistance Program**

**MR CORBELL -** Asked the Minister upon notice on 8 April 1997:
For the following businesses as recipients of assistance under the Industry Assistance Program:

Auspace Ltd
Earthcare Industries Pty Ltd
CAMBIA
Willing & Partners and Hydsys Pty Ltd
Nipha Technologies Pty Ltd (SPL Coatings)
Universal Testing Systems
Timbercrib Retaining Walls Pty Ltd
AOFR/ADC

(l) In relation to concessions received on payroll tax or other taxes and charges

  (a) which businesses listed received concessions;

  (b) what were the details of these concessions; and

  (c) what was the value of these concessions in each case.

(2) Which businesses (a) received business grants, and (b) what was the value of these grants in each case.

(3) Which businesses (a) received direct grant of land, and (b) where is the land, and (c) what was the value of these grants in each case.

(4) Which businesses (a) received workforce development grants, (b) what are the details of this assistance, and (c) the value of this assistance in each case.

**MRS CARNELL -** The answer to the Member’s question is as follows:

(l) In relation to concessions on payroll tax or other taxes and charges,

  (a) Of the businesses listed only AOFR/ADC received concessions

  (b) Under the terms of the agreement with AOFR, the details of the assistance package are commercial-in-confidence and to provide them would put the ACT Government in breach the confidentiality conditions of the agreement.

(c) Under the terms of the agreement with AOFR, the value of the assistance package is commercial-in-confidence and to provide a figure would put the ACT Government in breach of the agreement.

(2) The businesses which received business assistance grants and the value in each case:

| Applicant | Amount/Value |
|---|---|
| Auspace Ltd | $250,000 |
| Earthcare Industries Pty Ltd | $ 22,000 |
| CAMBIA | $100,000 |
| Willing & Partners and Hydsys Pty Ltd | $ 21,750 |
| Nipha Technologies Pty Ltd (SPL Coatings) | $ 50,000 |
| Universal Testing Systems | $ 37,000 |
| Timbercrib Retaining Walls Pty Ltd | $ 45,000 |
| AOFR/ADC | NOT ABLE TO PROVIDE |

Under the terms of the agreement with AOFR to disclose details of the assistance agreement would put the ACT Government in breach of the agreed confidentiality conditions, specifically inserted by AOFR/ADC.

(3) AOFR/ADC is the only business to receive a direct land grant under the Industry Assistance Program. Under the terms of the agreement with AOFR to disclose details of the assistance package would put the ACT Government in breach of the agreement.

(4) None of the listed businesses received a workforce development grant.

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 405**

**Industry Assistance Program**

**MR CORBELL -** Asked the Minister upon notice on 8 April 1997: For the businesses listed as receiving assistance under the Industry Assistance Program:

Auspace Ltd
Earthcare Industries Pty Ltd
CAMBIA
Willing & Partners and Hydsys Pty Ltd
Nipha Technologies Pty Ltd (SPL Coatings)
Universal Testing Systems
Timbercrib Retaining Walls Pty Ltd
AOFR/ADC

(l) What requirements has the Government placed upon these businesses in relation to compliance for continued assistance under the scheme.

(2) What compliance has the Government required of each of the businesses listed above, in relation to commitments made regarding:

(a) type and size of employment generation;

(b) contribution of the project to export and/or import replacement;

(c) new skills or technologies to be introduced;

(d) no undue detriment to existing businesses; and

(d) demonstrable multiplier indirect effects on the ACT economy including:

(i) indirect employment generation;

(ii) sourcing of inputs from the ACT and region; and/or

(iii) use of ACT and region-based services.

**MRS CARNELL -** The answer to the Member's question is as follows:

(1) The Industry Assistance Program was established by the Follett Labor Government in late 1993.

My understanding of the Industry Assistance Program, is that to be eligible for funding, all of the businesses listed in the question were assessed on the level and type of employment generated; their contributions to export and/or import replacement; the level of new skills or technology introduced; whether there was undue detriment to existing businesses; and the level of demonstrable multiplier effects on the ACT economy.

Without meeting the majority or all of these criteria, an applicant would not be considered for funding.

Following approval, an agreement is negotiated with each business. The agreements typically oblige each applicant to submit six monthly reports on the progress of the project, including employment generated. The number of reports required varies from agreement to agreement depending on the termination date. Not to submit a report would be a breach of contract, which could result in the Territory terminating the contract and seeking repayment of all or part of the assistance provided.

(2) As explained in my answer to question (1), each business that accepted assistance under the Industry Assistance Program, was required to enter into a formal agreement with the Territory, which set out the activity to be undertaken by the business and the conditions under which the Territory provided the assistance. The agreements usually specified an obligation by the business to provide reports to the Territory at specified intervals.

Compliance with the obligations undertaken by each business is monitored through this requirement. Failure to provide a report can result in a demand to repay the assistance. The reports were, and still are a monitoring device to ensure that businesses met the aims of the program which were to expand and develop Canberra's business base, by supporting existing businesses to undertake new investment and employment.

These reports do not seek compliance with each of the criteria as listed by Mr Corbell, but seek to ensure that the Program has been and is successful in generating employment opportunities.

Of the businesses listed only two, AOFR/ADC and Auspace Ltd have specific employment targets as a best endeavours obligation under the agreement.

**MINISTER FOR BUSINESS AND EMPLOYMENT**
**LEGISLATIVE ASSEMBLY QUESTION**
**Question No. 406**

**Industry Assistance Program**

**MR CORBELL -** Asked the Minister upon notice on 8 April 1997: What processes does the Government have in place to ensure that businesses receiving assistance from the Industry Assistance Program comply with the criteria they were required to address in applying for assistance under the scheme.

**MRS CARNELL -** The answer to the Member's question is as follows:

To obtain funding under the Industry Assistance Program, the same processes as the Business Incentive Scheme were undertaken. The major difference between the Industry Assistance Program and the Business Incentive Scheme is that the Industry Assistance Program had no process for providing the scope of incentives which are provided now under the Business Incentive Scheme.

The processes for compliance have been similar for both programs. The Department of Business, the Arts, Sport and Tourism is presently implementing a formal process to ensure that businesses provided with assistance, under both the Industry Assistance program and the ACT Business Incentive Scheme, report regularly as agreed in the assistance agreements signed with the Territory.

Prior to instituting the formal process, the project officer involved in assessing and processing the initial assistance application, was responsible for ensuring that progress reports were received from those businesses which received assistance. The Department is now focussing resources to comprehensively monitor businesses approved for assistance through a regular system of follow-up.

The new process will involve each business being sent a reminder notice prior to the date that a report is due. If the report is not received within two weeks of it being due, a further reminder notice will be issued. If still not received within four weeks of it being due, the responsible project officer will telephone the business to ascertain when the report will be received.

Failure to comply with this requirement is a failure to fulfil the obligations undertaken by an applicant, and under the terms of the agreement can result in the Territory terminating the agreement and any obligation by the Territory to provide any part of the assistance which has not yet been given to the applicant.

**MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO. 412**

**Boomerang Cafe**

On 6 May 1997, **Mr Moore** MLA asked the Minister for the Environment, Land and Planning the following questions:

1. Following your answer to a Question Without Notice by Ms Horodny on 8 April 1997, did you or the Chief Minister, offer some alternative arrangement to Mr Stefos in a meeting or meetings with him.

(a) If so (i) when was that meeting(s); (ii) who was present; and (iii) who made the offer.

(b) If not, in relation to each offer made to Mr Stefos when was the offer made and who made the offer.

(c) In relation to each meeting referred to above, what precise alternative was offered to Mr Stefos.

(2) Following a broadcast on Ten Capital on 7 April 1997, can you advise:

(a) What premises have been offered at reduced rent to Mr Stefos.

(b) When and by whom was that offer made.

(c) What rental payment attaches to those premises.

(d) For what period will that rental payment apply.

(e) For what period is the lease being offered.

(f) What offer has been provided to Mr Stefos regarding the ACT Government providing financial assistance with his set up costs associated with moving from his current premises.

(g) When and by whom was that offer made.

(h) If no proposal has been communicated to Mr Stefos in relation to assistance with his set up costs, will an offer of assistance be made and, if so, what will be the terms and amount of that assistance.

(j) Is it the Government’s intention to require Mr Stefos to remove the entire structure known as the Boomerang Cafe, from its current position at substantial cost to Mr Stefos in light of:

(i) the ACT Government’s requirement that Mr Stefos rebuild part of the premises only two years ago;

(ii) the failure of the original lease with the TAU Community Theatre to contain any such clause requiring removal;

(iii) the failure of the ACT Government to demolish the burnt out community theatre structure for some five years which caused the Boomerang Cafe to suffer significant financial hardship through lost business.

(k) If the ACT Government will require Mr Stefos to remove the Boomerang Cafe in its entirety will it provide any financial assistance to Mr Stefos to assist in that removal and, if so, what amount of assistance will be provided.

(l) Is the ACT Government aware that the developers of the GlO Building, Messrs Michael and Christopher Scott, do not require the removal of Mr Stefos' Cafe for the purposes of development.

(m) Is the ACT Government further aware that Messrs Scott only require the moving of the boundary of Block 13 in order that it be reduced on the northern side such that it is concurrent with the northern wall of Mr Stefos' Boomerang Cafe which will then allow access into the development from Mort Street.

(n) Is it not the case that the ACT Government requires the removal of the Boomerang Cafe to provide for further carparking spaces and if not why does the ACT Government require the Boomerang Cafe to be removed when the developer of the GlO Building does not require the removal of the premises in order to proceed with the development.

**Mr Humphries -** the answer to the Member's questions are as follows:

1. No.

(a) Not applicable

(b) No alternatives were offered to Mr Stefos other than a suggestion by the Chief Minister that Mr Stefos take advantage of the Scott Brothers' offer of accommodation within the new complex at a discounted rate.

(c) As stated above, no alternatives were offered.

2 (a) An offer of accommodation within the new complex on Block 4 at a discounted rental or discounted price has been made to the Stefos family. I am not familiar with the exact details of the premises on offer other than the developers are prepared to offer a unit title over one of the ground floor commercial units facing Mort Street, programmed for the complex.

(b) The offer of accommodation within the new complex was made to the Stefos family by the developers of Block 4 following their recognition of the Stefos' position.

(c) I am advised that the rental provisions attached to that offer would be in the vicinity of $200 per square metre per annum, well below the current market rent within the area estimated at $300-$350 per square metre.

(d) The rental period on offer would be long term.

(e) As I mentioned, the rental period on offer would be long term (possibly 10 - 20 years). Other than that I am not aware of the exact details which are purely a matter between the two parties.

(f) The ACT Government has not made any offer to Mr Stefos regarding the provision of financial assistance with his relocation/set up costs.

(g) As I mentioned, no offer has been made.

(h) In view of Mr Stefos' situation I have asked the Planning and Land Management Group to provide advice on what assistance might be offered to assist him in relocating to premises which will offer him long term security and a stable basis for his business.

(j) (i & ii) Yes. Mr Stefos' involvement with the site commenced when he became a tenant of the TAU Theatre, itself a short term lease. Upon the destruction of the theatre Mr Stefos had no rights or entitlements to the block in question. Notwithstanding this, the Government took considerable care to assist him in overcoming the consequential financial difficulties. He was offered the alternative of having the Territory undertake demolition works or to undertake them himself. He chose to do it and his rent was reduced as a consequence. The requirement for the removal of the Boomerang Cafe was also a part of the original lease and was reflected in the lease rental payments. In this regard, Mr Stefos has been fully aware of, and understood, his obligations under the lease. Mr Stefos made a commercial decision to enter into that lease with all the facts before him. Further, when asked by Mr Stefos' solicitor in April 1995 whether it was intended to enforce this requirement, the Territory confirmed this was the case

(iii) The loss of business suffered by Mr Stefos due to the delays in demolishing the burnt out TAU Theatre is acknowledged; while the protracted negotiations in respect of the lease offer were underway, Mr Stefos did not pay rent.

(k) The arrangements which Mr Stefos accepted vested him with ownership of the improvements on the land and Mr Stefos will be required to remove them at the end of the lease. The Territory is not in a position to provide any financial assistance to Mr Stefos to assist with removal costs. Nor is any compensation payable in respect of those improvements. Nevertheless, the Planning and Land Management Group is considering working with the Crown lessee of Block 4 to assist in the relocation of Mr Stefos' equipment and furnishings.

(l) No.

(m) No. There are severe constraints on egress of tourist vehicles from Block 4 because of the location of the cafe. Electrical supply and underground carparking are also constrained. In order that initial work can commence for this important tourist facility, the developer has sought an interim agreement for access from Mr Stefos.

(n) The term of Mr Stefos' lease reflected the original short term lease offered to the TAU Theatre. The rental payments of Mr Stefos' lease reflect the costs of making good the structure at the outset of the lease and its removal at its termination. Should a long term lease of the site be considered by the Government, there is no reason why it would not be offered through an open auction process. Should an extended lease be considered by the Government there is no reason why it would not be offered on normal commercial terms.

As explained above the issue is not simply carparking. Nevertheless, since the TAU Theatre's destruction the Government has attempted to assist Mr Stefos and the current actions are a continuation of that assistance.

My advice is that the removal of the Cafe is an essential precondition of the redevelopment of the GIO Building and access thereto.

# *Brief*

**MINISTER FOR HOUSING**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 421**

**Kick Start Housing Assistance Program**

**MS REILLY -** asked the Minister for Housing and Family Services - How many KickStart Housing Assistance grants were issued from 10 April 1997 to 12 May 1997.

**MR STEFANIAK -** The answer to the Member's question is as follows -

(a) 26 deposit cheques were processed in the above period; and

(b) 34 applications were approved by the banks during the period 10 April 1997 to 9 May 1997 inclusive.

ACT Housing is unable to provide details, at this time, of applications approved by the banks for Monday, 12 May 1997. Those details will be included in the banks' statistics for the week ending 16 May 1997.

Note: The banks report on a weekly basis, to ACT Housing, on progress of the KickStart Program. Weekly reports are due by cob the first working day after the relevant reporting period.

The banks' reports, for the period 12-16 May 1997 inclusive, are required to be provided to ACT Housing by cob 19 May 1997.

**APPENDIX 1:** Incorporated in Hansard on 15 May 1997 at page 1453

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

# ENVIRONMENT PROTECTION (CONSEQUENTIAL AMENDMENTS) BILL 1997

## PRESENTATION SPEECH

Circulated by authority of

Gary Humphries MLA
Minister for the Environment,
Land and Planning

# ENVIRONMENT PROTECTION (CONSEQUENTIAL AMENDMENTS) BILL 1997

Mr Speaker, this Bill contains various provisions consequential to the Environment Protection Bill 1997, including repeal of the five Acts that are to be replaced by the Environment Protection Bill. This Bill also includes provisions concerning the transition of environment protection administration from the old regulatory framework to the new.

I should highlight several features of this Bill.

The Bill amends the *Land (Planning and Environment) Act 1991* to require the Environment Management Authority to be notified of development applications that have the potential for significant environmental harm. This is designed to ensure that environment protection considerations are properly taken into account in planning and land management applications.

The transitional provisions in the Bill are based on a model of preserving the effect of licences and other instruments issued under legislation that is to be repealed, until the instrument either expires or ceases to have effect in some other way, for

example, by being cancelled. The net effect is the transition to the new regulatory framework will be completed substantially with 12 months.

Schedule two to the Bill contains amendments to a number of Acts designed to ensure that they and the Environment Protection Bill operate consistently. In particular, *the Nature Conservation Act* is amended to require it to be interpreted and administered consistently with other environmental laws. A provision to the same effect has been included in the Environment Protection Bill and is designed to help promote the operation of environmental laws in an integrated way.

The Bill also provides for the making of regulations to deal with any savings and transitional provisions not provided for by this Bill.

I commend the Bill to the House.

**APPENDIX 2:** Incorporated in Hansard on 15 May 1997 at page 1456

1997

LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

# LEGAL PRACTITIONERS (AMENDMENT) BILL 1997

## PRESENTATION SPEECH

Circulated by authority of

Gary Humphries MLA
Attorney-General

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1997

Mr Speaker, I move that this Bill now be agreed to in principle.

The Standing Committee of Attorneys-General agreed to model legislation which would permit lawyers who are admitted and licensed in a participating Australian jurisdiction to practise law in another participating jurisdiction without having to be again admitted to practice or obtain another practising certificate.

The model legislation, in essence, places lawyers from participating jurisdictions on the same regulatory footing as local lawyers. Further, an interstate practitioner will be subject to any condition or restriction imposed in his or her home jurisdiction, thereby limiting the extent of that person's practise in another jurisdiction to what the lawyer is authorised to do in his or her home jurisdiction.

Mr Speaker, the model legislation was developed to give effect to Principle 4 of the Report to the Council of Australian Governments, *Reform of the Legal Profession in Australia.* Principle 4 provides that a national scheme should be established which allows a practising certificate issued in a State or Territory to be accepted in all other jurisdictions without further formalities. A key element of the Report was that appropriate arrangements exist for complaints and discipline, professional indemnity insurance, fidelity funds, trust accounts and similar consumer protections.

The legal profession in the Territory is a fused profession in that practitioners are admitted by the Supreme Court as barristers and solicitors with practitioners choosing to practise as barristers, as solicitors or as both. Solicitors are regulated by the Law Society which is established by the Act. However, the Act does not establish a regulatory system for barristers who, unlike solicitors, are not required to hold practising certificates.

The implementation of the model Bill, at this stage, primarily relates to solicitors. Its application to barristers will be considered in the context of the implementation of appropriate regulatory arrangements for barristers which will be considered by the Government later this year. However, in the interim, new sections 191C and 191D will place barristers from participating jurisdictions on the same basis as local barristers. A barrister from a participating jurisdiction will be able to practise in the Territory without the need to be admitted to practice.

Mr Speaker, the Bill will promote a national legal profession. I am confident that these moves will be of significant benefit to both the legal profession and its users, the public.

New South Wales has implemented its legislation. Because of the Territory's geographical location within New South Wales, there are considerable advantages for solicitors in the Territory if the legislation is implemented as soon as possible. Both jurisdictions' requirements for the holding of practising certificates and holding indemnity insurance commence on 1 July each year. Accordingly, it is important that this Bill be in force by then so that solicitors in both jurisdictions may take advantage of it and reduce the costs of their practice in the coming financial year and hence costs to consumers.

I commend the Bill to the Legislative Assembly and present the accompanying Explanatory Memorandum.

**APPENDIX 3:** Incorporated in Hansard on 15 May 1997 at page 1457

1997

LEGISLATIVE ASSEMBLY FOR THE

AUSTRALIAN CAPITAL TERRITORY

# JURIES (AMENDMENT) BILL 1997

## PRESENTATION SPEECH

Circulated by authority of

Gary Humphries MLA
Attorney-General

## JURIES (AMENDMENT) BILL 1997

I move that this Bill now be agreed to in principle.

Mr Speaker, the *Juries Act 1967* forms an essential part of the administration of the criminal law of the Territory. Trials for indictable offences in the Supreme Court must be held before a jury unless the defendant elects for trial by a Judge alone, a procedure which is provided for in the *Supreme Court Act 1933.*

The most significant innovation in this Bill is to give a Judge in a criminal trial a discretion to direct that an expanded jury of up to 16 jurors be empanelled.

This innovation aims to avoid the situation where a criminal trial has to be abandoned and re-run because the number of jurors falls below the minimum number. During a long trial, it is possible for one or more jurors to become ill or for some other reason have to be discharged. The Act, as it stands, contains one safeguard against a trial being abandoned in this situation - a Judge can order that the trial can proceed with a jury of 11 or 10 jurors.

Members will no doubt recall that during a long criminal trial in the ACT Supreme Court in 1995 the situation arose where the jury had already been diminished to 11 jurors and one of those jurors suffered a bereavement in the family and asked to be discharged. The presiding Judge chose to postpone the trial for a week rather than continue with the bare minimum of 10 jurors. At the end of the week the bereaved juror was able to return and the trial proceeded to its conclusion.

Had the Judge discharged the juror and, later in the trial, another juror had to be discharged for some reason, the trial would have had to be abandoned. The cost of re-running the trial with a new jury would have been very significant.

The presiding Judge suggested that the Government consider amending the Juries Act to adopt the "reserve juror" system which exists in some other jurisdictions. That system enables a Judge, after the customary 12 jurors are chosen, to direct that a specified number of "reserve jurors" be chosen. Those reserve jurors sit with the jury and are treated in all respects as jurors. They are available to replace any of the original 12 who are discharged during the course of the trial.

When the Government examined the suggestion, we decided to adopt a somewhat different approach which is often described as the "additional juror" system. Under this system, a Judge may direct that a jury of expanded size be chosen. The present Bill provides for an expanded jury consisting of from 13 up to 16 members.

In this system, unlike the reserve juror system, all members of the jury are of equal status - there is no demarcation between the "base" jury of 12 and a group of "second ranking" jurors. When the time comes for the jury to retire and consider its verdict, the number of jurors, if there are more than 12 remaining, is reduced to 12. That is done by the jurors' names being drawn out of a ballot-box. The persons' names who are drawn out are discharged until the customary 12 jurors remain to consider the verdict.

The additional juror system was recommended by the NSW Law Reform Commission when it considered this issue. In its Report, *The Jury in a Criminal Trial,* dated March 1986, the Commission said it believed the additional juror system had advantages over the reserve juror system. The Commission referred to the following comments which are contained in a report of the American Bar Association:

> A preference for the additional juror system has sometimes been stated on the ground that it is undesirable to give a juror who may be involved in deciding the case second class standing during some or all of the trial. That is, one who is labelled an alternate at the outset might not take his job as seriously as the regular jurors as the chances of substitution are not great. On the other hand, where one or two additional jurors are selected each member of the thirteen or fourteen man group knows that even if no juror is excused for cause he nonetheless has a very substantial chance of being involved in the deliberations.

As events transpired, New South Wales has not adopted either the additional juror or the reserve juror systems. However, three other Australian jurisdictions, Queensland, Western Australia and the Northern Territory, have adopted the reserve juror system.

The ACT will be breaking new ground in Australia in adopting the additional juror system. Its advantages are, I believe, overwhelmingly convincing.

In a further reform, the Bill contains provisions to protect the identity of jurors and to ensure the confidentiality of jury deliberations.

Members will appreciate that it is vital in the overall interests of justice to ensure that the public's confidence in the operation of the jury system is maintained. This can only be done if jurors can be sure that their deliberations are not exposed to the public gaze and that that jurors are free from external pressures. What happened following the Simpson criminal trial in California in 1995 demonstrates what can happen when jurors are permitted to go public with their accounts of experiences in the jury room. I do not believe that disclosures of this nature do anything to advance the interests of justice.

With this in mind, the Standing Committee of Attorneys-General agreed that States and Territories should introduce uniform legislation as a minimum standard for the protection of the confidentiality of jury deliberations and to prevent the disclosure of the identity of jurors. Model legislation endorsed by the Standing Committee has been incorporated into the Bill.

The new provisions will apply to juries involved in criminal, civil or coronial proceedings in a court of the Territory, the Commonwealth, a State or another Territory. It will apply to proceedings whether they were instituted before or after the commencement of the new provisions.

The Bill ensures the confidentiality of the jury process by creating three new offences of:

- disclosing information about the deliberations of a jury if the person is aware that, as a consequence, the information will, or is likely to be, published;

- soliciting or obtaining information about jury deliberations with the intention of publishing or facilitating the publication of that information; and

- publishing information about the deliberations of a jury.

Exclusions apply to the disclosure of information to the appropriate authorities where this is necessary for the investigation of offences involving the jury process or for research into juries or jury service where authority is granted by the Attorney-General.

The prosecution of a juror for unlawful disclosure of information about a jury's deliberations could be sensitive when a controversial case is involved. For this reason, a provision has been included which will require the consent of the Director of Public Prosecutions before a prosecution can be instituted.

Other new provisions will cover the exemption from jury service of designated persons, including members of the Legislative Assembly as well as those of their staff who are advisers or private secretaries. It is the general practice throughout Australia to exempt from jury service members of the various legislatures. The proposal to exempt specified members of the staff of individual members is not generally replicated in other Australian jurisdictions. However, I feel that the extended exemption can be justified here having regard to the small number of people on the staff of members of this Assembly.

Another proposal, which calls for special mention, is the conferral upon the Sheriff of a power to prevent a person who has been convicted of an offence punishable on summary conviction from serving on a jury. In considering this matter, the Sheriff is required to have regard to the nature and number of offences, when they were committed and the penalties imposed. A person whose name is removed from the jury list on this basis must be notified of the removal and informed of the right of appeal to a Judge.

The Bill also refers to relief from jury service of jurors who have served in a lengthy trial and the juror's obligation to attend at the Court. Other matters dealt with in the Bill include the keeping of the jury list in electronic form and choosing jurors by lot or by using a computer. In addition, the offence provisions in the Act relating to the obligatory attendance of jurors at Court have been revised in a number of respects. The more important are giving the Court the ability to impose conditions on a juror when they leave Court premises and the conferral on a Judge of the power to issue a warrant for the arrest of a person who the Judge believes has contravened the new provisions relating to a juror's attendance at court.

The remaining amendments are largely technical. Taken as a whole, the amendments represent an important and significant updating of the Act.

I commend the Bill to the Legislative Assembly and present the accompanying Explanatory Memorandum.