DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

4 September 1997

Thursday, 4 September 1997

Thursday, 4 September 1997

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.

QUESTIONS WITHOUT NOTICE

Canberra Cannons

MRS CARNELL: Mr Speaker, it has been drawn to my attention that I may have unintentionally misled the Assembly over the matter of the Government's decision to provide a guarantee for the financial support of Canberra Cannons Pty Ltd.

Mr Berry: Woops!

MRS CARNELL: At least I come back the moment I know, unlike you guys. On 2 September, I told the Assembly, in relation to the Canberra Cannons guarantee, and with reference to the Canberra Cosmos guarantee:

> ... these are disallowable instruments in this place. From the day that these are signed off they have to be tabled in the Assembly and therefore can be disallowed, as the Cosmos one could have been disallowed.

Mr Speaker, guarantees of this nature, approved by the Treasurer, are not disallowable instruments. The Financial Management Act 1996, in accordance with which the Canberra Cannons guarantee was provided, states in section 47:

> Where the Treasurer approves a guarantee under subsection (2), he or she shall cause a copy of the approval to be laid before the Legislative Assembly within 3 sitting days after the approval is given.

There is no requirement under the Financial Management Act 1996 for the Canberra Cannons guarantee or the Canberra Cosmos guarantee to be a disallowable instrument. As required by the Financial Management Act 1996, I tabled a copy of the Canberra Cannons guarantee approval in the Assembly yesterday, 3 September.

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Moore,** from 11 residents, requesting that the Assembly pass a Bill allowing for a Territory-wide referendum on the matter of legalising strictly and properly regulated voluntary euthanasia for the terminally ill.

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

Voluntary Euthanasia

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory respectfully draws the attention of the House to the issue of legalising voluntary euthanasia for the terminally ill.
>
> Your petitioners request the Assembly to pass a Bill allowing for a Territory-wide Referendum on the matter of legalising strictly and properly regulated voluntary euthanasia for the terminally ill.

Petition received.

MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.33): Mr Speaker, I present the Magistrates Court (Civil Jurisdiction) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

The Bill was developed following community consultation on the Small Claims Tribunal Bill exposure draft, which was tabled for community consultation in 1996. That Bill proposed the establishment of a smalls claims tribunal. The consultation comments that were received prompted reconsideration of the proposal to create a separate tribunal in stand-alone legislation.

There are disadvantages which would flow if the small claims jurisdiction were to be provided for in tribunal proceedings. These include the consequences of small claims proceedings being conducted in an administrative tribunal as opposed to the judicial forum of a court. One such consequence relates to actions under Commonwealth law. Certain Federal jurisdiction is vested in a court of a State or Territory. Actions in those jurisdictions could not be pursued in a tribunal. Further, a decision given in an action taken under the trade practices legislation or the Corporations Law in a separate small claims tribunal would be unenforceable unless the decision was then registered in the Magistrates Court. I have been lobbied by members of the trade union movement in Canberra on the question of the jurisdiction of the lower courts in the Territory with respect to industrial matters.

It could be argued that a tribunal offers greater accessibility than a court. However, accessibility really depends more on the clarity, simplicity and lack of formality and legal technicality in the practices and procedures of a forum than on its formal structure. In New South Wales, small claims are dealt with within the court legislation, and this works well. The court has a good public recognition as the Small Claims Court. If their dispute has been given the attention of a court, litigants are more likely to be satisfied that they have had their day in court rather than having been accorded a perceived lower level of justice in a tribunal.

On balance, the Government decided that it is preferable that the small claims jurisdiction has the powers and procedural incidents of the court, but with less formal procedures. Rather than having separate, stand-alone legislation for small claims matters, as at present, the Bill inserts a new Part XXII into the Magistrates Court (Civil Jurisdiction) Act. This approach provides for the Small Claims Court within the legislative framework of the civil jurisdiction of the Magistrates Court. Procedures in the Small Claims Court which give that court its particular accessibility, such as that legal representation not be necessary, that no costs relating to such representation be awarded and that the usual evidentiary rules are not to apply, are provided for in the new Part.

Providing for the Small Claims Court in the civil jurisdiction Act will enable the small claims and general civil jurisdiction provisions to be more easily shared, where appropriate. For example, procedures relating to the payment into court of a bond, interpleader proceedings, the enforcement of judgments, fees and applications for transcripts will be in line and accessible in the one Act. An advantage of the integration of the legislation is that it is more likely to allow the cross-fertilisation of the less formal procedures of the Small Claims Court between the general civil and small claims jurisdictions.

In addition to the jurisdiction to inquire into disputes and actions where the amount involved does not exceed $5,000, the Bill gives the Small Claims Court jurisdiction to inquire into and determine disputes in relation to dividing fences and party walls under the Common Boundaries Act 1981 and rental bond disputes arising under the Landlord and Tenant Act 1949. Disputes about dividing fences and rental bonds are usually about amounts less than $5,000, do not involve complex legal argument and are generally between self-represented parties. They are the sorts of things that should be heard under the informal and inexpensive small claims proceedings.

Currently, no provision is made for the cessation of matters in which no action has been taken by an applicant for a lengthy period. It is not uncommon for proceedings to be commenced and for the parties to settle the matter without further recourse or notification to the court. The Bill provides for the registrar to strike out applications to the court in which no action has occurred for 18 months. This will allow the registrar to remove inactive matters from the court's files.

Other key elements of the Bill are: The repeal of the Small Claims Act 1974; the capacity of the Territory Executive to appoint a legally qualified member of the staff of the Magistrates Court, or of another court, to the office of referee, who may determine matters where the amount involved is no more than $1,000; the capacity of the court to dismiss frivolous and vexatious claims; the ability of a party to proceedings to be represented by another person without the leave of the court; the inclusion of a procedure which allows a respondent to admit liability and for the registrar to then enter judgment for the applicant; and the provision for the court to have limited power to award costs where litigants have incurred out-of-pocket expenses unnecessarily due to the conduct of the other party.

The Magistrates Court (Civil Jurisdiction) (Amendment) Bill extends the jurisdiction of the Small Claims Court, modernises the legislation and represents an advance in the rationalisation of the legislation providing for the Territory's courts. I commend the Bill to members.

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

MEDIATION BILL 1997 [NO. 2]

MR HUMPHRIES (Attorney-General) (10.39): Mr Speaker, I present the Mediation Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

Members will recall that I introduced the Mediation Bill on 10 April 1997. Following the introduction of the Bill, I received comments on some of its provisions from various agencies which provide mediation services in the Territory. The Government is keen that the Mediation Act, when enacted, should reflect the best practice favoured by professionals in providing mediation services, and thus achieve the highest possible degree of consumer satisfaction. It has therefore decided to amend the Bill in a number of ways

in order to accommodate the comments I have received from representatives of the Law Society, the Resolution Centre, the Bar Association, Canberra Mediation Services and lawyers engaged in alternative dispute resolution. I wish to place on record my appreciation of the time and effort that those people have devoted to providing me with their comments.

It would have been possible simply to draft some amendments to the Mediation Bill introduced on 10 April 1997. However, for ease of reference and to avoid confusion, I believe that it is in the interests of all members to have a consolidated version of the Bill available for their consideration. The new Bill is substantially the same as the one introduced on 10 April, with a number of editorial alterations.

I should point out at the outset that the Bill deals only with registered mediators; that is, mediators registered by approved agencies. Approved agencies are those organisations identified in the regulations as providing mediation services. I am aware that there are some mediators practising mediation in the ACT who have not been accredited by any agency. The position of those mediators will remain unchanged by the passage of this Bill. They will continue to provide mediation services as they do now. However, they will not be covered by the provisions of the Bill.

I now wish to deal with the substantive changes in the new Bill. Members will recall that the original Bill had a grandfather clause, which provided that those mediators who are at present accredited by an approved agency would be recognised for a period of two years as registered mediators under the Act. There was disagreement among the representatives of mediation services over the desirability of this type of provision. The benefit in having a grandfather clause is that it would have allowed the accreditation of mediators to be phased in over a two-year period. However, against this, it was argued that such a provision would result in two levels of registration for the first two years of the Act's operation - one based on status and one determined by competence. This might undermine public confidence in the competence of registered mediators from the outset.

The Government has decided that a level playing field should apply from the commencement of the substantive provisions of the Act. This means that the same requirements for the registration of a mediator, whether new to the field or already practising mediation, will apply from the outset. However, the Government is aware that agencies will need considerable time to put in place the procedures necessary to give effect to the requirements of the Act, and has therefore decided that the commencement date for the substantive provisions of the Act should be delayed until 1 July 1998. This time period will allow agencies to assess existing mediators against competency standards and to develop a code of ethical and professional conduct and a mechanism for addressing consumer complaints. These are matters to which I will have regard when considering an agency's application for approval under the Act for the purposes of registering mediators.

I wish to draw members' attention to the fact that mediators will be registered, not by the Minister but by approved agencies. Both government and non-government agencies have expressed strong support for the view that endorsement of an appropriately skilled mediator is a function best left to the particular agency engaged in mediation. I support that view, as it will ensure that the experts in the area of mediation are making the relevant decisions.

In order to facilitate access to mediation services, my department will keep an up-to-date list of registered mediators, which will be available to the public. A person seeking registration will have to meet the competency standards as prescribed in the regulations. Those standards are the ACT competency standards for mediators, which have attracted considerable interest across Australia, particularly in New South Wales, where they are the basic competency standards which community justice centres in that State use for the accreditation of mediators. Members will note that mediators will be approved for a maximum of three years and must be reassessed as competent, according to the standards, after that time. This will ensure that, over time, the quality of mediation provided by registered mediators in the Territory will be maintained at the level required under the competency standards.

The provision in the original Bill with regard to the confidentiality of anything said or done during a mediation session remains unchanged in the present Bill. However, that privilege is not absolute. The circumstances when the privilege will not apply are the same as those under subsection 131(2) of the Commonwealth Evidence Act 1995. In this way, the Bill provides for consistency between the Commonwealth and the ACT in regard to the exclusion of evidence of settlement negotiations.

Although this Bill is small in terms of its volume, it nevertheless heralds the beginning of a new era in enhancing access to justice in the ACT. Its importance must be seen in the context of the Government's general concern about the escalating cost of access to justice through litigation. In tabling the original Bill, I quoted the words of His Honour the Chief Justice of the High Court, Sir Gerard Brennan. I believe that his words merit repeating. His Honour said:

> If no new methods of dispensing justice are devised, the number of cases requiring resolution by trial will increase, trials will become more difficult and more time consuming and, in consequence, the cost of litigation and the amount of public funds that will have to be spent on litigation will escalate.

The aim of this Bill is precisely to meet the concern expressed by His Honour - to enhance an alternative method of resolving legal disputes through mediation. I am looking to extend the use of mediation in the ACT, including the option of court-linked mediation. This Bill represents the first stage in that process. Future stages will involve an acceptance by the courts, their clients and the legal profession that mediation is a viable alternative to litigation, and I will be working towards that end. I commend the Bill to the Assembly.

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

LONG SERVICE LEAVE (AMENDMENT) BILL 1997

MR KAINE (Minister for Urban Services and Minister for Industrial Relations) (10.47): Mr Speaker, I present the Long Service Leave (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, this Bill and the Annual Leave (Amendment) Bill 1997, which I will be presenting shortly, have a single major objective. That is to streamline the operation of the principal Acts - the Long Service Leave Act 1976 and the Annual Holidays Act 1973, respectively - and to overcome ambiguity in the construction of the legislation which complicates interpretation. I am seeking to make the legislation more user friendly for both employers and employees, as well as for public officials responsible for interpreting the legislation.

The area of my department responsible for administration of the legislation, as well as the Attorney-General's Department, which is often asked to assist in interpreting the legislation, and, of course, those employer and employee organisations that provide advice about the legislation to their members have, over recent years, identified a number of practical difficulties in the construction of the legislation. The amendments proposed by these Bills are designed to overcome those difficulties.

I mentioned the importance of the legislation. The Territory does not have its own industrial relations system, relying instead on the industrial relations framework provided by Federal legislation, principally the Workplace Relations Act 1996. Given the unitary nature of the industrial relations system in the ACT, employees rely almost entirely on Federal awards to provide minimum entitlements and industrial protection. I acknowledge that agreement-making is on the increase; but many small businesses still regard awards as a useful guide to minimum employee entitlements.

Unlike the States, we do not have a State - or, in our case, a Territory - award system to complement the Federal award system. Despite the existence of the common rule application of awards in the Territory, there is still a range of circumstances where employees have no award protection. The result is that ACT labour legislation, such as the Long Service Leave Act and the Annual Holidays Act, provides an important set of protections, establishing the minima in relation to leave entitlements for the non-award segment of the ACT work force and for those who are covered by an award but where the award is silent on leave entitlements. This is particularly important in relation to long service leave, where there are only a few long service leave awards remaining with application in the Territory.

Based on data collected from a comprehensive survey conducted each May and November, my department is responding annually to approximately 1,100 private sector inquiries about long service leave and annual holiday entitlements. In addition, the department is following through each year approximately 20 to 30 grievances under the legislation, of which about two each year are not resolved through conciliation and are referred to the Director of Public Prosecutions for prosecution action. These figures do not include the many individuals who take their disputes directly to the Small Claims Court or the Magistrates Court.

I think the facts demonstrate that such legislation is important and has considerable relevance to many employees, as well as employers in the business community seeking certainty and a level playing field from which to base competitive advantage. It is important to understand that the Federal Workplace Relations Act, which provides for awards to contain minimum standards only and be pared back to 20 allowable matters, applies only to the award segment of the work force. Employees for whom there is no award in the ACT cannot, in the absence of negotiating an agreement, rely on the Federal jurisdiction for protection. The ACT legislation provides the safety net for them.

Mr Speaker, I have set the scene. I now turn to the Bills themselves. Firstly, I wish to address the Long Service Leave (Amendment) Bill 1997. The key changes to the Long Service Leave Act 1976 proposed by this Bill are as follows: It enhances the definition of "employee" by making specific reference to a "casual employee". The Long Service Leave Act 1976 is silent in relation to casual employees. However, this silence has not categorically excluded casual employees from the benefits conferred by the Act. Indeed, legal advice which has guided my department in interpreting the Act has indicated that the mere lack of reference to casual employees in the Act should not exclude casual employees from the benefits of the Act. Consequently, the department has always operated on the basis that casual employees have an entitlement.

The New South Wales Long Service Leave Act includes casual employees. In any case, the important indicator here is the historical practice. ACT employers have been willingly providing long service leave benefits to casual employees, despite the uncertainty of the legislation. Reasonable employers have long held the view that, if an employee engaged on a casual basis has given long and faithful service, then that employee is as deserving of a long service leave holiday as a full-time or part-time employee. What the Bill is doing, then, is codifying existing practice and overcoming ambiguity.

However, I recognise that in the current industrial relations environment, where the trend is towards more flexibility in the nature of employment, there has been an attempt to distinguish between irregular casual employment and regular and systematic casual employment. The Federal Workplace Relations Act 1996, in so far as it needed to identify which casual employees would be bound by the unfair dismissal provisions, included a definition of "casual employee" derived from the International Labour Organisation convention which gave rise to the current unfair dismissal regime now widely accepted in Australian industrial law. This Bill embodies that same definition.

This means that casual employees whose employment is on a regular and systematic basis and where there is a reasonable expectation of continuing employment will in future be clearly covered by the provisions of the Act. This will overcome the present ambiguity and provide certainty for employers in calculating future long service leave liabilities.

The Bill also overcomes a current drafting inadequacy in relation to the interaction between this Act and the Long Service Leave (Building and Construction Industry) Act 1981 which could result in some employees being excluded from the benefit of either Act. The particular problem arises because the coverage provided by the building and construction industry Act is defined, in part, by awards. Situations arise where employees may remain in the employ of the one employer but move to higher levels than contemplated by the classification structure in awards, thereby effectively ruling them out of coverage under the building and construction industry Act. The amendments proposed by this Bill will ensure that such employees cannot fall through the crack and possibly lose access to entitlements.

A new provision is inserted which provides a method of calculation of the long service leave payments for employees whose employment status altered from full-time to casual or part-time within a two-year period of the entitlement becoming due, so that the ordinary remuneration on which the payment is made is averaged over the previous five years. This provision aims to balance out what is often perceived to be an inequity where an employee has spent most of the period of accrual as a full-time employee but, for whatever reasons, has their employment status altered just before the opportunity to take long service leave occurs, with a consequential reduction in the payment due.

The Bill recognises completed months of service, not just completed years of service. Again, this provision aims to overcome an inequity whereby an employee with, say, 13 years and 11 months of service who is terminated is paid for only 13 years. The Bill provides for such an employee to be paid 13 and eleven-twelfths years' long service leave. It provides for a more relevant set of records to be kept by an employer so that the employee, or an authorised officer if the matter results in a disagreement between an employee and employer, has a reasonable opportunity to check on entitlements.

Finally, the Bill provides for a more complete set of grievance management and enforcement procedures which are aimed at resolving disagreements through conciliation rather than through the court system. The procedures establish a conciliation process and then a power for directions to be issued, should conciliation fail. Naturally, there are appeal processes in place.

Mr Speaker, I now refer to the Annual Leave (Amendment) Bill 1997, which I will soon table. The key changes which this Bill will make to the Annual Holidays Act 1973 are as follows: It alters the name of the Act to the Annual Leave Act 1973, to better reflect the subject matter of the legislation and to distinguish it more clearly from the Holidays Act 1958, which deals with public holidays. It provides for employees who are paid wholly by commission to accrue an annual holiday entitlement. Currently, the legislation provides for only employees paid wholly by salary, or partly by salary and partly by commission, to accrue an entitlement.

The Bill clarifies the basis on which a casual employee may be entitled to an annual holiday. This is not a new provision, but it is expressed more clearly in the amending Bill. Importantly, the new provision clarifies that it will be the employer records which are required to be kept as a consequence of the legislation which will provide the basis on which a determination will be made on whether the employee is being paid in substitution for an annual holiday.

I take this opportunity to stress to employers the importance of good record-keeping and, in particular, of setting out the conditions of service of employees in written form. This could take the form of an appointment letter, an employment agreement or a business policy statement. If employers do not keep good records and document the basis on which employees are engaged and paid, then they are leaving themselves open to breaches of the legislation, and in the case of casual employees this can mean payment of holiday pay where it might otherwise not be due.

The forfeiture provisions are amended so that it is clear that, unless the employer has given written notice to an employee that an annual holiday entitlement has accrued and should be taken within a specified period, the employee does not forfeit access to the holiday within the currently specified six-month period. The experience is that, in many small businesses, employees are more than happy to take leave when it suits the business; but this often means that the full four weeks' annual entitlement cannot be taken within each 12-month period. Where the employee has been flexible to meet the needs of the business, this should not ultimately work to the detriment of the employee through a forfeiture provision.

The Bill also provides for a more relevant set of records to be kept by an employer so that the employee, or an authorised officer if the matter results in a disagreement between an employee and employer, has a reasonable opportunity to check on entitlements. Similarly, it provides for a more complete set of grievance management and enforcement procedures which are aimed at resolving disagreements through conciliation rather than through the court system. The procedures establish a conciliation process and then a power for directions to be issued, should conciliation fail. Of course, there are appeals processes in place. Finally, a regulation-making power is introduced by the Bill.

Mr Speaker, I believe that the amendments I have outlined are a sensible set of streamlining proposals that will provide benefits to clients of the legislation as well as to those required to administer and interpret it. The end result is more user-friendly legislation that will lessen the opportunity for ambiguity in interpretation and so minimise disagreements about entitlements and access to entitlements. The end result will be less need for time-consuming disputation and less need for costly litigation. I am sure that both employers and employees will welcome these important changes. I commend the Bill to the house.

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

ANNUAL LEAVE (AMENDMENT) BILL 1997

MR KAINE (Minister for Urban Services and Minister for Industrial Relations) (10.59): Mr Temporary Deputy Speaker, I present the Annual Leave (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR KAINE: I move:

> That this Bill be agreed to in principle.

My comments with respect to the Long Service Leave (Amendment) Bill 1997, just tabled, relate equally to this Bill.

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

WORKERS' COMPENSATION (AMENDMENT) BILL (NO. 2) 1997

MR KAINE (Minister for Urban Services and Minister for Industrial Relations) (11.01): Mr Temporary Deputy Speaker, I present the Workers' Compensation (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 Temporary Deputy Speaker, I am pleased to introduce into the Legislative Assembly the Workers' Compensation (Amendment) Bill (No. 2) 1997. The Bill, if passed by the Assembly, will streamline and update the Act; provide certainty and clarification on various issues, including a definition of "wages" for the purposes of premium calculation and important limitations on the definition of "stress"; address some loopholes in the Act, for instance, the treatment of cover notes; and address deficiencies in the administration of the Act.

These amendments to the Workers' Compensation Act 1951 demonstrate the Government's commitment to improving workers compensation in the ACT, easing the financial burden on employers, and providing a fair and equitable compensation coverage for injured workers. In brief, these amendments are aimed at maintaining equity for employers, employees and insurers, encouraging rehabilitation, introducing systems of best practice and avoiding litigation by removing ambiguity from the meaning of various provisions of the Act.

The introduction of the proposed amendment has no financial implications for the Government. Some additional revenue may be raised through the recovery of unpaid premiums and the collection of on-the-spot fines. However, this is not the reason for introducing these measures. It is to send the right signals to those few employers who do not maintain workers compensation policies that there will be an additional reason to keep their policy current, and to provide an additional regulatory means of achieving compliance, other than preparing a prosecution brief for consideration by the courts.

Additionally, administrative costs for the nominal insurer would be recovered by adoption of the relevant amendments, and this will allow the redirection of resources into compliance activities, which, in time, should reduce the number of claims on the nominal insurer. The amendments aim to tighten collection of premiums, particularly from uninsured employers, and make a premium payable for cover notes issued by insurers. Insurers should benefit from these amendments, and subsequent savings may be available to the majority of responsible employers who maintain a current workers compensation policy.

This Bill which I present to the Assembly is a simple but significant improvement to the ACT workers compensation scheme. It will deliver significant cost savings for ACT employers while maintaining a fair and equitable compensation scheme for injured workers. The proposals which are detailed in this Bill provide a basis for achieving consistency within a national framework and will maximise the prospects for enduring, quality solutions for workers compensation arrangements in the ACT. I commend the Bill to the Assembly.

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

ELECTRICITY (NATIONAL SCHEME) BILL 1997

MR KAINE (Minister for Urban Services) (11.04): Mr Speaker, I present the Electricity (National Scheme) Bill 1997, together with its explanatory memorandum, the National Electricity (South Australia) Act 1996 and an explanatory memorandum prepared on the Schedule to that Act.

Title read by Clerk.

MR KAINE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Electricity (National Scheme) Bill 1997 provides for the establishment of the national electricity market. This Bill and the related consequential amendments Bill, which I shall introduce shortly, represent the culmination of a fundamental and far-reaching micro-economic reform process. What this reform process means is that the wholesale supply of electricity - basically, supply from generators through to retailers - in Queensland, New South Wales, South Australia, Victoria and the Australian Capital Territory will be on the basis of a single competitive market and a single national regulatory framework.

Put very simply, the national electricity market means that there is one central pool for electricity supply. Generators will compete to offer electricity to the pool and retailers will compete to take electricity from it. The power will be transported through a transmission system down to local distribution systems. The prices for transportation will be regulated. The National Electricity Market Management Company, NEMMCO, has been established to operate the pool. I should note that NEMMCO has many other functions, including functions relating to "keeping the lights on" and maintaining a safe national grid. A second company, the National Electricity Code Administrator, NECA, has been set up to administer a National Electricity Code that provides detailed rules for the market as a whole.

The Bill provides for a wholesale market. All jurisdictions, however, are extending competition and choice down to the retail level. Individual customers will eventually be able to choose their own retailer. This will be the subject of separate legislation in the ACT. The national electricity market will bring many benefits. First and foremost, competition and customer choice will replace the former regime of monopolies and central government planning. No longer will there be a parochial, State-based approach to power supply; instead, the focus will be national. That means that ACT industry and customers will no longer be an outsider in the process, excluded from important decisions about the power system. The new arrangements will promote economic efficiency, with benefits for both industry and individual customers. The market will also enhance Australia's economic development and our international competitiveness. The existing high levels of safety and security of electricity supply in the ACT will be maintained and enhanced. Finally, there will be a commercial environment that is far better suited to the introduction of more environmentally-friendly technologies and practices than we have seen in the past.

Several points need to be made about the national electricity market here and now. We are not talking about deregulation of the electricity industry. We are, in fact, talking about a complex scheme of regulation. Regulation is necessary to preserve safety and reliability - keeping the lights on. Regulation is necessary because power from many generators flows through a single grid to millions of customers, and supply and demand must be in balance instant by instant.

The former regime of central control in each State did not serve Australia well, and it certainly worked against the ACT. For years, ACTEW and its predecessors were at the mercy of "take it or leave it" tariffs determined by instrumentalities of other governments. In recent years, the giant supply monopolies in New South Wales and Victoria both built generation plants that were in excess of demand. Going it alone rather than sharing facilities meant that consumers, including consumers in the ACT, paid the costs. It went without saying that these new plants would burn coal. There was little room for environmentally-friendly generation in the investment plans of supply monopolies, and independent generators could get started only on the monopolies' terms.

ACTEW and its predecessors had a fine record of encouraging consumers to use power wisely. They knew that power conservation, especially at peak times, was good business. In other States, where the owners of the retailers and generators were the same government or even the same government authority, the conservation message was

weak or absent. Consumers paid for the inefficiencies of the extra generation, and the environment paid as well. The benefits claimed for the national market are not pipedreams. The fact is that the reforms provided for in this Bill are not starting from scratch. Victoria and New South Wales have broken up their previously monolithic State-controlled industries and set up power markets that are very similar to the national market arrangements. Both States have shown that competitive electricity markets work and deliver the promised benefits to industry and to consumers.

Already in the ACT, consumers have seen the benefit of reductions in New South Wales transmission tariffs now that this monopoly is regulated. Now that Victoria and New South Wales have combined their markets, ACTEW has been able to shop around for the best priced insurance products to guarantee stable, low pricing for its customers. The national electricity market will replace and enhance the existing arrangements in Victoria and New South Wales.

The operation of the national electricity market is to be governed by two instruments - the first instrument being the National Electricity Law. This gives force and support to rules contained in the second instrument - the National Electricity Code. The National Electricity Law will ensure that the rules of the market are consistent and enforceable across all of the participating jurisdictions. In turn, this will optimise the national market's efficiency and effectiveness and, particularly, assure that the market has an accountable and stable governance regime.

The Electricity (National Scheme) Bill, which I am introducing today, provides that the National Electricity Law, enacted as a schedule to South Australian legislation passed in July 1996, will apply as a law of the ACT. Mr Speaker, the parliaments of South Australia, Victoria, New South Wales and Queensland have already passed legislation to apply the National Electricity Law. The application legislation of the other jurisdictions is close to identical to the terms of this ACT Bill.

I will now turn to the major points of the National Electricity Law and the code. Part 2 of the National Electricity Law provides for the approval of a National Electricity Code by the relevant Ministers of each participating jurisdiction. The law also provides that certain constitutional provisions of the code, which are classed as protected provisions, can be amended only with the unanimous approval of the jurisdictions' relevant Ministers. The code will define the terms of participation in the market for generators, transmission and distribution network owners, service providers, system operators, retailers, other market participants and those customers who are large enough to want to buy their electricity wholesale.

Specific chapters of the code will deal with connection and access to networks, rules for operating the wholesale electricity market, operating transmission and distribution services, metering, the security of the interconnected power system, and administering the code itself. A fundamental aspect of the code is that all electricity is traded through a central pool. Generators bid power into the pool; retailers buy power from it. The price of that power will vary throughout the day.

Administrative procedures set out in the code include dispute resolution procedures and, importantly, a process to change the code. We can expect that the code will be subject to ongoing change as the market evolves. Two points are important here: The code will change only following extensive consultation, and each change will be subject to the scrutiny of the Australian Competition and Consumer Commission. The ACCC will be the overall regulator of the market.

Part 3 of the National Electricity Law provides for the regulation of relevant activities in the market. These activities will be the ownership, control or operation of generation systems and transmission or distribution systems, the administration or operation of a wholesale market, and the purchase of electricity from a wholesale market. A person will be able to engage in such an activity only if the person is registered or authorised by the National Electricity Market Management Company to do so.

Part 4 of the National Electricity Law contains provisions governing the enforcement of the National Electricity Code. Part 5 creates a scheme for the review by a National Electricity Tribunal of decisions by NEMMCO and NECA. The tribunal's jurisdiction and powers to deal with breaches of the code and the procedures to be followed in proceedings before the tribunal are described. Part 5 also describes the process of appointing the members of the tribunal and the terms of their appointment. Appeals from decisions of the tribunal may be made to the Supreme Court.

Part 6 provides for the establishment of statutory funds by NEMMCO and NECA. NEMMCO's and NECA's funds cover, respectively, the receipt and payment of moneys incurred through the management of the market, and the receipt and payment of civil penalties imposed under the code. Part 7 of the National Electricity Law provides for the issue of search warrants in limited circumstances and for NEMMCO to have certain powers of intervention in respect of the power system for reasons of public safety or security of the system; in other words, in a state of crisis. A provision of this Part also governs liability for failures of electricity supply. Under the provision, a code participant will not be liable for failure to supply electricity unless the failure is due to an act or omission by the code participant in bad faith or the negligence of the code participant. This rule may be modified by contract. For the information of members, I am tabling a copy of the National Electricity (South Australia) Act 1996, which incorporates the law.

I now turn back to the National Electricity Code. The code is now being examined by the Australian Competition and Consumer Commission. Because the code sets out details for the conduct of the electricity industry, the commission needs to agree that any restraint on competition - an example is forcing trade through a central pool - is justified in terms of public benefit. Because the code sets up a regime under which many suppliers have access to one set of wires to deliver their goods, the commission must also approve the code as an access regime under the Trade Practices Act. The code was developed following a massive process of policy development and consultation which started in the early 1990s. This involved governments and the existing State and Territory power businesses. Also involved were private sector players in the power industry and other energy providers. So were peak industry bodies, representatives of large customers, consumer organisations and a variety of environmental bodies. Its provisions have been the subject of expert consultancies and legal scrutiny.

As various drafts of the code emerged, extensive consultation exercises took place. One major exercise in mid-1996 saw sessions in every capital, including Canberra. When a final draft was ready, the Australian Competition and Consumer Commission started, as is required under its legislation, a new and highly focused consultation exercise. Taking into account the many submissions received from interested parties, the commission proceeded to submit the document to extensive analysis. Members may be aware that the ACCC has now released its draft determinations on the code. The draft determinations demonstrate the rigour with which the future regulator has examined the provisions of the code and has sought to balance and assess the views put forward by various interested parties.

The commission has raised a fair number of issues which it considers must be resolved before the code can be agreed. I understand that the commission will be convening a conference to canvass reactions to its draft determinations. Following a final determination by the commission, it is anticipated that the national market can take over from the State markets in early 1998. That is why passage this year is essential.

Mr Speaker, as I mentioned earlier, participation in the national electricity market will complement other reforms to the electricity industry that the Government is currently implementing. In particular, the national electricity market complements the introduction of competition in retail supply of electricity in the ACT; in other words, allowing customers to choose a retailer other than ACTEW Corporation, if they wish. Mr Speaker, in conclusion, the establishment of the national electricity market is a major reform. We can have confidence that it will deliver benefits to Australia. It is now time for the ACT to join with other jurisdictions and embrace the reform so that the benefits can flow through to ACT consumers.

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

ELECTRICITY (NATIONAL SCHEME) (CONSEQUENTIAL AMENDMENTS) BILL 1997

MR KAINE (Minister for Urban Services) (11.18): Mr Speaker, I present the Electricity (National Scheme) (Consequential Amendments) 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, the Electricity (National Scheme) (Consequential Amendments) Bill 1997 provides for necessary amendments to ACT legislation consequential upon the passage of the Electricity (National Scheme) Bill 1997 and the application of the National Electricity Law in the Territory. It is a short Bill. This reflects the fact that regulation of the electricity industry in the ACT has traditionally been minimal compared to that in force in other Australian jurisdictions.

The Bill provides for amendment of the Freedom of Information Act, the Ombudsman Act and the Public Interest Disclosure Act. What the Bill does is ensure that the comprehensive national accountability regime established for the national market can work effectively in the ACT. The Bill will in no way reduce ACT citizens' rights under the ACT Government's accountability regime. The Bill does not seek to shield the activities and decisions of NEMMCO and NECA from scrutiny or review.

Amendments to the three Acts will avoid the possibility of an unexpected and anomalous extension of certain parts of the ACT's accountability framework to activities with little to do with the ACT. The National Electricity Market Management Company and the National Electricity Code Administrator - the two companies that have been established to operate the national electricity market - will not be covered by any of the three Acts in question. That is expected. The ACT Government, while it is a member of these companies, does not control them. The companies deal with national, not ACT, matters. They do not take over functions currently undertaken by Territory bodies.

We have been advised, however, that there is a possibility that a small number of committees and panels set up under the National Electricity Code - in relation to matters such as system reliability, code change and dispute resolution - are covered by the Acts referred to above. This is despite the fact that the companies which set up the committees and panels and which control them are not covered. It would be an odd outcome if, say, documents relating to system reliability and reserve capacity in South Australia could be sought under the ACT FOI legislation. It would not be an acceptable outcome to the other jurisdictions. I submit that, if the situation were reversed, it would not be acceptable to us. The Bill also provides that, if a body covered by the Freedom of Information Act - here we have in mind ACTEW Corporation - should act as an agent of NEMMCO and NECA, then these functions would be excluded from the FOI Act.

Two points should be made about this provision. The first is that it is not intended at this stage that ACTEW would be an agent of NEMMCO or NECA. The provision is covered in this Bill for the sake of completeness and to cover any future eventuality. The second is that ACTEW Corporation already has a general exemption in relation to commercially sensitive information, and, if ACTEW were an agent of NEMMCO or NECA, this would be a commercial arrangement. The provision is in this Bill simply to put the matter beyond any doubt. This is important because other jurisdictions have legislated to ensure that any other bodies which will be operating as agents of the companies from day one of the market are excluded from their States' freedom of information regimes. Similar amendments are proposed in relation to the Ombudsman Act. It would be inappropriate for the Territory's accountability framework to cover national issues. There would also be unacceptable overlap with the arrangements in the National Electricity Law and code for review of decisions.

The Public Interest Disclosure Act 1994 provides scope to investigate wrongdoing in the ACT public sector. The PIDA has a wide ambit to capture the full range of ACT public sector bodies and statutory appointees. There is a possibility that the alleged malpractice within committees and panels examining matters with little or nothing to do with the ACT could be addressed through the PIDA. This would be a very odd outcome. I should comment that ACTEW Corporation's activities are covered by the Public Interest Disclosure Act. The electricity market legislation will not make any changes to this coverage.

As I have noted, the Bill does not reduce accountability. It ensures that the nationally uniform, consistent and clear accountability framework established under the national market arrangements can work effectively. NEMMCO and NECA are accountable to market participants and other interested parties through extensive consultation requirements. The code provides a clear regime as to availability of information. The code provides that important decisions are reviewable. I have noted with interest that the Australian Competition and Consumer Commission, in its draft determination on the national code, has proposed that any resultant decision will be reviewable if proper consultation is not followed.

In addition, processes of judicial review of decisions of the companies are always available. As I have noted, a National Electricity Tribunal is established under the market arrangements. NEMMCO and NECA are also accountable to governments, their constituent members. It should not be forgotten that the Australian Competition and Consumer Commission is the electricity market regulator - a very effective final watchdog, in my view. Mr Speaker, I commend the Bill to the house.

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

OFFENSIVE WORDS
Motion and Ruling

MR HUMPHRIES (Attorney-General): Mr Speaker, on Tuesday of this week I described Mr Berry as a harlot - - -

Mr Berry: You got caught out, did you?

MR HUMPHRIES: In fact, I did not get caught out, because I was not asked to withdraw the word.

Mr Berry: I am just about to have it ruled on.

MR HUMPHRIES: Mr Speaker, if Mr Berry does not want me to deal with this, I am very happy to sit down. I am aware that this term has somewhat wounded Mr Berry. Certainly, I am aware that the term is not one which we would normally use in this chamber. However, I indicate that I have no desire to leave the matter on the record, and I withdraw the term "harlot" in respect of Mr Berry.

MR CORBELL (11.25): Mr Speaker, I seek leave to move a motion asking the Speaker to review *Hansard* in relation to a ruling.

Leave granted.

MR CORBELL: I move:

> That, noting the ruling made by the Speaker on Wednesday, 3 September, concerning the ruling made by the Temporary Deputy Speaker concerning the use of the word "harlot" against a Member of the Assembly during proceedings on 2 September, the Assembly nevertheless calls on the Speaker to review the proof *Hansard* of the proceedings and determine whether the words used were offensive or disorderly and, if so found, direct that they be withdrawn. Further, the Assembly asks that the Speaker conclude his deliberations and report to the Assembly on his decision by the conclusion of question time today, Thursday, 4 September 1997.

Mr Speaker, it is pleasing to see that the Minister has finally chosen to withdraw the offensive word, but only belatedly and only after the Opposition indicated that it was willing to move this motion requiring you to rule on whether or not this language was unparliamentary. It has taken the Minister two days to decide that he has a guilty conscience and should have withdrawn. If he had done the decent thing, Mr Speaker, he would have withdrawn it immediately.

Mr Whitecross: He would not have used it.

MR CORBELL: Indeed, Mr Whitecross, he would not have used it in the first place. But having done so and having refused to withdraw it, despite comments from this side of the house and despite comments in this house yesterday, he has now chosen to do so purely to avoid being directed by the Speaker to withdraw. That is very disappointing. Nevertheless, we are pleased that the Minister has finally chosen to withdraw those comments. Mr Speaker, we also believe that it is appropriate that this Assembly call on you to make a ruling in regard to the use of that offensive word. We believe that it is inappropriate language, and we request you to report back to this Assembly at the conclusion of question time today and make a ruling on whether or not that language is indeed unparliamentary.

MR MOORE (11.27): Mr Speaker, I will be brief, but I think it is appropriate to relate the conversation that I had with Mr Humphries when I went to speak to him about this matter. I had already spoken to Mr Corbell and realised that he was going to put up the motion. When I approached Mr Humphries, I did not tell him that there would be a motion put up here. I actually went to him and I said, "Gary, I think you would have to agree with me that the word 'harlot' is inappropriate, and you ought to withdraw it. We really need to clean this matter up". He said, "Yes, that is right, and I will".

So, it was actually before he realised that there was a motion likely to be moved that he indicated that he would. I think it is fair to put that on the record, Mr Speaker. I suppose that I enjoyed the bit of parliamentary banter that went on over this and ought not to have; but we really do have to clean up our act a bit. I think it would be very good for you, Mr Speaker, to report back on how we should proceed with this matter.

MR HIRD (11.28): I also spoke to the Attorney-General. In the heat of the debate at the time - as the house would recall, I was in the chair - I made a ruling on this. On reflection, I believe that the ruling was inappropriate. I made my views known to the Attorney-General, Mr Humphries. He agreed with me, to his credit.

MR CORBELL (11.29), in reply: I am pleased that other members believe that it is appropriate. The point the Opposition wants to make with this motion - why we believe that it is appropriate that you, Mr Speaker, rule on this issue - is that we are not dealing just with the use of that one term; we are dealing with the repute of this chamber in the ACT community. When we have unfortunate comments reported in the *Canberra Times*, as they were this morning on this issue, it does nothing but drag down the reputation of this Assembly in our community. We believe that that is inappropriate.

Mr Speaker, may I also say that we believe that it is inappropriate that the Manager of Government Business, the person who is leading the debate in this place on behalf of the Government and who has a very important role to play in this chamber, consistently and persistently uses offensive terms to denigrate members of this place - not just members of the Opposition, but members of the crossbenches also - and behaves in a way which is most unbecoming in someone who is meant to be the Manager of Government Business in this place. For that very reason, we believe that it is appropriate that we state very clearly our concern about the attitude of the Manager of Government Business on this issue and the behaviour that is bringing this place into disrepute. For those reasons, Mr Speaker, we believe that it is only appropriate that you rule on this issue.

MR HUMPHRIES (Attorney-General): Mr Speaker, I seek leave to make a contribution to this debate.

Leave granted.

MR HUMPHRIES: I thank members. Mr Speaker, let me say at the start that, if ever I have heard a case of the pot calling the kettle black, I heard it just a moment ago. If a list were ever compiled of people in this place who have abused standing orders by the use of unparliamentary terms, Mr Berry would be a long way ahead of any of us. In fact, he would probably be further ahead of all the rest of us put together. So, Mr Speaker, let us not get too "holier than thou" about all of this. Everybody uses terms like that at various stages in the course of the life of this Assembly, and members generally withdraw them when they are asked to do so. Let us not be too precious about it. Members deliberately use the phrases, knowing that they are going to be asked to withdraw them later on. Do not tell me you do not do that, because we all know that that is not the case.

I must confess to having been surprised not to have been asked to withdraw the word. Mr Speaker, I put it to you that it would be unnecessary to actually proceed with this motion if you could rule on this motion right now. I very much doubt that you would need to consider for very long the question of whether the word "harlot" is unparliamentary. I would ask you to consider and rule on this matter right now, and avoid the need to deal with this matter in the way suggested by the motion.

MR BERRY (Leader of the Opposition): I would like to have leave to have a word or two on this as well.

MR SPEAKER: You will have to seek leave. I am sure that it will be granted.

MR BERRY: May I have leave of the Assembly to make a statement?

Leave granted.

MR BERRY: I was the subject of the original accusation. I never felt particularly wounded by it, coming from Mr Humphries, because I have copped the sting before, and so have some of his other colleagues - his own colleagues - who have probably been more wounded by his smart-alec and spiteful remarks. Mr Speaker, I was not particularly wounded by it. But what I will say is that, once such a thing breaks out onto the public airwaves, it does bring this place into disrepute.

Mr Humphries has made a special point of describing Mr Corbell as the pot calling the kettle black. There is no doubt that there are people in this place who have said some angry things over time, in passionate debates over issues. But, when called to order and pushed to a point, generally people withdraw them. There is a long list of withdrawals. Many withdrawals have been made without members being ordered to do so by the Chair. Mr Speaker, the interesting point about this issue is that Mr Humphries was arguing that the Chair could not even rule on the matter, in some sort of legalese, to try to avoid the embarrassment of being told that he had said something that was outrageously unacceptable in this place. Mr Speaker, thank you for your leave to speak. If I had not been mentioned in the course of the earlier discussion, I would not even have risen to speak on the matter. I am happy for you to rule immediately, Mr Speaker.

Question resolved in the affirmative.

Mr Humphries: Mr Speaker, have you just put that motion to the vote?

MR SPEAKER: Yes.

Mr Humphries: I did ask you to consider an alternative course of action in that matter, and I would ask you to do so now.

MR SPEAKER: I could not very well do that, however, Mr Humphries, until first of all I had the advice that the Assembly was, in fact, supporting the motion. The motion, I note, calls on me, the Speaker, "to review the proof *Hansard* of the proceedings". That I have not done yet.

Mr Humphries: But, Mr Speaker, the point is not to review the *Hansard*; it is to decide on whether the word "harlot" is unparliamentary. Doing so now, as I am sure that you are more than capable of doing, avoids the need to proceed with this matter at all.

MR SPEAKER: Very well. As far as I am concerned, the use of the word "harlot", in the terms in which it was used, is unparliamentary. That is my ruling, and I would remind all members about it. There was a discussion about it being a profession, as I recall. There are several other terms ruled as being unparliamentary that refer to professions, including "thug", "leader of the Gestapo", "stormtrooper" and "second-rate lawyer". The word "harlot", therefore, falls into that category, and there are now five professions, or employments, that are unparliamentary when used in the wrong terms.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Reference - Programs to Assist Industry

MR WHITECROSS (11.36): Mr Speaker, I move:

> That the Standing Committee on Public Accounts inquire into and report, by 2 December 1997, on the efficiency and effectiveness, since 1 March 1995, of the Industry Assistance Program and its successor, the Business Incentive Scheme.

These schemes involve a significant outlay on behalf of the community in direct cash - several million dollars over the life of the schemes - and indirectly through revenue forgone from stamp duties, payroll tax, the sale of land and rent on government-owned properties. The total cost of these schemes is therefore something which ought to be of interest to the community. However, the exact cost of the schemes is unknown, because the terms of the deals made with individual companies have never been really looked at. The schemes have operated for a number of years under both the previous Government and the current Government, and it is appropriate that we now look at their efficiency and effectiveness, at whether the economic and employment benefits have been realised and at whether there are better ways of directing resources to promote economic and employment growth in the ACT.

Over recent times the Government has made some fairly strong claims about the success of the business incentive scheme. The Chief Minister and Minister for Business recently indicated that deals she had done in the last financial year had brought $31m of investment to the ACT and 360 jobs. She claimed that work under way was going to bring $180m of investment to the ACT and 2,000 jobs. Some very high profile companies and some very large companies have been assisted under the business incentive scheme, including Olivetti, AOFR, Fujitsu, Coms21, Diskdeed, Sustainable Technologies Australia, Pacific Noise and Vibration, Modernfold and Micro Forte, just to name some.

I believe that, as an Assembly and as a community, we should be doing all we can to encourage private sector investment and growth. We ought to be trying to build a strong and vibrant economy, a mixed economy with a strong, healthy, well-regarded and effective public sector and a strong, vibrant, healthy and well-respected private sector.

The Labor Party believes that the Government has an important role to play in creating an environment conducive to private sector investment and private sector employment growth.

At the same time, we in this Assembly and the community have a responsibility to ensure that public funds are effectively utilised. We are all familiar with the pressures on public expenditure and the competition for public money. When significant amounts of money and forgone revenue are involved in the scheme, it is appropriate that from time to time there be some accountability process to look at whether money is being well spent, whether we are getting the best possible value for money and whether we are using resources to achieve the maximum effect. That is the point of this reference.

I notice that the Chief Minister has circulated some proposed amendments to the motion. One of those takes the inquiry back to look at the operation of the industry assistance program prior to the election of her Government, and the other nominates some specific things that the inquiry should look at, namely, economic and employment benefits for the ACT generated by the two schemes and possible measures to improve the operation and scope of the business incentive scheme to promote greater economic and employment growth in the ACT. They are obviously things which I believe would have been part of any inquiry into the efficiency and effectiveness of these schemes, and I am happy to accept Mrs Carnell's amendments. I am also happy to accept her amendment that we also look at the operation of the schemes prior to the election of her Government. I initially set the 1 March 1995 date with a view to trying to contain the scope of the inquiry, but I accept that looking at some of the earlier assistance may provide us with a longer-term perspective of the effectiveness of the schemes. Therefore, I am happy to accept that amendment, too.

With those amendments by the Chief Minister, this motion ought to be something that can enjoy the broad support of the Assembly. I understand that there will be considerable sensitivity in the work involved in this inquiry. I also understand that the scope of this inquiry is potentially large and that there will have to be some discipline by the Public Accounts Committee to contain that scope. But I believe that this is an important exercise, and I believe that those sensitivities can be respected. Parliaments and parliamentary committees are used to dealing with the sensitivities associated with arrangements of this sort. I am sure that the Public Accounts Committee will be able to conduct an inquiry and produce a report of benefit to the Assembly.

MRS LITTLEWOOD (11.42): I rise this morning as I am a member of the Public Accounts Committee. I would just like to express my disappointment at the way in which this has been done. Since coming into this place I have endeavoured to conduct myself in a dignified manner and to treat all in this place with a certain courtesy. However, I was advised about this through a letter. Mr Whitecross did speak to Ms Horodny about it, but did not have the courtesy to discuss it with me as a member of the committee. I find that somewhat disappointing because I endeavour, as I said, to treat people on the committee in a bipartisan way. Obviously, I have not been treated like that, and I just wish to express my displeasure at that.

MRS CARNELL (Chief Minister and Minister for Business and Employment) (11.43): I have a number of concerns with this inquiry. I am very pleased that Mr Whitecross has already accepted the amendments that I put forward. I would be very disappointed, as I am sure many of the people in this house would be, if this inquiry were allowed to bog down the ACT's recently acquired and recognised business development edge.

I hope, from the comments Mr Whitecross has made, that he and the committee will respect the confidentiality of a lot of the information this inquiry will look at. Information that companies give us regarding their own businesses can often be commercial information that I am sure they would not want their competitors to have. Mr Whitecross has indicated that he does understand the confidentiality of a lot of the information that would pass to the committee. If that is used sensibly, I am confident that the committee can progress.

The business incentive scheme is an important element in our support for the private sector to deliver jobs and growth for Canberra's needs. Mr Whitecross acknowledged that, and I am very pleased to hear that. It not only enables eligible local firms to expand and develop new projects but also means that the ACT can be and is an attractive destination for interstate and overseas firms interested in relocating. The ACTBIS process has followed on from its predecessor, the industry assistance program; but it is a more sophisticated and more effective initiative. We are certainly out there promoting it more than it was promoted in the past.

Since the establishment of ACTBIS in February 1996, 26 companies have been supported. Of those, 18 are local companies undertaking expansion. Mr Speaker, 1,932 jobs are expected to be created over the next three to five years from all of the supported projects, with a direct investment of $49.24m expected over the same period. There are a number of safeguards in place to ensure that those outcomes are achieved. For example, the Government monitors the performance of each approved project by way of a formal agreement between the parties which specifies that an approved applicant must submit six-monthly reports detailing the level of investment and employment generated as well as the progress of the project. Each of these agreements sets out the intentions and obligations of both parties and includes contract breach clauses and penalties. These penalties can include repayment of all or part of the assistance package.

The ACTBIS process is administered by the Department of Business, the Arts, Sport and Tourism with the assistance of the ACTBIS panel, which includes independent accounting personnel. It is an initiative that has been embraced by the business community and it has proven itself to be successful in attracting business and jobs to the ACT. If those opposite wished to know about the business incentive package, they only needed to ask. I am happy to support this inquiry going ahead, with the amendments that Mr Whitecross has accepted. I seek leave to move together both amendments that have been circulated in my name.

Leave granted.

MRS CARNELL: I move:

> Omit "since 1 March 1995,", substitute "since their inception".
>
> Add "The inquiry will have particular reference to:
>
> (a) the economic and employment benefits for the ACT that have been generated by the IAP and BIS;
>
> (b) possible measures to improve the operation and scope of the BIS to promote greater economic and employment growth in the ACT.".

I suggested that all those opposite needed to do was ask for a briefing. I think it is very important to understand that a lot of the information that this committee may ask for is confidential not just to ACTBIS but also to the companies involved, and we would need to respect the confidentiality that companies may require. I can understand that companies that want to deal with the ACT Government will not want information personal to them or confidential information splashed all over committee reports or pages of newspapers. That would be the quickest way to ensure that we never got another ACTBIS proposal up in the ACT. Companies would not want to deal with us. I am confident that nobody in this place would want that to happen. Mr Whitecross has indicated that he supports business incentive approaches.

A large amount of our success in the business incentive area stems from efforts to ensure that companies, not just in the ACT but around Australia and the region, believe and know that Canberra is a good place to do business, a place where you can deal with not just the Government but also the Assembly and our whole process without fear of having confidential information made public. It is also important that we ensure that our processes within ACTBIS and other parts of government are as streamlined as possible. We have many processes in place, which of course we will be very pleased to share with the committee, to achieve that sort of streamlining.

One of the important parts of this inquiry, as set out in paragraph (b) of my second amendment, will be to look at "possible measures to improve the operation and scope of the business incentive scheme to promote greater economic and employment growth in the ACT". Too often, committees can look only at the negatives rather than the ways in which they can actually improve how things work. I will be very pleased to see the committee's recommendations on how we can improve job creation and economic growth in the ACT.

MR MOORE (11.50): In rising to support the motion and the amendments, I must say that I think this will be an excellent inquiry. I have spoken to Mr Whitecross about it this morning, and I know that it was always his intention to look at the sorts of things in the amendments. I am sure it would have been the same with Mrs Littlewood and Ms Horodny. The doubts I have in my mind about the way business incentive schemes work and, more importantly, concerns about how they can be focused to very specific parts of the community and therefore lead to unfair competition and undermine other businesses are the sorts of issues that we really need to look at.

I think you will find evidence that the particular company helped has done very well, but that is not enough. We need to know that it is actually good for the community as a whole. Remember that whenever we put money into a business incentive scheme it is money we could have put into an extra teacher, more computers in schools, fixing up cracks in the gutters or any of the other very important issues that come before us. It is a question of priority. If in the end the money put into business incentives produces a significant number of jobs that we would not have otherwise had, then probably it is worth while. But to barge ahead and say that a business coming into town has created 20 more jobs when in fact the jobs are effectively paid for by money that could have employed 20 people, say, in the Public Service achieves nothing.

Mr Whitecross needs to consider a series of issues. I hope you find that there is a major benefit. I also hope we will find a consistent approach to how you run business incentive schemes. For such an inquiry to come to a full understanding of the issues would take longer than we have. However, I hope the committee can at least make an initial finding. It would not surprise me to find the committee saying that further work ought to be done on this by the Public Accounts Committee after the next election. That is an option a committee always has under such circumstances. I think this reference is an excellent idea, and I would like to say congratulations to Mr Whitecross for thinking of this and taking it on. I have had doubts at the back of my mind for a long time, but I think we also have quite significant hopes.

MR CORBELL (11.53): It is very important that we look at issues surrounding the business incentive scheme and its operations. I think it is quite appropriate for Mr Whitecross to be moving this motion today, because it is important that the Public Accounts Committee look at how the Government is spending the funds and the revenue raised from the ACT community. That is the issue we are addressing here. This is not money for the Government to choose to do with as it will, without any form of accountability process. There are, I admit, processes in place which do allow the Opposition a degree of scrutiny of the business incentive scheme, but answers that have been provided to me by the Government on the operation of the business incentive scheme leave a lot of questions unanswered. Just how far do we go in using the term "commercial-in-confidence"? How far do we push that term? Certainly, auditors-general in other States of Australia have raised the issue that commercial-in-confidence is being used increasingly to deflect scrutiny of the expenditure of public funds by parliaments.

For that reason, it is very important that Mr Whitecross's motion be accepted here today, so that the Public Accounts Committee can look at just how well the community's funds are being used in the provision of support for businesses in the ACT. Supporting businesses in the ACT is important. It is important that we create an environment that allows businesses to grow and allows them to employ more people. As Mr Moore says, we also have to make sure that it is done in a way which is fair to all in our community, not just for the specific businesses that have been selected for assistance but also for businesses that perhaps have not received assistance but are competing in the same field.

As Mr Moore says, we have to make sure that there is a level playing field. I am sure that the Government and the Chief Minister would agree with those comments. It is very important.

The Public Accounts Committee has an important role to play in reporting to this Assembly on the expenditure of public funds and has an important role to play in the scrutinising of that expenditure. For those reasons, it is important that we investigate and review the scheme through this inquiry. Equally, as the Chief Minister says, it is also important to look at other possible ways to improve the operation and scope of these sorts of schemes to promote economic growth and development. Ultimately, one of the key challenges that we in this Assembly face is the challenge to create jobs in Canberra. For all of those reasons, I believe it is appropriate that the Assembly support Mr Whitecross's motion this morning.

MS TUCKER (11.56): This is an inquiry that we will also be supporting. My colleague Lucy Horodny would be on this committee and is quite happy to be part of such an inquiry. I have just been talking to members here briefly about the possibility of expanding the terms of reference to include looking at how well any business development that occurs in the ACT complies with principles of ecologically sustainable development. I take the point that with the timeframe proposed it would probably not be possible to go into that in great detail. However, Mr Whitecross has expressed willingness, when evaluating how these schemes work and the objectives under which they work, to have a look at whether or not the environment and the sustainability of business are actually taken into account. I am happy to hear that reassurance from Mr Whitecross, and I wish the committee good luck.

MR WHITECROSS (11.57): I thank members for their support. Let me reiterate one thing: I am very conscious of the sensitivity of some of the issues that the committee will look at, as I indicated before. I know that Mrs Carnell is anxious about that. I believe that accountability is important as well, as I said. I believe that the committee process provides a way of ensuring that accountability, without some of the pitfalls that might exist if all the details of these schemes were simply laid before parliament and totally exposed to the public gaze. I understand that dealing with private companies is a difficulty. Those sensitivities have caused the Government to be perhaps a little bit coy with information when answering questions on notice by my colleague Mr Corbell and others. I hope that, taking account of my understanding of the sensitivities, we can look forward to full cooperation by the Government. I think Mrs Carnell was indicating that before.

Amendments agreed to.

Motion, as amended, agreed to.

SOCIAL POLICY - STANDING COMMITTEE
Report on School Without Walls

[COGNATE PAPER:

SOCIAL POLICY - STANDING COMMITTEE
Report on School Without Walls - Government Response]

Debate resumed from 10 December 1996, on motion by **Ms Tucker**:

That the report be noted.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 2, Assembly business, relating to the Government's response to the Standing Committee on Social Policy report on the School Without Walls? There being no objection, that course will be followed. I remind members that in debating order of the day No. 1 they may also address their remarks to order of the day No. 2, Assembly business.

MR STEFANIAK (Minister for Education and Training) (11.59): Mr Speaker, on 7 May this year I presented the Government's response to the Social Policy Committee report on the School Without Walls. You will recall that I advised the Assembly that the Government had relocated the School Without Walls, or SWOW, as it was known, to Dickson College in April of this year because of its responsibility to provide the best possible education for all students. As I had signalled on numerous occasions in this place, this had not been happening at the Reid site. The Government's response outlined to the Assembly the problems associated with SWOW at its Reid site. These problems served to fuel the concern of the department and the Government that students at SWOW were not being provided with adequate education programs. It was abundantly clear that a properly organised and managed alternative program was required to meet the needs of some of the students at SWOW.

The Supreme Court's action of granting an interim injunction delayed the relocation of SWOW to the Dickson site. It did not, however, prevent the establishment of an alternative education program at Dickson and, indeed, many of the SWOW students enrolled there when it was opened. Following the discharge of the interim injunction, SWOW was officially relocated to Dickson College. Students still enrolled at SWOW had the opportunity to continue their education at several different institutions. These included the alternative and mainstream programs at Dickson College, Narrabundah College and the Canberra Institute of Technology. Students received advice and counselling to assist in their adjustment to their new environments. Students were visited by a former SWOW teacher, who in turn liaised with the new teachers. The department continues to monitor the progress of former SWOW students and is ever ready to respond to any educational problems encountered by them.

Most of this is now history and I do not intend to waste members' time in recapitulating those events. Instead, I would like to focus on the present and bring you up to date on the Dickson operation. This program is operating most successfully, Mr Speaker.

Indeed, I offer to you and other members of the Assembly who might be interested the opportunity to inspect the operation of the program should you so wish. I am advised that over 40 students are now enrolled in the alternative education program, or AEP, and students are successfully involved in both their own and mainstream college programs, including maths, science, music, art, photography and auto technology.

As I mentioned earlier, it is clear that there is a need for alternative education programs within the ACT school system, and the Government has delivered in this area. I am most pleased to advise that plans are well under way now for the establishment of a southside alternative education program at the Canberra College Weston campus and recruitment of staff is under way. The southside AEP will open in 1998, thus fulfilling the commitment made by this Government during the SWOW review. In closing, I emphasise that the relocation of SWOW was in the best interests of the students. I can categorically state that all former SWOW students still in the ACT school system now have access to quality programs and to facilities within the orbit of an alternative education philosophy.

MS TUCKER (12.01), in reply: Mr Stefaniak says that this is history and he does not want to go over the details. I am not surprised that he does not want to go over the details. It would be an absolute comedy of errors if it did not have some quite serious consequences, in my opinion. I was interested to hear Mr Stefaniak say how well the Dickson facility is working and that it is a good thing. I have not heard otherwise, except that I certainly have not heard that previous students of the School Without Walls are there. A few of them are. I have had no satisfactory response from the Minister to my correspondence asking exactly where the other students are. The Government claimed that they were tracking ex-SWOW students, but I have correspondence from Open Family which shows quite clearly that quite a few of them have gone missing from the education system altogether. I have not had any satisfactory answer from the Minister's office on what they are doing about that, except letters which make comments like, "We are monitoring ex-SWOW students and are happy with the progress of them". Why is it that Open Family have such concerns?

When I look at the Government response to this inquiry and the report from the committee, it brings to my mind the debate that happened in this house yesterday, when Mrs Carnell was absolutely appalled - possibly rightly so - at some statements made by Mr Berry as chair of the select committee looking at the private hospital. Mrs Carnell's outrage was directed at the politicisation of the committee process. When you look at the Government response to our report, consistently throughout it is reference to the minority report which, as members will know, was written by Mr Hird, who attended very few of the hearings of the School Without Walls inquiry. He refused to attend because he made untested allegations against Ms Reilly because she was perceived to have a conflict of interest. We then saw this unsubstantiated minority report from a member who was not in attendance at a large number of the hearings being referred to as argument. That was the argument against a lot of the recommendations of the committee.

The Government agreed in principle to the first recommendation - the recommendation about developing a policy on community consultation relating to school reviews outside the normal SPRAD cycle - but supported the minority report, which said that reviews needed to be done in a flexible and responsive manner. Considering the damning report by the Ombudsman, who found that the consultation process was deceptive because the

decision to relocate SWOW to Dickson was made before the review of SWOW in June 1996, and who also said that this evidence was not congruent with a public statement made by the Minister when he said the decision would be based on the findings of the review, if this is what Mr Stefaniak or this Government calls flexible and responsive consultation, I ask: Responsive to what? Is it the Minister's whim or the department's cost-cutting initiatives? What is it responsive to?

The second recommendation was about resourcing and the status of the board of the so-called relocated or refocused SWOW. I remember that we had a lot of difficulty in getting from the Government whether or not this was a relocation or a closure. I remember asking at question time at least once - I think it was twice - whether it was a closure or a relocation, and there was not a straight answer. Pretty obviously, it was a closure. Once again, in the response the Minister referred to the minority report, suggesting that the same level of resourcing should be given as was given to other schools, even though the two special off-line programs had folded due to resource pressures. Reference was made once to the duty of care issues with respect to younger students, once again not acknowledging that the department themselves had been responsible for referring these younger students to the School Without Walls.

I believe that this has indeed been a sad day for Canberra. I believe that there is a place for alternative education programs, and I am not convinced that that is what is actually happening. There is a sort of program happening at Dickson. I am interested in watching it. I am not going to be totally critical of it, because I do not have information to make me feel very concerned. However, I am concerned because I know that some of those students who were at the School Without Walls are not at that program. They do not feel there is a place for them in Canberra. In my inquiry at the moment into services for young people at risk it is very clear from the submissions that in this community there are groups of young people whom we desperately need to keep in the education system for the sake of their whole lives and for the sake of our society. We see the implications for society when these kids get lost. In fact, the school is the last anchor for a number of them, so it is a really important issue. I would like to know that there is a real commitment from this Government - I am not convinced that there is - to accommodating the needs of those sorts of young people. I think there may well be resource implications; but I believe it would be money well spent, because the costs are much greater in the long run if you do not keep these young people in the system and in society in a positive and supportive environment.

I hope that some lessons will be learnt from this whole process. I am appalled at the way the minority report was used, that it existed at all and that untested allegations were made about Ms Reilly. The whole thing was political from the beginning. I think you need to keep that in mind on the Government side of the house when you act in such a self-righteous and appalled way when Mr Berry apparently behaves inappropriately as chair of a committee.

Question resolved in the affirmative.

SOCIAL POLICY - STANDING COMMITTEE
Report on School Without Walls - Government Response

Debate resumed from 7 May 1997, on motion by **Mr Stefaniak**:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

LEGAL AFFAIRS - STANDING COMMITTEE
Inquiry into Correctional Facility in the ACT

MR OSBORNE: I wish to inform the Assembly, pursuant to standing order 246A, that on 3 September 1997 the Standing Committee on Legal Affairs resolved to inform the Assembly of its consideration of the matter of the construction of a correctional facility in the ACT. I also wish to make a statement on behalf of the committee. I was interested to open the *Canberra Times* yesterday morning and see a great deal of what I was supposed to say today published there. I am sure that that will be dealt with at some stage. The statement that I am making today deals with the issue of whether the ACT should build its own correctional facility to house Territory remandees and prisoners.

This issue concerned the three members of the Legal Affairs Committee, who brought various perspectives to the issue. In one of my previous careers - that as a New South Wales police officer - I visited the Goulburn and Long Bay correctional facilities. I ceased that employment back in 1991 and have come to realise that correctional facilities have changed greatly since that time. My colleague Mr Hird worked as a New South Wales policeman during the early 1960s. During this time he visited the Goulburn, Long Bay and Penrith correctional facilities on a number of occasions. Again, he found it useful to update his knowledge of this issue. My other colleague on the committee, Mr Wood, is the shadow Attorney-General. I think it is true that he had never visited a correctional facility before the committee examined this matter. I see him nodding in agreement.

The committee has taken careful note of the Government's discussion paper released in the Assembly last year and entitled "The possible establishment of a correctional facility in the Australian Capital Territory". The key question raised in the discussion paper was whether the ACT should build a prison or continue existing arrangements by contracting this service to the New South Wales Department of Corrective Services. The discussion paper went on to ask nine subsidiary questions. One, should the ACT have a full-time correctional facility? Two, if so, what categories of offenders should be accommodated? Three, what should be the goals of an ACT correctional facility and how should these goals be achieved? Four, how should a correctional facility be managed?

Five, what design principles should it incorporate? Six, how could daily prisoner regimes be integrated with existing community services and local industry? Seven, where should a correctional facility be located? Eight, what role should the region play in the development of an ACT correctional facility? Nine, what other issues need to be considered before any facility is established in the ACT? The committee considers these questions highly pertinent.

In order to inform ourselves of the latest developments affecting corrective facilities we decided on an informal and speedy examination of the issues. We were briefed by a highly qualified criminologist, Mr David Biles, about the issues involved in building, financing, administering and managing a correctional facility and the rehabilitation of prisoners. Again, to get a better understanding of the issues, we also decided to inspect three correctional facilities in Queensland, three in New South Wales and the ACT's own facilities.

In Queensland, although I did not attend, the other committee members inspected Lotus Glen, Barollan and Woodford. Each illustrates different designs and management styles. Lotus Glen is a State-run centre, Barollan is privately run by the Corrections Corporation of Australia and Woodford is run by the Queensland Corrective Services Commission, which went through a competitive tender process. It is a state-of-the-art prison incorporating the latest technology, design and management practices.

In New South Wales we inspected Junee, the Metropolitan Remand and Reception Centre at Silverwater and the Mulawa women's correctional facility. We were made aware that Junee was the first privately managed correctional facility in New South Wales, and we also learnt that the Metropolitan Remand and Reception Centre is the largest correctional facility in Australia, with 900 inmates of various classifications but mainly unsentenced remandees.

In the ACT we inspected our two correctional facilities - the Belconnen Remand Centre and the Symonston Periodic Detention Centre. We were appalled - I think "appalled" is an understatement - by the overcrowded and poor-quality conditions at the Remand Centre. The committee benefited from a detailed briefing by the ACT's Director of Corrective Services, Mr James Ryan. He told us about the Remand Centre, the Periodic Detention Centre, arrangements with the New South Wales Department of Corrective Services to house ACT prisoners and options for housing ACT prisoners in the future.

Following these inspections and briefings, the committee carefully considered what we had seen and heard. Initially, it would be fair to say that we were sceptical as to whether there was a need for the ACT to build its own prison, but we were impressed by the great advances in correctional facilities and practices which display a humanitarian and caring emphasis far different to what existed in Long Bay and Goulburn years ago. We were also swayed by the argument put forward on a number of occasions during this informal inquiry that the most important factor which affects recidivism is the maintenance of strong family relationships during incarceration. Often transport is a problem for the families of prisoners. It would be much easier for the families of ACT prisoners to maintain family contact if their loved ones served their sentence in the Territory rather than in New South Wales facilities.

Also, we have come to realise that, in paying out money to New South Wales to house our prisoners, we are denying ourselves the economic advantages that flow from a correctional facility which could employ a significant number of people and provide opportunities for local businesses to supply the facility with goods and services. With the present economic climate, it would obviously be a plus if the benefits stayed in the Territory.

These considerations led us to five conclusions which we recently communicated to the Attorney-General. Our conclusions, which are unanimous, are: The Territory should build its own correctional facility to house its prisoners and remandees; the Territory should do so as soon as possible; the facility should house both men and women; the facility should accommodate as many security classifications as possible; and consideration should be given to the correctional facility being a regional one, with the ACT contracting its services to the New South Wales Department of Corrective Services and perhaps taking some money back from New South Wales.

We would like to make a further observation. We are aware that at present the Attorney-General's Department administers adult corrective services while the juvenile corrective services are administered by the Department of Education and Training and the Children's, Youth and Family Services Bureau. The committee suggests that the Government join the administration of juvenile and adult corrective services in the ACT. This would bring the administration of Quamby, the Remand Centre, the Periodic Detention Centre and community corrections together. We think this would avoid duplication in administration and it would standardise procedures and protocols - for example, health and induction.

In closing, as chair of the committee, I would like to thank all the people we met during this informal inquiry. Everyone was open and frank. All our inspections and meetings were stimulating and very worth while, especially in my case. My perception of gaols was well and truly from the 1980s. We have learnt a great deal about the administration and management of correctional facilities and the rehabilitation of prisoners. We hope this statement facilitates action to get a suitable correctional facility in the ACT as soon as possible. I believe that there is a great opportunity for bipartisan support and I hope that the Minister takes that into consideration and looks favourably on our conclusions.

MR HIRD, by leave: Mr Speaker, as a member of the Standing Committee on Legal Affairs, indeed the deputy chair, I support the vast majority of the statement presented by the chair of the committee, Mr Osborne. The only part that I take issue with is his reference to an article in the *Canberra Times* of yesterday. I will deal with that later. It has become increasingly obvious in recent times that this Territory needs its own correctional facility to house its prisoners and remandees. That facility should be built sooner rather than later, as indicated by the chair.

Recent events at the Belconnen Remand Centre make it patently obvious that this centre has outlived its usefulness, and the Periodic Detention Centre on Mugga Lane is hardly adequate for the safe housing of the majority of prisoners sentenced in the ACT courts. Building a new facility capable of housing all the Territory's prisoners and remandees would not only overcome the problems associated with Belconnen but also save the people of this Territory hundreds of thousands of dollars a year - dollars that this Government currently is paying out to New South Wales to look after our prisoners.

As the chair has pointed out, members of the Standing Committee on Legal Affairs had reservations about the need for the ACT to have its own correctional facility when we first sat to consider this problem. Like Mr Osborne and my fellow committee member, Mr Wood, I admit to being converted. There has been a lot of discussion in recent months about the possibility of the ACT taking over the already established but soon to be vacated Cooma gaol. That is not the solution to the ACT's correctional services problems. Cooma gaol, like Parramatta and many of the other older gaols in New South Wales, is outdated and old-fashioned and because of that has become uneconomic to operate. If it is uneconomic for New South Wales, how could it suddenly become an economic proposition for the ACT?

Mr Berry: How would you know? Have you had a look inside?

MR HIRD: Yes, I did look inside gaols, Mr Berry, and I did a thorough inquiry, as did your colleague, Mr Wood.

Mr Berry: How much time did you spend in there?

MR HIRD: In the early 1960s I did not see you in there - let me put it that way - when I was locking people up. I believe, as do my fellow committee members, that the cost of building a new prison in the ACT would be recouped in a few years if it were amortised over a given time. Currently, the average population of ACT prisoners in New South Wales correctional facilities is 108, and that figure is increasing. On top of that, the number of detainees on remand at the Belconnen centre ranges from 35 to 55 at any one time.

This financial year it will cost us an average of $135 per prisoner per day for every prisoner we send to New South Wales institutions; but that is a discounted figure achieved through negotiation by the ACT Director of Corrective Services, Mr James Ryan, to whom we must pay tribute for his negotiation skills. Last year it cost us an average of $159 per prisoner per day. That is an annual cost of $6.3m to the Canberra community. There is no guarantee that this current discount rate will be available in the future.

In any case, it is safe to assume that there would be savings if these prisoners were housed in the ACT, as indicated by Mr Osborne. If we build the right facility in the ACT - and I am talking here about a 200- to 300-bed facility capable of housing both male and female inmates, both long-term and remandees, in a full range of security classifications - we would be in a position to offer vacant accommodation to the New South Wales correctional service for prisoners from the region surrounding the ACT. That would become an even more realistic proposition with the closure of the Cooma gaol.

Sending prisoners out of the Territory also creates enormous problems for the families of prisoners, as Mr Osborne pointed out. Maintaining family relationships is an important element in the rehabilitation of people who become involved in crime activities. Not all of our prisoners are sent to Goulburn, which, it will be said, is only half an hour away. The fact is that it would be much easier for ACT families to maintain contact if prisoners were retained in the Territory.

Members of the standing committee spent a lot of time on fact-finding tours of modern correctional facilities in Queensland and New South Wales. Each has its own special style of operation, but of those we inspected we were most impressed - I certainly was - with the facilities in Junee in southern New South Wales and Lotus Glen near Cairns in Queensland. Lotus Glen is operated by Queensland Correctional Services, so it is a State-run institution, whereas the Junee facility is privately owned. That, of course, poses the question of whether an ACT prison ought to be built by the Territory and administered by the Government or whether the entire project should be handed over to private enterprise. The final decision, however, should take into account the needs of the region, not just the ACT.

The question of a site also arises. While there may not be many appropriate sites available in the Territory, considering public perception, I would urge all members of this parliament to take it on themselves to have a look at the old Honeysuckle Creek space tracking station south of Canberra. I believe this would make an ideal site, big enough for the establishment of an all security classifications facility, including - which is important - a prison farm. The need for a suitable correctional facility in the ACT is something this parliament will have to consider sooner rather than later. I commend the statement presented by Mr Osborne.

Mr Osborne referred to an article published in the *Canberra Times* this week under the by-line of Graham Cooke, the newspaper's city roundsman, following an interview I gave to Mr Cooke some time ago. In response to Mr Osborne's allegations, I draw the parliament's attention to the front page of the *Chronicle* - a newspaper from the *Canberra Times* stable - in the issue of Tuesday, 19 August this year, two weeks before the *Canberra Times* article quoting my views. That article, headlined "Prison Push: Jail inevitable and desirable, say politicians", quotes Mr Osborne and Mr Wood - both members of the Standing Committee on Legal Affairs and both subject to the same standing orders as I am. Mr Osborne is reported as saying that a prison in the ACT was inevitable because ACT taxpayers "give NSW far too much money already". I do not disagree with that. Mr Osborne goes on to say:

> The ACT will probably need a prison with a potential capacity to hold 200 to 300 detainees, which will allow us the chance to offer our empty cells to NSW for a fee.

Mr Osborne is also reported as saying that the issue of using Cooma gaol is a joke. He said:

> Why would we inject millions of ACT dollars into Cooma Jail?

I agree with that. Mr Wood made similar comments but went even further by suggesting Hume as a possible site for an ACT prison. Hume is one site. Mr Speaker, if it can be demonstrated that my comments as reported in the *Canberra Times* are any different from those uttered by my colleagues Mr Osborne and Mr Wood and reported in the *Chronicle*, then I stand guilty as charged. In closing, I believe that the committee worked very well, and I would like to put it on record that I appreciate the efforts made by the chairman of the committee, Mr Osborne, by Mr Wood and by those many people who made submissions to our committee in respect of our inquiries into this issue. I would also like to pay a tribute to the secretary of the committee, Beth Irvin.

MR WOOD: Mr Speaker, I seek leave to make a short statement.

Leave granted.

MR WOOD: It is a short statement in relation to a statement, and that is not a common event in the work of committees. The committee operated in this case with the general reference of attending to the matters the committee is charged with. There was no specific reference to us about a prison, but we believed amongst ourselves that we needed to investigate these matters to familiarise ourselves with the issues and to make some comment back to the Assembly. It is not a report we are giving; it is a statement. To my knowledge, it is the second time this has happened. I think the Economic Development Committee went and examined economic development in Christchurch and came back and also submitted a statement. I found it a useful way for this committee to work. One other thing we did, at the end of it, just ahead of this statement today, was to speak to the Minister. He, the committee and his senior officers sat around a table, and we relayed our views to the Minister, and of course he is attending again today. We found that very useful, and I think it is a good thing for a committee to do.

It is quite clear that we need a prison urgently. The main reasons have been given. We have to detain our prisoners appropriately. They are people, and they have to be treated as such. Belconnen Remand Centre is clearly unsuited, and it is no credit to anybody who has been in this Assembly over nearly nine years that we have not attended to it earlier. We send prisoners into New South Wales - one-half to two-thirds to Goulburn, which is clearly a totally unsatisfactory place. There is another reason to attend to the need for a prison, and that is the economic side of it. We would make very significant savings in the cost of holding prisoners if we were to operate our own modern prison which can be run much more economically than the old high walls, guard towers and closed-in place that Goulburn is, for example.

It is not a political issue anymore. I indicated that the Assembly and all governments in the past have declined to deal with it. I think earlier it was considered something of an electorally unpopular issue, but that has gone. I think the work of the committee and the views now indicate that it is not a political issue, and there is no hindrance to anybody, perhaps in the next parliament, taking action to develop this prison. There is probably only one difficulty left, and that is the siting. It has to be a well-sited place. It has to be as close to the courts and to families as possible; yet we know that it should not be, and the community would react if it were, too close to any particular community. There may be difficulties in finding a site. I have had my say on that. That is the next step.

Finally, I want to focus on something that has not been mentioned yet, and that is an important side benefit of operating a prison. In my estimation, we would employ 60 more Canberrans in doing so. There is already a staff of 40 or more at Belconnen; but we would need another 60, I would expect, if we were operating a facility of about 200 or so. There are 60 more jobs for Canberra people presently being carried out by people in areas distant from the ACT. Those jobs provide yet another reason that we should move on this prison.

MR OSBORNE: Mr Speaker, under standing order 46 I wish to make a personal explanation on some issues raised by Mr Hird. A number of weeks ago comments that Mr Wood and I made did appear in the *Chronicle*. It was shortly after we had been to Junee, I think. As chair of the committee, I was made aware that Mr Wood was going to speak to the *Chronicle.* I fully supported it, and I spoke to the *Chronicle* as well.

Since then we have had an informal meeting with Mr Humphries and his department. We discussed what we were going to do, saying that we were going to make a statement. We let them know what we were going to say in that statement. Beth Irvin, our secretary, circulated our statement a number of days ago, maybe late last week. All members had a copy of that statement. It had not yet been endorsed by the committee, although I had been endorsed, as chair, to speak on it.

Neither I, as chair of the committee, nor Mr Wood was approached by Mr Hird to let us know that he was going public with his views on the gaol. I was told yesterday that Mr Hird had no conversation with Mr Cooke a couple of weeks ago, as he claimed he did. It was actually the day before the article appeared. If Mr Hird is so desperate for publicity, so be it; but, as chair of the committee, I was a little bit disappointed that Mr Hird did what he did. That is life, I suppose.

MR HIRD: Under standing order 46, I wish to make a personal explanation. I am disappointed that Mr Osborne or Mr Wood did not discuss their article with me as a member of the committee. I did receive the statement on either last Friday or Monday of this week.

Mr Osborne: Certainly, before the article in the paper.

MR HIRD: I did the interview some two weeks ago, and I told Mr Osborne that. That can be verified by the reporter.

Mr Osborne: If you are so desperate for a headline, Harold, go for your life.

MR HIRD: If Mr Osborne is so desperate to get his nose out of joint, that is his problem. What is good for one should be good for everyone. I did not issue a press release, and I do not believe I did any more or any less than what Mr Osborne did as chair of that committee.

Sitting suspended from 12.36 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Canberra Hospital - Salaried Specialists

MR BERRY: Mr Speaker, my question is to the Chief Minister in her capacity as Minister for Health. Chief Minister, in June this year, the Auditor-General brought down a damning report documenting the lack of control of salaried specialists' private practice at the Canberra Hospital. That report raised concerns that the recommendations of an internal audit - under Labor - conducted in 1994 had been largely ignored; that is, largely ignored by your Government. Between 1995 and 1997, almost nothing had been done to address the problems identified. The Auditor-General found then that there were inadequate controls in place to work out whether agreements were complied with, to evaluate what the real costs were or to establish what a cost-effective combination of VMOs and salaried specialists was. Yesterday, the Auditor-General handed down the next report, which identifies a large number of irregularities. One of the most damning findings was that made in relation to the 1996-97 enterprise bargaining agreement. The Auditor-General says:

> It is the audit view that this one sided result from the negotiations between the Hospital management and the salaried specialists is another illustration of management's lack of ... control.

The message from the Auditor-General is that the situation is out of control, that taxpayers' money is being spent without proper accountability, and that the Carnell Government signed up to an agreement which extended perks to the highly paid but did nothing to try to establish control or accountability in one of the most expensive areas of our health system. In fact, the audit found that "only one undertaking which resembled a productivity gain was included in the EBA and this was in vague language".

Mr Humphries: Mr Speaker, I rise on a point of order. I have only just come into the chamber, but the question has been going for all the time I have been here and presumably was going for some time before I arrived. There is a standing order about questions being succinct, and I doubt that a question of this length could be considered succinct.

Mr Whitecross: Mr Speaker, on the point of order: Mr Humphries was very self-righteous yesterday about frivolous points of order. I put it to you that that was a frivolous point of order.

MR SPEAKER: No. I must say that I have been listening. How much further do you have to go, Mr Berry?

MR BERRY: I could never equal their answers. Mr Speaker, that would be impossible. I am getting to the point.

MR SPEAKER: Please do.

MR BERRY: Considering that compliance irregularities were identified by Labor's internal audit in 1994 and recommendations were made then, why has the Chief Minister done nothing except give in in the EBA since 1995, and, more particularly, in the last three months since the Auditor-General revealed that the recommendations made by the 1994 audit had been ignored?

MRS CARNELL: Mr Speaker, that is without doubt the longest and most convoluted question we have ever heard in this house. But that is all right; I am very happy to answer it.

Mr Berry: I take a point of order, Mr Speaker. I did not ask whether the Chief Minister liked the question or not.

MR SPEAKER: There is no point of order. The Chief Minister is preparing to answer this.

Mr Humphries: Mr Speaker, that was an abuse of a point of order. When are we going to get to the point when those sorts of points of order are not permitted?

MR SPEAKER: Everybody will settle down. I call the Chief Minister.

MRS CARNELL: Thank you very much, Mr Speaker. To try to put some form of congruence to Mr Berry's question, I will start off with the June 1994 internal audit that I think Mr Berry raised.

Mr Berry: Under Labor.

MRS CARNELL: Yes, under Labor. This was an internal audit, Mr Speaker. Unfortunately, the Labor Party did not table it and did not make it public. Under those circumstances there was no way that my Government could have known that it even existed.

Mr Berry: Management had it.

MR SPEAKER: Order, Mr Berry!

MRS CARNELL: Mr Speaker, there is no way that my Government could have known that it existed.

Mr Berry: Ha, ha! You are a laugh.

MR SPEAKER: Mr Berry, I am not going to tolerate interjections today, and I say that to all members. I will deal with them. The Chief Minister has a sore throat like lots of other people, and I do not believe she should have to shout over interjections. Continue, Chief Minister.

MRS CARNELL: Thank you very much, Mr Speaker. I appreciate that.

Mr Berry: "It is somebody else's fault; I did not know".

MR SPEAKER: I warn you, Mr Berry.

MRS CARNELL: Mr Speaker, internal audits are exactly that. They are not made public and when new governments come to office internal audits commissioned by previous governments are not necessarily brought to their attention. Mr Berry would know that. Mr Speaker, if those opposite had started any implementation process on the internal audit of 1994, we then would have known about it; but the fact was that the then Minister, Mr Connolly, put it in the bottom drawer and there was no implementation process in place. There was nothing in place from 1994 to when we got into government in March of the next year. With an internal audit not made public and put in the bottom drawer, no wonder nobody knew that it existed.

It came to my notice that it existed when it was, I think, initially raised in this place, or the Auditor-General indicated that he was going to have another look at salaried medical officers - something that I was very positive about. Then information surfaced about this June 1994 internal audit. It was not tabled in this place or made public. Nobody was told about it. It had been put in the bottom drawer with no implementation plan at all. Mr Speaker, that was under Mr Connolly.

Mr Berry: Ha, ha, ha!

MRS CARNELL: Mr Berry laughs, but June - - -

Mr Berry: You should stop telling jokes.

MRS CARNELL: No, no. Mr Speaker, from June 1994 there was no implementation plan whatsoever up until March the next year, when we came to government. There is an interesting set of figures. Mr Berry just made the comment that the Auditor-General brought down his first report in June this year, and I think the question that he asked me was what the Government has done. If we had emulated those opposite we would have done nothing, like they did nothing with the June 1994 report. But, Mr Speaker, we have done something.

Mr Berry: Mr Speaker, I take a point of order. Mrs Carnell is mistaken. That is not what I said. I said, "Why has the Chief Minister done nothing since 1995?".

MR SPEAKER: There is no point of order.

Mr Berry: She is just mistaken.

MR SPEAKER: There is no point of order. If I keep getting frivolous points of order I will deal with those too.

MRS CARNELL: Mr Speaker, the Auditor-General brought down his report in June this year and a quite significant amount of work has been done since then. Work had been done prior to the report being brought down as well - such things as questionnaires going out to salaried medical practitioners, and other things. But let us have a look,

first and foremost, at what has been done since that time and then I will answer the bit about the EBA that Mr Berry asked as well. Mr Speaker, when the Auditor-General's report was brought down in, I think, June this year, or was it July - it was in that area - we immediately put in place an implementation plan for that particular report. Immediately, a meeting was held with representatives of salaried specialists, the Auditor-General's department itself, ASMOF and hospital staff. All salaried specialists were informed of a proposed implementation approach.

The issues that were put on the table were the 1994 internal review that had come to light as a result of this approach and the AG's report, and a decision was taken to look at every salaried specialist's own personal file to determine exactly what the situation was, because although the Auditor-General looked at the situation in total he did not actually get under the figures and look at the individual salaried medical practitioners. What was put in place - not today, but back in July - was an approach that would assess compliance with conditions of private practice arrangements, facilities, charges, private practice billing and receipting, activity levels for salaried specialists, and administration of all sorts of leave.

What we then did was put together a personal profile for each one of those salaried specialists which we will now require them to sign off on as being true statements. My understanding is that that is due to come about as early as next week, Mr Speaker, because a lot of that work has already been done. Rather than sit on our hands on this issue, as the previous Government did with their June 1994 internal, not public, secret, in the bottom drawer report, Mr Speaker, we acted immediately. We have also made it very clear that any - - -

Ms Reilly: Why was it such a mess?

MR SPEAKER: Order!

MRS CARNELL: Mr Speaker, I think members can see that we immediately put in place an appropriate approach. Mr Berry raised the EBA negotiations in his question and suggested that somehow the ACT Government or ACT Health had given the salaried medical practitioners or salaried medical officers a better deal than others. The salaried medical officers enterprise bargaining agreement covered the period from March 1996 to June 1997 - a significantly shorter period than other EBAs. Other enterprise bargaining agreements for staff at the Canberra Hospital covering nursing and other hospital employees extended for up to three years. The salaried medical officers EBA 1996-97 agreed to pay increases of 5.6 per cent, of which 2 per cent was related to productivity, which is very much in line with all of the other agreements.

One of the productivity offsets during the life of the agreement has included an arrangement with junior medical staff to access their recreational leave during the year that they get it, rather than a payment at the end of the contract period. This has saved significantly on relief costs. The list goes on, Mr Speaker. Other EBAs for other staff at the hospital included a 7.1 per cent fully funded pay increase and a minimum of 3 per cent funded by productivity improvements. But, Mr Speaker, as I said, they were over three years. So the agreements were not all that dissimilar, except that one was significantly shorter than the other.

I think I have spoken about the implementation or what we have done, the fact that Mr Berry's comments on EBAs were not right, and what the real circumstances were with regard to the 1994 position. The thing I have not raised, Mr Speaker, is that Mr Berry was Health Minister for four years and he did nothing.

Mr Berry: Yes, I did.

MRS CARNELL: He did absolutely nothing, Mr Speaker.

Mr Wood: He took the doctors on.

Mr Berry: Don't you remember? I took the doctors on.

MR SPEAKER: Order! Silence!

MRS CARNELL: What he did do, Mr Speaker, is blow out four health budgets and double waiting lists.

Mr Berry: Relevance, Mr Speaker.

MR SPEAKER: Relevance. Yes, I uphold that. Did you want to ask a supplementary question, Mr Berry?

MR BERRY: I do indeed, Mr Speaker. Chief Minister, are you trying to tell us now that the internal audit document was secreted away in Terry Connolly's bottom drawer? Are you also trying to tell us that the Auditor-General had to go over to the Supreme Court and rip it out of his bottom drawer? Whom are you trying to kid here? Of course, it was not secret. It was well known throughout management.

MRS CARNELL: Mr Speaker, I can guarantee that this Government was not given a copy of an internal document. Why, Mr Speaker? Because there were no implementation plans. It simply had not gone anywhere. Nothing had been done since June the year before. It simply was on some shelf or in some bottom drawer gathering dust. Mr Speaker, if those opposite had put it into place, or put in an implementation plan, obviously we would have known about it. But because it was on some shelf gathering dust because those opposite had done nothing, or in a bottom drawer, wherever they had secreted it away, this Government did not know about it until the Auditor-General - - -

Mr Corbell: You are the Minister.

MRS CARNELL: It was not done under us. We are not responsible - - -

Mr Berry: This is your best effort yet.

MR SPEAKER: Order! Do not respond to interjections, Chief Minister. I cannot deal with people interjecting if you respond to them.

MRS CARNELL: Mr Speaker, those opposite said, "You are the Minister". Yes, I am now, and I am responsible for what happens under me; but I am certainly not responsible for secret reports that were commissioned by the previous Government.

Mental Health Funding

MS TUCKER: My question is to Mrs Carnell as Minister for Health. Mrs Carnell, in the last "Budget at a Glance" budget paper, under "Health Budget Highlights", you announced $250,000 extra for funding in mental health. Can you confirm for the Assembly that this is additional expenditure for mental health and not money which has to be found in savings through reducing the number of residents at Watson or Hennessy House?

MRS CARNELL: I can guarantee that it is new money.

MS TUCKER: It is new money. Okay. I have a supplementary question. Can you also confirm that any savings that do come from closing beds at Hennessy or Watson will go into supporting new and extra services in the ACT?

MRS CARNELL: Mr Speaker, we are not confident as to what sort of savings we are going to get, because it is not done as a savings exercise at all. The idea was to allow people to move if they wanted to. I understand, after doing some more research on your questions from yesterday and the day before, that, of the five people who have relocated, three already had their names down on the Housing Trust waiting list because they had already made a decision to move prior to the new policy coming into place. Mr Speaker, the approach we are taking here is to ensure that those people are adequately supported in the community. We are not confident that moving from Hennessy and Watson to supported places in the community will be a significant cost saver at all, and that is certainly not the motivation. The motivation is to create more choice and more options for people with disabilities and people with mental health problems in the community in terms of their residential accommodation.

Health and Community Care Service Board

MS McRAE: My question is to the Chief Minister in her capacity as Minister for Health. On 27 June last year, during the debate on the Health and Community Care Services Bill the Chief Minister said, in relation to the costs of the board set up under that Bill:

> ... the costs of the four people on the board that we will be paying will vary between $6,504 and $11,136 a year ...

Exact figures were supplied, not ballpark figures, and this was a key factor in convincing members to support the Bill. On 22 May this year the Chief Minister signed an interim determination under the Remuneration Tribunal Act setting out the fees for the chair and the board members. The chair is to receive $30,000 per annum and the board members

are to receive $235 per day in sitting fees. Why did the Chief Minister decide to triple the amount she informed this house that the board would cost? Why has the Chief Minister not made a statement in this house to correct the misleading information given in June last year?

MRS CARNELL: Mr Speaker, during debates held on the Health and Community Care Services Bill 1996, in June, I think, of 1996, as Ms McRae said, there were approximate figures given for the remuneration of board members. In response to Mr Moore's request for information about the costs of the board, my department provided estimates based upon standard sitting fees as determined by the ACT Remuneration Tribunal. This was the department's assumption at the time before the legislation establishing the statutory authority was passed and prior to the public advertisements calling for nominations for the Health and Community Care Service Board.

Mr Berry: It was their fault.

MRS CARNELL: I would like to bring to your attention, though, as Mr Berry has already interjected, that Mr Berry, in those debates, was reported in *Hansard* - I think it is the *Weekly Hansard* of 25, 26 and 27 June 1996, at page 2335 - as saying that he considered what was proposed in relation to sitting fees as "rather puny for the responsibilities that these people would be required to take". So maybe we just paid attention to you, Mr Berry.

Mr Berry: We worried about you misleading. That is all.

MR SPEAKER: I name you, Mr Berry.

Motion (by **Mr Humphries**) put:

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

The Assembly voted -

AYES, 10	*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 Stefaniak	
Ms Tucker	

Question so resolved in the affirmative.

MR SPEAKER: Mr Berry, you are suspended for three sitting hours.

Mr Berry accordingly withdrew from the chamber.

MR SPEAKER: Chief Minister, you were answering a question, I believe.

MRS CARNELL: During the process to select board members it became apparent that, to attract the calibre of person the Health and Community Care Service Board required, a more realistic remuneration for their expertise and time was necessary. What has now been determined for the board's three members is the category 2 rate for "officers not specified" as set down in the ACT Remuneration Tribunal's determination for part-time office-holders of public offices. A standard remuneration in such cases is $235 per diem. This does not differ markedly from the original information provided.

As the department researched similar boards to ascertain the appropriate level of remuneration for the chair, it was found that the per diem rate, as previously suggested, was going to be insufficient to invite the types of people with the requisite skills to chair the board. The amount proposed by the department was $30,000, which was comparable with the remuneration paid to the chairs of other boards such as Totalcare and the Casino Surveillance Authority. Ms McRae, it was your question. I thought you would have liked to hear the answer.

MR SPEAKER: Is Ms McRae listening? Perhaps you might like to resume your seat, Chief Minister.

Ms McRae: I am allowed to behave as I please. I am not interjecting.

MR SPEAKER: I was just wondering whether you were listening.

Ms McRae: I may. I will be more interested if you actually give an answer.

MRS CARNELL: That is exactly what I am doing. I have determined that the ACT Health and Community Care Service Board shall be a body for which the ACT Remuneration Tribunal shall determine remuneration and allowances payable. The tribunal will ensure that the remuneration of the board members is appropriate, given their expertise and responsibilities. In fact, the determination to specify the remuneration for the office of chair and the members of the ACT Health and Community Care Service Board was tabled in this Assembly in June, Mr Speaker. I can hardly be accused of misleading the Assembly when this information was provided to the Assembly and gazetted for public information. I find it hard to understand how Ms McRae could suggest that I was misleading the Assembly when we actually tabled the information and gazetted it for everybody to see.

It is of interest that when Mr Berry was the Minister for Health he asked the Remuneration Tribunal to make a determination of fees to be paid to the chair and members of the ACT Board of Health, suggesting an amount of $309 per diem for members and $411 per diem, with an additional retainer of $10,000 per annum, for the chair. The extra retainer for the chair was to bring his remuneration in line - - -

Ms McRae: Mr Speaker, I take a point of order. Since you are so interested in standing orders today, could I remind you of the standing order in relation to relevance? We are not talking about Mr Berry and it is not of interest. I asked a very specific question and I think the standing order relating to relevance may be in order.

MR SPEAKER: Chief Minister, be guided, please.

MRS CARNELL: Thank you very much, Mr Speaker. As we were speaking about the remuneration of members of the Board of Health, I thought members would be interested in what the remuneration of the previous board was; but, if not, I am happy to finish there, Mr Speaker. I think the basis of the reply to this question is that I tabled the determination in June and it was gazetted.

MS McRAE: I have a supplementary question, Mr Speaker. Could the Chief Minister then please explain why she did not explain the discrepancy between what she told the house on 27 June last year and what came down from the Remuneration Tribunal? She has not explained that discrepancy.

MRS CARNELL: Mr Speaker, if I table a determination in the house and members have any questions with regard to it, I am very happy to put those on record. In fact, Mr Moore did ask me and I gave him the same explanation at the time, which is the appropriate way to go, Mr Speaker. Mr Moore asked that exact question. I gave him the information on how it was done. Similarly, I have given it to you today.

Business Incubators

MR MOORE: Mr Speaker, my question is to the Chief Minister. I gave her a couple of hours' notice that I would be asking this question, so that I could get a top answer. Chief Minister, your Government has just put in place a third business incubator in Wanniassa on a 50-year lease. The two previous business incubators in Kingston and Downer are on much shorter leases. Information has come to my office that these business incubators are not being used for new businesses; they are, in fact, being used to provide cheap rental for businesses that are already established. First of all, is this true? Secondly, what action are you taking or what policies are in place to ensure that the new business incubator in Wanniassa and the old business incubators in Kingston and Downer are just that - business incubators?

MRS CARNELL: Mr Moore, I thank you for notice of the question. Mr Moore was approached by a number of business people, as I was, and I am sure other members of the Assembly were as well, with regard to the lease that was proposed by the Government of the John Knight Centre for another Canberra Business Centre. They raised the issues that Mr Moore has alluded to. As a result of that information, or that complaint, shall we say, we immediately had a review of the whole issue of business incubators in the ACT.

The Canberra Business Centre currently operates business incubators in ACT government premises in Downer and Kingston. The Canberra Business Centre approached the ACT Government to lease the John Knight Centre, enabling them to start a business incubator service in the Tuggeranong Valley. The offer of a lease was made and a lease will be issued shortly.

Members of the business community have made representations to the Government, as I have said, requesting that the lease not be issued. They have argued that the Canberra Business Centre was competing for tenants with commercial serviced office providers and the ability of the Canberra Business Centre to attract businesses was enhanced by the provision of free ACT government-owned premises. Additionally, the Government has also been mindful of the support for business incubators within the Canberra community. For example, the Tuggeranong Community Council has expressed its strong support for the incubator to be established in the John Knight Centre.

The Government has examined the arguments with the full cooperation of the Canberra Business Centre. While believing that the Government has a role and a commitment to support business incubators, particularly as they develop and support start-up and emerging business, the Government, nevertheless, needs to be absolutely confident that there is no possible or perceived unfair commercial advantage for the support that is provided. In other words, Mr Speaker, we believe, as I know Mr Moore and others in this Assembly do, that it is absolutely essential that the businesses that are using these incubators are doing so for short periods of time and during their start-up periods.

Because of that we set in place a number of conditions. There are three of them. The first one is a stipulation that existing businesses are not allowed to be tenants. The second is a provision stating that businesses which have been established for more than three years must graduate from the incubator, or, alternatively CBC must provide advice from an independent external source which confirms that the business is not yet ready for graduation. The third is a provision which states that a representative of the ACT Government will be included in the decision-making process in relation to tenant entry and exit.

Mr Speaker, I understand that those - - -

Mr Moore: Yes, I am listening.

Ms McRae: I was not talking to you. I was not interjecting. It is all right, Mrs Carnell. Don't have a nervous breakdown.

MRS CARNELL: She is being very loud. Mr Speaker, I think this is a really important issue. I think the complaints that were raised by a number of businesses did have some validity and the ACT Government did mount a review of the whole business incubator service. As a result, we set up these three conditions for the John Knight Centre lease. Mr Speaker, the problem that we have is that the lease that was signed under the previous Government for the other two sites did not have any real stipulation.

Mr Kaine: I raise a point of order, Mr Speaker. If members want to have a little chat, could you ask them to do it out in the lobbies?

MR SPEAKER: I uphold the point of order. The Chief Minister is having enough difficulty with her throat without being drowned out, even by extraneous chatting. That is what the lobbies are for. Use them, please.

MRS CARNELL: Thank you very much, Mr Speaker. I thank those opposite for accepting that it is a bit hard for me to speak today. Mr Speaker, I believe, as I know members of the Assembly do, that incubators are important; but they must not be abused. I believe that with these three conditions for the John Knight Centre that will be the case, and when leases come up for renewal in the other business incubator sites similar conditions will be put in place. Again I state that the leases entered into by the previous Government really did not have any of those stipulations in place, so it is very difficult to enforce those sorts of conditions. Canberra Business Centre, CBC, have indicated that they are willing to accept these three conditions and to ensure that they are complied with in the future.

MR MOORE: I have a supplementary question, Mr Speaker. Chief Minister, it seems to me that in respect of the two older leases you have indicated that the Canberra Business Centre is prepared to consider changing its rules to meet the conditions that you are setting for the new one. Does that mean that the businesses that are beyond incubation and that are currently in the incubators will be expected to move shortly?

MRS CARNELL: Mr Speaker, as the current leases that are in place do not give the Government any power to require that to happen, it really needs to happen in cooperation with the CBC. We are having those discussions with the CBC. It is not appropriate for businesses that are quite viable and quite profitable to be in incubation centres in the long term, and I believe that CBC is interested in sensible negotiations on this. In other words, over time, that will happen. Hopefully, it will be a short time.

Hospitals - Activity Reports

MR WHITECROSS: Mr Speaker, my question without notice is to the Chief Minister in her capacity as Minister for Health. Chief Minister, yesterday you tabled the monthly activity reports for the Canberra Hospital and Calvary Hospital for the months of June and July this year. The June activity report for the Canberra Hospital shows that in 1996-97 the Canberra Hospital treated 865 fewer patients than in 1995-96. Considering the extra $38.6m in the health budget for 1996-97, the extra $4.2m quoted in this year's budget papers as extra money transferred to health, and the $6.8m extra expenses in health quoted in last week's financial management report, why were fewer patients treated this year?

MRS CARNELL: Mr Speaker, unfortunately, Mr Whitecross does not understand how hospitals are funded. It is done on the basis of cost-weighted separations. The actual number of patients under casemix funding is then converted into cost-weighted separations which are based on the level of acuity; in other words, how sick the patients are. Obviously, a sicker patient will require more days in hospital and more costs, and that is the basis of AN-DRGs and casemix funding.

In 1996-97 the Canberra Hospital achieved 40,191 cost-weighted separations in comparison to 39,902 recorded in 1995-96. This represents an increase of 289 cost-weighted separations on 1995-96. In fact, the Canberra Hospital's activity will be higher than this, due to approximately 1.6 per cent of records currently outstanding for the third and fourth quarters of 1996-97 that still need coding. Activity for Calvary Public Hospital was also up on 1995-96. In 1996-97 Calvary Public Hospital achieved 11,464 cost-weighted separations in comparison with 10,702 in 1995-96. This represents a rise of 762, or 7.1 per cent, on the previous year. In addition, 39 cost-weighted separations were purchased and delivered from Canberra Eye Surgery in 1996-97. Overall, the ACT public hospital system achieved more activity in 1996-97 when compared with 1995-96. In 1996-97 a total of 51,694 cost-weighted separations were achieved, in comparison to 50,604 in 1995-96. This represents an increase of 1,090 cost-weighted separations on 1995-96.

To put it simply for Mr Whitecross, that means that the patients that we looked after this year had a higher acuity. That means that they were sicker. That is exactly what you would expect, Mr Speaker, with the move to casemix funding and, most importantly, the move to become a clinical school and a centre for the whole region. As we lift our service levels and take on things like cardiac surgery - the list goes on - we can expect to become a centre for patients who require high levels of service.

MR WHITECROSS: I have a supplementary question, Mr Speaker. It is good to see that the Chief Minister's throat has not made her answers more concise. Chief Minister, am I to take it from your answer that the Canberra community was actually sicker in the last 12 months under your Government than they were before? Or is it that they were sicker over the last financial year because John Howard is the Prime Minister now? What steps are you taking to address the massive extra cost of our already very expensive health system, so that when more money is spent on health more patients are treated rather than less?

MRS CARNELL: I thought I just gave a very concise answer on how there was an increase of 1,090 cost-weighted separations last year on the year before. That is a level of detail that simply would not have existed in the past. Those opposite make the point of Canberrans being sicker. Mr Speaker, what is actually happening here, as is happening all around Australia - but I think we are doing it very well in the ACT - is that people who are less sick are being treated at home. They are being treated by domiciliary care services, hospital in the home approaches. In other words, people are not being unnecessarily admitted to hospital for conditions for which they do not need to be in a critical care facility. As we continue down the path of being a tertiary referral centre we can expect this approach to continue.

Mr Whitecross may like to have made some smart comments there, but 20 per cent-plus of our patients come from the region around Canberra. That level tends to be increasing, again because Canberra's services are being seen as being the best around. Mr Whitecross made the point of Canberrans being sicker. He would have seen, as I did, and read in depth, as I did, the recent wellness statistics around Australia which showed Canberrans to be the fittest and with the highest level of wellness, shall we say, in Australia.

B and S Ball - Liquor Licence

MRS LITTLEWOOD: Mr Speaker, my question is to the Attorney-General. Is the Attorney aware of the Australian Hotels Association's concern about the B and S Ball held at EPIC last weekend; namely, that alcohol was being sold without a licence? What has the Minister done about these concerns?

MR HUMPHRIES: I thank Mrs Littlewood for this question.

Mrs Carnell: He was there, so - - -

MR HUMPHRIES: No, I was not there. I am a bit old for B and S balls, I am afraid. I am also not eligible in other respects. The ball was held at EPIC on 30 August, a Saturday night. The promoter was Lewis Entertainment, but liquor sales were controlled by the EPIC Trust, which had a special liquor licence for the event.

Mr Stefaniak: Did those two blokes who can drink milk all night turn up?

MR HUMPHRIES: No, they do not always drink milk, but I imagine that things other than milk were drunk on that occasion. There was a suggestion at one point that a licence had not been obtained; but that, I can assure the house, is not true. Initial advice was that the problems were minimal and that the Liquor Act compliance was quite good. That was my initial advice. The promoter gave assurances about dispensing liquor in a responsible manner, staff training and security in relation to entry by minors, occupancy loadings, serving in plastic containers not glass containers, and the provision of toilets and things like that. Liquor inspectors attended the event for about two hours during the evening to monitor compliance with the Liquor Act.

My office was advised that there were no breaches of the Liquor Act detected by those officers at least, and perhaps other officers of the ACT; but I did see footage on WIN Television news last night which certainly looked as if there were matters going on which could constitute a breach of the liquor legislation, including serving intoxicated people and matters of that kind. Therefore, I want to ensure that the advice received is soundly based and accurate. I have asked the Director of Liquor and Adult Services to review the investigations made by his staff on Saturday night, to ensure that if there were breaches of the Liquor Act they are acted upon and, in turn, to brief me on those investigations.

Obviously the Government is not opposed to people having a good time. People are entitled to go to such things as B and S balls. It is traditional for people to go to those balls and let their hair down, if they have any to let down.

MR SPEAKER: Ah, those dear, dear days, Minister!

MR HUMPHRIES: Indeed. That is fair enough. But, Mr Speaker, they do need to ensure that there is compliance with the liquor laws. Strong enforcement of those laws in respect of licensed premises cannot be assumed to be any less important in respect of informal special licensed premises, and that will be the point we will be making by this additional investigation.

New South Wales/ACT Rams

MR OSBORNE: Mr Speaker, before I ask my question I would like to say that I have a lot of regrets in my life. I regret leaving St George. They went on to make two grand finals. I probably at times regret not going to play football in England. Today I have another regret, namely, that I was not here to boot out Mr Berry. I was caught up at home. I think I will get over it. Perhaps I will get another chance soon.

MR SPEAKER: Would you mind asking your question, Mr Osborne.

MR OSBORNE: Mr Speaker, my question is to the Minister for Sport. Minister, as I am sure you are aware, in 1996 the Australian Football League approved the inclusion of the New South Wales/ACT Rams in the elite under-18 AFL youth competition. This competition draws from central and southern New South Wales and establishes Canberra as the major regional centre outside Victoria being responsible for the development of junior AFL players. Predictions last year that the team would be uncompetitive and would struggle to win a game have proven to be wrong. The team finished second, going down in the grand final. From that team six players were drafted to the AFL, three of whom were local Canberrans. Other obvious benefits include providing local jobs, positive national exposure and an estimated benefit to the ACT economy of nearly $800,000 a year. However, in spite of the team's initial success, Minister, its long-term financial viability is not yet assured. Initial funding for the Rams came from the local AFL, the Ainslie footy club and two community-based clubs. I understand that the only other outside financial assistance for the Rams has been a modest contribution from the Health Promotion Fund this year, but at no time have they received financial assistance from the Government. On 21 July this year, Minister, you received a letter from the general manager of the southern region drawing your attention to the fact that a concerted effort is being made to relocate the team to Sydney - an effort that is still ongoing, I am led to believe. Given that such a move would relegate the ACT to becoming an AFL backwater in the region, given that 19 full-time and part-time jobs in the team's support staff are under threat, and given that the Government has been extremely generous to the Cosmos, the Cannons, the Raiders and the Brumbies, to name a few, will you reconsider your decision not to invest the $50,000 a year that the Rams asked for for the next three years? Does your Government feel comfortable with the thought that perhaps we could lose this team to Sydney?

MR STEFANIAK: Firstly, Mr Osborne mentions reconsidering a decision in relation to $50,000 that they have asked for. I am well aware that they have asked for that, but I do not think they have got my response. As far as the Bureau of Sport, Recreation and Racing is concerned, we ourselves simply do not have that kind of funding. In fact, we fund peak bodies, as a matter of policy, and the previous Government did too. The peak body we fund is ACTAFL. Of course, ACTAFL can do with that funding what they wish in terms of their own code. That, in itself, probably would not be of huge assistance to the Rams. That funding is $50,000 and they use that for other things as well, but there is that possibility.

However, Mr Osborne, I am well aware of the contribution that that team makes. The bureau itself cannot do anything; but I am happy, as the Minister responsible for sport, to ensure it makes its services available to assist the Rams in terms of liaising with other agencies of government. There are a number of other schemes. You mentioned the Health Promotion Fund. In fact, I think there is a letter sitting on my desk where I mention that. There are also some other schemes as well from which they might well achieve money, such as the business incentive scheme. Indeed, I would invite them to make an application under that as well. There are other avenues of government, apart from what the bureau does, to which they can make an application.

In that letter which they will be getting very soon I think I also suggested that the bureau and other agencies of government might give them some assistance in terms of pursuing other avenues of sponsorship as well. So there are a number of other avenues, Mr Osborne, even though the bureau itself does not have that kind of money to assist. I am happy to make the services of my officers available to assist this team, which has done exceptionally well in its first year of operation. I think reaching the final in its first year of operation was fantastic, and, as you say, there are six young players from that team who have been drafted to AFL clubs.

This Government, I think, is very mindful of the historic contribution to sport Australian football has made in the Territory. We are certainly doing all we can to ensure that the sport has a very bright future, as is evidenced by our commitment in relation to the study going on now in relation to Manuka and Phillip and the efforts I and other members of this Government are making to obtain top-quality AFL matches for Canberra in the not too distant future. But it is important, Mr Osborne, to look after the talented young players and there are a number of avenues which can be pursued by the Rams, which I have set out in a letter which I think I have on my desk.

Canberra Hospital - Salaried Specialists

MR WOOD: My question is to the Minister for Health and is about the audit, and in this case the comments about the imaging department. The audit found that the substantial decline in the imaging department's salaried specialists hospital clinic activities occurred at the same time as some imaging department salaried specialists opened a private practice clinic away from the hospital. The audit findings show that the private practice work of the salaried medical officers had a negative impact on the imaging department and led

to an increase in costs. Will the Chief Minister recognise that there is an inherent conflict of interest for salaried medical officers to operate a competing private practice in the same field? What will the Chief Minister do to address these serious issues relating to this identified by the audit?

MRS CARNELL: I thank Mr Wood for what is, I think, a very good question. Mr Speaker, there are two parts of it. One is with regard to the medical imaging department. Mr Wood would be aware that the Auditor-General raises issues such as the Booz Allen report with regard to the medical imaging area, an internal audit in 1995, and a fraud investigation by the Chief Minister's Department in 1996. The fraud prevention unit investigation was with regard to certain treatment of a dog. Those in this Assembly remember that issue and there was significant work done to implement appropriate restitution in that situation. Information that became available with regard to the implementation phase of the Booz Allen and Hamilton review indicates that significant work was done within the imaging department to put in place most of the recommendations from that particular area.

Mr Speaker, I fully accept the point made that we have to make sure, with regard to private practice, that private practice does not impact directly on public facilities or public services provided by salaried medical officers, but rights to private practice have existed in the ACT since 1987. There is something called the old system and the new system that the Auditor-General speaks about. The old system, Mr Speaker, which existed when those opposite were in government, has been a significant problem, there is no doubt. The old system allowed salaried practitioners to have two half-days a week when they could go out into their private practice as long as they made up the time. There is some issue now about ensuring that that time is being made up. Preliminary investigations by the hospital have indicated, at least in the circumstances looked at at the moment, that that has been done, Mr Speaker; but obviously that will be part of the whole approach we are taking at the moment of going through every salaried specialist's profile to determine that they are doing the right thing by the contracts that they have signed or by the basis of their employment. Mr Wood, to answer your question as to whether I will immediately stop private practice rights - - -

Mr Wood: What will you do? I am sorry to interject.

MRS CARNELL: Private practice rights are written into the contracts of service for those particular salaried specialists, so they have that right, under either old systems or new systems, as part of their salary packages. I think one of the things that none of us would like to see happen in the ACT - certainly, I would not like to see it happen - is for all our good specialists, our people who are right at the top of their professions, to leave simply because the packages that we were offering them were significantly worse than in other places.

Mr Wood might not be aware that private practice rights for salaried specialists are available in virtually all teaching hospitals around Australia. Where private practice rights are not available an extra amount of money is paid or a supplementation is given instead; but the vast percentage of hospitals offer private practice rights. For us to move away from that would need to be weighed against the need - I think the bottom line need - to have the very best specialists. But the one thing that we will not accept is specialists

abusing that right in any way or not making up their time or whatever else. That is the basis of the implementation program that we have in place at the moment - making sure that specialists are doing the right thing. That, seriously, has to be the bottom line here.

MR WOOD: I have a supplementary question, Mr Speaker. Chief Minister, will you take steps to determine whether any breast cancer patients from the Canberra Hospital requiring mammography have been referred to a private practice operated by salaried medical officers? Secondly, could you ensure that some of the $9.7m sitting in the private practice fund is used to purchase some much needed new mammography equipment for the Canberra Hospital?

MRS CARNELL: Mr Speaker, I heard Mr Berry make comments this morning on radio that suggested that somehow we did not have any mammography services operating at Canberra Hospital and that all of the people that needed - - -

Mr Humphries: That is not true.

MRS CARNELL: It is not true. You are quite right, Mr Humphries. I was surprised when Mr Berry said that, but in the short timeframe I did not have an opportunity to correct him. The majority of screening for breast cancer is performed, as Mr Berry said, through the breast screening clinic in Civic. But mammography is still performed at the Canberra Hospital, although the demand is quite small. I think on average there are about 10 patients per week who use this service. Mammography is performed at the hospital mainly to locate or to localise breast lesions for the purposes of biopsy. Certainly, those services do exist in the public system at Canberra Hospital, contrary to the comments made by the shadow Health Minister this morning.

Nature Conservation Strategy

MS HORODNY: My question is to the Minister for Environment, Land and Planning. Minister, just over a year ago I asked you a question about when the Government will be releasing its nature conservation strategy for the ACT. You will be aware that under section 15S of the Nature Conservation Act this strategy was supposed to have been prepared as soon as practicable after the commencement of this section of the Act in 1994, and that is some three years ago now. Mr Humphries, your answer a year ago was not very informative. Can you tell us when we are going to see both the nature conservation strategy and the action plans for species declared endangered under the Nature Conservation Act?

MR HUMPHRIES: Mr Speaker, taking the second part of the question first, a number of action plans are in the process of being developed at the moment. I understand that a number of them have been through the Flora and Fauna Committee of the ACT and I am aware that a number of others are presently in the process of being considered by that and other internal organs including, I think, the Environment Advisory Committee of the ACT. However, I do not have a full picture of the state of play with any of those matters and I should provide Ms Horodny and the house with a full picture. I will take that question and the part relating to the nature conservation strategy on notice.

Canberra Hospital - Salaried Medical Officers

MR CORBELL: Mr Speaker, my question is to the Chief Minister in her capacity as Minister for Health. Chief Minister, the 1996-97 enterprise agreement between the Government and the salaried medical officers ran until 30 June this year. The Auditor-General has been scathing about the lack of productivity delivered by the agreement in return for more than generous increases for the salaried medical officers. Chief Minister, has a new EBA been finalised? If not, when will it be finalised? What new provisions will be in the new EBA to ensure accountability, some management control and, finally and most importantly, value for money for the people of the ACT?

MRS CARNELL: I am surprised that somebody with the background that Mr Corbell has would suggest that I should pre-empt an EBA that is currently under negotiation. I have been asked, "What will be in the new EBA, Chief Minister? Will you ensure that X, Y, Z happens?". EBAs are the basis of negotiation between a relevant union and the Government involved. It is true that negotiations for the new EBA are in the very early stages, I have to say, of being put in place. Mr Speaker, I would like to restate what I said - - -

Mr Corbell: The early stages? They ran out on 30 June this year.

MR SPEAKER: I warn you, Mr Corbell.

MRS CARNELL: Mr Speaker, I would like to restate what I said before with regard to one comment that the Auditor-General made with regard to no productivity. The Auditor-General was incorrect, Mr Speaker. The salaried medical officers EBA for 1996-97 agreed to pay increases of 5.6 per cent over the period of the agreement - which, I think, was 17 months, from memory - of which 2 per cent was based upon productivity. That was fairly similar to the outcomes that occurred in other parts of the hospital where EBAs included 7.1 per cent fully funded pay increases and a minimum of 3 per cent funded by productivity improvements. Those agreements went over a three-year period.

Mr Speaker, there is no doubt that issues that have been raised by the Auditor-General will be on the table in negotiations with the salaried medical officers. I can guarantee to Mr Corbell that the Government will do its absolute best to get best value for dollar for the taxpayers in the ACT. I am hopeful that those opposite will help us in our endeavour to get the best possible agreement.

MR CORBELL: I have a supplementary question. Certainly, from the Auditor-General's reports, you have been failing so far, Chief Minister. Will there be requirements in the new EBA for detailed and reliable information to guarantee that salaried medical officers are available to perform their public sector duties which they are being paid for?

MRS CARNELL: Mr Speaker, I can guarantee that processes will be in place, definitely, to ensure that salaried medical officers do perform the role that they are supposed to perform and that the ACT health system does get the services it is supposed to get under the agreement from those salaried medical officers. I think it is unfortunate to suggest that all salaried medical officers have not been performing appropriately. We have a lot of very good doctors in our system. I think the process that we put in place, to look at every single salaried medical officer individually and to get them to sign off on these profiles, will expose anybody who is not doing the right thing, Mr Speaker, and ensure that the ACT taxpayers are getting what they pay for. I can guarantee, Mr Corbell, that we will ensure that processes are in place to achieve that.

Housing for Aged People

MR HIRD: Mr Speaker, Mr Berry made history today - - -

MR SPEAKER: Order! You will make it again if you do not ask your question.

MR HIRD: Mr Speaker, my question is to the Minister for Housing, Mr Stefaniak. Minister, yesterday on Radio 2CN at approximately 8.45 am I heard Ms Jan Armour being interviewed in relation to her appointment as the housing options adviser with the ACT Council on the Ageing. Can you tell the parliament what will be Ms Armour's role with COTA and what has been the community's response so far to her appointment?

Mr Whitecross: I take a point of order, Mr Speaker. That is a blindingly interesting question, I have to say; but can you rule on whether appointments of people who work for COTA fit into the category of things within the responsibility of the Minister? I would have thought that an appointment of a staff member by a non-government organisation did not normally fit within the responsibilities of the Minister.

Mr Hird: On that point of order, Mr Speaker: The fact is that they are funded by the department and it comes under the Minister, if I might assist you, sir. Obviously, those people over there do not understand that.

MR SPEAKER: Mr Stefaniak, I will have to uphold Mr Whitecross's point of order in relation to the matter of COTA. However, you can answer the funding question and how it can affect you as the Minister.

MR STEFANIAK: Quite considerably, Mr Speaker, and it is also in the budget, if Mr Whitecross would like to have a look at that. We set aside $50,000 in the housing budget for this particular office position. It is totally funded by Housing, so I think that makes the question highly relevant. It certainly would not exist were it not for that. Have a look at our budget, Mr Whitecross, and you will see it there.

I thank Mr Hird for the question. Ms Jan Armour was recently appointed to this position, the housing options adviser, and she operates out of the Council on the Ageing.

Ms McRae: I raise a point of order, Mr Speaker. The Minister did not appoint this person. This is an independent organisation that appointed a person. What relevance has this, even if the Minister paid the salary? The Minister did not comment on anyone that ACTCOSS appointed, and ACTCOSS is paid for by the Government. I do not see the relevance, Mr Speaker.

MR SPEAKER: The Minister was not asked about ACTCOSS.

Ms McRae: No, Mr Speaker, but I am pointing to the principle that you are referring to. Yes, the funding was given to this organisation. My point of relevance is that the Minister personally had nothing to do with this appointment. It is not his responsibility. I do not see the relevance.

Mr Humphries: Mr Speaker, might I address you on that point of order? If what Ms McRae says is true and members cannot ask questions about how public money is used to appoint particular people, equally the Assembly could not ask about what was spent on the business incentive scheme in terms of enterprises out in the community and what we spent that money on, because that is done by private business using government money. It is ridiculous.

MR SPEAKER: I have to uphold Mr Humphries's point. There is no point of order in what Ms McRae said, except, and I repeat it, you cannot really comment on the appointment of the person per se or their qualifications, but certainly the funding is relevant.

MR STEFANIAK: Currently, we have 22,000 people over 65 years of age living in the ACT. It is anticipated that by the year 2007 one in 12 people in the ACT will be over 65 years. Essentially, Ms Armour's role as the housing options adviser is to provide advice and assistance to ACT Housing and to private sector clients on matters relating to their housing. This includes such things as providing advice and assistance to older people on the practicality and potential for the conversion of equity in their existing housing to provide more appropriate housing options in either individual or general schemes.

Mr Kaine: A great initiative.

MR STEFANIAK: It is a great initiative, Mr Kaine. She is also going to liaise with a range of stakeholders, including the community, government agencies and the housing industry and others, on housing issues relating to older people. A lot of our older citizens do have trouble in going to the right agency. They need an advocate, and this person is going to provide an advocacy service.

Mr Corbell: Mr Speaker, I take a point of order. You just ruled that the Minister cannot discuss the issue of the role of this individual, only the funding provided to them by the Government. He is simply talking about the role of the individual.

MR SPEAKER: The funding and the role, but he cannot discuss the individual person as an appointment. That has nothing to do with him; but the role has, certainly, and that is what is being funded by the Government, I assume.

MR STEFANIAK: This position will also provide an advocacy service for older people on housing issues in both public and private housing. In addition, she will advise on how to assess housing modifications and design which will allow older people to live independently for as long as possible. Also, she will advise on the availability and installation of safety and security devices which will afford protections and safety for older people in their homes.

I understand that the housing options adviser has already met with and held constructive discussions with a number of community groups. Since a radio interview yesterday she has received many telephone calls and has made appointments with a number of clients with housing concerns. I understand that those appointments are taking place as we speak. I am more than happy with the community's reaction. I think this is an excellent initiative by ACT Housing, and I appreciate the assistance given by the Council on the Ageing. I think it is another demonstration of this Government's commitment to providing suitable housing for aged people living in the ACT. I thank Mr Hird for the question.

MR HIRD: I have a supplementary question. Minister, it is a very worthy cause. Who funds this organisation? I am not quite clear after that interjection. To what amount is it being funded today compared with what it got prior to 1995?

MR STEFANIAK: There was not a position prior to 1995, I am sad to say. It is too imaginative for this lot opposite. It is funded by ACT Housing, Mr Hird, to the tune of $50,000 per annum.

Youth Health Services

MS REILLY: My question is to the Chief Minister in her role as the Minister for Health. Minister, as you are about to sign up a third provider of youth health services in as many years, can you explain why there have been so many different providers for youth health services and why there has been no continuity in the provision of these services, when you consider some of the health problems suffered by young people in the ACT with high injectable drug use, other substance abuse, high rates of suicide and high rates of mental illness? What have been the additional costs of all these changes of providers?

MRS CARNELL: Mr Speaker, with regard to providers of services generally, I think in the area of youth health services there are some very proactive things happening. The ACT Government and I will always respond well to good propositions put to me or good ideas from providers, Mr Speaker, and I think that is exactly what we are doing at the moment. I think some of the announcements that will, I hope, occur in the very near future with regard to youth health services in the ACT might even get those opposite thinking that it is quite a step in the right direction.

MS REILLY: I would have liked my question answered, Mr Speaker. I asked why there had been so many different providers. The last provider finished providing services at the end of June when the funding ceased. What is going to happen to the young people who are using that service while you get around to setting up yet another youth health service in the ACT, or do you not care about services for youth in the health area?

MRS CARNELL: I think I made the point just a minute ago that I am confident that announcements that will be made in the very near future - - -

Ms Reilly: What about the young people who have no health service?

MR SPEAKER: Order!

MRS CARNELL: Mr Speaker, we have been having quite in-depth discussions with the Youth Coalition with regard to having a coordinated youth health service in the ACT - something that we have not had in the way that they have suggested in the proposal that they have put forward, I understand, in cooperation with all the youth health groups. It is a very innovative approach and I believe that it is going to be very successful. We have agreed to go ahead, but some of the peripheral issues need to be bedded down. I am confident that when those opposite see the final proposal they will be as impressed as I am. If they are still concerned, they should speak to the Youth Coalition directly. I think it is one of the most exciting proposals we have seen in the area of youth. It shows a sector, particularly the Youth Coalition as the overarching body in the area, being extraordinarily proactive; going out there and looking for opportunities and coming back with a proposal that I believe will significantly help the very real issues that youth face in the ACT.

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

Ministerial Advisory Committee on Housing

MR STEFANIAK: Mr Speaker, yesterday Ms Reilly asked me to provide some details about the recently established Housing Advisory Committee. The committee has been established to provide the Government with strategic advice on a broad range of housing issues. As I indicated yesterday, I have already referred a number of issues to the committee for their objective advice. The membership of the committee has been widely drawn from industry and the community, with members selected on the basis of their personal knowledge and expertise rather than on a purely representative basis. I table, Mr Speaker, the terms of reference, together with the membership and where those particular people come from. Further to that, Mr Speaker, I did check to see whether we had a formal launch. We do not appear to have done so, although the committee is doing some excellent work; so I am happy to arrange that, and I am even quite happy to invite Ms Reilly to come along to it.

LEGAL PROFESSION - DISCIPLINE
Statement by Member

MR OSBORNE: Mr Speaker, I seek leave to make a short statement regarding a question I asked of Mr Humphries earlier this week in the Assembly.

MR SPEAKER: Under standing order 46 or - - -

MR OSBORNE: No; it is not a personal explanation, Mr Speaker.

MR SPEAKER: You want to make a statement.

Leave granted.

MR OSBORNE: As you are aware, Mr Speaker, I asked the Attorney-General a question in relation to a matter handled by the Law Society about a person who was not named after being found guilty of a number of allegations. Mr Speaker, I am aware of who this person is. I considered naming this person in the Assembly this week. However, I like to think that I am a fair person; so I contacted this unnamed person and said to them that I was considering naming them in the Assembly, but I was prepared to give them the opportunity to convince me not to and to convince me why they should be treated differently from any other members of the public, like the police, for example, or any one of us.

Mr Speaker, this person has chosen not yet to take up my offer and in a roundabout way has threatened or raised the issue of legal action, trying to hide behind the Legal Practitioners Act. However, my advice is that I certainly have the right under privilege to say what I like here on the floor of the Assembly. I would encourage this person to take up my offer to come and speak to me and, as I have said, talk me out of naming them and tell me why they should be treated any differently from any other member of the public.

AUDITOR-GENERAL - REPORTS NOS 9 AND 10 OF 1997
Fleet Leasing Arrangements : Public Interest Disclosures - Lease Variation Charges and Corrective Services

MR SPEAKER: I present, for the information of members and pursuant to the Auditor-General Act 1996, two Auditor-General's reports: No. 9 of 1997, "Fleet Leasing Arrangements"; and No. 10 of 1997, "Public Interest Disclosures - Lease Variation Charges and Corrective Services".

MR HUMPHRIES (Attorney-General) (3.49): I ask for leave to move a motion authorising the publication of the Auditor-General's reports.

Leave granted.

MR HUMPHRIES: I move:

> That the Assembly authorises the publication of Auditor-General's Reports Nos 9 and 10 of 1997.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 11 of 1996 - Government Response

MRS CARNELL (Chief Minister and Treasurer) (3.49): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee on Public Accounts Report No. 26, which was entitled "Review of Auditor-General's Report No. 11, 1996 - Financial Audits with years ending to 30 June 1996", which was presented to the Assembly on 19 June 1997. I move:

> That the Assembly takes note of the paper.

I ask for leave of the Assembly to incorporate my tabling statement in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

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

PUBLIC SECTOR MANAGEMENT ACT - CONTRACTS
Papers

MRS CARNELL (Chief Minister): For the information of members, I present, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of contracts made with James Ryan, Margaret Summers (a temporary contract), Andrew Clark (a temporary contract) and Rosemary Walsh (a performance agreement).

SUBORDINATE LEGISLATION
Papers

MR HUMPHRIES (Attorney-General): Mr Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices circulated in the chamber.

The schedule read as follows -

Energy and Water Act - Instrument of appointment of Energy and Water Charges Commissioner - No. 193 of 1997 (S254, dated 27 August 1997).

Land (Planning and Environment) Act - Determination of criteria for the direct grant of Crown leases - No. 200 of 1997 (S261, dated 4 September 1997).

DEPARTMENT OF HEALTH AND COMMUNITY CARE - ACTIVITY REPORT
Paper

MR HUMPHRIES (Attorney-General): I present the Department of Health and Community Care activity report for the 1996-97 financial year.

PAPER

MR HUMPHRIES (Attorney-General): Pursuant to standing order 83A, I present an out-of-order petition lodged by Mr Hird from 47 citizens and relating to the sale and use of fireworks.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 2 of 1997

MR WHITECROSS (3.52): Mr Speaker, I present Report No. 29 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Report No. 2, 1997 - Road and Streetlight Maintenance", together with the extracts of the minutes of proceedings, and I move:

That the report be noted.

Auditor-General's Report No. 2 of 1997 was presented to the Assembly on 27 February this year. The audit assessed whether maintenance funding was at an appropriate level for maximising the life of assets on a cost-effective basis and whether actual maintenance was efficient and economic. The audit also reviewed certain aspects of road and bridge safety.

With regard to road maintenance, the audit found that funding had been inadequate to meet the most economical and efficient maintenance of roads. The audit referred to a 1992 road maintenance evaluation study which recommended that to maintain the ACT road assets on the most economical basis, which includes minimising user costs, $18m per annum would need to be spent on road maintenance. The audit also referred to a community survey in 1992 which showed that the expenditure of $18m was the preferred public funding option - that is, preferred by the community.

The audit also found that the actual estimated expenditure on pavement maintenance ranged between $9.2m and $10.3m in real terms for the years 1993-94 and 1995-96. This was broadly half of the $18m annual road pavement maintenance funding level recommended as being consistent with minimising total road transport costs to the community - that is, short-term savings with long-term costs. While funding had been inadequate, the audit found that available funding had been cost effective, that the contracted maintenance had been economic and that road surfaces were of a safe standard. The audit noted that, while maintenance efficiency had increased significantly, further improvements could produce cost savings of some $300,000. The audit found that streetlights are not managed in a cost-effective manner and that potential savings of $400,000 could be derived from competitive tendering. The audit also found that administrative costs at 24 per cent of annual maintenance funding were excessive. These are the same streetlights that the Government wants to sell to ACTEW for $100m.

The committee sought ministerial comment on the audit findings and was provided with an action plan which included strategies to address the findings. The action plan leans heavily on the Government's asset management strategy, which in itself identifies a number of key issues in respect of roads, including a rolling program of condition audits, asset information systems, performance measures and new works requirements. The asset management strategy, in draft form - we have not seen a final form - was reviewed by the committee and was the subject of its report No. 27 presented to the Assembly last Thursday with certain recommendations. The Minister also advised that an asset management plan for roads will be developed during the current fiscal year. It will be interesting to see whether that is before the election.

The committee gave consideration to benchmarking against other jurisdictions and Government efforts to obtain greater assistance through the Commonwealth Government's inquiry into road funding and through the Commonwealth Grants Commission. Pavement management systems were also reviewed and found to be wanting in terms of full use of resources dedicated to the function.

Arising from the audit and the Minister's submission to the committee, the committee has made a number of recommendations relating to benchmarking, the outcome of the Government's representations to the Commonwealth on funding for roads and streetlighting, a review of infrastructure management services being undertaken by the Department of Urban Services, bridge condition monitoring, cost inefficiencies arising from the employment of non-essential staff, the establishment of a technology office as recommended by an earlier review and reasons for delay in making the pavement management system fully operational. I commend the report to the Assembly.

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

QUESTIONS WITHOUT NOTICE

Nature Conservation Strategy

MR HUMPHRIES: Earlier today I took on notice a question from Ms Horodny about the nature conservation strategy and action plans for endangered species of fauna and flora. I can actually give her an answer today to the issues that she raised. The draft nature conservation strategy, in fact, has already been produced. It was launched some time ago - in fact, about the time of the ACT budget - and it has been out for public consultation ever since then. Public consultation is due to end on 30 September, which I would have assumed Ms Horodny was aware of, but perhaps not. A forum is being organised with the Conservation Council of the South-East Region and Canberra in October, and plans are to be finalised by the end of this year pursuant to that process. As far as the action plans are concerned, the department has been in contact to arrange a date for the launch of the drafts for public consultation. Those are the drafts that have been prepared to date. They will be available under that process very soon - in the next few days or weeks.

GREENHOUSE GAS EMISSIONS
Discussion of Matter of Public Importance

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

> The need for the ACT Government to increase action to reduce the ACT's greenhouse gas emissions.

MS TUCKER (3.58): Mr Speaker, this matter of public importance is indeed very important. It is my belief that, when it comes to greenhouse, the future is green or not at all. The landmark 1996 report by the Intergovernmental Panel on Climate Change predicts that by the year 2100 average global temperatures will rise by between one and 3.5 degrees Celsius, and there will be an associated sea level rise of between 19 and 95 centimetres. That change is almost as large as, and would be far more rapid than, the one that ended the last ice age. It would cause a half-metre rise in sea levels and deaths from heat and from the spread of tropical diseases. It would spawn droughts; economic losses in forestry, agriculture and fisheries; species extinction; and the potential of more severe hurricanes and storms.

A European Commission report estimates that by the year 2030 more than one billion people may die from starvation as a result of climate change. The spread of diseases like malaria will expand dramatically. The Intergovernmental Panel on Climate Change estimates annual net costs at one to 2 per cent of GDP for developed countries.

Recently, more than 2,800 economists from Canada and the United States, including eight Nobel laureates, signed a statement which said that taking steps to prevent global warming is simply a matter of sound economics. The statement points out that measures which slow climate change would be economically beneficial because the potential costs of inaction are great.

In the Australian agricultural sector alone the level of global warming predicted by the IPCC would have profound impacts. Listen carefully to these few examples, because some of them will affect our bush capital and our region dramatically: Increased heat stress on livestock, particularly dairy and sheep; increased damage due to floods and soil erosion; increased severity of outbreaks of downy mildew on grapevines and rust on wheat; and insufficient winter chilling, preventing normal flowering and fruit set of apricot, peach, nectarine, cherry and plum crops.

Mr Speaker, at 32 tonnes per person per year, Australia has close to the highest per capita rate of greenhouse gas emissions of any country on the planet. It is deplorable that the Government of this fragile and biologically diverse country, far from leading the world towards solutions, is allied to a couple of oil-producing countries and Russia against the desire of the rest of the world to set binding emission reduction targets at the Kyoto Climate Summit in December this year. Mr Speaker, I am appalled by this ACT Government's inaction on greenhouse and today I am calling on this Assembly to demand a radical turnaround on this issue. I am calling for the ACT Assembly to move from laggard to leader.

Our efforts must be directed primarily towards reducing consumption of energy produced from non-renewable sources and towards reducing emissions from transport. I turn first to electricity consumption. By the year 2000 electricity production will account for in excess of 37 per cent of carbon dioxide emissions in Australia. Using National Grid Management Council electricity growth projections, it is estimated that carbon dioxide emissions from electricity generation will increase by 16.9 per cent from 1994 to 2000 and the carbon dioxide emission intensity will increase by 4.8 per cent. It is not a simple thing for the ACT to reduce the greenhouse impacts of its energy consumption within the new electricity market, but it is possible and it is vital that we take urgent steps to do it. We have put forward a set of major greenhouse gas reduction initiatives in this Assembly, and the New South Wales Government, facing the same new market environment, have also taken impressive steps.

I am very concerned with the Government's willingness to lock the ACT into the national electricity market and to allow ACTEW to go ahead with its contract with Yallourn Energy without first developing a means for assessing the greenhouse impacts and implications of the new supply arrangements and developing a strategy for consumption by the ACT that would reduce these impacts. This morning we have had the tabling of the Electricity (National Scheme) Bill 1997, a Bill being enacted in South Australia, New South Wales, Victoria and the ACT to make provision for the operation of the national electricity market. The environmental impacts of the new national electricity market are not at all clear. It had been expected that the new system might allow the entry of less polluting generators, but that has not been the case so far.

Indications now are that gas-fired generation has lost market share to coal generation in the new integrated market. Emissions performance appears to be headed in the wrong direction, largely because Victorian brown coal generators, including Yallourn Energy, have increased their market share.

Mr Speaker, this Government has failed to follow an Assembly direction made 11 months ago to set targets for reducing the ACT's greenhouse gas emissions, and it has failed to come up with any initiatives which would stimulate reductions in the demand for energy from non-renewable resources. The only exceptions to this appalling record have been decisions taken by ACTEW to back electricity production from methane escaping from landfill and to develop a green power option for ACT consumers, although I note that these came only after months of pressure from the Greens. I note in the press this morning a report of the sale of electricity by ACTEW to the Commonwealth. I was heartened by one line in that report:

> ... the Minister for Administrative Services, David Jull, said Actew Energy would also provide a range of services to increase the effectiveness of energy management in the buildings concerned.

My sincere hope is that that line signals a shift in ACTEW Energy's mission statement from electricity seller to energy service provider. That is what we have been calling for and how we want to see ACTEW grow and develop and prosper in the coming years. It is also ironic that the Government distributed to ACT households a booklet with the Minister's picture inside the cover telling householders what they should do to cut energy use while, at the macro level, the local and Federal governments have failed to show any leadership.

Not only have the Federal Government failed to show leadership; they have used flawed research and economic models to attempt to justify their appalling stance. I am reminded again of the question asked in this place when we were apologising to the Aboriginal people. I think it was Mr Moore who asked it. "I wonder what issues future generations will condemn us for", he said. They will indeed condemn the Federal Government stance on greenhouse. In frustration at the Government's inaction, I seek - - -

Mr Humphries: Mr Speaker, I rise on a point of order. I do not disagree with some of what Ms Tucker says; but I do think that, on a matter of public importance which refers to "The need for the ACT Government to increase action to reduce the ACT's greenhouse gas emissions", the relevance of the Federal Government's performance is a little bit strained.

Mr Corbell: Mr Speaker, on that point of order: It is quite clear that the ACT Government, being a Liberal government, have very clear and direct links with the policies of the Federal Liberal Government, and they have some responsibility at national forums to ensure that the views of the ACT community on greenhouse gases are put. Because of that relationship, Ms Tucker's comments on the Federal Government's approach are in order. The ACT cannot be viewed in isolation when it comes to greenhouse gases. For that reason, the comments are in order.

MR SPEAKER: I do not uphold Mr Corbell's point. I do uphold Mr Humphries's point of order. The matter of public importance is: "The need for the ACT Government to increase action to reduce the ACT's greenhouse gas emissions". It is quite specific.

MS TUCKER: Mr Speaker, I would also argue that the national electricity market was the subject of a Bill tabled here today.

MR SPEAKER: Which you will not discuss.

MS TUCKER: No, I will not; but it is national, and my very point is that this is a national scheme. Of course it is relevant to talk about the Federal Government's policies. How can you possibly not do that? We are part of the national electricity scheme. Anyway, I have finished talking about the Federal Government, so you can let the point of order go, Mr Humphries. I think I have, anyway. You can raise the point of order again if it comes up again, and I will be happy to argue it with you.

In frustration at the Government's inaction, I seek leave to table drafting instructions which I submitted eight months ago for amendments to the Energy and Water Act 1988.

Leave granted.

MS TUCKER: These drafting instructions have not even been allocated for work, despite the fact that we gave them top priority for drafting. The amendments would require ACTEW - those drafting instructions would have to be changed now to add reference to any future electricity retailers selling electricity into the ACT - to prepare one-, three- and five-year greenhouse gas reduction plans. Similar legislation has already been enacted in New South Wales, along with other measures.

The Greens locally and nationally have proposed a number of innovative measures that would simultaneously reduce energy consumption, reduce greenhouse emissions and create jobs in the ACT. The Greens in the ACT have proposed the establishment of an energy efficiency and alternative energy fund. The fund is to be created from a levy of one per cent on the gross revenue derived from the sale of electricity in the ACT. The fund would provide about $2m annually which could be used for incentives for households and business to retrofit energy-saving features and for public education. As members are probably well aware, a similar levy exists in the Gas Act. I think it is 0.5 per cent there.

This afternoon we will also be moving amendments to the Residential Tenancies Act which will stimulate greater energy efficiency and consumer savings in the rental sector. The ACT imports nearly all of its energy. That means that most of the money spent on energy in the ACT generates jobs elsewhere. In contrast, most of the money spent on installing energy-saving systems such as insulation, solar water heaters and other building retrofitting activities would stay in Canberra and generate new businesses and employment opportunities in the ACT.

The landmark "Green Jobs in Industry" report prepared by the Australian Conservation Foundation and ACTU green jobs in industry program predicted that energy efficiency and renewable energy industries could generate around 100,000 new net jobs in Australia over the next two decades. My colleague Bob Brown has also initiated a sun fund, currently under consideration by the Senate, to replace the current diesel fuel rebate, which returns about $1,440m per annum to farmers and miners. The sun fund proposal could see up to $85m of that being used by farmers who chose to take part, to install solar-powered options instead to provide electricity for homesteads and machinery sheds. The fund would help farmers and contribute to reducing greenhouse gas emissions and would be a major boost for Australia's renewable energy manufacturing industry.

Of course, in a debate about greenhouse I must address the issue of transport. Over 50 per cent of the ACT's energy consumption is in the transport sector. Obviously, in this debate it is very critical. We still have no integrated transport strategy in the ACT. If public transport was bad under the Labor Government, it has certainly got worse under the Liberal Government. It seems that the only concern has been to save money. Once again, we are not saying that all the solutions are simple, but what is needed is a genuine commitment to improve the reliability and frequency of public transport in the ACT.

Service levels on ACTION's basic network have halved since 1990, from five minutes to 10 on off-peak route 333 services, from 15 minutes to 30 on local routes during peak hours and from 30 minutes to 60 during off-peak hours. What is even more outrageous is that a government that went on and on about prices to consumers yesterday when we were debating battery hens has also supported continuing increases in bus fares. It is no wonder that ACTION's patronage has declined by 20 per cent in the last decade. We obviously need a radical overhaul of our approach to transport policy in the ACT.

I repeat that, when it comes to greenhouse, the future is green or not at all. I am very disappointed in this Government's actions so far on the issue of greenhouse. I believe it is one of the most critical issues that we all have to address in local government, in Federal government and internationally. I hope that this matter of public importance will stimulate greater debate. I am disappointed that there are so few people here for this debate. *(Quorum formed)*

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.16): I thank Ms Tucker for providing me with an audience for my remarks. I rise, more in sorrow than in anger, to indicate once again that I am disappointed with the Greens' approach generally on matters to do with the environment. I appreciate that they are a party which is basically all about the environment, a party which professes to have a strong interest in the environment and to push an aggressive line on the environment. That is understood. That is fair enough.

But I think it is incumbent on the Greens at the same time to ensure that when they speak about the environment they do so with a sense of what is practicable and achievable within a certain timeframe. Unfortunately, I have noticed a tendency for them to be absolutist about matters to do with the environment, a tendency to regard the environment as being a matter on which nothing but the very best will do and anybody who will not march with them all the way to Moscow is a quitter of some kind.

Perhaps Moscow is an old-fashioned metaphor nowadays - I was thinking of a Napoleonic reference - but anybody who will not go all the way through to the end of the line is obviously not worth being on the bandwagon.

I think it is worth making the point at the very outset of this debate that, despite all the rhetoric, we actually know very little about how human involvement contributes to the release of greenhouse gases and the creation of the so-called greenhouse effect. While we, no doubt like many parliaments across Australia and the world, talk about the greenhouse effect as if it were some kind of proven fact, I would like to bring a slightly different perspective to this debate. I would like to begin by referring to the remarks made last November on Radio 2CN by Professor Ian Plimer of the Melbourne University School of Earth Sciences.

Members will recall Professor Plimer, a quite celebrated scientist in recent years. Professor Plimer was the man who took on the creationist argument in the Supreme Court of Victoria. He had a very celebrated battle with a representative of the creationist argument. That was a very interesting debate. I will not talk about that at much length, but I seek leave to table a transcript of interview between Elizabeth Jackson and Professor Plimer in which he talked about the greenhouse effect.

Leave granted.

MR HUMPHRIES: I want to read briefly from that interview. He was asked by Elizabeth Jackson about the greenhouse effect and about climate generally. Ms Jackson said in respect of climate:

> It's changed so dramatically you'd hardly recognise it these days.

Professor Plimer replied:

> Well, it depends on which days you compare it to. If you compare it with 15,000 years ago we were in the grips of an ice age. If you compare it with 15 million years ago we were enjoying a wonderful steamy greenhouse. If you compare it with 115 million years ago we were at the South Pole and also enjoying a wonderful steamy greenhouse with mountains behind us bringing down bits of ice, et cetera. If we go back a thousand million years, well we were in the grips of one of the biggest icehouses that ever existed on planet earth.

He went on to say:

> We've had greenhouses and icehouses and, whenever I hear someone talk about greenhouse, the temptation to yawn just overwhelms me.

He went on to make some very telling points about the greenhouse effect. The point about all of this is that it is clear that we need to be cautious about how much we assume about this debate based on the limited knowledge we have about the causes of the greenhouse effect and the contribution particular actions of human beings will make

to mitigating the greenhouse effect. Professor Plimer pointed out, interestingly, that the major contributor to greenhouse gases is in fact not methane, carbon monoxide or something of that kind. The major contributor is in fact water vapour. Water vapour comes from the oceans. It is a naturally occurring phenomenon.

Green ideology would have us believe that man is the major contributor to greenhouse gas emissions, when in fact it could be said that mother nature makes the biggest contribution of all. Naturally, a lack of scientific rigour is a trademark of Green politics, and the Green movement has never been shy to embrace new theories without the benefit of evidence. The Greens instinctively know what is good for the environment and they are not going to be held back by the burden of proof. I have heard many Green theories, and the lack of scientific rigour which they apply to their conclusions has been labelled "junk science" - a very apt name for the collection of half-truths and emotion that sometimes masquerades as Green ideology.

One cannot help wondering whether climate change may or may not be an experience that this planet has been going through from the very beginning of time and will continue to go through in the future, irrespective of the actions or lack of action by human beings.

Ms Tucker: Have you heard about the precautionary principle, Mr Humphries?

MR HUMPHRIES: Indeed. Ms Tucker refers to the precautionary principle. That is a very good principle to work on. I certainly agree on taking a precautionary approach; but I think it is also important not to exaggerate the extent to which we might be affected by change, the nature of which and the causes of which we as a community do not understand. I do not mean that in the sense that we are individually ignorant. I mean that we are collectively ignorant because of the lack of scientific knowledge that sometimes exists on those questions.

I have to say also that I strongly resist, and even resent, the constant accusation by those in one part of the chamber that this Government either does not care about the greenhouse effect, taking measures under the precautionary principle - - -

Ms Tucker: You just said that it probably did not exist, so why should you care?

MR HUMPHRIES: Let me be very clear about this. I did not say that it did not exist. I said that we have to be very cautious about urging an absolute boots-and-all approach that says there will be no rest until we have eliminated every cause of a greenhouse gas.

Ms Tucker: It is not boots and all that we are asking for.

Ms McRae: Mr Temporary Deputy Speaker, on a point of order: The Independents this afternoon allowed a member to be ejected because of interjections. I call on you to call that member to order.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): I did not hear any interjections. If there are any interjections, they are out of order. I would ask members to listen to the Minister in silence. Interjections are contrary to standing orders. I uphold the point of order.

Mr Moore: On a point of order: I would like to clarify that Mr Osborne was not interjecting and I was not interjecting. I believe we are the only two Independents here.

MR TEMPORARY DEPUTY SPEAKER: Quite right. I do apologise to you, Mr Moore; but, as I was saying, I did not hear any interjections. Ms McRae, on a point of order, was implying that there were interjections. I did not hear any.

Ms McRae: Mr Temporary Deputy Speaker, in case I caused any offence, let me say that it was the Green member who interjected.

MR HUMPHRIES: I thank members for their assistance in touching on this important issue. We have had the accusation this afternoon that the Government has not taken any steps to deal with the major cause of greenhouse gas emissions in the ACT, namely, transport. Let me iterate for the benefit of the Assembly what has happened in the last few years to deal with the issue of energy conservation and greenhouse gas reduction in the area of transport in the ACT. ACTION has taken delivery of seven midi-buses which comply with the most stringent Euro2 exhaust emission standards. They are smaller than standard rigid buses and as such they are much more fuel efficient. A total of 25 midi-buses will be part of ACTION's fleet by the end of this year. Gas-powered and electric-powered vehicles are granted a 20 per cent reduction on registration fees to encourage them to be used. Priority public transport measures such as bus-only lanes, B-lights and transponder control traffic lights have been installed in many parts of the ACT.

We now have 12 park and ride facilities, encouraging people, through incentives in the form of the non-payment of parking fees, to share motor vehicles. We have under way negotiations with the Commonwealth to introduce pay parking in Barton and Parkes. Agreement has been reached with the National Capital Authority to reduce parking spaces for developments which require their approval from 2.5 to two spaces per 100 square metres, reducing the volume of parking provided for in buildings so as to encourage people to be less reliant on the car. New development must comply with requirements to encourage non-motorised and public transport trips.

There is a lead being set by government in those areas. Those are all important steps to reducing the effect of greenhouse gas emissions. It is worth bringing to members' attention, in case they think that the ACT is a profligate producer of greenhouse gases, that with something like 1.8 per cent of the Australian population the ACT, as we are best able to gauge at this point in time, produces something like 0.29 per cent of Australian greenhouse gas emissions, and that includes emissions caused by our consumption of power produced outside our borders.

Ms Tucker: Per capita we are high.

MR HUMPHRIES: That is the information which I have about those matters. As Ms Tucker, outside standing orders, interjects, we have a question about the state of knowledge in this area at the moment. That is a very good point to make. We do not know what the situation is. I would submit that before we go into setting greenhouse gas targets we need to have an up-to-date and accurate picture of what we are actually producing in the way of greenhouse gas emissions at the moment. It is a fundamental.

That is why the ACT Government is in the process of developing and awaiting the outcomes of three quite important pieces of information. The first is the final draft of a national greenhouse strategy, which will confirm the viable measures which the ACT can take part in. The second and perhaps most important of all is the release of the national greenhouse gas inventory of 1995. Why is that important? It will give us up-to-date figures on what exactly our contribution to the greenhouse effect is. Are we up from 0.29 per cent, down, at the same level, or what? The third thing we need to take account of is amendments to the ACT greenhouse gas inventory, which in turn is derived from the national inventory and estimated from data to reflect the Assembly's requirements for non-ACT emissions.

It seems to me that Ms Tucker would prefer that the Government pluck a figure out of the blue and say, "Yes, that is our target. We will make that our target". Obviously, that is not a sensible approach to take. We need to have that information. I have referred to that information. Ms Tucker shakes her head. It cannot be what she means. Surely we need that, Ms Tucker. She sits there mute, unable to contribute. What can she say? She can say very little.

Ms McRae: She can say nothing. She will be thrown out.

MR HUMPHRIES: She can say very little without being thrown out; that is true. I would submit that we have heard a lot of nonsense in this place about the information that is required and about the extent to which we are already taking steps to produce reductions in greenhouse gas emissions. I come back to the point. This is a matter of public importance about the ACT Government's action to reduce the ACT's greenhouse gas emissions. Those things are matters which are well in hand with a number of measures taken in the last few years which I think we can all be justifiably proud about and which in all cases put the ACT ahead of the pack on a national basis.

I refer to only a couple of those things. There is a very important project going on at the moment to provide for the generation of electricity from methane extracted from ACT landfill sites - not a feature of most other jurisdictions, but one that we are developing, I think, at an appropriate pace. The contract has been finalised between ACTEW and EDL for the generation of that electricity. The Mugga Lane site is nearing planning approval stage, and public comment closed just last week. That project will produce approximately two megawatts of electricity per annum once it is up and running. Of course, Belconnen will also be in that boat after a period of time.

The other important step that we have taken - when I say "we" I mean the ACT - is the energy rating scheme which Mr Wood introduced as Minister for the Environment a few years ago, now requiring every home in the ACT constructed after this point to meet rigorous standards about energy conservation and solar design. Those sorts of things are producing, I think, quite significant inroads into the problems of greenhouse gas emissions in our community. To say that the Government or governments are not concerned about these things, are not progressing these things, are not pushing these things forward, after I have listed all those things, is just nonsense. I think by her silence Ms Tucker confirms what we know - that the - - -

Mr Corbell: I take a point of order, Mr Temporary Deputy Speaker. The Minister is deliberately provoking the member. As the Speaker has already severely reprimanded members for interjecting, I think it is inappropriate that the Manager of Government Business should deliberately provoke members to interject.

MR TEMPORARY DEPUTY SPEAKER: There is no point of order. Resume your seat, Mr Corbell. It is admirable that you are taking a leading role in protecting her, but I am sure Ms Tucker can take care of herself. I am sure the Minister is also capable of - - -

MR HUMPHRIES: Mea culpa.

MR CORBELL (4.32): What an amazing approach by this Minister! On the one hand, he said, "Look at all the good things the Government is doing". On the other hand, he said, "But we really do not have to worry about the greenhouse effect. It is really not that important". He attempted to belittle the significance of this issue and to belittle the incredible threat that climate change poses not only to our community but to our nation and all other nations across the world. I think it is disgraceful that the Minister for the Environment should get up in this place and say that you do not really need to worry about climate change.

The Minister suggested that Ms Tucker's comments were not based on scientific evidence or proven research. I do not know whether the Minister has heard of the United Nations. Have you heard of the United Nations, Minister? It is a quite significant organisation. The United Nations established a panel called the Intergovernmental Panel on Climate Change, the IPCC, in 1988 in direct response to the emerging problems of greenhouse gas emissions and the so-called greenhouse effect. If the United Nations in 1988 was prepared to set up the Intergovernmental Panel on Climate Change in recognition of the problems of the greenhouse effect and the severe effects it could have on communities right around the world, why is this Minister not prepared to treat it with the same degree of seriousness? The answer can only be that this Minister knows that his Government's record on dealing with greenhouse gas emissions is appalling. They have refused to treat it seriously. When the issue is raised in this place, what does the Minister do? The Minister tries to belittle the issue.

I would like to put a few points before the Assembly. The Intergovernmental Panel on Climate Change brings together 2,500 of the world's leading scientists and experts to assess scientific information on climate change, assess the environmental and socioeconomic impacts of climate change and formulate response strategies. That is the purpose of that panel. Information I have indicates that that panel has already forecast that there will be an increase in global mean surface temperature of one to 3.5 degrees by the year 2100 and an associated sea level rise of between 19 and 95 centimetres. Just think about that. There will be an increase of nearly one metre in the sea level. That would have a devastating effect right around the world. It is important to recognise that these things are difficult to measure, but the fact is that this effect is occurring. All governments, including this Government here in the ACT, need to address it seriously - a point which, unfortunately, the Minister seems to miss.

What are the effects of global climate change? Information put together by the IPCC clearly indicates that regions of the earth will suffer from high-temperature events, floods, droughts, increased fire risk, pest outbreak, changes in the composition, structure and functioning of ecosystems and, of course, the resultant impact on primary production. Those are not insignificant consequences. Those are not issues to be trivialised by any Minister for the Environment. This Minister stands up in this place and says, "It is really not an issue we need to worry about. We are doing our little bit but only because we are told to; but we do not really believe it is important". That is appalling, and he should be held accountable for that.

The Minister said that you cannot set levels and you cannot undertake strategies to reduce greenhouse gases until you are able to measure them. Again, what an absurd argument! It is absurd for two reasons. If you know that a problem exists, if you know it is already there, if you know that greenhouse gases contribute to global warming, you do not sit back and say, "We cannot do anything about these gases until we know what level we are producing". If you know what the problem is and you know of ways of reducing greenhouse gas emissions, then you do it.

The Minister says, "I am not going to do anything until we can measure this". Even though he knows that the problem exists, even though the evidence is on the table that the problem exists and even though ways to reduce greenhouse gases are appearing now, he does nothing. What an absurd suggestion from this Minister who suggests that he is the Minister for the Environment! He is very happy to put his photo in a little pamphlet telling the rest of us what we can do about greenhouse gases. He is very happy to be seen associated in that manner. Mind you, it was a very long essay associated with his photo. I do not think anyone actually read it, because it is so damn boring. He is prepared to do that, but he is not prepared to take concrete steps to deal with this issue in the ACT. That is a stunning indictment on this Minister.

Greenhouse gases are clearly the most immediate threat to the security of our community, not only here in the ACT but in Australia and globally. There is one very important contribution that this Government here in the ACT can make to dealing with that issue - one of many, but one I believe that they should be paying far more attention to. It relates to the attitude of the Federal Government on greenhouse gases.

Mr Humphries: Mr Temporary Deputy Speaker, I think that you or Mr Cornwell as Speaker has already considered the question of whether anything to do with the Federal Government's greenhouse gas emission performance is relevant to this debate and ruled that it is not. The matter of public importance is: "The need for the ACT Government to increase action to reduce the ACT's greenhouse gas emissions". Clearly, the matters of the Federal Government's performance are not relevant. Mr Corbell said in his earlier point of order that we have to lobby the Federal Government and therefore what the Federal Government is doing is somehow a matter that we can debate in this place. This is not about us lobbying the Federal Government to fix greenhouse problems in the ACT. This is about greenhouse performance generally by the Federal Government, which is what Mr Corbell wanted to speak about before. That, I would submit, is clearly outside the relevance of this matter.

Ms Tucker: On that point of order: It was not my understanding that there was a ruling on that before. I also argued against that point of order. Then I said I was no longer going to be speaking on the Federal issue, so I left it uncontested. I would argue that there is a relationship between the national electricity market and the ACT. The national electricity market is involved with competition policy, which is a national issue and a Federal issue. You cannot separate these things. It is absolutely legitimate to talk about the Federal Government's approach to greenhouse. I ask you to consider that in your ruling.

Mr Whitecross: Further to the point of order: Mr Corbell was specifically talking about the ACT lobbying the Federal Government. He was specifically talking about an ACT action, not about Federal Government action. He was talking about the ACT's actions on behalf of the ACT community in respect of this matter.

MR TEMPORARY DEPUTY SPEAKER: I understand the point of order raised by Mr Humphries as Minister. I do not uphold it. The reason I do not uphold it is that, on information I have just received, in this discussion not only the Government but members of this place, on behalf of their constituents, should have the ability to press the Federal Government to take the appropriate action.

MR CORBELL: Thank you, Mr Temporary Deputy Speaker. I think that is a very wise ruling, because the greenhouse gas emission problem is a global problem. It does not stop at the border. Residents of the ACT are residents of Australia. The power we use in the ACT and the transport policies in the ACT are affected by decisions made by our Federal Government. Our Federal Government's attitude on greenhouse gas emissions and issues to do with renewable sources of energy has been absolutely appalling. This Government has a responsibility to talk to its Federal counterparts on behalf of the ACT community. I seek leave for an extension of time.

MR TEMPORARY DEPUTY SPEAKER: Is leave granted?

Mr Humphries: No, it is not. There is a tradition in this place that we do not seek extensions of time on matters of public importance. That is a fairly longstanding and quite rigorously adhered to convention in this place. I would submit that it should not be breached at this stage.

MR TEMPORARY DEPUTY SPEAKER: Leave is not granted.

Mr Whitecross: Mr Temporary Deputy Speaker, I would ask the Minister to reconsider his decision not to give leave, especially given that he was given an extension of time in an MPI debate earlier this week. He should reflect on that when he is denying leave now. If he does not, I will have to move a motion.

Mr Humphries: Mr Temporary Deputy Speaker, we did not have an MPI earlier this week. We had a debate on a ministerial statement.

Mr Whitecross: I will move that we suspend so much of standing orders as would prevent Mr Corbell from getting an extension of time.

MR TEMPORARY DEPUTY SPEAKER: I have just taken some advice and I am told that you do not have to move to suspend standing orders. All you need to do is to move that he be given an extension of time.

Motion (by **Mr Whitecross**) proposed:

That Mr Corbell be given an extension of time of five minutes.

MR HUMPHRIES (Attorney-General) (4.44): In opposing the motion, I point out that normally this place is quite generous about the granting of leave to speak on a variety of subjects and extending speaking times on all sorts of issues; but there has been a longstanding convention in this place, which to my knowledge has never been departed from, that members do not have extensions of time on MPIs. Simply on the basis of that convention in this place, I put it to members that if Mr Corbell wants to make some comments about the Federal Government's performance on greenhouse gases he can go for his life.

Mr Corbell: No, it is your performance, actually, Minister.

MR HUMPHRIES: Or our performance, for that matter. He can go for his life, but he should do so at the appropriate time, which is during the adjournment debate.

MR WHITECROSS (4.45), in reply: Mr Temporary Deputy Speaker, Mr Humphries got a bit ahead of himself, unless he was speaking to the motion. I thought you were inviting him to consider his position. The reason I am moving this motion is that Mr Humphries has some bad habits. I know he likes to play clever games with the standing orders, but Mr Humphries deliberately took what I regard as very trivial points of order in this debate in order to waste Mr Corbell's time and to prevent Mr Corbell from making very important points about this Government's performance in relation to the greenhouse gas issue. Mr Corbell is entitled to do that. I think he ought to be entitled to take a broad view of what the ACT Government's responsibilities are in relation to this matter and to put those matters on the record in a debate on a matter of public importance. That is what Mr Corbell was seeking to do.

Mr Humphries did not like what Mr Corbell was saying. Mr Humphries is relying on this convention that we do not normally grant extensions of time in MPI debates in order to abuse the standing orders and take points of order to waste Mr Corbell's time. That is not an appropriate use of the standing orders. If Mr Humphries wants conventions respected in relation to extensions of time, then he ought to extend the same courtesies to other members of the house with respect to taking frivolous points of order. During question time Mr Humphries was very sanctimonious.

MR TEMPORARY DEPUTY SPEAKER: Order, Mr Whitecross! You are reflecting on the Chair inasmuch as you are implying that the Chair was not conscious that the points of order were frivolous. I would urge you not to do so. The Chair assesses a point of order at the appropriate time.

MR WHITECROSS: Mr Temporary Deputy Speaker, I think you are mistaken in relation to that. In fact, as you will recall, you ruled against Mr Humphries on his point of order. I am not reflecting on your ruling at all. You ruled - - -

MR TEMPORARY DEPUTY SPEAKER: You used the word "continuously".

MR WHITECROSS: You ruled against Mr Humphries, which I think proves the point that Mr Humphries's point of order was not a particularly serious one.

Mr Humphries: Mr Temporary Deputy Speaker, I rise on a point of order. I think it is unparliamentary to describe members as taking frivolous points of order for the sake of delaying other members' capacity to speak. I took the point very seriously. It was, I would argue, a quite reasonable point. I think, with respect, you took some time to consider whether it ought to be - - -

MR WHITECROSS: On a point of order, Mr Temporary Deputy Speaker - - -

MR TEMPORARY DEPUTY SPEAKER: Order! There is one point of order I am dealing with. Resume your seat.

MR WHITECROSS: Mr Humphries is debating the matter. It is not a point of order.

MR TEMPORARY DEPUTY SPEAKER: Resume your seat, Mr Whitecross.

Mr Humphries: I took one point of order, Ms Tucker took a point of order and Mr Whitecross took a point of order. More time was taken by those last two points of order or by comments on those points of order than was taken by me out of Mr Corbell's time to speak on this matter.

MR WHITECROSS: Mr Temporary Deputy Speaker, that was debating the question. That was not actually a point of order. The simple fact is that this house will not function properly unless courtesies are applied equally on all sides. Mr Corbell was interrupted in his speech and Ms Tucker was interrupted in her speech by the Minister trying to take up their time on points of order which you ruled against.

MR TEMPORARY DEPUTY SPEAKER: One point of order.

MR WHITECROSS: The other point of order was not ruled on, but you subsequently confirmed that it was out of order. I think that under these circumstances it is completely appropriate for Mr Corbell to get an extension of time to complete his remarks on what I regard, and I am sure most people in the community regard, as an important issue - namely, "The need for the ACT Government to increase action to reduce the ACT's greenhouse gas emissions". If Mr Corbell thinks that includes lobbying the Federal Government, then he is entitled to his opinion.

Ms Tucker: I also believe Mr Corbell should be granted an extension of time, even if it is the convention that this is not usually done. There is obviously not a queue of people wanting to talk on this issue. It is incredibly important - - -

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Whitecross just closed the debate, so you need leave.

Ms Tucker: I seek leave to make a comment on this issue.

Leave not granted.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative, in accordance with standing order 162.

MR WHITECROSS (4.55): Mr Speaker, I am rising to speak on Ms Tucker's matter of public importance that the ACT Government "increase action to reduce the ACT's greenhouse gas emissions". I want to touch on only a couple of things. The first is the Yallourn power deal. Much has been made about how the Yallourn power deal is just a financing transaction; it is all to do with a hedging contract by ACTEW to protect their electricity prices. A government that ought to be interested in greenhouse gas emissions ought to be concerned about the Yallourn power deal, because by making a power deal with Yallourn, rather than another company, they are effectively underwriting a power company which uses a method that generates more greenhouse gases per kilowatt hour of electricity than any other method currently used to generate power in Australia. I think that ought to be a concern to a Minister.

Perhaps the reason it is not of concern to Mr Humphries, perhaps the reason why Mr Humphries is not bothered by that, is that, as Mr Humphries just explained, he does not believe in the greenhouse gas effect anyway. It is all a hoax, a myth and a fairy story perpetrated by people who do not know anything about science and are happy to perpetrate the myth that human beings are causing the greenhouse gas effect when everybody knows that the real culprit is mother nature. If only we could get mother nature under control we would not have any greenhouse gas problems.

Mr Humphries's analysis does not take account of the impact that human beings have been having over mother nature, for a start. It is just the most extraordinary position by Mr Humphries. It is even more extraordinary when you consider that he has just big-noted himself by circulating to every household in Canberra a document saying what a great guy he is and how much he cares about the greenhouse gas effect. I wonder whether Mr Humphries is going to publish the speech he has just made in this place, put a big photo of himself on it, and circulate it to every household in Canberra so that they all know how much he really cares about the greenhouse gas effect.

MR SPEAKER: Order! The time for the discussion has expired.

LEAVE OF ABSENCE TO MEMBER

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

That leave of absence from 15 to 26 September 1997 inclusive be given to Mr Hird.

AUDITOR-GENERAL'S REPORT NO. 10 OF 1997 - PUBLIC INTEREST DISCLOSURES - LEASE VARIATION CHANGES AND CORRECTIVE SERVICES
Ministerial Statement

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.59): Mr Speaker, I seek leave to make a short statement in relation to the Auditor-General's Report No. 10 which has been handed down this afternoon.

Leave granted.

MR HUMPHRIES: I thank members. Mr Speaker, I have been made aware that one of the issues dealt with in the Auditor-General's report which has been tabled is the redevelopment of the Canberra Women's Bowling Club at Kingston. Members may recall that I answered two questions from Mr Moore in this place on 1 June 1995 and 19 June 1996 on that issue. As part of that answer I referred to advice from senior officials in my department about approvals to develop the site, and the commitment my party gave prior to the 1995 election to reverse a decision on the application. Mr Speaker, clearly the advice from my department's senior officers at the time does need to be reviewed because of the findings of the Auditor-General in this report. I want to indicate to the Assembly that I will review that advice and make a statement to the Assembly when next we sit if any comments I have made based on that advice inadvertently misled the Assembly.

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.

MEDIATION BILL 1997
Discharge from Notice Paper

MR HUMPHRIES (Attorney-General) (5.00): Mr Speaker, in accordance with standing order 152, I move:

> That order of the day No. 1, Executive business, relating to the Mediation Bill 1997, be discharged from the notice paper.

That is because a new version of that Bill has been tabled this morning.

Question resolved in the affirmative.

BANK MERGERS BILL 1997

Debate resumed from 26 August 1997, on motion by **Mrs Carnell**:

> That this Bill be agreed to in principle.

MR WHITECROSS (5.01): Mr Speaker, the Bank Mergers Bill 1997 is designed to provide some sort of generic power in relation to bank mergers which will ensure that, rather than individual pieces of legislation having to be moved each time banks wish to merge, these matters can be dealt with by regulation. The proposition that is being put is that, once a bank merger has been approved by the Reserve Bank and the Australian Competition and Consumer Commission, there are a number of essential processes involved in transferring contracts, assets, liabilities and other obligations to the newly formed banking institution. This Bank Mergers Bill 1997 facilitates the transfer processes resulting from the bank merger. This involves deeming the merging bank as the successor in law of another bank and includes the effects of that succession such as the vesting of assets and/or liabilities as the case may be. The Bill provides for the use of regulations to be made by the Executive each time a bank merger takes place which affects banking business in the ACT.

In the past specific legislation was enacted to deal with each instance of a bank merger, as I referred to earlier. This Bill will eliminate the need for this practice. The legislation will benefit residents of the ACT who have bank accounts or conduct banking business with banks involved in a merger by facilitating the transfer processes, and, of course, will also benefit the banking sector. Mr Speaker, I am advised that New South Wales has enacted similar legislation to accommodate bank mergers falling under its jurisdiction. This Bill, the Bank Mergers Bill, varies the previous practice in the way that this legislature deals with bank mergers and I think that in proceeding down this path we need to consider very carefully whether we wish to go down the path of legislation of this type rather than the previous practice in relation to this matter.

Mr Speaker, on the two previous occasions that this legislature has dealt with bank mergers, the first was dealt with by a Bill called the Australia and New Zealand Banking Group Limited (NMRB) Bill 1991 which was introduced by Ms Follett. Mr Kaine was the Opposition Leader. That legislation dealt with the merger of the National Mutual Royal Bank and the ANZ Banking Group, and it set out the mechanisms by which that merger would take place. Mr Kaine, the then Leader of the Opposition, said:

> The Liberal Party in opposition has no objection to this Bill. It is a fairly straightforward machinery Bill. It is quite clear that the Chief Minister has virtually been required by events nationwide to enact this legislation for consistency across the country in ensuring that the amalgamation of the National Mutual Royal Bank and the ANZ Banking Group is covered by appropriate legislation. The purpose of that is to ensure that, so far as the ACT is concerned, the 1,500 account holders with that bank have their interests protected.

Mr Kaine went on to say:

> As I said, it is essentially a machinery Bill, and seems to go no further, in my view, than is required to achieve its objectives. On that basis, the Liberal Party in opposition has no objection to it.

The Chief Minister said in reply:

> I thank Mr Kaine for his support of the Bill. It is a straightforward matter and there is little that can be said to add to the debate. As Mr Kaine has pointed out, the beneficiaries are the 1,500 ACT customers of the National Mutual Royal Bank. If this legislation is passed, they will not be put to the inconvenience of having to renegotiate all their banking arrangements.
>
> It is a method of dealing with the bank merger that saves a considerable amount of time and effort for the bank's customers and staff. I therefore commend it to members of the Assembly. I think it is fairly straightforward and fairly self-explanatory.

Mr Speaker, that was in October 1991 and the Bill was the Australia and New Zealand Banking Group Limited (NMRB) Bill 1991.

This situation came up again in May 1992 when Rosemary Follett was again Chief Minister and Treasurer and she introduced a Bill which was called the Canberra Advance Bank Limited (Merger) Bill 1992. In moving that Bill the then Chief Minister, Rosemary Follett, said this:

> ... the main purpose of the Bill is to facilitate the integration of the Canberra Advance Bank with the Advance Bank of Australia. The Canberra Advance Bank was created a wholly owned subsidiary of the Advance Bank in 1986.
>
> The Advance Bank has sought legislation for the transfer of banking activities and assets and liabilities of the Canberra Advance Bank in the Australian Capital Territory and New South Wales, being the only jurisdictions affected. New South Wales is introducing similar legislation to meet the request of the Advance Bank of Australia. The Bill is required to be enacted before 1 June 1992 as the Canberra Advance Bank must surrender its banking licence to the Reserve Bank of Australia by that date.
>
> The proposed legislation will vest the undertaking of the Canberra Advance Bank in the Advance Bank of Australia. All existing contracts and obligations will remain unchanged, except that the Advance Bank will now become the contracting party in respect of ongoing Canberra Advance Bank contracts. There are many ACT account holders who are affected by this banking integration. Passing the Bill will assist these customers because they will not be put to the inconvenience of having to renegotiate their banking arrangements. There is no transfer in the ACT of real estate, shareholdings in subsidiaries and other holdings of shares; consequently there are no tax or duty implications for the ACT.
>
> The Advance Bank of Australia is meeting the costs associated with the preparation of this legislation. Madam Speaker, I now present the explanatory memorandum for the Bill.

Mr Speaker, in response, the then Leader of the Opposition and shadow Treasurer, Mr Kaine, said this on 21 May 1992:

> The Opposition has no objections to this Bill. It is clearly, in effect, a machinery Bill to allow a change in the management structure of the Canberra Advance Bank. It is a companion to similar legislation to be enacted in New South Wales. It is legislation that is necessary, and it must be in place by 1 June because the Canberra Advance Bank loses its current licence on that date. We find nothing on the face of it that could cause any concern.

> I note, Madam Speaker -

that was Roberta McRae in those days -

> that it is interesting that urgent legislation of this kind can be brought forward by the Government but other kinds of legislation seem to have disappeared off the map. I make the point that when we adjourn at the end of today's sitting the only matter of government business on the agenda will be the Supply Bill. That is an appalling state of affairs.

So said Mr Kaine back then. Ms Follett said, in closing the debate:

> Madam Speaker, I thank the Leader of the Opposition for his indication of support for this Bill. As he says, it is pretty much a housekeeping matter, and it is being done for the convenience of the bank and, of course, also for the convenience of the ACT account holders who are affected by this merger. It is indeed a matter that must be dealt with quickly, and I appreciate Mr Kaine's indication of support.

Mr Speaker, what we see is that on two previous occasions this Assembly has been able to deal with legislation relating to bank mergers in an expeditious way and in a bipartisan way which has not excited hostility from either side of the house. The Bills were moved in both cases by Labor when Ms Follett was Chief Minister and they were supported by the Liberal Party when Mr Kaine was Leader of the Opposition.

On both occasions the legislation was uncontroversial. Probably the reason why the legislation was uncontroversial was that it was about assisting customers of the bank and ensuring that customers of the banks had their rights protected and were not exposed to undue inconvenience, complexity and potential legal pitfalls through complicated renegotiations of their banking arrangements after the merger of the banks. I think it is quite appropriate in the case of mergers of this kind that the Assembly take whatever action it can to ensure that customers of the bank are not inconvenienced. I think that is very appropriate action for a parliament to take, as we have done on those two previous occasions.

It is also interesting to note that in the case of the Canberra Advance Bank Limited (Merger) Bill 1992, which was introduced by Ms Follett, she said:

> The Advance Bank of Australia is meeting the costs associated with the preparation of this legislation.

It is interesting that Ms Follett was able to negotiate such an arrangement with the Canberra Advance Bank. It shows a very sensible piece of cooperation between the then Labor Government and the business community. The Advance Bank saw the advantages to them of having this legislation passed and so were willing to meet costs associated with the preparation of the legislation, and the government of the day was willing to cooperate in the drafting of appropriate legislation to deal with the specific circumstances of that particular merger.

That is a model which I hope will be followed in the future. It seems to me to be a very sensible approach to take. It is not recorded in the *Hansard* whether a similar situation arose in relation to the Australia and New Zealand Banking Group Limited (NMRB) Bill, but one would hope that it was. Certainly, by the time the government of the day dealt with the Canberra Advance Bank Limited (Merger) Bill such an arrangement had been made with the Advance Bank of Australia, and I think that was a commendable outcome.

Mr Speaker, this history indicates that the parliament has always been able to deal very effectively with specific pieces of legislation designed to facilitate specific bank mergers, whether it was the Australia and New Zealand Banking Group Ltd merging with the National Mutual Royal Bank or the Canberra Advance Bank Ltd merging with the Advance Bank of Australia. The parliament dealt with a specific piece of legislation which facilitated those arrangements and which was aired in public. The public had the opportunity to see, in relation to each of those Bills, what was specifically being proposed in relation to the transfers of assets and obligations, et cetera, and was able to adjudicate on the appropriateness of those arrangements before the legislation was passed. I think that is an appropriate way to go.

Mr Speaker, the current Government, by contrast, is trying to take away from the parliament this appropriate kind of scrutiny entailed in introducing a piece of legislation each and every time a bank merger is contemplated. Instead, the Government proposes a general Bill which will create general powers for the Treasurer to approve arrangements associated with a merger by regulation rather than by legislation through the parliament. I know that the Government will say that regulations are subject to disallowance in the Assembly, but I do not think anybody in this house would deny that regulations do not attract the same high level of scrutiny and the same public attention as does a Bill.

Mr Speaker, under the circumstances, I would have thought legislation rather than regulation was an appropriate way to deal with things of this kind which involve the rights, obligations and assets of individual account holders. The kinds of regulations that the Government can make under this Act are prescribed in clause 5 of the proposed Bill. Clause 5 provides for the application of regulations to be made to deal with aspects of the merger process. The regulations are the means to facilitate the merger process. The regulations can be made for or with respect to the following:

> (a) the transfer of the whole or a part of the undertaking of a bank to another bank and the vesting of the whole or that part of that undertaking in the other bank;
>
> (b) the succession of a bank as the successor in law of another bank and the effect of that succession, including the vesting of assets or liabilities;
>
> (c) the obligations of the merging banks in relation to the merger and related transactions;
>
> (d) the effect of the merger on ... existing contracts ... current or pending legal proceedings ... rights and obligations ... liabilities ...

They are the kinds of things that the Government can make regulations in relation to. Mr Speaker, it seems to me that things like this which are moving obligations around, which are affecting existing contracts, rights and obligations, liabilities, current and pending legal proceedings - things of that kind - ought to be dealt with in the most transparent way possible. The most transparent way possible is by an Act of parliament. I would have thought that it was appropriate for the Government to be proceeding down that path if they had an issue before them which required legislation of this kind.

It is interesting to note, Mr Speaker, that in the Treasurer's speech introducing this legislation no reference is made to any specific bank merger which is before the Government for action at this time, and it seems to me that this is also a bit of a departure. I do not know whether the Treasurer has a specific bank merger in mind. I suspect she has the merger of the St George Bank and the Advance Bank of Australia in mind, but I am not party to any inside information on that. Certainly, the Treasurer has never said on the public record what bank merger she has in mind that has prompted her to introduce this legislation and then to seek to rush it through parliament inside a fortnight with such pressing urgency. There is nothing in the Chief Minister's half-page speech which gives the slightest indication that there is any urgency with this legislation. If the Chief Minister really believes that there is any urgency with this legislation she ought to have made reference to that in her presentation speech.

Mr Speaker, the Opposition's view is this: If the Government wishes to introduce legislation in order to facilitate a specific bank merger it should endeavour to produce legislation dealing with that specific merger which outlines for the parliament all the rights and responsibilities in relation to that matter, so that we, as a parliament, can be certain of rights under existing contracts, rights and obligations, liabilities, current or pending legal proceedings and the other matters. The parliament should be able to understand what the Government is doing.

A specific piece of legislation dealing with a specific merger, I believe, Mr Speaker, is the appropriate way to go. That is the way this parliament dealt with the merger of the Australia and New Zealand Banking Group Ltd and the National Mutual Royal Bank. That is the way this parliament dealt with the merger of the Canberra Advance Bank Ltd and the Advance Bank of Australia. On both occasions both Ms Follett and Mr Kaine thought that that process was entirely appropriate.

Mr Speaker, the fact that Mrs Carnell has departed from the previous practice and proposed instead generic legislation where all the transfers, rights and obligations will be dealt with by regulation rather than by specific legislation for each merger, I think, is a shame. I think it is also a shame that in the process the principle established in the Canberra Advance Bank Limited (Merger) Bill 1992, of the merging bank meeting the costs associated with the preparation of the legislation, has been lost. I would be interested to hear whether the Treasurer will give an undertaking that if any regulations are brought forward regarding a merger the merging bank will meet the costs of preparing those regulations.

MR SPEAKER: The member's time has expired.

(Quorum formed)

MS TUCKER (5.23): I would like to support a lot of the comments that Mr Whitecross has just made. The Greens also are concerned about this Bill. We are concerned about what is happening in the banking industry generally in Australia and the mergers that are occurring, and the impact that that is having on local communities, particularly on small business. A number of impacts are really quite serious.

When surveys have been done we have seen that businesses dealing with the big four banks have expressed frustration at the persistently high levels of interest rates on small business loans despite high security, fees and charges and the lack of decision-making by local managers. Frequent changes of local managers also add to uncertainties. What we see with mergers is that regional small businesses are often not in a position to choose between financial institutions because almost all banks seem to be reducing their regional networks in order to pursue cost savings. In many towns there is only one bank, thus distorting the picture of which banks are, in fact, chosen, so-called. In surveys that have been done, few businesses appear to be going outside the local town if there is a branch in that town. While it is possible technically to go outside your region, it appears that that is not what small businesses are doing at this stage. With no local financial institution at all, if that is what ends up happening because of the cutting of services, costs to small businesses go up.

A report by Credit Care sought to quantify the scope and scale of these costs, and the costs are higher for businesses usually handling a lot of cash. For higher cash handling businesses, of course, the loss of the local bank branch means higher cash holdings and consequent forgone interest earned, reduced ability to pay loans quickly, extra burdens while acting as de facto banks for customers, and additional EFTPOS transactions and associated costs. The surveys that have been done also suggest that in places where the last branch closes local businesses also put off investments by not applying for loans. Superannuation is another concern. Most regional small businesses resent seeing local money being taken away to centrally managed superannuation funds and would like to see better access by regional small businesses to those funds.

There are a number of issues here that are really of concern. Of course, in the big scheme of things, the macro scene, there are worries as we see with many businesses in Australia. As you centralise and condense the ownership and there is less diversity, barriers to entry go up. It is not only killing off current competition; it is making it unlikely that new players will enter the field. I know that we keep being told about how wonderful competition is and the principles of the free market, but this is another example of what will happen. You will get a couple of major players who will do basically what they like. They will not be producing the diversity of services. They will be able to produce the services they wish to produce and the consumers are basically trapped because there are so few providers left. So, I am concerned about this Bill. I do not like the idea that these things be done by regulation. I think we need to take this whole issue very seriously. I want to see as great a transparency as possible if these sorts of issues are going to be discussed. I concur with Mr Whitecross on this and we will not be supporting this Bill.

MR MOORE (5.27): I, too, have had some concerns about this piece of legislation. My concern is particularly with subclause 5(3), which says that a "regulation made for the purpose of this section" effectively overrides other legislation. I must say that I think this is a poor practice. The matters about which regulations can be made to effect a merger are very specific. They are only after a merger is approved and only specific to a bank and to a style of merger. The regulatory power there is very limited and, like all regulations, is subject to disallowance by the Assembly.

Whilst I feel very uncomfortable with that notion and this way of preparing legislation, and I would like to highlight that for the Minister involved and for other Ministers, I am prepared in this case, because it is so narrowly defined, to allow the Bill to go through. I will be supporting this Bill. I believe it will be used only with reference to the merger that is currently proposed. There are not so many banks left that can do mergers anyway. There is probably a better way to legislate - I think Mr Whitecross made some sensible points, and I am not disagreeing with those - but on balance I have decided to support the Bill. That is not to say that they were not valid points, and I have considered them. I must say that it was a close decision. A review of the legislation as set out in clause 8 is also important. Five years after this has been used we will know that at least it is going to be reviewed. There is a requirement in the law for that to be done. Mr Speaker, although I do have some concerns about the Bill, on balance I am prepared to support it.

MRS CARNELL (Chief Minister and Treasurer) (5.29), in reply: This Bill aims to facilitate the transfer processes resulting from bank mergers. It is important to note that this Bill has nothing to do with the approval of the merger itself. *(Quorum formed)* That approval is a matter for Commonwealth agencies and Commonwealth legislation. Ms Tucker's comment that somehow this was going to make a difference to bank mergers or how many of them happened is simply not the case. Given the ACCC's views on mergers between the larger banking institutions, there can be no risk involved here for those institutions merging in the ACT under the auspices of this Bill.

Once a merger has been approved there are a number of essential processes involved in transferring accounts, contracts, assets, liabilities and other obligations to the newly formed banking institution. This Bill provides for the use of regulations, once a bank merger has been approved, to be made by the Executive to facilitate the transfer process which affects banking business in the ACT. In the past, each time a banking merger has taken place specific legislation has been enacted to deal with it. This takes up Assembly time and ties up resources of government administration and, of course, drafting, Mr Speaker - something that is very important to all of us in this place. This Bill, through the application of specific regulations, will eliminate the need for the Assembly to pass specific legislation to deal with each bank merger and so expedite the transfer processes resulting from an approved bank merger. Mr Speaker, as we know, this bank merger is between St George and the Advance Bank. I would like to thank Mr Moore for his support on this Bill. Mr Speaker, I would have thought everybody in this place would have done everything in their power to free up legislative drafting time. It is something that is fairly important, I would have thought, to everybody. To be able to do something that helps the clients of the bank specifically, and frees up legislative drafting time and frees up time in this place, I would have thought, would be supported by everyone.

Those opposite indicated that we supported the two previous bank merger Bills. I think that shows the difference between the Government and the Opposition now. We were happy to support a sensible approach, Mr Speaker, but it seems that those opposite will oppose anything. They will oppose anything just on the basis of opposing it, really, and for no good reason. Mr Speaker, I hope that the Assembly as a whole will support this Bill. It is essential for the clients or the customers of both St George and Advance Bank that this legislation be in place. I certainly hope that that is the case at the end of this debate.

Question put:

> That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9	*NOES, 7*
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 affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

POSTPONEMENT OF ORDER OF THE DAY

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

> That order of the day No. 3, Executive business, relating to the Gaming Machine (Amendment) Bill (No. 2) 1997 [No. 2], be postponed until a later hour this day.

CANBERRA CULTURAL AUTHORITY BILL 1997
Detail Stage

Clause 1

Debate resumed from 18 June 1997.

MR WOOD (5.38): I am here to talk on clause 1 of the Bill, which is not going to be agreed to. The Canberra Cultural Authority Act is going to become the Cultural Facilities Corporation Act, when eventually passed by this Assembly. Some members may know that there has been a very considerable amount of discussion on this Bill. I am grateful to all those who have taken some part in that discussion.

When the Bill was first proposed, I indicated that I was not inclined to support it and that it should be rejected. However, today, when we get down to some of the amendments, it will have my support and the support of the Labor Party, although I must say that I am not wildly enthusiastic about it. There still needs to be a lot of work done before I will be convinced that this clause ought to be put in place, with all the things that go with it. Nevertheless, I am grateful for the advice I have had from the spokespeople for the arts in the community, who have attended diligently to this Bill, my colleagues in this Assembly on the crossbenches and the Minister, who has attended to the comments that have been made.

Earlier today, the Minister tabled a fairly large range of amendments to the Bill, which may well be dealt with as a whole. As is obvious, most of those are simply related to the change in name. It has had to be changed at many points throughout the Bill. Some of the other amendments are, in part, those sought by arts people through their spokesgroup in Canberra, Artsvoice. I will not speak for those people; but it is my thought that some of them are not entirely convinced about the Bill either. However, it has broad agreement.

I will raise now - because we may be dealing with the Bill as a whole - one of the amendments I was very keen about. It relates to the committees that will now be established. Formerly, it was open for some committees to be formed. They may be formed. But now it is a requirement that the corporation "shall" constitute advisory committees. That is a very considerable improvement on what we had before, when the word was only "may".

One of my major reasons for having reservations about the Bill was my concern that important decision-making was left in the hands of a group of very competent people but not necessarily people who had close knowledge of some of the matters that might come before them. Now that the Minister has assured us that there will be advisory committees, I am much more comfortable with the Bill. But there has been a change from an earlier draft amendment to say that the corporation "shall constitute advisory committees in relation to museum collections, historic places and the performing arts". "In relation to" does not mean, as I thought we were getting before - I knew this last night, too, and I have agreed to it - that there will necessarily be three committees, one on each of those matters.

It may be that the Minister will constitute some other form of arrangement. He is nodding his head on that. So, I will be very interested to know, Minister, what other form of arrangement you may have in mind. The Minister is indicating that he has not considered it; but I hope that he adheres substantially to three discrete committees, one on each of those areas of responsibility, because I believe that that is important. When it was explained to me, I noted the change, and I was hoping that the Minister would come into the chamber in this part of the debate and enlighten me as to what was his thinking on that.

The corporation, as it is to be called, rather than "authority", will have a very significant role in arts administration in the ACT. We are told that it is not to be a policy defining role and that it is not to advise on cultural policy generally. But, given that it operates museums, galleries and a theatre centre, it is difficult to see that it is not going to have some sort of very significant role. Only in time will we see how that role is carried out and what is its relationship to other cultural bodies.

During the debate at the in-principle stage, I pointed to the fact that we were establishing an authority - now a corporation - which has considerable staffing and which is receiving resources that are going to be redirected to other places. Compare that with the Cultural Council, which has a very important role in Canberra, as I think we all acknowledge, but which is not as firmly established as this body. Inevitably, because of its stronger foundation, the corporation will become the dominant body. If that is the case, it will be a serious problem for the ACT because, as it is presently constituted, it does not have the expertise to do that.

Mr Speaker, the Artsvoice group were very keen to bring in a number of amendments; but, in the round table discussions we had, they were - "satisfied" might be too strong a word - accepting of the Minister's assurances on some of the issues discussed. Nevertheless, the Minister has given an undertaking and has produced in his amendments a reference to the fact that the corporation should include some people with a knowledge of matters cultural. The particular subclause reads:

> Before appointing a person under subclause (1), the Minister shall endeavour to ensure that the following areas of expertise are represented amongst the appointed members ...

I understand that there is to be further discussion on that. I certainly pointed out to Artsvoice this morning that "endeavour to" does not mean "will". I think there will be a further amendment to take that out in order to, in the minds of some, improve the provisions in that area. My view always has been that it does not make much difference. What is important is the calibre of the people who are appointed to the corporation. You can write all sorts of words into legislation; but you can always find a means of fitting the CV to what you want, and any appointment could be made.

I do not think that taking out "endeavour to" will make any particular difference to whom the Minister appoints. In the end, he can do pretty much as he wants. I have said to the Minister privately that the essence of this is the people he appoints. What is also important is what he says to that corporation and how he expects it, in the finer detail, to carry out its work. Nevertheless, I will support that further amendment.

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (5.48): Mr Speaker, I move amendment No. 1 circulated in my name and present the supplementary explanatory memorandum.

Ms Tucker: Are you closing the debate?

MR SPEAKER: The debate is not being closed. Mr Humphries is moving amendment No. 1. You will then have the opportunity to speak to it. I would remind all members, however, that we are in the detail stage.

MR HUMPHRIES: Indeed, Mr Speaker, we are. I move:

> Page 1, line 5, omit "*Canberra Cultural Authority*", substitute "*Cultural Facilities Corporation*".

Mr Speaker, amendment No. 1 is the change of name. Very briefly, there was concern by members of the arts community and members of this place about the connotations of the title "Authority" and about the concept of the authority having responsibility for cultural matters in Canberra. There was the view, echoed I think in an article in the *Canberra Times*, that this indicated some sort of Stalinist-type organisation. I have to say, Mr Speaker, that I wish that there were a few more Stalinists in my arts bureaucracy. I would like to see a little bit of strength in that respect - - -

Mr Wood: What does that mean?

MR HUMPHRIES: It means that I need people with resolve to move forward. However, we obviously have sensitivity about that phrase in this place - - -

Mr Wood: It is not one I used.

MR SPEAKER: If you keep interjecting, you will not be using any more either tonight.

MR HUMPHRIES: I have to say, Mr Speaker, that I still think that the title "Canberra Cultural Authority" is a better phrase than the one that is being suggested - that is, "Canberra Facilities Corporation" - for a variety of reasons. However, I want to get this legislation through. I want to get it through tonight. Therefore, I am prepared to compromise. I have moved that we replace the title "Canberra Cultural Authority", where it appears, with "Cultural Facilities Corporation".

MS TUCKER (5.50): I have been part of the round table discussions that have occurred on this piece of legislation. One of the very first concerns that came up from the arts community was the name of the Bill and its connotations. So, I will be supporting this amendment. I think it is very important that the arts community has had a voice in this whole discussion, and I would like to congratulate Mr Humphries on his approach to coming up with these agreed amendments with, particularly, Mr Wood, Mr Moore, me, himself and the arts community. I believe that we have ended up with something which has addressed a lot of the concerns of the community while probably still maintaining the essence of what the Government wanted. So, I hope that it is a good solution.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (5.52): I seek leave to move together amendments Nos 2 to 80 circulated in my name.

Leave granted.

MR WOOD (5.53): I would like to speak to this briefly. The Minister indicated, with body language, a short time ago, that he did not have any particular idea in mind about how these advisory committees might be constituted. Would the Minister like to reflect on the sorts of options he may have considered, or might consider in the future, because it is a very important part of this Bill and a very significant amendment?

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (5.53): I am not sure whether I have had leave to move my amendments together yet.

MR SPEAKER: Yes, you have.

MR HUMPHRIES: Then I move:

> Page 2, line 5, subclause 3(1), definition of "Authority", omit the definition.
>
> Page 2, line 7, subclause 3(1), proposed definition of "Corporation", insert the following definition: " 'Corporation' means the Cultural Facilities Corporation;".
>
> Page 2, line 13, subclause 3(1), definition of "member", omit "Authority", substitute "Corporation".
>
> Page 2, line 24, subclause 4(1), omit "Canberra Cultural Authority", substitute "Cultural Facilities Corporation".
>
> Page 2, line 25, subclause 4(2), omit "Authority", substitute "Corporation".
>
> Page 2, line 25, clause 5, omit "Authority", substitute "Corporation".
>
> Page 3, line 3, paragraph 5(c), omit "Authority", substitute "Corporation".
>
> Page 3, line 8, paragraph 5(f), omit "Authority", substitute "Corporation".

Page 3, line 11, subclause 6(1), omit "Authority", substitute "Corporation".

Page 3, line 13, subclause 6(2), omit "Authority", substitute "Corporation".

Page 3, line 14, after clause 6, insert the following clause:

"**Matters to be taken into account**

6A. In exercising its powers under section 6, the Corporation shall have regard to -

(a) any cultural policies or priorities of the Executive known to the Corporation; and

(b) other cultural activities in the Territory.".

Page 3, line 16, subclause 7(1), omit the subclause, substitute the following subclause:

"**(1)** The Corporation -

(a) shall constitute advisory committees in relation to museum collections, historic places and the performing arts; and

(b) may constitute such other advisory committees as it thinks necessary,

to assist in the performance of its functions".

Page 3, line 18, subclause 7(2), omit "Authority", substitute "Corporation".

Page 3, line 21, subclause 8(1), omit "Authority", substitute "Corporation".

Page 3, line 31, subclause 8(3), omit "Authority", substitute "Corporation".

Page 4, line 8, subclause 9(1), omit "Authority", substitute "Corporation".

Page 4, line 13, subclause 9(2), omit "Authority" (wherever occurring), substitute "Corporation".

Page 4, line 17, subclause 10(1), omit "Authority", substitute "Corporation".

Page 4, line 18, subclause 10(2), omit "Authority" (wherever occurring), substitute "Corporation".

Page 4, line 27, subclause 12(1), omit "Authority", substitute "Corporation".

Page 4, line 33, subclause 12(2), omit "may", substitute "shall".

Page 4, line 34, subclause 12(2), omit "Authority", substitute "Corporation".

Page 5, line 2, subclause 13(1), omit "Authority", substitute "Corporation".

Page 5, line 14, subclause 13(7), omit "Authority", substitute "Corporation".

Page 5, line 15, subclause 13(8), omit "Authority", substitute "Corporation".

Page 5, line 23, clause 14, omit "Authority" (wherever occurring), substitute "Corporation".

Page 5, line 28, subclause 15(1), omit "Authority" (wherever occurring), substitute "Corporation".

Page 5, line 34, subclause 15(3), omit "Authority", substitute "Corporation".

Page 5, line 35, paragraph 15(3)(a), omit "Authority", substitute "Corporation".

Page 6, line 1, paragraph 15(3)(b), omit "Authority", substitute "Corporation".

Page 6, line 4, paragraph 15(4)(a), omit "Authority", substitute "Corporation".

Page 6, line 6, paragraph 15(4)(b), omit "Authority", substitute "Corporation".

Page 6, line 9, subclause 15(5), omit "Authority", substitute "Corporation".

Page 6, line 15, subclause 16(1), omit "Authority", substitute "Corporation".

Page 6, line 24, clause 17, omit "Authority" (wherever occurring), substitute "Corporation".

Page 6, line 27, subclause 18(1), omit "Authority", substitute "Corporation".

Page 6, line 30, subclause 18(2), omit "Authority", substitute "Corporation".

Page 6, line 32, subclause 19(1), omit "Authority", substitute "Corporation".

Page 6, line 33, subclause 19(2), omit "Authority", substitute "Corporation".

Page 7, line 5, clause 20, definition of "business plan", omit "Authority", substitute "Corporation".

Page 7, line 10, clause 21, omit "Authority", substitute "Corporation".

Page 7, line 12, paragraph 21(b), omit "Authority", substitute "Corporation".

Page 7, line 14, subclause 22(1), omit "Authority", substitute "Corporation".

Page 7, line 18, paragraph 22(1)(b), omit "Authority", substitute "Corporation".

Page 7, line 21, paragraph 22(1)(c), omit "Authority", substitute "Corporation".

Page 7, line 23, subclause 22(2), omit "Authority", substitute "Corporation".

Page 7, line 28, subclause 23(1), omit "Authority" (wherever occurring), substitute "Corporation".

Page 7, line 31, subclause 23(2), omit "Authority", substitute "Corporation".

Page 8, line 3, paragraph 23(4)(a), omit "Authority", substitute "Corporation".

Page 8, line 4, paragraph 23(4)(b), omit "Authority", substitute "Corporation".

Page 8, line 5, subclause 23(5), omit "Authority" (wherever occurring), substitute "Corporation".

Page 8, line 9, subclause 23(6), omit “Authority”, substitute “Corporation”.

Page 8, line 12, paragraph 23(6)(b), omit “Authority”, substitute “Corporation”.

Page 8, line 18, subclause 23(7), omit “Authority” (wherever occurring), substitute “Corporation”.

Page 8, line 30, subclause 24(1), omit “Authority” (wherever occurring), substitute “Corporation”.

Page 8, line 32, subclause 24(2), omit “Authority”, substitute “Corporation”.

Page 8, line 36, paragraph 24(3)(a), omit “Authority”, substitute “Corporation”.

Page 8, line 37, paragraph 24(3)(b), omit “Authority”, substitute “Corporation”.

Page 9, line 1, subclause 24(4), omit “Authority”, substitute “Corporation”.

Page 9, line 5, subclause 24(5), omit “Authority”, substitute “Corporation”.

Page 9, line 8, paragraph 24(5)(b), omit “Authority”, substitute “Corporation”.

Page 9, line 13, subclause 24(6), omit “Authority”, substitute “Corporation”.

Page 9, line 28, subclause 25(1), omit “Authority”, substitute “Corporation”.

Page 9, line 31, subclause 25(2), omit “Authority”, substitute “Corporation”.

Page 9, clause 26, omit “Authority”, substitute “Corporation”.

Page 10, line 2, subclause 27(1), omit “Authority”, substitute “Corporation”.

Page 10, line 5, subclause 27(2), omit “Authority”, substitute “Corporation”.

Page 10, line 7, subclause 27(3), omit "Authority", substitute "Corporation".

Page 10, line 8, subclause 27(4), omit "Authority", substitute "Corporation".

Page 10, line 11, subclause 27(5), omit "Authority", substitute "Corporation".

Page 10, line 14, subclause 28(1), omit "Authority" (wherever occurring), substitute "Corporation".

Page 10, line 24, clause 29, omit "Authority", substitute "Corporation".

Page 10, line 29, paragraph 29(b), omit "Authority", substitute "Corporation".

Page 11, line 5, paragraph 31(1)(a), omit "Authority", substitute "Corporation".

Page 11, line 7, paragraph 31(1)(b), omit "Authority", substitute "Corporation".

Page 11, line 8, paragraph 31(1)(c), omit "Authority", substitute "Corporation".

Page 11, line 15, subclause 31(2), omit "Authority", substitute "Corporation".

Page 11, line 18, subclause 31(3), omit "Authority", substitute "Corporation".

Page 11, line 25, clause 32, omit "Authority" (wherever occurring), substitute "Corporation".

To answer Mr Wood's question, it seems to me that at this stage it is conceivable that there would be three committees of the kind referred to - one on museum collections, one on historic places and one on the performing arts. At this stage, that is what I imagine we would do, but I could not assure the house that that is what will happen.

Mr Speaker, the rest of the amendments are consequential. We are inserting, in new clause 6A, matters that the corporation should take into account, including cultural policies of the Executive and other cultural activities. Some might say that to require the corporation to take into account the cultural policies or priorities of the Executive is a slightly Stalinist concept in itself. But that is what the arts community want; so, I am very obliging and will go along with that.

MR WOOD (5.54): Mr Speaker, I thank Mr Humphries for the indication he made. This legislation will now say that we will appoint these committees. I expect that they will be appointed fairly soon and that there will be no undue delay on those appointments. The time of this Assembly is running out, although I anticipate that the Minister, who already has a great body of names in front of him, will be moving to fill these positions by the time of the next sitting.

Amendments agreed to.

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (5.55): I move:

> Page 13, line 17, Schedule 2, subclause 2(2), omit the subclause, substitute the following subclause:
>
> "**(2)** Before appointing a person under subclause (1), the Minister shall endeavour to ensure that the following areas of expertise are represented amongst the appointed members:
>
> (a) experience consisting of working in a cultural or heritage field;
>
> (b) knowledge of financial grants problems related to cultural or heritage matters.".

Mr Speaker, this is about ensuring that the corporation's board has on it people from a range of experiences, but particularly experience in actually working in a cultural or heritage field, such as an arts practitioner of some sort, and experience or knowledge of financial grants programs, such as is involved in the administration of the Cultural Council. So, people having those experiences should be on the board. I indicate that I will support the amendment that has been circulated by Ms Tucker to make that mandatory rather than merely suggestive.

MS TUCKER (5.56): I move:

> Proposed new subclause 2(2), omit "endeavour to".

This amendment is to remove the words "endeavour to" from the clause Mr Humphries just referred to. It just makes it a little bit tighter and hopefully will ensure that the membership of that committee will indeed reflect the broad cross-section that was certainly the wish of the community members who have spoken to us and that there is a fairly clear indication in the legislation that the preference is that people from the cultural and heritage groups be represented in that membership.

There is one other issue I would like to raise. I would like Mr Humphries, in his wrapping-up speech - I hope that he is listening - to confirm for the Assembly what he said to us at the round table. On the matter of the register of people interested in membership, Mr Humphries said that he would be very prepared to hold such a register and keep it updated. So, I hope that Mr Humphries can confirm that for us in this debate.

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage) (5.58): Mr Speaker, I did forget to say that, and I correct that now. I do undertake that there will be a register maintained, which will be open for inspection should anyone wish to look at it. It will contain the names of those people who express an interest in serving and other details of people who express an interest in serving on either the CFC board or one of the advisory committees which are referred to in section 7 of the Act.

Amendment (**Ms Tucker's**) to Mr Humphries's amendment agreed to.

Amendment (**Mr Humphries's**), as amended, agreed to.

Amendments (by **Mr Humphries**, by leave) agreed to:

> Page 15, line 4, Schedule 2, subclause 6(4), omit "Authority", substitute "Corporation".
>
> Page 1, title, omit, "**Canberra Cultural Authority"**, substitute "**Cultural Facilities Corporation**".

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

Bill, as amended, agreed to.

SUSPENSION OF SITTING

MR CORBELL (6.00): Mr Speaker, I seek leave to move a motion.

Leave granted.

MR CORBELL: I move:

> That the Assembly suspend for one hour.

It is my understanding, Mr Speaker, that the Government wants to continue on with some of its business this evening and that there are some Bills that it wants passed. We are happy to facilitate that. However, we believe that it is appropriate that the attendants in this place, who have been on duty since 1.00 pm today, and also the staff of members have a break. We think it is unreasonable that the Government is requesting that those people work straight through until at least half past eight this evening. We believe that a one-hour suspension is sensible, for restoration of some people's sanity, and for the attendants to take that break. Members may very well say that they will be here until later this evening, and have been later on other nights; but that is by choice. The attendants and staff do not have a choice. We believe that it is appropriate that we give them the opportunity for that break and that we suspend the sitting for one hour and resume at 7 o'clock and get on with the business of the chamber.

MR HUMPHRIES (Attorney-General) (6.01): I have to say that I oppose this motion. I appreciate that there are pressures placed on staff of this place - people who work very hard, for long hours, to support members. However, it is also very clear to me that we have been sitting for two weeks and that very little Government business has been done in those two weeks.

Mr Berry: It is not our problem.

MR HUMPHRIES: It is your problem, because most of the delay has been caused by you - particularly you personally, Mr Berry. Mr Speaker, it is the Government's desire to push on with this as much as possible. We are beginning to make some headway here. We have now passed two Bills - which is a record, I think, for a day so far this fortnight - and we would like to pass a few more.

MR BERRY: Mr Speaker, I seek leave to make a personal statement, pursuant to standing order 46.

MR SPEAKER: Yes.

Mrs Carnell: If you have time to do this, you will sit through.

MR BERRY: You should not provoke it by making untrue statements. Mr Speaker, Mr Humphries just accused me of delaying the business of this house. He has offered no substantiation for this claim. I just want to make it clear that that is quite untrue.

MR MOORE (6.03): I take the point that Mr Corbell has raised; but I must say that the reason we have got to this stage, as far as I am concerned, has been the approach taken by Labor today. They realised that there was a full program - - -

Ms McRae: When?

MR MOORE: However, I take the point, anyway.

MRS CARNELL (Chief Minister) (6.03): Mr Speaker, Assemblies work only if there is a bit of goodwill existing on the floor. It would have been easy enough for us to push ahead with the gaming legislation earlier today when Mr Berry was not here. But, even after the absolutely ridiculous situation of Tuesday, we decided that it was in the nature of good government to allow the people involved to actually be present for that Bill. Those opposite filibustered.

I understand that Mr Humphries went and spoke to a number of people with regard to pushing on, to allow people to do some of the things that they have committed to later on tonight. On that basis, Mr Speaker, in the interests of goodwill, I went upstairs, ordered pizzas for both sides of the house and for the attendants and so on, out of my budget - not that I mind at all, Mr Speaker - because, even though we will hopefully rise at half past eight or nine, in time for people to go and get some dinner or whatever, it really comes down to having some goodwill and some decency and accepting that there have to be agreements reached and people have to stick by them. That is all we are asking for.

MR CORBELL (6.04), in reply: Mr Speaker, first of all, there was no agreement asked for of us on that matter. Secondly, question time today took an hour and 15 minutes, and overwhelmingly that hour and 15 minutes was the result of the incredibly long answers provided by the Executive. Equally, Mr Speaker, it is a matter of decency that staff in this place are entitled to a break. They have no choice.

Mrs Carnell: Have you asked the staff whether they want to have a break or to get home early?

MR CORBELL: Yes, we have asked the staff, actually, Chief Minister. They believe that they are entitled to a break. I think that is a quite reasonable request. Finally, Mr Speaker, may I say that staff in this place do not have a choice; we do. We have a choice; but they do not, and they have to stay here.

Mrs Carnell: The staff can have a break at any time they want.

MR CORBELL: They cannot break whenever they want, Chief Minister. If we continue sitting, these people have to continue sitting in this chamber.

Mr Speaker, there are 12 Bills on the notice paper today. This Assembly and this chamber nearly closed down early on Tuesday because the Government did not have enough business. It has crammed 12 Bills onto the notice paper, and is now crying foul because we are trying to stop it. It is just absurd. If you cannot manage your business, that is your problem; but do not ask the staff in this place or the attendants in this place to deal with the consequences of your poor management. A one-hour break after a sitting that resumed at 2.30 this afternoon is not an unreasonable ask. Staff and members can come back into this place and deal with the Bills that the Government wishes to have dealt with; but do not try to bully members of the Opposition and staff in this place to continue on, simply because you cannot manage your business.

Question resolved in the affirmative.

Sitting suspended from 6.07 to 7.07 pm

GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1997 [NO. 2]

Debate resumed from 2 September 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MRS CARNELL (Chief Minister and Treasurer)(7.07), in reply: Mr Speaker, this Bill will strengthen the accountability and the reporting requirements of clubs with gaming machines with regard to their community contributions and club investments. The Bill provides for the appropriate Minister to table in the Assembly an annual report of community contributions by clubs. The Bill also provides for other amendments which deal with the installation and the technical evaluation of gaming machines.

At present there is a lack of requirements for clubs to be fully accountable for their operations and to provide relevant information to the Revenue Office under the Gaming Machine Act. This lack of detailed financial statistics from clubs makes it difficult to obtain an accurate picture of the industry's performance, in particular how clubs' funds are spent, especially on community groups. As clubs currently have monopoly rights on gaming machines, there is a strong expectation from the Government and the general community that profits earned directly or indirectly from gaming licences will be used for the benefit not only of members of the clubs but also of the general community. This Bill is one step closer to achieving this aim. Although the Commissioner for ACT Revenue currently has the power to request some data from clubs, the proposed changes are considered necessary to provide certainty and consistency to clubs with regard to record keeping. This will enhance the transparency and accountability of clubs and the level of commitment of clubs to members and to the wider community generally and will streamline operational processes.

I believe very strongly that this piece of legislation will go a long way towards making it very clear to the Canberra community that clubs are contributing significantly to the wellbeing of this community. It goes somewhat further than that. Under the requirements of national competition policy, of course, there needs to be demonstrated community benefit for any legislation that does not create an open market. If we are restricting poker machines to clubs only, then those clubs must be able to show demonstrated community benefit and the Government must be able to show demonstrated community benefit when we are discussing issues of national competition policy with the ACCC.

As a society generally, not just in the ACT, Australians like to have a bit of a gamble. There is nothing wrong with that as long as you do it in moderation, but surely there should be some community benefit from the profits of that gambling. Poker machines are a very obvious way to ensure that that is the case. Clubs have told us for years - and I am confident that in most circumstances it is the truth - that they contribute significantly to the community. I know from my own experience of clubs that that is the case. There are quite significant contributions to sport. Just the other day I was at the Southern Cross Club when they distributed their annual community donations. I think they have given something like $1.6m over the last 15 years or so to small community groups that would otherwise not get that sort of support.

The clubs do all sorts of very good things. They now have an opportunity to put that together and put down in writing to be tabled in this Assembly just how much they contribute to the community. Most importantly, they now have an opportunity to show that their monopoly of poker machines is something that this Assembly should continue to support on the basis that the benefit to the community is demonstrable. That is really what this is about, as well as obviously the other technical amendments.

In conclusion, the measures contained in this Bill will assist the Government in developing appropriate policies and guidelines relating to the club industry and further demonstrate the Government's commitment to greater efficiency and timeliness in the process of regulation and approval of gaming machines. A lot of the work that comes together

in this Bill came out of the joint Government-industry working party. I would certainly like to thank all of those people involved in the working party. I think that this is a good Bill. It makes clear to the community just what the clubs are contributing and just why their monopoly on poker machines is in the community's best interest.

MR BERRY (Leader of the Opposition) (7.13): I seek leave to speak on the in-principle stage.

Leave granted.

Mrs Carnell: We are much nicer than you are.

Ms McRae: That will be the day.

MR BERRY: As you say, Ms McRae, that will be the day. You should have a look at yourself in the mirror one day, Mrs Carnell.

Mr Speaker, this legislation will be opposed by the Labor Party. The licensed clubs, of course, would not oppose this, because then they would be accused of trying to hide something.

Mr Moore: Someone could accuse you of a conflict of interest.

MR BERRY: They will not come out en masse and say that - - -

Ms McRae: Mr Speaker, I raise a point of order. Does your ruling about no interjections still stand or not?

MR SPEAKER: Yes, it certainly does. I refresh everybody's memory.

MR BERRY: Clubs that would willingly give information about this matter but have not been approached would be puzzled by the attitude of members in this Assembly. Let us go back to some of the matters of historical significance. The struggle between the Government and the licensed clubs began when Mrs Carnell indicated that she was about to break a promise made before the last election - a promise not only made by Mrs Carnell but also made by Mr Stefaniak - that she would not change the arrangements which applied to poker machines as between licensed clubs, pubs, the casino and so on. Mr Hird would remember that clearly, as a prominent person around some clubs in the ACT. I recall it very clearly and I recall the joy of my local club at - - -

Mr Hird: The Labor Club.

MR BERRY: No; my local club is the West Belconnen Leagues Club, Mr Hird. I distinctly recall their joy at the prospect of neither major political party undoing the longstanding relationship about poker machines in the ACT. But not long after, Mrs Carnell was on a course of abandoning her promise. Mr Stefaniak, who had promised the same as she had, was not able to put the brakes on her, or was not trying,

and pretty soon a confrontation developed between the licensed clubs and the Liberal Government opposite. There were some threats that the Government might introduce poker machines into the casino and there was also a move by the Australian Hotels Association, which has provided patronage for Mr Moore. They were in a dispute with the licensed clubs as well.

This became a squabble between two sections of the industry - the for-profit sector and the not-for-profit sector. Usually Mrs Carnell supports the not-for-profit sector. She waves them around as some banner whenever she is about to do some particular public function. But in this case Mrs Carnell was concerned about the licensed clubs. Indeed, fingers were being pointed, quite illegitimately, at the clubs, I suspect mostly over the association of a couple of clubs with the Labor movement at one level or another. That is when the argument became fairly politicised. It was not really about finding out what clubs do in the community; it was about doing over the clubs as time went by.

I was proud to have participated in the campaign which defeated the Chief Minister out there in the community and demonstrated for the licensed clubs that the Liberals were prepared to tell them or anybody else anything before an election and do what they like after it. They misled the community and they misled the licensed clubs. They will not be forgotten for that, I am proud to say. The confrontation between the clubs and the Liberals led us to this silly piece of legislation.

I was reading through the introductory speech and I noticed throughout this document that it mentions only clubs and says that this will apply only to clubs. I thought I would have over some people from the department to advise me on this matter, and I am pleased to say the Government provided people to brief me. I had a few interesting questions to ask. I said to them, "Does this Bill not apply to hotels as well?". I was informed that that was an unintended consequence, but it does in fact apply to hotels. I thought to myself, "Why does it not apply equally?". It looks highly discriminatory in its application.

I go back to a provision in other legislation earlier this week in relation to ministerial decisions. Mr Moore might recall this. I refer to proposed new section 54A, under the heading "Records of charitable donations", which reads:

> (1) A licensee shall keep records of all contributions donated -
>
> (a) to a charitable organisation;
>
> (b) for a charitable purpose; or
>
> (c) to an organisation declared by the Minister by notice in the *Gazette* to be an organisation for the purposes of this section, being an organisation that has as its principal purpose the benefit of the community or a section of the community.

(2) A licensee shall, in the record under subsection (1), specify -

(a) the organisation to whom, or the purpose for which, the contribution is donated; and

(b) the amount or value of the contribution and the date on which it was donated.

(3) A declaration under paragraph (1)(c) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1987*.

Having examined that issue, I thought to myself, "What if the Minister refused to declare an organisation in the *Gazette* as is provided for in the legislation?". Nothing would happen. The Minister has total power. The other day we had a debate in this place about legislation in relation to occupational health and safety. The Minister has certain powers under the Occupational Health and Safety Act to grant certain exemptions, but if he refuses to grant an exemption there is a right of appeal to the Administrative Appeals Tribunal. This particular provision in the Gaming Machine (Amendment) Bill is draconian and gives the Minister far too much power. It must be remedied. Otherwise, all of the power will lie with the Government in relation to what is an organisation entitled to be in the *Gazette* and what is not an organisation entitled to be in the *Gazette*. I have circulated some amendments which deal with that issue.

The proposed new section on records of charitable donations is fairly narrow in its view of the sorts of donations that ought to be recorded. For example, it misses out on the members of clubs, as if they were not in the community. It also misses out on sporting organisations. I have taken care of that by dealing with community organisations, sporting organisations and club members in a different way.

There are other issues at large in this legislation which I will deal with in the detail stage, but there is one burning point of significance that this legislation gives rise to. On my recollection of the club industry, it was never intended that clubs would be measured in their performance by the way they made contributions from their profits to the community at large. On my recollection of this legislation and the way the clubs operate in the ACT, it was always intended that the clubs, subject to their constitution, would perform in the interests of their particular members or owners. Therefore, the club, the corporate body, would make decisions about the allocation of funds to members for particular social, sporting or community benefits and they would continue to operate as a monopoly in relation to gambling machines.

It has become of interest to Mr Moore and others that the Labor Club supports the Labor Party. In Mr Moore's view, a club can exist for a community purpose as long as it is not a political one, unless it supports his political aspirations. Hell might freeze over before we get to that point. The facts of the matter are that these clubs have been operating in this environment for a long time, and this legislation seeks to set the scene for a different set of arrangements to apply to clubs. Clubs, in defence of their monopoly on

poker machines, quite rightly say that their performance in the community is better than the performance of others - say, the casino or the hotel industry - whether it is by way of benefiting their members or by way of special purpose community grants. I think that is fairly clearly so. They do operate in a sheltered environment created in recognition of the community contributions they make.

I suspect that this debate may never have occurred if at the same time as the Labor Party decided to set up a social club in the ACT the Liberals had set one up, the Greens had set one up and Michael Moore had enough people interested to form a club with him, the Michael Moore club. I suspect that we would not be in this particular predicament at this point and there would not be any of this phoney worrying about what clubs contribute to the community. After all, how would the Liberals like a piece of legislation in the ACT which required every business to tell the Assembly what contributions they made to the community? How would you like that? This is a business that provides a particular social outcome for its members by way of its profits. Other businesses provide profits to their owners.

Mr Speaker, I am speaking by leave and my understanding is that I have open-ended leave to speak.

MR SPEAKER: No.

MR BERRY: I do. I sought leave to speak and I was granted leave. Mr Speaker, I just want to know what the position is.

MR SPEAKER: You have the normal speaking time.

MR BERRY: That was not the condition of leave. I sought leave to speak in - - -

Mr Moore: If you think it was something different, seek leave to speak now.

MR BERRY: Mr Speaker, is Mr Moore running the show or are you, sir?

MR SPEAKER: Order! The time allowed for the person introducing the legislation is 20 minutes. Everybody else has 15 minutes.

MR BERRY: That is right, Mr Speaker. Mrs Carnell closed the debate. I sought leave to speak.

MR SPEAKER: That is right. For the in-principle stage of a Bill it is still 15 minutes.

MR BERRY: Thank you, Mr Speaker. This is a phoney Bill, born out of poisonous circumstances and intended to injure the club movement and satisfy the political aspirations of some in this place. It will not be supported. It is unfair in its application to the licensed clubs. It enforces an unfair bureaucracy on the licensed clubs and the licensed hotel industry, which should in all respects be the same. Some of my amendments deal with that issue. I expect that there will be some resistance to the full application of this legislation to the hotel industry, but there should not be.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 10	*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 Stefaniak	
Ms Tucker	

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR BERRY (Leader of the Opposition) (7.35): I seek leave to move together amendments Nos 1, 3 and 4 which have been circulated in my name.

Leave granted.

MR BERRY: I move:

Page 2, line 15, clause 4, paragraph (b), proposed definitions of "community organisation" and "sporting organisation", insert the following definitions:

" 'community organisation' means a non-profit organisation, whether incorporated or not, that has as its principal purpose the benefit of the community;

'sporting organisation' means an organisation, whether incorporated or not, that has as its principal purpose the conduct of sporting activities;".

Page 4, line 1, clause 8, proposed paragraph 54A(1)(b), omit "or".

Page 4, line 2, clause 8, proposed paragraph 54A(1)(c), omit the paragraph, substitute the following paragraphs:

"(c) to a community organisation;

(d) to a sporting organisation; or

(e) if the licensee is a club - to the club members.".

These amendments go to that issue I mentioned in my speech - ministerial or Executive power. The Gaming Machine (Amendment) Bill enables the Minister, by notice in the *Gazette*, to declare an organisation "to be an organisation for the purposes of this section, being an organisation that has as its principal purpose the benefit of the community or a section of the community". It is very plain that this puts in the Minister's hands the power to prevent certain organisations from being regarded as organisations that have as their principal purpose the benefit of the community or a section of the community. If the Minister refuses to declare an organisation there is no right of appeal set out. By contrast, the Occupational Health and Safety (Amendment) Bill we debated the other day had the clear appeal right structured into it. Where the Minister refused to declare, then a right of appeal to the Administrative Appeals Tribunal was available. I have fixed that up in this Bill.

My first amendment includes in the interpretation clause a definition of "community organisation", which it describes as "a non-profit organisation, whether incorporated or not, that has as its principal purpose the benefit of the community", and a definition of "sporting organisation", which it describes as "an organisation, whether incorporated or not, that has as its principal purpose the conduct of sporting activities". In my amendment No. 4 I have struck out proposed paragraph 54A(1)(c), where the ministerial authority can be found, and, instead, included paragraphs which point to a community organisation, to a sporting organisation or, if a licensee is a club, to the club members. Let me explain that. The reason I have done that is that, if a community organisation, incorporated or not, feels that it makes a contribution to the community, the club - not the Minister - should be the one to make the decision in relation to whether it is something it wishes to contribute to or not.

Mr Moore: It can. It can do what it likes.

MR BERRY: Mr Moore squawks, "Who cares?". The fact of the matter is that just yesterday Mr Moore was arguing about the unfettered right of Ministers to make decisions without appeal, but you are prepared to cop it here.

Mr Moore: That is not what I said.

MR BERRY: Mr Moore interjects, "That is not what it says". I will give you a little lesson in what it says, Mr Moore. Take the time to read the legislation; do not guess what it means. Paragraph (c) reads:

(c) to an organisation declared by the Minister by notice in the *Gazette* to be an organisation for the purposes of this section, being an organisation that has as its principal purpose the benefit of the community or a section of the community.

Where is the right of appeal in the legislation, Mr Moore, if the Minister refuses to declare an organisation? There is none there. I think even you would have to agree with that, notwithstanding your fixed view on the legislation. What I have set out to do here is to make sure that community organisations that seek to be part of this distribution of funding can be released from the control of the Minister. The amendments that I have proposed quite plainly make it possible for the club to decide to whom it should donate.

Mrs Carnell: Including its members? Make a quid and just distribute it to your members?

MR BERRY: No. Mrs Carnell, you should read your own legislation before you come into this place.

Mrs Carnell: I have read your amendments.

MR BERRY: Read your own legislation before you come into this place. Have a look at the interpretation clause, clause 4. Just turn it over and have a look at what "contribution" is defined as. "Contribution" means any money, benefit, valuable, consideration or security. That would apply in respect of a club's members. Mrs Carnell seems to think club members are not members of the community and they are to be excised from this whole arrangement. How can you sit over there with a straight face and say that a club raising funds to provide facilities for its members - tens of thousands of them - is not performing a function for the community of those members?

The approach that I have taken here is to ensure that this unfettered power by the Minister is taken away. I get the feeling that there will be an attempt by Mr Moore to retain it in the legislation; but it seems to me that, if you hand over to the Minister the power to decide who can be the subject of these donations, then you are giving away far too much authority, taking authority away from the community. These amendments are worthwhile amendments which would provide a positive for what is a tawdry piece of legislation designed to create difficulty for the club industry.

MR MOORE (7.43): I find it most interesting that I was booted out of this place for accusing the Labor Party of having a conflict of interest, and for not withdrawing the accusation. Of course, it was the not withdrawing that was the critical factor. The irony is not to be missed after listening to the speeches that Mr Berry has made on this issue. Those speeches, of course, were peppered with things that were not quite accurate.

I will use an example from Mr Berry's speech to illustrate my point. He suggested that if a Michael Moore club had been formed the vote would go a different way. No, it would not, Mr Berry. I would not vote differently. I would not vote at all. I would stand aside from the vote. If there were a Michael Moore club, a club that I was involved in or a club that was making a major contribution to my election campaign,

I would stand aside, because I would consider that under such circumstances I would have a conflict of interest. If there were a Michael Moore club to get me re-elected and to keep me supported in this Assembly, I would have a conflict of interest. It amazes me that people in the same situation as I would be in if there were a Michael Moore club do not recognise a similar conflict of interest.

A conflict of interest is what this question is about. I have a great deal of respect for my colleague Paul Osborne, who has stood aside from votes on such issues again and again.

Mr Berry: I raise a point of order, Mr Speaker. I think Mr Moore is blatantly breaching standing orders. I cannot recall the number of the standing order, but it concerns the issue of conflict of interest. Conflict of interest is decided by the Assembly, not by accusations across the floor. If Mr Moore wants to move a motion that members have a conflict of interest, he should do so.

MR SPEAKER: There is no point of order. There is nothing in standing orders that talks about this.

MR MOORE: I was talking about my having a conflict of interest. I take the point that Mr Berry is raising about such matters being decided by the Assembly. I am saying that, from my perspective, if I were - - -

Mr Berry: Mr Speaker, I draw your attention to standing order 156. I knew my memory served me correctly. I just could not think of the number before.

MR SPEAKER: I have standing order 156 here. It states:

> A Member who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory or a Territory authority shall not take part in a discussion of a matter, or vote ...

It seems to me that what we are discussing here is the Gaming Machine (Amendment) Bill.

Mr Berry: Mr Speaker, the point I am raising is that Mr Moore is making accusations about a conflict of interest.

MR MOORE: I am talking about myself.

MR SPEAKER: Mr Moore is making statements about a conflict of interest.

Mr Berry: Mr Speaker, if he makes accusations about anybody else in this place, I would ask that you draw his attention to that standing order and ask him whether, if he is so committed to the cause, he would like to move a motion in that respect.

MR MOORE: Mr Speaker, I understand standing order 156. But, if I were getting large sums of money from my club to help my election campaign, then I would consider that morally I had a conflict of interest. That probably would not be inconsistent with standing order 156. I do not care. I am saying that, from the community perspective, I would have a terrible conflict of interest.

I was drawing attention to my colleague Paul Osborne. I think the fact that he has stood aside on such issues is to be admired. In the terms of standing order 156, he will have to make his own decision about that. I am not going to at this stage, unless he requests that I do so as part of a vote in the Assembly. If I were getting large sums of money, say up to $1m over a three-year period, from the Michael Moore club that Mr Berry talked about earlier, then I would have to say that I would have a conflict of interest. I would consider that $1m towards my campaign would have some influence on the way I thought. I would not want to slow down my milking cow or $1m coming towards me for my election campaign or to support the structure of my organisation. I would have to admit to the community that I had a conflict of interest. I would not have the gall to stand here and say, "I do not have a conflict of interest. I can deal with these matters. It is not a problem".

In addressing amendment No. 3, Mr Berry referred to the terrible unfettered power that the Minister is going to have in gazetting a notice that will be subject to disallowance under the Subordinate Laws Act. All any member in this Assembly has to do is say, "I do not like what the Minister has done there. I will disallow it completely and not let him have it; or, better still, I will amend it. I will turn it around on him a bit". Provided it is consistent with the original, you have those two choices. I would hardly consider this an unfettered power. This is not an unfettered power. It is a power that was fettered in this Assembly when Mr Connolly - I was going to say "when Labor was in government", but it was actually Mr Connolly - put through a very good piece of legislation that I later amended to allow us to amend rather than simply to disallow.

Another very important issue is the distinction between what is voluntary and what is required. Nobody is stopping a club doing all those things that Mr Berry wants them to do. They can continue doing those things. They can put their money where they like. However, in certain circumstances as set out in the legislation they are required to keep records on contributions to charitable organisations declared as such by the Minister by a notice in the *Gazette* that is subject to disallowance. That seems to me to be a perfectly reasonable thing. Let them go and do all those other things they want to do. If they want to record the money they put into sports clubs or any other sort of organisation as they wish, let them put it in their annual report. I think it would be very interesting to read where clubs put their money. In many cases they put it in very sensible places that make a great contribution to the community. I do not think anybody is denying that. But it is important for us to understand where the money from these organisations goes.

Why is it important? It is important because this community has said, "We are not going to tax clubs in the same way as other organisations within the community that do the same sorts of things as they do". We have given them a fantastic tax break. Let us see whether their contribution to the wider community or in this specific narrow area is worthy of a tax break. If they want to give us more information, I am open to that. I think it is fantastic. I think this Bill is very sensible and the amendments very silly.

MR OSBORNE (7.51): Perhaps my situation is a little bit more clear cut than the Labor Party's. As I have said before in this house, I do not feel that I have any conflict of interest under standing orders. However, public perception is of concern to me. I play football for a leagues club. I am paid money to play football for them. On the other hand, my sponsor, West Belconnen Leagues Club, is a poker machine company, so I am in a situation where I cannot win one way or the other, and a number of months ago I made a conscious decision not to vote one way or the other on anything to do with gaming machines. During the break I had a look at the *Hansard* record of what I said a number of months ago and felt that I needed to be consistent on the issue.

My decision was a lot easier than the Labor Party's. They are not paid personally. I am paid by a leagues club to play football. I have been with them since 1992. I do not want there to be any perception that I am favouring them one way or the other, so I have chosen to opt out. I think the decision for the Labor Party is up to them. If they feel comfortable in voting on these issues, then I think that is fine. I do not feel comfortable and I would not like anyone to point their finger at me one way or the other on the issue of poker machines.

MS TUCKER (7.53): I am very interested in this whole debate because I know my office, for some period, was actually trying to get a real understanding of exactly what clubs were doing when we first became interested in the issue of poker machines and whether or not they should go into pubs or stay with the clubs. I also, of course, then became aware of the taxation situation, the mutuality principle and so on. It is something we have had an interest in for quite a number of months, probably close to a year now.

I think this is a very useful Bill that has been proposed by the Government. I do have concerns about Mr Berry's amendments, however. He was kind enough to give me a copy of the annual report of the Labor Club and it was quite clear from that that political donations are made. I think that is fine. Obviously, clubs make donations to whomever they want. The issue that I believe is of interest to the community is that, if clubs continue to claim under the mutuality principle an exemption from taxation to the degree that they have been, there needs to be a very clear account of why they are asking for that. We know that there are huge issues for private sector pubs, taverns and so on competing with clubs. They are finding it almost impossible to compete because of the way poker machine income can subsidise food and alcohol.

There are a lot of very serious issues. If we are going to continue to allow clubs to have a special place in our society, then it is quite appropriate that they make very clear to us exactly where their community work is and where this money is going. I do not think the way that Mr Berry is trying to broaden this Bill is in the interests of that information.

MRS CARNELL (Chief Minister and Treasurer) (7.55): The view that the Bill somehow means that sporting clubs - which, of course, have been responsible for an enormous growth in sport in the ACT, particularly in junior sport - cannot make donations is obviously wrong. Paragraph (c) of proposed section 54A(1) makes it very clear that the Minister can gazette organisations that operate for the good of the community or part of the community. Mr Moore has addressed that issue very well. Such a gazettal notice can be amended by the Assembly, so the Assembly can determine what it wants with regard to those organisations.

Ms Tucker really hit the nail on the head when she spoke about tax rates. Clubs get a very special rate of company tax and poker machine tax. The ACT now has the lowest poker machine tax rate in Australia for clubs. ACT clubs also have a monopoly on poker machines, the only monopoly left in Australia now. I think it is very important that everybody in this Assembly and everyone in the community look very seriously at those two very special benefits that our clubs have. Under national competition policy but also under fairness and equity principles, which I know that the Greens and Michael Moore look at very seriously, we have to look at what those special benefits clubs are getting actually produce for the community.

Ms Tucker made the point that it is often very hard for private sector function rooms, restaurants and taverns to compete directly with clubs. That can often be the case, because the clubs have very special circumstances - a very different tax rate, a very different poker machine tax rate and a monopoly on poker machines. If the club industry, with those benefits, is competing with the private sector, I believe it has a special obligation to show that the benefits being given to it lead to a real benefit not just for club members but for the wider community. I am confident that people who use taverns regularly would perceive that their local tavern does a real community service for them. Taverns and hotels have told me they contribute to the community as well, which is the reason I am very happy to have them covered and declare what they give to charity, which I know that they are very happy to do.

What we need to be able to do is weigh up from the information on the table exactly what the community is gaining by our giving very special tax breaks and a very special monopoly to one group of organisations, the clubs. I take that very seriously, the Liberal Party take that very seriously and it appears that the crossbenches do too. Without this sort of information, I do not believe we can make that important decision on whether a very low company tax rate, a special poker machine tax rate and a monopoly for clubs are worth it and are giving a community benefit. With the passing of this legislation requiring the reporting of charitable donations, I think we will have more of the information we will need.

MR BERRY (Leader of the Opposition) (7.59): I see that the ACT Government has taken on a new role - company taxes. Mrs Carnell seems to be a little bit askew about her powers in relation to taxes. The ACT Government cannot affect company taxes. Mrs Carnell also completely ignores the community benefit which flows to members of clubs through their membership of clubs. She very clearly wants to separate the benefit which flows to the community outside the normal operating arrangements of the club for its members. That means that what Mrs Carnell wants to do is to influence clubs to have a good record of contribution to the community by taking away benefits from their members and giving them to other groups in the community.

I am sure all the tens of thousands of club members will be terribly enthusiastic about that. They will also be very enthusiastic about the fact that they are not treated as members of the community anymore; by this legislator, they are treated in some other way.

Mrs Carnell: They get the benefits of the facility they built.

Mr Corbell: I raise a point of order, Mr Speaker. The Chief Minister is persistently interjecting. I would ask you to call her to order.

MR SPEAKER: I uphold the point of order.

MR BERRY: It is very clear that the Greens are quite happy that members of the Ainslie Football Club will have some of their benefits sent off in other directions because the Chief Minister wants them to impress her with their commitment to one part of the community or another - not specifically the sporting community and not specifically the community organisations, but a hypothetical organisation that might be declared by the Minister.

I want to get back to what Mr Moore has said. He has missed the point. I do not think he has read the legislation. Mr Moore is quite boastful about his ability to read these things, but he has not taken on the point here adequately. He said that if an organisation was declared by the Minister that could be dealt with by way of a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act. That is true of the legislation as it stands. He must not have been listening when I was trying to point out to him and others here that there is no right of appeal against the Minister refusing to make a decision.

Mrs Carnell: Except in the Assembly.

MR BERRY: Mrs Carnell says, "Except in the Assembly". Where does it say in this legislation, Mrs Carnell, that if an organisation has been rejected by the Minister for declaration by a notice in the *Gazette* the Assembly can reinstate it?

MR SPEAKER: Do not ask rhetorical questions.

MR BERRY: They would not know about it. That is why my amendments are in place - to ensure that an organisation not declared by the Minister can be an organisation for the purposes of this legislation, not just one upon which the Government wants to bestow some sort of patronage. The Government is saying, "If you are an organisation we like, we will declare you. Therefore, you can get charitable benefits from the club industry". That is an outrageous position and it shows how shonky the thinking processes are.

MR SPEAKER: Mr Berry, the word "shonky" is unparliamentary. I have said that repeatedly.

MR BERRY: Mr Speaker, I have not directed it at any particular person and I would not do so. It shows how shonky the thinking processes of people behind this legislation are.

Mrs Carnell: Mr Speaker, yesterday you ruled that you could not use a blunt unparliamentary statement collectively.

MR BERRY: Collectively is out now, is it?

MR SPEAKER: Yes. It always has been.

MR BERRY: No, it was not. It used to be okay. You used to be able to say anything collectively.

MR SPEAKER: It was ruled on at least 12 months ago.

Mrs Carnell: Yesterday Ms McRae ruled against it.

MR SPEAKER: Correct. She did and she did it correctly.

MR BERRY: I am prepared to go with the flow. If it has changed today, I am happy to cop that.

MR SPEAKER: We did it, Mr Berry, to stop individuals - - -

MR BERRY: I withdraw "shonky". How flawed the thinking processes of those who support this legislation are. Does that make the grade?

Mr Moore is being deliberately obtuse or is hopelessly ignorant about this piece of legislation. It very clearly prevents anybody from appealing against the Minister's decision not to declare them. You cannot have a situation like that. That is an impossible situation. The Minister is all-powerful in declaring an organisation to be an organisation for which clubs will get credit of some sort, but there is no right of appeal. That is disgraceful. For Mr Moore to stand up here and take the line that he has taken is equally disgraceful.

Let us go back to the issue of voting on this matter. Mr Moore rose to his feet and gave us a colourful rendition of what he would do were he to have a conflict of interest. Mr Moore is also on the record of this place as saying that he has taken resources from the Australian hotel industry. This Bill, if it is carried in its current form, will discriminate in favour of the licensed hotels. If Mr Moore were true to the word that he put to us a little while ago, he would not have voted on the Bill. I think that there was a strong element of hypocrisy in Mr Moore's speech. It is very clear that Mr Moore's perception of a conflict of interest for other people is not the same as it is for himself.

I note Mr Osborne's wish not to be involved in the process because of his concerns about a conflict of interest. He has declared his interest in the matter. Everybody knows where he is coming from, and I do not think it needs to go any further than that. At the outset, I failed to declare an interest in the matter. I am a member of two or maybe three - I have forgotten how many - licensed clubs. To that extent, I have an interest, but I do not think I have a conflict of interest in the matter.

My concern is about the universal coverage of members across the ACT by licensed clubs and the significant benefits which will be affected by this legislation. The legislation is aimed at taking benefits from members of clubs and putting them into other areas determined by a Minister of the Government. You cannot have a situation where if the Minister refuses to declare an organisation that organisation has no further rights. That is what this legislation sets out to do and that is what my amendments seek to prevent.

My amendments allow contributions to community organisations or sporting organisations endorsed by a licensed club to be included when measuring the performance of the club industry under this legislation. They delete reference to an organisation declared by the Minister, because if the Minister refused to declare an organisation this Assembly would have no control over that decision. That is the very point I make, and that is the very point that Michael Moore deliberately avoids. I would urge the Greens not to support the legislation in its current form, but to support my amendments. They are much fairer.

MRS CARNELL (Chief Minister and Treasurer) (8.09): I wish to correct a couple of comments that Mr Berry made. There is nothing in this legislation to stop clubs from having the cheapest meals, the cheapest function facilities, the schmickiest accommodation at the coast for their members, if that is what they choose to do. What it stops the clubs from doing is recording that as a charitable contribution. I do not think many of us would believe that having schmicky accommodation at the coast for the benefit of a few members was necessarily a contribution to the ACT community. I would not. I think offering facilities at the coast is a nice way for some clubs to get more members, but I do not believe it contributes to the Canberra community. There is absolutely nothing to stop a club from having any amount of benefits for their members to encourage new members to come on board. In fact, we encourage clubs to market appropriately; but to accept that putting dollars into marketing the club through cheap meals, schmicky accommodation at the coast and all of those sorts of things is a contribution to the community is a tiny bit hard to wear for all the charities and junior sporting clubs that often need a hand.

At the moment we are giving clubs an enormous benefit via legislation in this place. We are giving them a very special tax rate for their poker machines, a rate significantly less than that in New South Wales. We are giving them a monopoly on a very lucrative part of their business. On that basis we need on the table information to show that they are contributing to the benefit of the community. If the clubs can show that, then we can maintain our current position. I believe most clubs will be able to show that. Mr Berry said that this legislation will take benefits away from members. It will not. Clubs can spend money however they want to spend money, but they cannot say that having cheap function facilities so that they can compete more ably with the private sector is necessarily a benefit to the community. I do not think it is. I think it is probably a very sensible marketing approach, but I am not sure that having cheap function facilities that undercut the private sector is something that we should be suggesting to a club has a demonstrated community value. It is a very good marketing tool, and the club should be allowed to do it.

I come back to the bottom line. There is nothing to stop a club from putting as much money as they want into membership benefits to encourage more members and to keep the members they have. However, I believe the information they will give the Assembly about their contribution to the community should be based on donations to sporting clubs, charities and organisations that are for the benefit of the community or a part of the community. There is nothing to stop clubs from spending money in any way they want, but what I am interested in and I hope the Assembly is interested in is what the clubs are doing for the community. I am sure they are doing a wonderful job for their members.

MS TUCKER (8.13): I just want to clarify something. Mr Berry seemed to be under the impression that I believed that this legislation would mean that members of clubs would suffer and that resources would be taken from club membership, which Mrs Carnell has just explained will not be the case. It is my absolute understanding, and I want to make it quite clear, that what this legislation is doing is providing information, for all the reasons I outlined before. For the reasons Mrs Carnell has just articulated, I think it is important. I do not believe this is going to have an impact on the members of clubs. If it is, something must be going on that should not be going on. It is perfectly legitimate for clubs to support their members in whatever way they like, and it is none of our business if they want to do that. However, if those clubs are also claiming very loudly - and they have done that ever since I became interested in this - that they do great community good and work, then why can they not show us?

Question put:

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

The Assembly voted -

AYES, 6	*NOES, 10*
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 Stefaniak
	Ms Tucker

Question so resolved in the negative.

MR BERRY (Leader of the Opposition) (8.18): I move:

Page 5, line 10, clause 9, omit the clause, substitute the following clause:

"Audit of records

9. Section 56 of the Principal Act is amended by omitting from paragraph (1)(b) all the words after 'statement' and substituting 'for that year relating to the financial operations of the licensee'.".

Members, you have just supported, it appears, elements of legislation which will apply to the licensed hotels in the ACT and which, if pursued, will ensure that a bureaucratic layer is laid over licensed hotels and licensed clubs which they will not be very thankful for. When I raised this with officers last evening, there was some question about whether it applies to the hotels; but, of course, it does.

My amendment relates to the audit of records. It is important to keep in mind that proposed section 54B on page 4 of the legislation talks about the obligations of a licensee and the penalty units if such records are not maintained. I was surprised to receive the hint that the department, by administrative action, might not pursue hotels. My view about it is that, if this Assembly passes legislation which applies to hotels, then it applies to everybody. In respect of hotels, "a licensee shall, within 1 month after the end of the financial year, give the Commissioner a copy of the record kept under subsection 54A(1)". If he does not, the penalty for a natural person is 20 penalty units and for a body corporate 100 penalty units.

Members, that is what you are setting out to do. This piece of legislation has been badly drafted. I have warned you about it from the word go, since I first stood up in this place. This is dud legislation. Do not be misled by any other comments. The Bill does apply that layer to the hotel industry as well. They are not going to be terribly happy about this. They are not going to be terribly happy with some sort of misty promise which says, "We are not going to pursue this. We are not going to go after you. We are not going to police it in respect of hotels". If you pass this legislation, as far as I am concerned, you will be policing it. I will make sure that you police it, so far as I can in this place. What I am saying to you is that the legislation is crook. My amendment creates a level playing field for the reporting requirements by making clause 9 read:

> Section 56 of the Principal Act is amended by omitting from paragraph (1)(b) all the words after 'statement' and substituting 'for that year relating to the financial operations of the licensee'.

The purpose of that is to make sure that the licensee, whether of a club or a hotel, has to provide a statement relating to its financial operations. If it is the purpose of the Government to get a complete picture of what licensed clubs do across the ACT, then this will give you a complete picture, not only of the club industry but also of the hotel industry, unless you do not want a complete picture of the hotel industry, but your legislation says that you do. Here I am trying to confirm that your legislation should give you a complete picture. It will be interesting to see what the Government's response is. If they want to apply this legislation, it applies to the hotel industry as well. If you do not police it, it will be discrimination against the clubs. That is what you will be setting out to do. Saying that you will not police it in respect of hotels is a clear discriminatory act. You do not deny that the legislation applies to hotels as well.

This unnecessary dud legislation will not only apply to both the hotels and the clubs but also discriminate against the clubs. People might think that is pretty funny and think it is not worth worrying about, but I do not. That is why I have moved the amendment which I have put before you this evening. This will ensure that the legislation will apply across the board and require similar reporting arrangements for both clubs and the hotel industry, if the Government is fair dinkum about what it is saying it is setting out to do.

Mrs Carnell said - Ms Tucker should listen to this - that clubs can do what they like; that they can spend as much money as they like on their members. But they will be spending less on their members if they are required to make contributions to hold on to their privileged position with poker machines and so on. The money has to come from somewhere, Mrs Carnell. It is not like your health budget. They do not own the Treasury. They are going to have to find it somewhere. It will have to come out of the benefits that would otherwise go to the workers. If you think a pensioner member of a club who uses a flat provided by the club down the coast does not think that that is a benefit to the community, I think you have a pretty funny view of the ACT community. If it is not a flat down the coast, it is something else. It might be bigger or smaller. For example, for community organisations, many of whom need cheap accommodation - - -

MR SPEAKER: You are revisiting the previous debate, Mr Berry.

MR BERRY: I am entitled to do that, Mr Speaker.

MR SPEAKER: You lost that one, if you remember.

MR BERRY: I am entitled to do that, Mr Speaker. I am also entitled to deal with the amendment, which goes to the financial affairs of the clubs. If the Chief Minister thinks that cheap accommodation, say meeting rooms for community organisations, is not a benefit to the community, then - - -

Mrs Carnell: I said "function rooms".

MR BERRY: If the Chief Minister thinks a function room for a community organisation is not a contribution to the organisation, she has another think coming. You might say, "That is covered by the legislation, because it says that 'contribution' means 'any money, benefit, valuable consideration or security'. That is a benefit covered by the Act, so what are you worried about, Mr Berry?". What I am worried about, as I said earlier, is that it applies only if the organisation is declared by the Minister.

This piece of legislation is discriminatory in more ways than one. If you are not going to police it in respect of hotels - and that is what seems to be the suggestion - we have an in-built discrimination where only the clubs will be targeted. They will have a right to scream - and so will everybody else in this place - to require you to provide the necessary policing for this legislation. In fact, it seems to me that there might be a legal action against hotels that do not comply with the legislation. There are significant penalties for people who do not comply with this legislation. My recollection is that a penalty unit is about $100. Fines of $2,000 to $10,000 could be imposed on people who had been told, "Do not bother about it. We will not police it". That is until the inspector turns up on their doorstep.

This is a faulty piece of legislation that does not deserve the endorsement of this Assembly. If the Government really means what it says it wants to achieve with this legislation, it ought to go out and redraft it. Otherwise, it ought to give a commitment to this place that it will pursue the legislation to its full effect - that applies to the club industry and the private sector as well - and they should support my amendment.

MRS CARNELL (Chief Minister and Treasurer) (8.28): Clause 9 ensures that clubs report at the same level as hotels already do. Hotels are incorporated bodies. Therefore, they report to the Australian Securities Commission. If Mr Berry knew anything about business, he would know that a company has to report fully already. The fact is that clubs are often incorporated under the Associations Incorporation Act, so their requirements are somewhat lower. This ensures that clubs and hotels report at the same level and are as accountable as each other.

MR BERRY (Leader of the Opposition) (8.29): I cannot believe that the Treasurer of this fair Territory would get up and say that hotels are incorporated bodies. They are not. They do not have to be. I can own a hotel and have a licence and not have to report under the Corporations Law. What a clumsy interpretation of the law! Do you not know how businesses operate? One is entitled to own a business in one's own right. What a silly notion to put before this Assembly! You mislead people by saying - - -

Mrs Carnell: Mr Speaker, I take a point of order. I do not think Mr Berry knows what he is talking about. If Mr Berry can point out a hotel that is operating unincorporated, I will be very surprised.

MR SPEAKER: The question is: That Mr Berry's amendment be agreed to.

MR BERRY: I had not finished my remarks. I was sat down by a point of order, Mr Speaker.

MR SPEAKER: Proceed.

MR BERRY: What a curious thing to say - "Tell me a hotel that is not incorporated. Show me a hotel that is not incorporated". Are you trying to tell me there is a prohibition in the ACT on an individual owning a pub or a tavern? Taking your point further, if there is information already publicly available, why should it not be provided here? What an inconsistent argument, Chief Minister! I do not think you understand the implications of this legislation. You certainly do not understand the club industry. It now appears that you do not understand how the hotel industry operates either.

Question put:

That the amendment (**Mr Berry's**) be agreed to.

The Assembly voted -

AYES, 6	*NOES, 10*
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 Stefaniak
	Ms Tucker

Question so resolved in the negative.

Bill, as a whole, agreed to.

Question put:

That this Bill be agreed to.

The Assembly voted -

AYES, 10	*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 Stefaniak	
Ms Tucker	

Question so resolved in the affirmative.

Bill agreed to.

COMMUNITY AND HEALTH SERVICES COMPLAINTS (AMENDMENT) BILL 1997

Debate resumed from 26 June 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (8.35): This legislation, Mr Speaker, picks up the community services section which was described, as I recall it, in the last budget. I note that there have been some resources made available to the Health Complaints Commissioner to cope with this extra obligation and that there are machinery changes throughout the legislation to ensure that the community services side of the ACT can be properly investigated by him.

Mr Speaker, I say at the outset that, in principle, we will be supporting this Bill; but I do want to raise some questions about the Government's commitment to it. We have heard many fine words on this matter, but when I look at the resources that are being provided for the organisation to conduct its business I think it will fall on hard times. Already I hear spasmodic complaints that the Health Complaints Commissioner is unable to deal with matters very quickly. I am a little concerned about that. The Health Complaints Unit was another child of the Labor Party. It was put in place by me and I want to make sure that it can perform its function for the Territory - even for those people who are members of licensed clubs.

What I am concerned about is that the Government has used some flowery words about its move to put the community and health services complaints investigation arrangements with the Health Complaints Commissioner function. I know from my experience in dealing with community services in the past that it is a large area of concern out there in the community, and there is quite often a myriad of complaints at one level or another which are looking for a place in which to be resolved. It is a good thing that they will have a place in which to be resolved; it is a bad thing if they are given the false impression that their complaints will be able to be resolved quickly and in an appropriate way. By the look of the funding levels, they are going to run into trouble very early.

I think this Government is good on words but not much good on delivering anything, except spending the people's money, and I would be surprised if Mrs Carnell was able to get this one right. She has had a bit of a rough trot for the last 2½ years on getting anything right. I hope that the dollars that have been provided for this organisation will stretch as far as they should, but I rather suspect that there will be a substantial number of complaints and concerns which will have to be resolved by what will be the Community and Health Services Complaints Commissioner. I wish him and the organisation luck. I can say to you that because it was something that Labor was committed to - indeed, we introduced the concept here in the ACT - we will guarantee it appropriate and proper funding in the future. We will be watching closely the performance of the organisation with the funding that has been provided to it at this point.

MR MOORE (8.40): I rise to offer enthusiastic support for this legislation, as I did when Mr Berry introduced the original legislation. I think Mr Berry picked up a very good point about the need for greater funding for this area. Chief Minister, I hope you will explain why it is that you have cut money from the Health Complaints Commissioner, now to be the Community and Health Services Complaints Commissioner. I remember that when Mr Berry introduced it he assured us that there would be adequate funding for the Health Complaints Commissioner to do his job and I think that raising the issue now is very important. There is no doubt that adequate funding will be required for this sort of task to be completed in the best possible way. It is an issue that I also will be keeping an eye on. Just as I congratulated the then Minister, Wayne Berry, for introducing a Health Complaints Commissioner and was enthusiastic in my support, similarly I am enthusiastic in my support for expanding the role of the Health Complaints Commissioner to include community and health services.

MS TUCKER (8.41): I also am very happy to support this legislation. It is obviously something that was brought to the attention of the Government through the Social Policy Committee's inquiry into the Commonwealth-Territory Disability Agreement, and also, no doubt, from other areas. We on the committee did recommend that the powers of the Commissioner for Health Complaints be broadened in relation to services for people with a disability. We also mentioned the resourcing issue. Obviously, it is very important, if we are going to have an effective complaints system like the office of the Health Complaints Commissioner, that he - he at the moment - or she is adequately resourced. With that slight caution, I welcome this Bill and I hope to see it adequately resourced.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (8.42), in reply: Madam Deputy Speaker, to start with, I will respond to Mr Moore's comments. Mr Moore, no, we have not reduced funding to the Health Complaints Commissioner. In fact, we have increased funding. You would not have known it from listening to Mr Berry's speech, but in this year's budget there was an extra $50,000 in new resources for the Health Complaints Commissioner to handle the new tasks. As Ms Tucker would be aware, from time to time we make extra administrative staff available for the Health Complaints Unit when they have particularly time-consuming inquiries, like the disability inquiry when an extra administrative staff person was seconded. We cannot, under the legislation, put in extra investigative staff because they are very much part of the unit. Contrary to what Mr Berry said, we put extra money in. When Mr Berry set it up he had, I think, the commissioner in an office all by himself for a while. He was horribly underresourced, but since then things have improved.

I am very pleased to voice the commitment of this side of the house, the Government, to the Health Complaints Unit. It is a good opportunity to be able to say to Ken Patterson and his staff just what a great job they are doing. It is a very difficult area. It is one of those areas where probably no-one is ever going to be happy. I am not sure that when people are in the process of complaints they are ever 100 per cent pleased with the outcome, because outcomes are almost always mediated. But I think they do a very good job, and I agree totally that the issue of resourcing is important. That is the reason why we put more money in this year, and it is the reason why we will continue to keep an eye on the area and respond to the commissioner's requests for extra staffing from time to time. I have some amendments to move, but we will do that shortly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MRS CARNELL (Chief Minister and Minister for Health and Community Care (8.45): Mr Speaker, I ask for leave to move together amendments Nos 1 to 11 circulated in my name.

Leave granted.

MRS CARNELL: I move:

Page 1, line 9, clause 2, subclause(2), after "day" insert ", or respective days,".

Page 2, line 13, clause 6, omit "service", substitute "services".

Page 2, line 19, clause 7, proposed paragraph (ab), after paragraph 7(a) insert the following proposed paragraph:

"**(ab)** by inserting in the definition of 'Council' in subsection (1) 'Community and' before 'Health';".

Page 5, line 29, after clause 11, insert the following clause:

"**Minister's directions**

11A. Section 11 of the Principal Act is amended by inserting in subsection (1) 'community service or' before 'health'.".

Page 6, line 4, paragraph 14(a), after " 'health' ", insert "(wherever occurring)".

Page 6, line 28, paragraph 14(d), omit "service", substitute "services".

Page 6, line 32, after clause 15 insert the following clauses:

"**Function of conciliators**

15A. Section 33 of the Principal Act is amended by inserting in subsection (1) 'community service or' before 'health'.

Matters that may be investigated

15B. Section 40 of the Principal Act is amended by inserting in paragraph (1)(d) 'community services or' before 'health'.".

Page 7, line 4, after clause 16 insert the following clauses:

"**Heading — Part VIII**

16A. The heading to Part VIII of the Principal Act is amended by inserting '**COMMUNITY AND**' before '**HEALTH**'.

Establishment of Council

16B. Section 61 of the Principal Act is amended by inserting 'Community and' before 'Health'.

Functions

16C. Section 62 of the Principal Act is amended —

(a) by inserting in paragraph (a) 'community services and' before 'health';

(b) by inserting in subparagraph (b)(i) 'community service and' before 'health' (first occurring); and

(c) by inserting in subparagraph (b)(i) 'community services and' before 'health' (last occurring).

Substitution

16D. Section 63 of the Principal Act is repealed and the following section substituted:

Membership

'63. (1) The Council shall consist of the following members:

(a) a Chairperson;

(b) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of health services;

(c) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of services for aged people;

(d) 1 person who, in the opinion of the Minister, is qualified, by reason of experience and expertise, to represent the interests of users of services for people with a disability;

(e) 2 persons who, in the opinion of the Minister, are qualified, by reason of experience and expertise, to represent the interests of providers;

(f) such other persons, if any, not exceeding 2, who, in the opinion of the Minister, are qualified, by reason of experience and expertise, to contribute to the functions of the Council.

'(2) The Minister shall appoint the members of the Council by instrument.

'(3) An instrument under subsection (2) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.'.

Procedure at meetings

16E. Section 70 of the Principal Act is amended by omitting from subsection (4) '3' and substituting 'a majority of'.".

Page 7, line 11, after clause 17 insert the following clause:

"**Adverse comment in reports**

17A. Section 79 of the Principal Act is amended by inserting in paragraph (4)(b) 'community service or' before 'health'.".

Page 7, line 13, clause 18, proposed paragraph (aa), before paragraph 18(a) insert the following paragraph:

"**(aa)** by inserting in the heading '**COMMUNITY AND**' before '**HEALTH**'.".

Page 7, line 22, after clause 19 insert the following clause:

"**Cessation of membership**

20. A person who, immediately before the commencement of section 16D, was a member of the Health Rights Advisory Council ceases to be a member on that commencement.".

Mr Speaker, in the interests of my voice today, I will try to keep this to an absolute minimum. I think everybody has a copy of the explanatory statement that goes with these amendments, so I will leave that one with members and I will be very brief. The amendments I am moving are an extension of the changes we have given in-principle agreement to with the Community and Health Services Complaints (Amendment) Bill. With the Bill we have agreed to allow the Health Complaints Commissioner to investigate and, where necessary, take action on complaints relating to services for the aged and people with disabilities as well as health services.

The original Health Complaints Act 1993 also established a Health Rights Council which is responsible for educating and informing users, providers and the public on the services of the commissioner's office, and advising the commissioner and me on redress of grievances relating to health services and the operation of the Act. The Act currently requires representation from both providers and consumers of health services. In line with the objectives of the Bill, these amendments propose that the name, functions and membership of the council be expanded to include representation of people with disabilities and the aged and their carers.

The name of the council will be changed to the Community and Health Rights Advisory Council. The function of the council will be expanded to include advice on grievances relating to services for the aged and the disabled. Membership of the council will be expanded to include people who represent the interests of users and providers of services for the aged and people with disabilities, as well as health services. In addition, the amendments allow for up to two members who have experience or expertise which may contribute to the functions of the council. Other amendments are technical in nature and are required to avoid inconsistencies in the Act.

Mr Speaker, the amendments will ensure that all people, both users and providers of services for the aged, people with disabilities and health services, will be represented on the council and have a voice in the operation of the Community and Health Services Complaints Act.

MR BERRY (Leader of the Opposition) (8.48): Mr Speaker, the Labor Party will be supporting the amendments for the purposes outlined by the Chief Minister, but I wish to raise an issue which perturbed me somewhat when Mrs Carnell was speaking in the in-principle stage. She attempted again, consistent with the old approach, to recraft what I had said in my speech in relation to the matter. She made the point that I had in some way criticised the recurrent funding of the Health Complaints Commissioner. No, Mrs Carnell. Just to correct the record for you, and so that the record shows it, what I was pointing to was the budget funding. You said:

> In 1996-97 $40,000, and recurrent funding of $87,000 per annum, has been allocated from the ACT Home and Community Care program to fund the expansion of the Commissioner's role.

That is what I was pointing to when I was expressing concern about the level of funding for the widening of the commissioner's role. On the face of it, I would say that you have underestimated the extra work that the commissioner will have to undertake.

Mrs Carnell made a point about how well funded the Health Complaints Unit is now compared with when it started. I suppose that when it started it had to start with one person, and, of course, it has grown since then. If it is doing so well, Mrs Carnell, why has it taken so long for the Health Complaints Commissioner to investigate a certain surgeon in the ACT? Why did it take so long, with all of those resources you provide for it, to investigate a certain surgeon in the ACT about whom there is much community concern? So do not get up there and recraft history about what I have said in this place unless you are prepared to state the facts.

I expressed concern about the level of funding you are providing for the additional role that you are asking the commissioner to play. I know that the commissioner performs an important function in the community. I know that it is an expensive role and I know that he is under pressure. I know that there are waiting lists for matters to be considered, and more resources could be used. What I am also concerned about is the level of recurrent funding that you are providing for this much wider role for the commissioner. Do not misquote me, please.

Amendments agreed to.

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

Bill, as amended, agreed to.

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

[COGNATE BILL:

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

Debate resumed from 17 June 1997, on motion by **Mr Kaine**:

> 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 order of the day No. 7, the Motor Traffic (Amendment) Bill (No. 2) 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 6 they may also address their remarks - hopefully briefly - to order of the day No. 7.

MS HORODNY (8.52): Mr Speaker, these Bills are about increasing the penalties for drink-driving offences to provide a greater deterrent in the community to drink-driving and irresponsible driving. The Greens fully support these objectives. There is no doubt that drink-driving is a major contributor to road accidents in the ACT, as elsewhere. Alcohol intoxication is implicated in about one-third of all road deaths in Australia. I think there is a responsibility on this Assembly to send a clear message that drink-driving is not acceptable. Not only is drink-driving harmful for the person who drinks; the fact that drink-drivers are on public roads alongside other drivers means that innocent drivers going about their own business are under threat from potential injury and death from the reckless behaviour of drunk drivers.

It should be remembered that driving is not a right but a privilege. Because there are significant public safety issues involved in the transport system, people cannot just hop in a car and go driving. First, they must obtain a licence by proving that they can drive competently without endangering their own lives and the lives of others. Then, they must obey road rules, under threat of being penalised by the police and ultimately the courts. People who drive under the influence of alcohol must, quite rightly, be sanctioned through the legal system for not taking seriously their responsibility to the whole community to drive safely. The Greens will therefore be supporting this Bill in principle, as I understand all members will be; but we have particular concerns about some of its clauses. Mr Moore has put up a range of amendments which we will generally be supporting.

The Motor Traffic Act already contains a range of rules and penalties regarding drink-driving and the Government is now proposing to strengthen these rules. The question that this Assembly must address is how far it should go in penalising drink-drivers. I think we all have slightly different views on this. If I had my way I would drop the allowable blood alcohol content down to .02 so that it would be very clear to the community that if you want to drink any alcohol you should not be driving. Research has shown that even quite small amounts of alcohol increase the risk of accidents. For drivers with a blood alcohol content of between .02 and .05 the risk of involvement in a serious crash is more than twice that of sober drivers.

It is clear that, despite intense effort to combat drink-driving over a number of years, improvement in reducing road deaths from drink-driving has stalled since 1992. The Federal Office of Road Safety has indicated that there are still some hard-core groups of motorists who have not responded to the community campaign to reduce drink-driving. These include young male motorists, blue collar or unemployed male motorists and middle-aged male motorists who appear to be alcohol dependent. While legal penalties have some deterrent value, these findings indicate that there still needs to be a broader range of educational and community awareness raising strategies and alcohol rehabilitation programs that keep sending the message that drinking and driving are not compatible. Mr Moore has circulated a number of amendments and I will comment on those when we get to them.

MR KAINE (Minister for Urban Services) (8.55), in reply: I will be closing the in-principle debate, Mr Speaker.

MR SPEAKER: Indeed, you will be closing the in-principle debate, Mr Kaine.

Mr Whitecross: We have already spoken, Mr Speaker.

MR SPEAKER: Yes, I am aware of that.

Mr Whitecross: I am just clarifying that.

MR SPEAKER: Mr Whitecross has spoken.

MR KAINE: Mr Speaker, it is pleasing to note the general support for the intent of these two Bills. I know that we have some differences of opinion about the detail and that we will be debating those shortly, but the important thing here is that the Government has set about a range of actions to reduce the trauma on our roads. We have introduced a system of competency-based driver training. In conjunction with the NRMA, we have gone into a program to make people aware of the need for proper behaviour on roads - an awareness program to make people aware of their responsibilities when they are out there. Later this evening we will be dealing with the question of the inspection of motor vehicles, which is, in statistical terms, a minor part of the problem; but the matters dealt with in these two Bills are a major part of the problem. Ninety-five per cent of road accidents in the ACT are caused by drink-driving or by excessive speed; in other words, simply by bad driver attitudes - either a failure to understand responsibilities or a deliberate dismissal of those responsibilities.

What the Government has sought to do with these two Bills in particular is to bring home to people the penalty for driving when they have been drinking or driving recklessly and without regard for other users of the road. Essentially, the Motor Traffic (Alcohol and Drugs) (Amendment) Bill is to provide a greater deterrent to drink-driving and to irresponsible driving than we have had in place before. We propose to do this, first of all, by changing the way the courts apply penalties, particularly for drink-driving, and by toughening up the law so far as it relates to people appearing before the courts for repeat and high-level drink-driving offences. We have provided the ability for people in some cases to get a special licence if they can establish good cause. We have not sought to increase the financial fines, however. We believe that the regime of fines currently in place is appropriate for the time being. What we have done is substantially increase the penalty provisions in terms of cancellation of licence for culpable driving. The Government is of the view that, if you make the penalties for culpable driving more severe and if you make it more difficult for people to get licences back after they have lost their licence for reckless or irresponsible driving, it will certainly bring home to them that it is not a matter that is regarded lightly by the community.

In so far as drink-driving is concerned, the bottom line of this legislation was to make it clear to people that if they drink and drive they lose their right to drive. I want to dwell on that point for a minute. The message that we do not want to send is that if you drink and drive you lose your licence, you walk out the front door of the court, you walk around the back and you make application for a special licence and you get

your licence back. That is no deterrent at all. The statistics show that last year, of almost 1,200 people who lost their licences, over one in three applied for a special licence and all but nine of those people got it. So here we have a law. The police arrest people for reckless, drunken or other driving, such as culpable driving. They go through the process of bringing them before the courts. The magistrate hears the charge, finds the person guilty, and inflicts a penalty of suspension of their licence. They walk out the front door, walk around to the back door, put in an application for a special licence and walk out the front door with a special licence. Where is the deterrence in that?

Mr Whitecross: Who gives them that, the magistrate? The magistrate gives it to them - the same person who gave them the penalty in the first place.

MR KAINE: It is probably the same magistrate who took his licence away from him 10 minutes before. The point is, Mr Speaker, that we have introduced this legislation because the Chief Magistrate has sought more specific guidance.

Mr Moore: And he will get it.

MR KAINE: The trouble is that I do not think he will. Anyway, Mr Speaker, in closing the debate, I merely wanted to reiterate for the record what the Government's intention is.

To take up a point that Ms Horodny made, this is not simply an isolated piece of legislation that the Government has introduced. It is part of a program of things that the Government is doing to bring home to people the problems of reckless and culpable driving and to make sure that they understand what their responsibilities are and that, at the end of the day, they themselves as drivers are fit to be out on the roads and that their vehicles are also. We will come to some other aspects of that later on this evening.

Mr Speaker, I recognise that people, by and large, accept the principle of what the Bills are about. They do not seem to have any trouble with that and I appreciate that. We will, of course, be debating some of the particular issues inherent in these two Bills when we move to the detail stage in a few minutes' time.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR MOORE (9.02): Mr Speaker, I seek leave to move together all the amendments circulated in my name to the Motor Traffic (Alcohol and Drugs) (Amendment) Bill 1997.

Leave granted.

MR MOORE: I move:

Page 5, lines 5 to 9, clause 7, paragraph (d), proposed paragraphs 25(3)(a) and (b), omit the paragraphs, substitute "convicted of another offence specified in subsection (4).".

Page 7, line 15, clause 10, proposed subsection 31(1), omit all words after "offence", substitute "the Court may cancel the person's driving licence.".

Page 7, lines 22 to 28, clause 10, proposed subsection 32(2), omit all words after "section,", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding the period specified in the third column of the table opposite that level.".

Page 7, line 31 to page 8, line 3, clause 10, omit all words after "4,", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding the period specified in the third column of the table opposite that level.".

Page 8, clause 10, proposed section 32 (table), omit third column of table headed "Minimum Court disqualification".

Page 8, clause 10, proposed section 32 (table), omit "Default" from heading of final column of table, substitute "Maximum".

Page 8, lines 9 to 15, clause 10, proposed subsection 33(2), omit all words after "section,", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding the period specified in the third column of the table opposite that level.".

Page 8, lines 18 to 24, clause 10, proposed subsection 33(3), omit all words after "4,", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding the period specified in the third column of the table opposite that level.".

Page 9, clause 10, proposed section 33 (table), omit the third column of table headed "Minimum Court disqualification".

Page 9, clause 10, proposed section 33 (table), omit "Default" from heading of final column of table, substitute "Maximum".

Page 9, lines 3 to 7, clause 10, proposed subsection 34(1), omit all words after "19(1),", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding 3 years.".

Page 9, lines 9 to 13, clause 10, proposed subsection 34(2), omit all words after "19(1),", substitute "the Court may disqualify the person from holding a driving licence for a period not exceeding 5 years.".

Page 9, lines 14 to 17, clause 10, proposed subsection 35(1), omit "by force of", substitute "under" (twice occurring).

Page 9, line 22, clause 10, proposed subsection 35(2), omit "by force of", substitute "under".

Page 10, line 3, clause 10, proposed section 36, omit "by force of", substitute "under".

Page 10, line 6, clause 10, proposed subsection 37(1), omit "by force of", substitute "under".

Page 10, line 15, clause 10, proposed subsection 37(2), omit "by force of, or".

These amendments to this piece of legislation fall into two parts. First of all, I will speak about the five issues or the five overall topics that are dealt with by these two pieces of legislation that we have been debating cognately. The five issues, Mr Speaker, are access to the courts, the notion of automatic sentences, the notion of minimum sentences, non-convictions that ought not count as a repeat offence and, finally, the carrying of drivers licences.

Mr Speaker, I will talk about my amendment No. 1 and then my amendments Nos 2 to 17 briefly. Amendment No. 1 alters the clause of the Bill which inappropriately allows non-convictions under section 556A of the Crimes Act to be counted in defining an accused person as a repeat offender. This provision should be removed because it is offensive in principle to alter the status of a person's conviction history on a later occasion. I think that is where the problem lies. Removal of this provision does not conceal, however, the person's charge history which can easily be known to the magistrate and could be taken into account in deciding appropriate sentences.

With regard to the 16 other amendments, they deal with the notion of minimum sentences. At no stage in my amendments have we moved to reduce the increased penalties that the Government has suggested, although there was a temptation, I must say, to do that. We have not done that. Instead, Mr Speaker, it is a matter of ensuring that the magistrate or the judge has the ability to make a decision and has full discretion.

Mr Speaker, when I say "we" I do so quite deliberately because, although the amendments are in my name, there has been a great deal of input from Mr Whitecross and Ms Horodny in particular. We also had a round table meeting with Mr Kaine. In the end it was seen to be easier to put the amendments that we had agreed to in one group. Therefore, I want to make it very clear to the Assembly that this is a cooperative effort. It is the same with the next piece of legislation, the Motor Traffic (Amendment) Bill (No. 2). Those amendments also are part of a cooperative effort to ensure that we could get to a point of agreement about these pieces of legislation. There was a great deal of toing-and-froing about them and I think the outcome in the end is very positive.

The concerns that I raised in the in-principle stage have been met through these amendments. On the other hand, where I had been a bit more relaxed about removing some of the guidance that Mr Kaine talks about in terms of the magistrates, that will be back in and it will be quite clear that guidance will apply. I think it has been a very positive approach, and I commend these amendments to the Assembly.

MR WHITECROSS (9.06): Mr Speaker, I rise to indicate, as Mr Moore already has, that the Labor Party will be supporting these amendments. I believe that the appropriate people to decide on the precise sentence which fits a particular crime are the magistrates and the courts, rather than legislators making arbitrary decisions about general application without regard to the circumstances of particular cases. That is what the Government attempts to do here. The Government attempts to prescribe minimum sentences which will apply to people regardless of the circumstances of their case.

It may be that magistrates might choose to award penalties below the minimum sentences outlined in the Government's proposals on only very rare occasions; nevertheless, I believe it is a matter that the magistrates ought to be deciding rather than a matter that ought to be being decided in an arbitrary across-the-board way by legislators. I think it is a very perilous path we go down when legislators, in an attempt, as Mr Kaine has put it, to send a message, prescribe arbitrary minimum penalties. It is as likely to lead to injustices as to justice. I think we have to have some faith in our courts, which are, after all, a separate arm of government, to exercise their responsibilities to the community in an appropriate way, and the prescription of minimum sentences of the kind contemplated in this legislation is, I think, an inappropriate interference in their role.

Mr Speaker, as I said, nobody can doubt the seriousness of drink-driving, and the need to ensure that the community understands the dangers entailed in drink-driving, both for themselves and for others. People must be actively dissuaded from driving while under the influence of alcohol; but, Mr Speaker, quite frankly, this kind of legislation is a very blunt instrument indeed for persuading people of those effects.

I do not believe that continually ratcheting up the penalties in the way that the Government purports to do is the best way of educating the community about the dangers of drink-driving. I believe that appropriate penalties are important, and this legislation sets out an appropriate table of maximum penalties from which the magistrates can issue punishments suited to the seriousness of the crime in question; but those kinds of penalties have to be balanced with other ways of educating the community through active community education campaigns, peer group pressure, and all the other ways that we have at our disposal to ensure that those accidents which are contributed to by driver error, whether it is drink-driving or dangerous driving, or speeding, are averted. That ultimately is not about their knowledge of the law, and their knowledge of the seriousness of being penalised by the courts; it is about their attitudes, and attitudes cannot be changed simply by continuously ratcheting up the penalties.

Mr Speaker, the imposition of minimum penalties as proposed in this legislation is an inappropriate thing, and I support Mr Moore's amendments which we discussed among ourselves in considering our response to this Bill. Other elements of the proposed Bill, the table of penalties, the establishment of categories of penalty, et cetera, and more serious penalties available to the courts for repeat offenders, I think, are also appropriate

inclusions in the Bill, and the Labor Party will be supporting the amendments. We will be supporting Mr Moore's amendments because we believe that they restore the correct balance between the role of the courts and the role of the legislature, and ensure that the courts have full opportunity to do justice where justice needs to be done.

MS HORODNY (9.11): We will be supporting Mr Moore's amendments on the definition of the repeat offender. It does seem unreasonable that a person who is charged but has that charge dismissed, or a person to whom the court gives a good behaviour bond for up to three years without a conviction being recorded, should then be regarded as a repeat offender for up to five years after that court case. The court can give a conditional release of an offender without conviction only in cases where there are extenuating circumstances or the offence is of a trivial nature. By its nature, a section 556A release ensures that the person does not have a conviction recorded against their name, yet the Government's proposal is implying that the person has been convicted in the past. This seems quite illogical to us. We will not be supporting the Government's definition of repeat offenders.

We will also be supporting Mr Moore's amendment on mandatory and minimum sentence requirements, and the rest of his amendments to this Bill which have the objective of deleting the mandatory and minimum penalties currently included in the Bill. We support the idea of a graduated scale of penalties based on the blood alcohol concentration of the offender because it is quite clear that the risk of road accidents increases markedly with increases in the blood alcohol concentration of drivers. We support the desire of the Government to send a strong message to the community that driving while drunk is not acceptable and that offenders will be appropriately penalised. However, it is the role of the Assembly to set maximum penalties for particular offences through legislation. We believe that to set minimum penalties interferes with the role of the judiciary in determining the appropriate level of penalties in individual cases by taking into account all the circumstances surrounding the particular offence.

Mr Moore also proposes that any person who loses their licence should be able to apply to the court for a special licence. The Greens have some reservations about Mr Moore's amendment here because we do not want to make it too easy for people who have lost their licence to obtain a new one. The ultimate sanction for drivers who break the rules is to prevent them from driving. Fines can be paid relatively easily, at least by some people; but people can be affected much more significantly if their licence to drive is taken away from them. This is recognised in the existing provision that allows people to apply for special probationary licences if their normal licence is suspended or cancelled.

This clause raises the issue of how many chances a person who has broken the road rules should get to retain their licence. I believe that people who need to drive motor vehicles for their work have an extra responsibility to take special care that they do not lose their licence. I am inclined towards the view that if someone drives in such a bad way that they lose their licence they should cop this penalty. I would much prefer to keep irresponsible drivers off the road so that everyone can feel safer than to allow these people back on the road straightaway through getting a special probationary licence. On the other hand,

I am aware of Mr Moore's argument that there may be exceptional cases where someone really needs a car for either work or family reasons and that these people should be able to put their case before a magistrate to avoid suffering the double penalty of losing their licence and losing their ability to get to work.

I think it is a quite regrettable situation in our society that we have become so dependent on using cars for getting around the city that being able to drive a car has virtually become another civil right; but I acknowledge that this is the current reality that we have to deal with. It is, hopefully, something that we can change over time. So we will support this amendment as well. I thank Mr Moore for taking on board my initial concerns about earlier drafts of his amendment so that it is clear now that, while anyone can apply for a special probationary licence, it will be granted in only the most exceptional circumstances.

We will not be supporting the Government's proposal to make it an offence for a driver to not produce a licence on demand. This proposal has been put up as a means of reducing the workload of the police, but we have doubts as to whether this would occur in practice. If a person does not have a licence on them when approached by police, it will still be difficult for the police to effectively fine the person. The police may issue a ticket, under the Government's proposals; but if the person has no identification on them it will still be possible for the person to evade the payment of the fine, and police resources will still be taken up in tracing people who do not pay the fine.

Mr Osborne: Oh yes, you are an expert. World leading expert on police, Lucy Horodny, says.

MS HORODNY: Thank you, Mr Osborne. That is very respectful of you.

MR KAINE (Minister for Urban Services) (9.17): Mr Speaker, Mr Moore's proposed amendments to the Motor Traffic (Alcohol and Drugs) (Amendment) Bill really deal with the major question of the degree to which this legislature should establish mandatory and minimum sentence requirements. There are a couple of other issues which I will come to, but they have to do basically with the question of removing from courts certain discretion in terms of the sentences that they can impose. Mr Whitecross describes this as a perilous path for the legislators. It is very interesting that it is the same path that the State of New South Wales, the only Labor government State, has already gone down.

Mr Moore: Come on, Mr Kaine! You do not agree with everything that every Liberal State does.

MR KAINE: No, I do not, but in this case one of the reasons why we took this path was to achieve harmonisation with New South Wales so that if a driver from the ACT is driving in New South Wales he knows exactly what the situation is, and vice versa. People driving in here from New South Wales know that the same law applies here as applies in their home State. Surely there is some merit to that. To say, as Mr Whitecross said, that this is a perilous path for legislators to follow is a rather curious - - -

MR SPEAKER: Mr Kaine, would you speak into the microphone. *Hansard* is having a bit of trouble.

MR KAINE: Can you not hear me?

MR SPEAKER: Shout at Mr Whitecross, please.

MR KAINE: I will shout at Mr Whitecross. My remarks are addressed to him. I am a little disappointed that, having agreed with the principle of sending a message to drivers, Mr Whitecross says this is a blunt instrument, or words to that effect. I thought we had got to the point where we needed to use a blunt instrument; the soft glove treatment does not work. Having agreed in principle that we need to send people a rather strong message, Mr Moore, supported by the Labor Party and the Greens, is now saying, "Let us soft-pedal it. Let us not send them a harsh message; let us soft-pedal it. Where the Chief Magistrate has sought additional guidance, we will not give it to him".

Ms Horodny: We are - exceptional circumstances.

MR KAINE: You are not. You are removing all of the changed guidance that we are intending to send to the Chief Magistrate in this legislation by putting us back where we were before, where the whole discretion resides with the magistrate. You need to read Mr Moore's amendments very carefully. You obviously have not read them. Mr Speaker, I have to say that, of Mr Moore's 17 amendments, 15 relate to removing from the Government's Bill that harsh message that we wanted to send, both to the magistrates and to the offenders, that the soft gloves are off. Mr Moore is now binding us to put the velvet gloves back on and put the mailed fist back in our hip-pocket because we are not allowed to use it. Personally, I think that is a great disappointment and it is not going to convey the message that the Government wanted to send, and which I thought the Assembly wanted to send.

Mr Moore's amendment No. 1 has to do with repeat offenders. Mr Moore wants to delete a small part of our Bill that had to do with somebody who is discharged under section 556A of the Crimes Act 1900 without conviction. This is somebody who has committed the offence and has been brought before the magistrate and found guilty, but because of some extenuating circumstance the magistrate has chosen not to record a conviction. What we are saying is that if that same person comes back into the court in a month's time, having committed the same or a similar offence, his previous history should be taken into account. He or she is a previous offender. The fact that no conviction was recorded does not alter the fact that the person has been found guilty of the offence.

What we are saying in our Bill is that that person should be no different from somebody who was actually convicted and received a penalty because of it, when it comes to a second or third or fourth time offender. I find it rather strange that Mr Moore and the soft lefties opposite seem to find that this is not a crime. The simple fact that no conviction was recorded does not alter the fact that the person committed and was found guilty of the crime. To say that that should not count when it comes to a repeat offender seems to me to be a rather strange piece of logic.

Mr Speaker, I am disappointed. I can see readily that Mr Moore's amendments are going to pass because he obviously has the numbers. That does not make me feel any better about it. Mr Speaker, it is not that I feel offended that my legislation is being rejected; the problem is that I feel that the Assembly is about to let the community down. They are going to soft-pedal on drink-drivers and reckless drivers when that is the very opposite of the message that we are trying to convey.

MR MOORE (9.23): Mr Speaker, I know that you, in particular, are going to be very interested in why it is that we are not going to do any of those things that Mr Kaine suggested. We are not going to soft-pedal; we are not going to be easy; but it is true that we are not going to execute anybody. There are going to be no public floggings. There is going to be nobody put in the stocks, and those things that might - - -

MR SPEAKER: You are sending the wrong message.

MR MOORE: Thank you, Mr Speaker. It would appear that there are many ways in which I send the wrong message. Mr Speaker, let me just clarify a couple of things. A special licence is not just having your licence replaced. A special licence is when a magistrate says you can drive under certain circumstances, maybe with nobody else in the car, maybe only between the hours of 8.00 am and 9.00 am. It is a special licence with very special restrictions on it. It is not just like having your licence replaced in the first place. Do not forget also that there is a $5,000 penalty, apart from the special licence. As my recollection serves me, it is $5,000. That is the first thing.

The second thing is that Mr Kaine talks about harmonisation with New South Wales. Now, come on! If somebody drives into here from New South Wales thinking there are tougher penalties because there are tougher penalties in New South Wales, fine. That is not going to affect us particularly. Most of us, when we drive in a different country or a different State, know that there are slight modifications to penalties and provisions and would normally be aware of those.

The next thing is that Mr Kaine said there is a special reason why we have to do this, particularly with drink-driving, and that is that the system does not work. When Mr Humphries and Mr De Domenico were launching this idea that they were going to be tough on drink-driving, the *Canberra Times* ran an editorial in November 1996 the headline of which was "Punishment plan out of proportion". The author of the editorial seemed to be speaking about Mr Humphries and wrote this:

> He seems to have grabbed whatever figure is available to support his case.

His case was that things are getting much worse. The editorial continued:

> He says despite a 1.16 per cent drop in the number of random breath tests carried out last financial year, the number of people found driving over the limit increased by 6 per cent.

Who knows where he got those statistics. This is the critical part:

> But in September, the Australian Federal Police's most senior traffic officer, Superintendent Peter McDonald said, "As far as random breath testing goes, we've done 11,500 more tests this year than at the same time last year".

That is an awful lot more tests; and congratulations, I think it is good. He continued:

> "What's pleasing about that is that the number of positive tests is only 647 - that's down by 100".

So things were not getting worse; they were actually getting much better. Obviously, Mr Speaker, you and the previous Government, and I in my role in this Assembly, were sending the right message, and we are going to continue sending that right message.

Speaking of messages - I am glad you raised the issue, Mr Speaker - Mr Kaine also mentioned that we had to send a message to the magistrates as well as a message to the people. Sending a message to the magistrates is fine and we can do that by changing the penalties, but cutting the magistrates out of being able to make a decision is not fine. In fact, it is an affront to the way democracy works. It is an affront to the separation of powers. It is not about the distinctions between what the legislature does in terms of legislating in the general and what a court does, which is apply the specific. Yes, through both of these pieces of amendments we will be sending a very strong message to the magistrates - and a message is what it is - about increased penalties; but we will not be saying, "You have no say in how people are charged or penalised".

Finally, Mr Speaker, I would like to clarify something that Mr Kaine said that I believe is incorrect. I know it is incorrect. He said that the use of section 556A means that the charge will not be taken into account. The charge will still be taken into account by a magistrate. The trouble with the way it was worded in this Bill was that, even though there was no conviction recorded, it automatically counted as though it were a conviction. Suddenly, it was treated as a conviction. Now, with the magistrate able to see it, he will be able to look at the reasons why the court in the previous session said, "No, we will allow a section 556A". So you will be pleased to know, Mr Kaine, that it will still be taken into account, and that will help us take a very strong message to people that drink-driving is not on. I am with you all the way on that.

MR WHITECROSS (9.28): Mr Speaker, I rise briefly to correct a couple of things in what the Minister said. The Minister seemed to have got the impression that the Labor Party was supporting this legislation because it was going to send a message. We are supporting this Bill because we think it improves the legislation and provides for a more logical and rational scheme for dealing with drink-driving. In particular, it eliminates the indefinite penalties for second offenders which existed previously and the unnecessary court applications for second offenders to get their licences back, and replaces them with an appropriate scaled set of maximum penalties for second offences according to blood alcohol limit. We think that is okay.

Mr Kaine seems to be very excited about consistency with New South Wales. In relation to maximum penalties we will be consistent with New South Wales. So whether you are driving in the ACT or in New South Wales you will know that for a given blood alcohol level a particular penalty, a maximum penalty, will apply. You will also know that you will have to go along and argue your case before a magistrate. The difference will be that magistrates will be able to listen to your argument and determine a penalty according to their own judgment, rather than being dictated to by the legislature as to what is the minimum penalty that they can hand out.

As I have said before, I think it would be a very rare occurrence for a magistrate to hand out a penalty below the minimums that are prescribed; but it is for the rare occurrences that we have a system of criminal justice. We have a judiciary and we have a system where each case is considered on its merits. That is the system we are trying to preserve, Mr Speaker. The fact is that there are some logical features in the Bill and that is why Labor is supporting it, but we will not be supporting the adoption of minimum penalties as some cheap macho solution to the business of sending a message to drink-drivers.

As Mr Moore rightly said, there is much more to sending a message to drink-drivers than continually ratcheting up the penalties, imposing minimum penalties, "three strikes and you are out" provisions, mandatory death sentences and whatever else Mr Kaine has in his kitbag. There is an intelligent and rational system of criminal justice under which the punishment fits the crime. We have an active system to educate people about what is right and what is wrong, in the view of the community, and to encourage people to do the right thing. We have a system of criminal justice which is working, as Mr Moore said, in the sense that, according to Superintendent Peter McDonald, the number of people who record positive tests has been falling. But we also need an appropriate criminal justice system to deal with the people who fall through the cracks. This legislation that has been proposed by the Government has an appropriate system of penalties which will be of guidance to the magistrates as to what penalties to hand out for particular offences, but it still allows the magistrates to decide what is appropriate in particular cases.

Mr Speaker, this Government endlessly wheels out the line that somehow or other the Labor Party in this Assembly must support something because the Labor Government in New South Wales supports it. Normally, they run out that argument when the Liberal Party in the ACT cannot think of an idea on their own and have borrowed one from the Labor Party in New South Wales. The reality, Mr Speaker, is that neither the Labor Party nor the Liberal Party in the ACT should automatically run out and do whatever the Liberal Party or the Labor Party in New South Wales does. We have to make up our own minds. Sometimes our colleagues in other States, whether from our party or from the other party, get it wrong. We have to make a judgment for ourselves, Mr Speaker. On this issue I happen to disagree with Bob Carr. On this issue I happen to think he is wrong. I do not believe in lots of get tough, mandatory minimum sentences - the "lock them up and throw away the key" style approaches which Bob Carr sometimes likes to wheel out in a populist attempt to look like he is doing something about a problem.

Most social problems, and drink-driving is one of them, have to be dealt with in sophisticated ways, not in simplistic ways. The idea of minimum sentences is a simplistic solution. I want to see the people of the ACT and the Government of the ACT adopt a more sophisticated approach. That means getting away from the macho minimum sentences, three strikes and you are out, and this sort of nonsense, and adopting instead an approach where we seek to work with the community and to educate the community into correct ways of behaving, and at the same time have in place an appropriate criminal justice system which allows magistrates to hand out penalties to people who do the wrong thing.

Amendments agreed to.

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

Bill, as amended, agreed to.

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

Debate resumed from 15 May 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR MOORE (9.34): Mr Speaker, I seek leave to move together the amendments circulated in my name.

Leave granted.

MR MOORE: I move:

Page 4, line 4 to page 6, line 6, clause 8, proposed new section 11A, omit proposed section 11A and proposed subsections 11B(1) to 11B(4), substitute the following proposed section:

"**Special probationary driving licence**

'11A. (1) Any person may apply to the court for an order under subsection (4).

‘(2) An application for an order under subsection (4) shall be filed with the Registrar of the court together with an affidavit of the applicant setting out the grounds on which the order is sought.

‘(3) The respondents to an application are -

(a) the Registrar of Motor Vehicles; and

(b) the chief police officer.

‘(4) The court may in exceptional circumstances, and on application in accordance with subsection (2), order the Registrar of Motor Vehicles to grant a special licence in accordance with section 11D by a person in respect of a period during which the person would not otherwise be entitled to drive a motor vehicle because -

(a) he or she is disqualified from holding a driving licence by force of, or under, a law of the Territory;

(b) a provisional licence granted to the person is suspended under subsection 180X(2); or

(c) a driving licence granted to the person is suspended or cancelled by force of, or under, a law of the Territory.

‘(5) In determining whether exceptional circumstances exist which justify making an order under subsection (4), and without limiting the matters to which the court may have regard, the court shall have regard to the following:

(a) the likelihood that the applicant, or a person affected by the outcome of the application, would suffer or incur any inconvenience or loss (actual or potential) which would be unreasonable, if the special licence were not granted;

(b) whether it would be unreasonable for the applicant to use an alternative means of transport, including public transport, if the special licence were not granted;

(c) the likelihood of the applicant’s health, or that of any dependant, suffering or being put at risk if the special licence were not granted;

(d) the applicant’s history concerning any offence or infringement under this Act or any other law in relation to the use of a motor vehicle; and

(e) the likelihood of the applicant complying with the conditions of a special licence.

‘(6) In considering an application under subsection (1) by -

(a) a person who is the holder of a suspended learner licence;

(b) a person whose driving licence is suspended under paragraph 104(2)(b);

(c) a person who is not licensed to drive a motor vehicle following the cancellation of his or her driving licence under paragraph 104(2)(b);

(d) a person whose driving licence is suspended under subsection 162E(1);

(e) a person whose driving licence is suspended under subsection 180F(1);

(f) a person whose full licence is suspended under subsection 180U(3);

(g) a person whose provisional endorsement of a licence is suspended under subsection 180ZA(3);

(h) a person who is disqualified from holding a driving licence by force of subsection 180ZC(1);

(j) a person who is disqualified from holding a special licence by force of section 191J; or

(k) a person who is disqualified from holding a driving licence because of an order under section 191D arising from a conviction of an offence against section 191P.

The court shall make an order under subsection (4) only in the most extraordinary circumstances.”.

Page 6, line 34, clause 8, proposed section 11D, omit “section 11B”, substitute “subsection 11A(4)”.

Page 7, lines 11 to 13, clause 10, omit the clause.

Page 7, line 31, clause 13, omit “subsections”, substitute “subsection”.

Page 7, line 32 to page 8, line 12, clause 13, section 180Z, omit proposed subsections (4), (5) and (6), substitute the following subsection:

"(4) Where a person's special licence is cancelled under subsection (2), then, by force of this subsection, any suspended licence granted to the person is cancelled together with the special licence.".

Page 8, line 32, clause 15, proposed paragraph 191B(1)(b), after "driving licence", insert ", other than a special licence,".

Page 9, line 11, clause 15, proposed paragraph 191C(1)(b), after "driving licence", insert ", other than a special licence,".

Page 9, line 16, clause 15, proposed paragraph 191C(1)(c), after "driving licence", insert ", other than a special licence,".

Page 10, line 2, clause 15, proposed subsection 191D, after "driving licence", insert ", other than a special licence,".

Page 10, line 31, clause 15, proposed subsection 191H(1), after "11E,", insert "unless the court specifies to the contrary,".

Mr Speaker, these amendments follow on from the issues that I raised before. Amendments Nos 1 and 2 restructure the two sections proposed in the Bill with regard to applying for special licences. First of all, there is no denial of access to the courts. The material which provides guidance for magistrates on the grounds for determining an application is retained, Mr Speaker. This came out of the negotiations. I point particularly to Ms Horodny, who has spoken on this issue already, who was very keen to retain those. Indeed, it was a matter that was emphasised for me in the round table discussion with Mr Kaine. The catalogue of serious offenders is listed in a way which requires extraordinary circumstances for them to be granted a special licence. So, even the special licence that I spoke about before will result in only the most restricted licence anyway. But, even then, what is very clear about this message is that a magistrate will not consider dealing with it unless it is in the most extraordinary circumstances. Other provisions of the Bill are retained.

Amendment No. 3 removes the excuse provisions from the offence of failing to produce a drivers licence on demand. I think this part of the legislation is appropriately opposed, because the current law is appropriate, but the offence would be unreasonably tight if the amendment were passed. It recognises a case such as where mum jumps into the car to take the kids to school, after one of those mornings - and anybody who has little kids knows about those - trying to get them off to school. It can test any parent. She has gone off without her licence, and suddenly, lo and behold, she has received a major fine.

Mr Speaker, amendments Nos 4 and 5 convert provisions which make disqualifications automatic into provisions which give the court power to impose disqualifications. So, this change ensures the independence of the courts in their role in determining appropriate penalties in individual cases. Amendments Nos 6 to 9 prevent automatic disqualification from access to special licences. The offender still remains able to apply for a special licence, although the chances of getting one are very slim.

Amendment No. 10 provides that, after breach of a condition of a special licence, and penalisation for that breach, the special licence is not automatically cancelled but, instead, can be cancelled as the court directs. We would expect, in 99.9 per cent of the cases, that the court would do exactly that. It is up to the court, and that is what these amendments are really about.

Mr Speaker, I would like to emphasise again the amount of time and effort that other members have put into these amendments. Although they are put up in my name, the amount of work that Mr Whitecross and Ms Horodny put in is not to be underestimated. I had discussions with Mr Osborne. He was not happy with my amendments. I think that is a fair description; but he can talk about that.

MR KAINE (Minister for Urban Services) (9.38): The essential element of Mr Moore's amendments in connection with the Motor Traffic (Amendment) Bill (No. 2) is that they negate a section of our Bill which says, essentially, that, if you have committed offences and you fit into certain categories, you are not entitled to apply for a temporary licence at all. That does not exclude everybody, however, because under section 11B in our Bill there are certain people who can. But we felt that there were some people who, having lost their licence - having had it suspended - should not be entitled to get their licence back during the period of suspension. That is the message that says, "If you commit one of these offences, you lose your licence".

Just as an example, two of the classes of persons who, we thought, should not be able to get their licences back are people whose driving licence is suspended under subsection 162E(1) and people whose driving licence is suspended under subsection 180F(1). These are people who have run up enormous fines bills that they have refused to pay. Because of that, they have fronted up to renew their licence, and they have had their licence suspended. Why would we put them back on the road? We take their licence because they are irresponsible. They run up enormous bills for fines and they do not believe that they should be held accountable for it. We take their licence away, and now Mr Moore, Mr Whitecross and Ms Horodny say, "You give them back their licence. All they do is front up and ask for a special licence, and you give it back".

These sorts of people are included in the classes of people about whom Mr Moore, Ms Horodny and Mr Whitecross say, "You take their licence away, but then you give it back to them". Why? What is the justice in that? There is no logic whatsoever to that. So, Mr Speaker, by deleting that category of people who we say should not get their licences back once they have been suspended and putting them back into the mill, we are going back to the situation where, one year from now, we will have about 1,200 people who have had their licences taken away and 450 will have gone around the back, have gone in the back door, and have got their licences back. Nothing will have changed.

The wording that Mr Moore has used here does not change the existing discretion of the court. They can get their licence back if they have exceptional circumstances. That is the situation now. If you get your licence taken away and you can establish to the satisfaction of the court that you are somebody special and you have exceptional circumstances, you get your licence back. That is exactly what Mr Moore is saying here.

Mr Moore: Let us do away with the courts altogether.

MR KAINE: No.

Mr Moore: Yes. That is what you are saying: Let us do away with the courts altogether. They are a nuisance anyway. They actually let people off, damn them.

MR KAINE: I have already pointed out that there are lots of other reasonable people, who fall under section 11B, who we say should be entitled to have their licence restored under special circumstances. But not these people. We believe that there are certain classes of offenders - certain classes of people who have been convicted of an offence - who should not be entitled to get their licence back. But Mr Moore, Mr Whitecross and Ms Horodny are about to hand them back their licence as though they had never done anything wrong. They will, no doubt, continue to front up and get their licences back, just as they have done in the past, because we are not giving the magistrate any different guidance from what he had before.

Mr Speaker, the only other matter about Mr Moore's proposed amendments is that all but one deal with this question.

Ms Horodny: Mr Speaker, on a point of order: Mr Kaine keeps stating that people go through the court system and come out the other end with their licences intact. I suggest that he stop saying that, unless he can actually table some evidence.

MR SPEAKER: There is no point of order.

MR KAINE: Mr Speaker, I do not have it with me; but I can table the evidence that, of 1,200 people last year, 450 got their licences back. That is a statistical fact.

Mr Moore: They did not have their licence intact; they had a special licence. That is an entirely different thing.

MR KAINE: I can table the document, but I do not happen to have it with me now.

The only other matter to be dealt with in Mr Moore's amendments is his amendment to clause 10. That has to do with the requirement that we would impose on drivers to have their drivers licence with them at all times when they are driving. I do not believe that that is an unreasonable expectation. At the moment, the police pull them up by the side of the road; they have committed some offence; the policeman says, "Show me your drivers licence", and they say, "Sorry, I do not have it with me". So, the policeman takes the

details and he or she gets back in the car and drives away. In fact, a lot of them are unlicensed drivers, but the police can do nothing because they have given them three days to turn up with their licence. They do not turn up, do they? The address they gave the police is the wrong address. It may even be a false name.

So, we have the absurd situation where we have police officers pulling people up by the roadside who are unlicensed drivers - maybe they even had their drivers licence suspended by the court - and they drive away because we give them three days' grace to produce their licence. How stupid can we be? So, off they go, and they drive around, unlicensed, until at some future time another police officer pulls them up; they still get another three days to produce their licence; and so it goes on. I do not believe that it is an undue imposition to expect a person who has a licence to drive to carry it. What is the problem with that? Nobody has yet explained to me what is the problem in expecting a licensed driver to have their licence with them when they are driving their car.

I know that Mr Moore says, "A good excuse is that I forgot; so, it does not matter". He told me this. If he forgets to register his car, he does not get three days' grace. He is driving an unregistered car, and he gets penalised right there and then. So, why would you not penalise a driver for not carrying the licence that says that he is entitled to drive his vehicle? Indeed, the penalty is only $45 anyway. So, what is the big deal? Is this onerous? Is it asking too much of reasonable people to have their drivers licence with them?

Mr Speaker, the logic in many of these amendments defies me, and that is another one. As I said before, I can see that Mr Moore has the numbers; but I suspect that, a year from now, maybe the same group of people - maybe a group of newly elected people come February - are going to be sitting here debating the same issue and asking, "Why did those people a year ago not send drivers the right message? Why were they such lily-livers? Why were they so weak-kneed that they would not send the right message?". So, I will give it a year and see whether I am right.

MR WHITECROSS (9.46): Mr Speaker, I feel sorry for Mr Kaine. This is the second time in two days that he has been in this predicament, defending the indefensible, trying to defend an illogical policy that he has been saddled with by other members of his party. Yesterday, Mrs Carnell saddled him with a ridiculous policy on tourism. Today, he has been saddled with a ridiculous policy by Mr Humphries and Mr De Domenico. Mr Humphries is not even here to defend it. Mr Kaine talked yesterday about how the community was struggling to understand the Government's policy on tourism promotion, and I am sure that the community would be struggling to understand this policy as well, because it makes no sense.

It is a good thing that Labor, the Greens and Mr Moore have been going through this Bill, scrutinising it carefully in the way that legislatures should, and coming up with appropriate amendments to improve it. It now provides, I think, the guidance which some people feel the magistrates need, including identifying categories of people who we would think should get licences only in the most extraordinary circumstances. At the same time, Mr Speaker, it preserves the integrity of the system of government and the separation of powers that we have, where magistrates make decisions about who gets licences and who does not.

Mr Kaine keeps telling us this story: The police officer pulls you up and books you for DUI; you go along to the Magistrates Court; the magistrate hands you down a three-month suspension; you walk out the back door of the court, you walk around to the front door, and the same magistrate says, "All is forgiven. Have this special licence, and you can drive wherever you like, whenever you like; no problem with us". The fact is that what Mr Kaine is really saying is that he does not trust the magistrates. He does not think that the magistrates know what they are doing. I am surprised, Mr Speaker, that you have not called him to order under standing order 54 for offensive words directed towards the judiciary. The way he is talking about the magistrates and the way they conduct themselves certainly does not seem to reflect well on the magistrates. Quite frankly, I think his mistrust in the magistrates is misplaced.

Mr Speaker, earlier in the week, Mr Kaine produced some interesting statistics for members, showing that in 1996-97 a total of 1,131 drivers were suspended or disqualified or had their licence cancelled by the courts. Of these, 441 - that is 39 per cent - applied for special licences. Indeed, as Mr Kaine said, most of those were granted. Only nine were not approved. The question that has to be asked is: Why did the other 700 not apply for a special licence? Probably because their solicitor told them, "Do not waste your time, do not waste your money, do not waste the court's time, because you are not going to get one". Maybe, when they were in court having their licence suspended in the first place, the magistrate even said to them, "Do not bother turning up here asking for a special licence, because you are not going to get one".

Mr Speaker, the fact is that what the statistics that the Minister himself produced show is that two-thirds of people who are suspended or disqualified or have their licence cancelled do not end up with a special licence, and they probably do not end up with a special licence for a very good reason. A lot of them are probably in these categories that are in Mr Moore's amendment and in the Minister's original Bill. They are chronic fine defaulters, people who already held a suspended licence when they were booked or people who have had their licence cancelled, or whatever.

Mr Speaker, the Minister has not produced a single statistic to demonstrate that there are scads of people out there who have been driving with a suspended learners licence, have gone for DUI and have then been handed out a special licence by the courts, or who have been driving while under cancellation, have gone for DUI and have been handed out a special licence by the courts. Where are the statistics to demonstrate that? There are not any. There is probably a very good reason for that. Contrary to the impression that Mr Kaine is trying to create today, where he has tried to besmirch the magistrates and suggest that they hand out special licences like lollies, the reality is probably that there are not any of these people. The truth of the matter is that the magistrates do not hand out special licences to people in these categories. Quite frankly, that is fine with me.

The amendment that has been drafted by Labor, the Greens and Mr Moore says that these kinds of people should get a special licence only in the most extraordinary circumstances. I think that that is an appropriate situation. But, Mr Speaker, I do not want to defend the situation of the magistrate who says, "This is the one in a million occasion on which I would have handed out a special licence" and finds that they cannot do it because Mr Kaine has been out there trying to send a message and prove that he is tough on

drink-driving and has taken away from the magistrates the right to judge a case on its merits. Mr Speaker, I will always defend the right of the magistrates to judge a case on its merits. I do not think it is an appropriate role for Mr Kaine to be telling the magistrates what to do, and I do not think he has produced a skerrick of evidence to demonstrate that there is a problem in relation to this.

Mr Speaker, Mr Kaine also talked about the business of carrying a licence and the inconvenience and difficulties caused by a situation where someone is pulled over by the side of the road and asked to produce their licence; they say that they do not have it, and then they have three days to produce it. Mr Kaine says, "They could give a false name and address, and we might never find them". Mr Kaine, let me paint a picture for you. This same person, under your law, is driving down the road and gets pulled over by a police officer, who says "Where is your licence?". He says, "I do not have it". He is asked, "What is your name?". He gives a false name and address. The police officer pulls out his pad and writes out a $45 on-the-spot fine and says, "You have to present at the police station within three days to prove that you do have a licence". We are in exactly the same position as we were in before, Mr Speaker. The person still has to present to prove that he did have a licence. The police officer still has to be there at the station when the person presents, to ensure that he does have the licence and is the same person that was pulled over. If he has given a false name and address, then the on-the-spot fine is not going to be worth very much, is it?

Mr Speaker, we have not really added a lot of value to the equation, except that Mr Kaine now has the satisfaction of knowing that he is tough on crime because he has been able to hand out a $45 on-the-spot fine, which may or may not get paid, depending on whether they can track down the person who has given a false name and address. So, Mr Speaker, I do not really believe that the problem that Mr Kaine suggests with the current law is solved by the change. The reality is that most people do carry their licences with them all the time and happily produce them to the police. It is only in exceptional circumstances that people are in a situation of not carrying their licence. Mr Speaker, the kinds of people that Mr Kaine is really on about are the people who wilfully give false names and addresses. I fail to see how a $45 on-the-spot fine is going to change that, especially if the person in question thinks that by failing to produce their licence they will avoid some more serious penalty.

I believe that we need to be sensible about this. We should not be saying, as Mr Kaine wants to say, "We do not trust the magistrates to do their job properly; so, we are going to tell them how to do it. We are going to tell them whom they can and cannot give a special licence to". Are you going to tell them what minimum sentence to provide, as you tried to do with the previous legislation? Mr Speaker, I think we ought to trust the magistrates to do their job.

The amendments that have been moved by Mr Moore, which were negotiated between Labor, the Greens and Mr Moore, provide appropriate guidance to magistrates in handing out special licences. If guidance was required - and I have to say that no evidence has ever been provided to me that guidance was asked for - then the amendments that have been proposed by Labor, the Greens and Mr Moore provide that guidance.

If guidance was required on whether we think that people in the categories that I have discussed earlier and that Mr Kaine alluded to in his remarks ought not to be granted special licences except in the most extraordinary circumstances, that guidance is also provided, Mr Speaker. In short, we have met the goal of providing guidance; but at the same time we have avoided the danger that Mr Kaine seeks to embroil us in of doing the magistrates' job for them, Mr Speaker. Let the magistrates do their job. With the amendments moved by Mr Moore, we have done our job of providing some guidance, Mr Speaker. I think that is an appropriate result. Once again, the Labor Party - yesterday it was Mr Corbell; today it is me with Mr Moore and the Greens - has helped the Minister out in dealing with an illogical policy that he has been saddled with by his colleagues.

MR SPEAKER: Order! The member's time has expired.

MR KAINE (Minister for Urban Services) (9.57): Mr Speaker, I really have to defend myself against the accusation by Mr Moore, or some such implication, that I am questioning the integrity of the magistrates. What he is overlooking is that the Chief Magistrate sought guidance. That guidance was inherent in the Bills that we prepared. Mr Moore's amendments remove a very large part of it. I have to admit that some elements of it are still there; but a very large part of it has been removed. That puts the magistrates back where they were before with, in the opinion of the Chief Magistrate, inadequate legislative guidance as to what they should and should not do under certain circumstances.

MR MOORE (9.58): It is simply not true - - -

Mr Stefaniak: Mr Speaker, is he closing the debate?

MR SPEAKER: He is speaking to his amendment.

MR MOORE: The simple truth is that the guidance that was in the legislation is still there - the same words, except that where there was a repeat we removed the repeat. Apart from that, everything that was in the legislation is there. To say that a large part is missing is simply untrue. I will choose a better word. It is simply not accurate. We have just taken the same part from the legislation except that, instead of cutting the magistrates out, we decided to trust the magistrates. We gave them guidance, as opposed to saying "no say". That was the choice - no say, or guidance. Under this legislation, they get guidance.

MR STEFANIAK (Minister for Education and Training) (9.58): I can understand why the magistrates want certain guidance in this matter.

Mr Whitecross: Where is the evidence for this? Table the request for guidance.

MR STEFANIAK: Shut up, Mr Whitecross, and you might learn something. I can say from considerable experience in the ACT courts, over a nine-year period as a prosecutor and about four years in private practice, that it is exceptionally easy, to the extent of almost becoming a joke, to get a special licence.

Mr Moore: Mr Speaker, I take a point of order - - -

MR STEFANIAK: No wonder the magistrates want some guidance - - -

MR SPEAKER: Just a moment, Mr Stefaniak.

Mr Moore: Mr Speaker, standing order 54 is really very specific. I think it is appropriate for us to take great care in the way we deal with reflections on the judiciary. It is there for a very good reason. I think it is an appropriate time to remind Mr Stefaniak of that important standing order.

MR STEFANIAK: Mr Moore was not listening, Mr Speaker. I did refer to the fact, as did Mr Kaine, that the magistrates themselves and the Chief Magistrate - as is his duty and right, representing the other magistrates - were seeking guidance. They did so for very good reason, Mr Speaker. We are talking about giving people what is, in fact, a privilege, not a right. When that privilege is abused by people and they then seek to have a further privilege extended, in terms of a special licence, the courts should have - and want, it seems, in this circumstance - a number of matters whereby they can see what the intent of the legislature is and what such things as exceptional circumstances are. They themselves want that defined. They want to seek - and they have sought, it seems - the guidance of this Assembly in terms of setting out some guidelines in this very important area.

It is a very important area, Mr Speaker, because we are, effectively, dealing with people's lives. The most lethal thing I think a normal person in our society can get their hands on is a motor car. There are very good reasons why we need laws in terms of regulating traffic offences. Ninety-seven per cent of accidents occur because of driver error. I think that is just a statistical fact that people need to be aware of. When people transgress the motor traffic laws, I think we need to be very careful about extending them further privileges in terms of special licences.

What Mr Kaine is proposing here, I think, is eminently sensible. In fact, it adheres to what the courts themselves wish to see from this body - and that is guidance on behalf of the community. I also submit that it is what the community expects. We have a duty, as legislators, to protect the community, to look after the rights of the community. I think, unfortunately, what Mr Moore is proposing is something that is excessively lenient and something that our own courts, as indicated by the Chief Magistrate, do not want to see. It is not what the magistrates want to see.

What is being proposed here is eminently sensible. It represents the rights of the community and also the proper rights of the defendants themselves and the applicants for some special privileges here. What Mr Moore is proposing, I think, would entirely defeat the purpose of what this particular part of the Bill is all about and would prevent our giving what the courts are seeking from this body, which is guidance.

MR WHITECROSS (10.02): Mr Speaker, it is good to see you upholding the right of members to debate in this place.

MR SPEAKER: I will crack down on boring repetition.

MR WHITECROSS: Mr Speaker, it will not be boring repetition. Let me get straight to the point here. Mr Stefaniak, in his remarks just then, said that the magistrates - and I think he might have even referred to the Chief Magistrate - had requested this guidance. I was at a round table with the Minister the other day at which I asked about this. Not a shred of evidence was produced that anybody had asked for any guidance; nor were the terms of that request for guidance produced. We are yet to see any evidence of anyone asking for any guidance on that. I challenge the Minister - or Mr Stefaniak, who seems to be an expert on what the magistrates want - to table the evidence that they have asked for guidance and the terms of that guidance, Mr Speaker, because I have not seen any of it. There is no reference to it in the tabling speech either, I might say.

Mr Speaker, the fact is that, regardless of whether they did or did not ask for guidance, Mr Moore's amendments, which Labor is supporting, will provide that guidance. It is simply wrong for Mr Kaine and Mr Stefaniak to say that we are not providing the magistrates with additional guidance, regardless of whether or not they actually ever asked for it.

MR STEFANIAK (Minister for Education and Training) (10.03): Mr Speaker, in relation to Mr Whitecross's point about guidance, Mr Kaine's department has quite clearly indicated that the court has drawn attention to the present lack of such guidance. It is not uncommon - - -

Mr Moore: Where? Show us. Go on, commit yourself.

MR STEFANIAK: I tend to accept what departmental officials tell me.

MR SPEAKER: Order! The house will come to order, or you will all be showing it outside.

MR STEFANIAK: I tend to accept what departmental officials tell me. Mr Moore, I can tell you that, from my experiences, quite often magistrates and judges will point to a lack of guidance or the need to amend legislation to assist them in their duties.

MS HORODNY (10.04): Mr Speaker, I was one of the individuals here who were tempted to go along with the Bill as put up by Mr De Domenico initially. But, having looked more closely at the detail of this Bill and having talked widely with people about what the actual changes would mean, I have come to the conclusion that the best place to leave those sorts of decisions - decisions about whether someone should or should not obtain a special licence; indeed, for even a second, a third or a tenth time - is with the magistrate.

It was initially quite tempting to believe that we should impose the penalties, in a sense, from here. I believe that, as far as the guidance goes, it is our role. I believe that it is the role of the legislature to provide that guidance in any case, because the legislature decides what the parameters are, and it is within those parameters that the magistrates then operate. But I believe that we have already done that anyway; and now we have actually tightened up that guidance and that direction to the magistrates by putting in words such as "exceptional circumstances".

Mr Kaine: They were already in there.

MS HORODNY: No. They are words that I insisted that we put in, because they were not in there.

Mr Kaine: You did not put them in. They were already in there.

MS HORODNY: I believe that that gives clear guidance to magistrates about the circumstances under which they may give people special licences, even a second or third time.

MR KAINE (Minister for Urban Services) (10.06): Mr Temporary Deputy Speaker, I will speak just briefly. Mr Whitecross, in his intemperate tirade, raised the question of whether or not the Chief Magistrate had sought guidance. In fact, he has, in writing. But he never asked for it. He never asked for it when he was in my office.

MR MOORE (10.07): Under these circumstances, Mr Temporary Deputy Speaker, will Mr Kaine provide for us - we would be very interested to see it - a copy of the request for guidance from the magistrate, or the Chief Magistrate, whichever one it was? I would appreciate it if you would commit yourself to providing for the Assembly either that copy or an explanation of what the guidance was - whatever it is that you have. I would appreciate receiving an explanation to the Assembly on what the request was and how it was made.

MR KAINE (Minister for Urban Services) (10.07): Mr Temporary Deputy Speaker, I will respond to that request. I do not know that I ought to table the Chief Magistrate's letter, but I will get a copy of it and Mr Moore can come and have a look at it in my office.

Mr Moore: I am happy with that.

Question put:

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

The Assembly voted -

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

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL (NO. 2) 1997

[COGNATE BILL:

TRAFFIC (AMENDMENT) BILL 1997]

Debate resumed from 19 June 1997, on motion by **Mr Kaine**:

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 Traffic (Amendment) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 8 they may also address their remarks to order of the day No. 9.

MR MOORE (10.13): Mr Speaker, this legislation is about the taking of blood samples in certain circumstances. In rising to oppose the legislation, I think it is appropriate to the one hand, there is an argument about ensuring the safety of citizens associated with people who are drink-driving and about testing their blood after an accident. I think there are very good arguments on that side.

On the other side of the argument, first of all, there is the issue of civil liberties; secondly, there is the issue of medical practitioners being compelled to take blood, which may distract them from their primary focus, which is saving the person's life or working on their health and wellbeing; and, thirdly, there is the issue which argues against this legislation, which is that, whenever the courts, including the High Court, have considered issues to do with the invasion of a person's body - this applies to courts here and in the United Kingdom and Canada - they have been very reluctant to allow that in any sense. They are the two sides of the argument, in a nutshell.

Mr Speaker, I wrestled with this issue. My initial reaction was to reject the Bill. Then, having discussed the issue with quite a number of people, I felt that perhaps I should support it. But, in the end, I felt that it was entirely inappropriate to put on medical practitioners this requirement to take blood. I think it sets an entirely inappropriate tone. Also, it is in the context of a situation where we know that there are fewer and fewer people drink-driving. We have to continue to work and we have to continue sending the sort of message that Mr Kaine set out to send in this package of Bills. That message, which I agree with, is that drink-driving is not on. We have been doing that successfully.

So, Mr Speaker, it is an on-balance decision. I do not think they are clear-cut issues. In the end, I feel that it is appropriate to oppose this legislation. I certainly understand why the Government has put it up and I understand why other members will support it.

MR WHITECROSS (10.16): Mr Speaker, the Labor Party will be supporting this legislation. As Mr Moore has said, it is an on-balance decision. I do not lightly accede to legislation which has people submitting themselves to having their bodies invaded, on pain of a penalty of 30 penalty units; but I think that the legislation, as it existed, already provided for that. So, in a sense, that debate has already been had. What this legislation really does is clarify issues to do with the doctor-patient relationship and the notion that doctors might feel that they were not able to submit to taking blood from a patient who was under their medical care because the action was unrelated to their medical treatment. I think that is something which ought to be clarified. So, Mr Speaker, on balance, the Labor Party will be supporting these two Bills.

MRS CARNELL (Chief Minister) (10.17): Just to follow up very briefly on Mr Moore's comment, the request for this piece of legislation actually came from doctors in Accident and Eergency who felt that the clarification that Mr Whitecross was talking about was necessary to give them the opportunity to, as they have said, do the right thing, particularly in circumstances where accidents have occurred.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

TRAFFIC (AMENDMENT) BILL 1997

Debate resumed from 19 June 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR KAINE (Minister for Urban Services) (10.18): Mr Speaker, I seek leave to move together the two amendments circulated in my name.

Leave granted.

MR KAINE: I move:

Page 2, line 20, clause 4, proposed subsection 36(3), after "16," insert "16A,".

Page 2, line 22, clause 4, proposed subsection 36(3), after "applies" insert "or a sample taken from the body of such a person".

They are quite innocuous amendments and they arise from the fact that the Standing Committee on Scrutiny of Bills and Subordinate Legislation, in its Report No. 7 of this year, pointed out that there was a lack of a cross-reference there. These amendments merely remedy that.

Amendments agreed to.

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

Bill, as amended, agreed to.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 3) 1997

Debate resumed from 19 June 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

MR WHITECROSS (10.19): Pardon me for sneezing, Mr Speaker.

MR SPEAKER: Bless you!

MR WHITECROSS: Thank you, Mr Speaker. It is not often that I get a blessing from the Speaker.

MR SPEAKER: Particularly by me.

MR WHITECROSS: I take them when I can, Mr Speaker.

The Motor Traffic (Amendment) Bill (No. 3) 1997 makes provision for private inspectors to be engaged in vehicle inspections. The process, I guess, is one of the first opportunities presented by Government legislation to actually debate the Government's vehicle testing system. In the detail stage I will be moving some amendments to implement what I believe would be a more appropriate system of vehicle testing than the one that has been introduced by the Government.

Mr Speaker, the issue of annual vehicle inspection is a matter of public safety. It is an issue which the Government should be involved in and it is an issue on which the Government should be setting the standards and on which governments historically have set standards. As discussed in earlier debates, driver behaviour and driver attitude are significant elements in motor safety. Some of the legislation we have passed already deals with some of the issues of motor safety, whether it is dangerous driving or driving under the influence. But, Mr Speaker, the issue of vehicle safety is still an important issue. Prior to the election of this Liberal Government, the ACT had the best vehicle inspection system in the country. We now have the worst. There is an abundance of evidence which shows that, in jurisdictions that do not have any vehicle inspections, the vehicle fleet is often in a state of disrepair.

Mr Speaker, let there be no doubt that the Government's motivation in changing the vehicle inspection system in the ACT was not road safety. It was not best practice. The motivation was money. That was the motivation which was usually at the heart of most things that the then Minister, Mr De Domenico, did, because policy issues and policy analysis tended to elude him. When asked to explain why he had done things, his usual answer was, "I made a decision because that is what I am here to do - make decisions". He was never much good at explaining why he had made a decision, Mr Speaker. Usually, when you actually looked at it, at the end of the day, it was about delivering for the Government some savings for its budget. It had nothing to do with policy; it had nothing to do with what was in the interests of public safety; it was to do with money.

You do not have to look far to see the results of the kinds of changes that Mr De Domenico brought in. Victoria, which has a system of inspection on change of ownership, as Mr De Domenico implemented in the ACT, has a high proportion of vehicle fleet defects in the areas of brakes, suspension and steering. Mr Speaker, let us get a bit of a handle on that. In Victoria, they inspect vehicles on change of ownership. That works out to about once every five years, on average. So, 80 per cent of vehicles inspected on change of ownership in Victoria had a vehicle defect.

Let us look at the detail of this. Forty per cent had brake defects; nearly 23 per cent had suspension defects; 13 per cent had steering defects; 6 per cent had seat belt defects, which is obviously a major safety concern; 30 per cent had wheel or tyre defects; 20 per cent had headlamp defects; 40 per cent had turn signal defects; nearly 29 per cent had windscreen wiper defects; and 24 per cent had windscreen defects. Mr Speaker, in other words, under the system that has been proposed by the Liberals, under the system that has been implemented by the Liberals, when you get up in the morning, get into your car and drive somewhere, you are driving on roads where 40 per cent of your fellow motorists - perhaps you yourself - have brake defects; 22 per cent have suspension defects; 13 per cent have steering defects; 40 per cent have turn signal defects; et cetera. Mr Speaker, is that the system we want in the ACT? Is that the kind of road safety we want in the ACT?

Mr Kaine: No; and it is not the system you are getting, either.

MR WHITECROSS: It is the system we are getting, Mr Kaine. The facts are that that is the system that the Liberals have imposed on us in the ACT. What the Liberals are counting on is the fact that it will take many years for us to reap the full penalty of the system that the Liberals have implemented. It will take many years for the vehicle fleet in the ACT to degrade in the way that it has in Victoria; but degrade it will, under the Liberals' proposed system.

Mr Temporary Deputy Speaker, what is interesting, too, is that many of the defects identified here - brakes, suspension and steering - are not the kinds of defects that can be detected by random vehicle inspections. One element of the Government's vehicle testing system is inspections on change of ownership - and we have just found out how effective that is. The other element of their system is random inspections in car parks. The Government last week made much of a report about random inspections in car parks. The Government is always boasting that all you have to do is look at a car and, if the tyres are bald, you know that there is something wrong with the car and, if the tyres are not bald, then there is nothing wrong with the car: There is a strong correlation between whether there is a problem with the tyres and whether there is a problem with the rest of the car.

The Roads and Traffic Authority in New South Wales did a study, inspecting cars in a car park in New South Wales, to look at vehicle defects in those cars. In that study, which was admittedly a small sample, only 11 per cent of the cars tested had tyre defects. But one-third - that is, three times as many - had a brake defect. So, if we rely on the vehicle testing system that the Government wants to introduce, then at least two-thirds of the cars with brake defects will elude the inspection because they do not have a tyre defect. The only real way of being picked up is if you have a tyre defect.

There were 11 per cent with tyre defects and one-third with brake defects, Mr Temporary Deputy Speaker. So much for their random inspection system! The conclusion that the NRMA drew from the study was that tyre condition did not appear to correlate with other faults; that is, checks of tyres alone would not be a reliable indicator of vehicle roadworthiness.

That is the system we have - a system where on change of ownership 40 per cent of cars report brake defects and 80 per cent of cars report some defects, a random inspection system where, according to the NRMA and according to the Roads and Traffic Authority of New South Wales, looking at superficial things like tyre condition is not a reliable indicator of defects in major safety components of the cars.

Mr Temporary Deputy Speaker, in the past, this Government has shown scant regard for public safety. They have changed the vehicle testing system and have hidden behind spurious arguments about the number of accidents caused by component failure not being worth worrying about. This is despite the fact that reputable motoring authorities the world over agree that the statistics in relation to component failure's contribution to vehicle accidents are understated. The cost that the community bears in the area of trauma associated with motor traffic accidents is enormous. The personal tragedy alone cannot be costed; but the cost to the community in the way of hospitalisation, rehabilitation, litigation through the courts, insurance costs and damage to public property runs into billions of dollars in Australia.

The simple fact is that, even if we do not take account of the contribution of vehicle condition to the 95 per cent of accidents whose primary cause is driver error, that still leaves a very substantial 5 per cent of accidents caused by vehicle defects. That is a very substantial amount of money when you look at the total cost to the community of road trauma. The vehicle testing system that this Government has foisted on the Canberra community has failed the community elsewhere. Now we have the worst practice, not the best.

The amendments that the Labor Party will be moving in the detail stage will reintroduce a system of regular vehicle inspections. But the Labor Party acknowledges that, in the past, the ACT vehicle fleet had outgrown the capacity of the two testing stations to cope. For that reason, we will be supporting the introduction of private testing stations, provided that they comply with appropriate standards set by the Government and this Assembly. This will avoid the queues that developed outside testing stations in the past. ACT motorists will have the choice of going to a government testing station or to a private one, if that is more convenient. These amendments will also mean that the vehicles that are most at risk of suffering component failure - and there is a distinct correlation with age - are the ones that will be inspected more often. These amendments will require that the vehicle be inspected on the third, fifth and seventh year from the date of manufacture and every year after that. As I said, this will ensure that vehicles are inspected more frequently, as the risk of component failure and wear increases with age.

The same report that the Government was so keen to quote last week talks about the benefits of regular inspection. It refers, for instance, to a before and after study where annual inspections were discontinued in Idaho in the United States. It concludes that brakes, steering, suspension and powertrain components were worse, while body components were about the same. In other words, the superficial things that you see in a car park inspection were about the same; but the important things - brakes, steering, suspension and powertrain components - were worse without regular inspections. After a study of experience in different States, the United States General Accounting Office concluded that the National Highway Traffic Safety Administration should resume its support for State periodic inspection programs. So, while people elsewhere are concluding that regular inspections do play an important role in vehicle roadworthiness, this Government is going in the opposite direction.

Unlike the Government, we have consulted with industry groups and have thrashed out what we believe is in the best interests of the community. We have not just embarked on a penny-pinching exercise which has resulted in ad hoc policies being implemented on the run. Nor have we tried to selectively quote or misrepresent reports on this matter, as the Government has done in the past and as the Chief Minister did when we first announced our policy in relation to vehicle testing. The bottom line with the Opposition is public safety.

The other area of concern being addressed by the amendments that we will be moving is the issue of brake testing. After consultation with the industry and motoring organisations, the conclusion that we have reached is that there are only two forms of identifying faulty brakes - by "faulty brakes" I mean things like seized wheel cylinders, or calipers or shoes that may be partly operational but could contribute to accidents in the event of an emergency. These are visual inspections and the use of roller brake testers. For that reason, Mr Temporary Deputy Speaker, the ALP has insisted - and I remind members that this is on industry advice - that roller brake testing will be the preferred method of brake evaluation when vehicles are being inspected, because it is more cost-effective. Mr Temporary Deputy Speaker, I urge members to support these amendments in the interests of public safety, and I commend them to the house.

MR MOORE (10.33): I rise to support this piece of legislation and to oppose most of the amendments proposed by Mr Whitecross. First of all, it seems to me that the system that Mr Whitecross proposes in his amendments, particularly with roller brake testing, will actually mean that we will see long lines again, because the only roller testing facilities in Canberra will be ones that the Government owns, which are at the testing stations currently in Phillip and Dickson. Mr Whitecross indicates that that is not the case. I will be interested to hear him tell us where there are other ones.

I think that the principle that underlies this whole notion is that we have, on the one hand, people saying, "This is about safety". But it is not about safety. The real issue is: How many accidents are caused by vehicle failure? Hardly any. Of the small number that are caused by vehicle failure, the vast majority are about tyres. An annual inspection does not help in understanding about tyres, except on a few occasions. You would be far better to ask your parking inspectors around the place to look at tyres and allow people to take responsibility for themselves. Of the minuscule number of accidents caused by vehicle failure, about 90 per cent are to do with tyres anyway. By the way, it is not

just to do with whether or not tyres are bald; often it is to do with how the tyres are inflated. A softly inflated tyre, particularly on a back wheel of a rear-wheel-drive car, can certainly cause that car to slide out or on one wheel on a front-wheel-drive car it can cause a skid in a particular direction or a blow-out.

Who actually wants regular inspections? Mr Whitecross says that they have consulted with industry groups. Of course, industry groups want more inspections. The more inspections they have, the more work they have. The more work they have, the more money they make. Then Mr Whitecross started quoting from a study in Idaho. What about looking at some Australian studies and doing a comparison, as we can do, of accident levels here, where we had testing for a long time before we moved away from it, with levels in South Australia, for example - looking not at the number of accidents but at the number of vehicle-caused accidents - where there has never been vehicle testing, even on exchange of ownership. In South Australia, the only vehicle testing is when vehicles move from interstate, and there it is to determine whether or not they are stolen vehicles. Of course, we do know that in South Australia, when they had an inquiry into this very matter, they determined that, on a cost-benefit analysis, it was entirely inappropriate to introduce vehicle testing into that State.

It seems to me that the consultation process with the industry groups is really what this is about. It is about ensuring that there is much more work in terms of turnover, and it will, effectively, reinstate the Phillip and Dickson motor vehicle testing stations. If, indeed, this legislation passes, let me say to the Minister - because I do not believe that we as a community should be paying for this - that I will support privatisation of those testing stations, if that is what does occur. In doing so, I also hope that the finger will be pointed very clearly at the Labor Party, and anybody who supports them, every time there is a line-up, every time there is a wait, every time somebody has to pay for their inspection. Do not forget that this is going to increase the costs in terms of people registering their cars and so on. Remember that for the last two or three years of the system we always paid an inspection fee for registering our cars.

Mr Whitecross: It is not true, actually, Michael.

MR MOORE: It is true. There was an extra fee added specifically for the testing of vehicles.

Mr Whitecross: No. It was absorbed in the registration.

MR MOORE: It certainly is true. I think the legislation itself is fine, but the amendments proposed by Mr Whitecross, in the way that they take this legislation and do something entirely different, are entirely inappropriate.

MS HORODNY (10.38): Mr Temporary Deputy Speaker, we will be supporting the amendments proposed by Mr Whitecross. We believe that they are very sensible. We like the idea of regular vehicle inspections and believe that that is a very good move. We have always thought that random inspections were inadequate because of the numbers of cars tested and the extent of the testing. A particular concern to us is that vehicle emissions are not being adequately tested in the random inspections. In many cases, the vehicles are being tested when they are parked; so, emissions cannot be checked at all.

Even when they are running, the only check that is made is a visual inspection of whether the exhaust smoke is dirty or not. This is not an adequate test of whether the vehicle is running at optimum levels. We are not sure that this situation will necessarily improve much with moving to private inspections, because the emission testing equipment really should be used more widely. We would like to ensure that those private testers have that testing equipment as well.

MR KAINE (Minister for Urban Services) (10.39), in reply: I just want to make a few comments about the debate so far. I am pleased that Mr Moore will support this legislation, because I believe that it is eminently sensible. He quoted some statistics, which I can confirm. For example, he said that the percentage of fatal accidents caused by the condition of the vehicle is very small. In fact, it is 3 per cent. Ninety-five per cent of vehicle crashes are caused by drivers, for one reason or another; only 3 per cent occur as a result of the condition of the vehicle; and approximately half of that 3 per cent are the result of tyre defects.

Mr Whitecross criticises the Victorian system and says that we are going to get the same sort of system. First of all, we are not going to get the same sort of system. But, more importantly, although he criticises it, it is interesting that Victoria, which has not required annual vehicle inspections for many years, continues to have a better road safety record than New South Wales, which does. So, he can knock the system and talk about all the perceived defects; but, in fact, the road safety record in Victoria is better than it is in New South Wales, despite his allegations.

The major weakness of compulsory inspections is one that some of us are very familiar with; that is, the technical condition of a vehicle may be improved for a very short period of time when it has to be presented for an annual inspection and then ignored for the rest of the year. I think that there would be very few of us who do not know people who, in the old days, borrowed tyres off their mate's car to get theirs through registration and then they went back home, took the tyres off, put their own tyres back on and continued to drive their car for a year. Yet some people think that the annual inspection guarantees the safety of their motor vehicle. It does not.

Mr Temporary Deputy Speaker, the system that we are proposing is one which I believe is a good one. It ensures that vehicles are safe when they first come into the ACT and when they are bought and sold. If you want to buy one or if you want to sell one, you have to make sure that it has had a roadworthiness check. In between times, there are plenty of checks to make sure that the vehicle remains in good condition. Our target is 50,000 random vehicle inspections each year. That is over a quarter of the total ACT fleet.

The inspectors obviously check the tyres. Since tyres are a very significant element in the 3 per cent of fatal car crashes, it is just as well that they do. But they do more than that. They check the general condition of the vehicle and, if they think there is something wrong with it, they leave a little sticker on it. If they leave a red one on it, you had better not try driving it away from where it is. You have to present it for a full inspection before you can drive that vehicle. If you inspect 50 vehicles a year and you defect the ones that need a more rigid inspection, then you are doing a pretty good job. On top of that 50,000, there will be about 40,000 vehicles each year that will still go through the full

inspection system, either at the inspection station at Dickson or through the authorised private sector providers. That, I believe, is a very comprehensive inspection program. It will have better results than the 100 per cent inspection system that we used to have before. As Mr Moore points out, you will not have to go up to Dickson and park on the street for three hours to get your vehicle inspected. Some of us can remember those days, too. If Mr Whitecross thinks that is a good idea, I do not think he will get much support from people in Canberra.

What Mr Whitecross is proposing in these amendments is to go back to that full annual inspection. In fact, he is proposing more than that. I have been told by my public servants that picking up the inspections as he has described here would not merely result in 180,000 inspections a year, which is the size of the fleet approximately; it would result in 250,000 inspections a year. So, it would not be just a matter of reopening the Phillip station. There would be a strong probability that we would have to open up a third station. Some people have indicated to me already that, if there were inspection stations at Dickson and Phillip, there would be some pressure to put one in Belconnen as well.

The estimated cost of going back to or introducing the system that Mr Whitecross is advocating is $14m. I do not know where he is going to get $14m from, but I do not have it in my budget. On top of the initial investment of $14m - to go back to that - we would have to employ, I am told, up to an additional 36 inspectors. Just calculate the annual wage bill of that. But, of course, we know that, if the Labor Party gets back into government in February, it is going to have money rolling out of its ears. It is going to be able to produce $14m out of the air, is it not? No, it is not, and Mr Whitecross knows that it is not going to be able to.

Mr Temporary Deputy Speaker, I believe that the system that the Government is proposing is eminently suitable; it is effective; it will be acceptable to the community; and Mr Whitecross is in cloud-cuckoo-land, frankly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 4, by leave, taken together, and agreed to.

Clause 5

MR WHITECROSS (10.46): Mr Temporary Deputy Speaker, I move:

> Page 2, line 24, add the following proposed subsection:
>
> "(3) The Manual is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

I inadvertently forgot to draw Mr Moore's attention to this one. Mr Temporary Deputy Speaker, this amendment is to make the manual that is prescribed under clause 5 a disallowable instrument, as was proposed by the Scrutiny of Bills Committee, although it was not one of the recommendations of the Scrutiny of Bills Committee taken up by the Minister. So, I am taking it up for him. The Scrutiny of Bills Committee made the very good point that the Federal Parliament allows Australian Design Rules in relation to motor vehicles to be disallowable, and raised the question: If Australian Design Rules can be disallowable, why can the vehicle inspection manual in the ACT not be disallowable? They raised a good question, and I think the answer is that it should be disallowable.

I understand, and I am sure that all members understand, that this is a very technical manual. It would be only on rare occasions that we would seek to delve into that matter. Nevertheless, it is a piece of delegated legislation, and I think, on principle, the legislature should have the opportunity to exercise its rights under section 10 of the Subordinate Laws Act.

MR KAINE (Minister for Urban Services) (10.48): Mr Temporary Deputy Speaker, I do not believe that Mr Whitecross knows what kind of whirlwind he is going to reap when he sows this one. Maybe he does not know what the manual looks like and maybe he does not know what its purpose is; but it is a very substantial volume, and it is amended constantly. In fact, I am informed that, from Australian Design Rules alone, there are up to 60 determinations a year, and each of those can contain up to 10 different matters. So, on that basis, there can be up to 600 individual design rule changes under the ADRs, all of which have to be incorporated into this, and, under Mr Whitecross's rule, every one of them has to come to this Assembly because they are a disallowable instrument. The interesting thing about that is that there are changes in Australian Design Rules. Is Mr Whitecross going to suggest that a change goes through the ADR process, it is adopted nationally, it comes to us, it gets into our manual, it comes to this place, and we are going to disallow it?

I am talking only about changes as a result of ADRs. There are many other changes as well. So, I do not think Mr Whitecross knows what he is talking about. I just cannot imagine how we in this place are going to process that number of individual changes to the manual every year and give them any sort of reasonable consideration. I do not think it is possible. And why would we want to? I simply do not understand why Mr Whitecross would want to foist this kind of administrative task on a legislative body. It just seems to me to be quite foolish. Mr Temporary Deputy Speaker, I think you can tell that this is an amendment that I do not support.

MR MOORE (10.50): It would appear that the Minister is not over-happy with this one; but it seems to me that it is an entirely appropriate manoeuvre. It struck me, as Mr Kaine was speaking, that the Australian Design Rules, which are agreed to by public servants, are about setting out what they are going to do in terms of Australian design of cars. Those public servants, I presume - and you may correct me on this - are people from your department and from departments all around Australia. They then decide what is and what is not appropriate; it is put into the Australian Design Rules and then put into the manual. Other things could be put into the manual as well, of course.

It strikes me that we should take a page out of the Prime Minister's book. As far as the Prime Minister is concerned, when Ministers get together and make an agreement, if he disagrees, who cares? He can take an entirely different view. Who cares if all the Ministers around Australia get together and agree on something? He can dismiss that. So, I think it is appropriate for us to take a page out of his book and say, "Who cares if these public servants all around Australia get together and make a design rule? If we have a good reason, we will change it". But, of course, we would consider these things, and it is very clear that this Assembly is very good at scrutinising things. We go through many things very carefully.

Mr Kaine: But do you want to look at which nut goes on which bolt under which screw?

MR MOORE: Knowing nuts and bolts and screws is a very important thing. It seems to me that the sort of thing that happens is that the industry tends to draw members' attention to issues when something is put in that ought to be considered for disallowance. That is why we retain this power.

My guess is that the power will be used in very unusual circumstances, as disallowance generally in this Assembly is rarely used. The reason it is rarely used is that it is there. When it is there, it means that Ministers are very careful about what goes through, because that disallowance power is there and they do not want to be embarrassed by their decisions being overturned. Public servants are aware that that is the case and public servants are aware that the power lies with their Minister. But, in the end, it is this Assembly that has the power to allow things. We delegate appropriately to Ministers. They, in turn, delegate to their public servants. In the end, the responsibility lies in this chamber. I think it is a very sensible amendment that Mr Whitecross has put up.

MR WHITECROSS (10.53): Mr Kaine, when he does not have a good argument, always resorts to the argument that everyone else does not know what they are talking about, which is very reminiscent of his argument that he wonders why everyone else is struggling to understand his illogical policy. The facts of the matter are very simple. It is a simple principle of parliamentary scrutiny. The fact is that those 600 amendments to the Australian Design Rules that Mr Kaine talked about are all disallowable instruments in the Federal Parliament, and they seem to get by just fine. So, I do not see that it is a big problem.

As Mr Moore rightly says, the scrutiny of amendments to the manual would be rare, rather than frequent. Let me give just one example of why this power might be useful. Mr Kaine's predecessor, Mr De Domenico, got out of bed one morning and, in spite of the Australian Design Rules specifying an amount of tint that it was appropriate to put on windows of cars, in his infinite wisdom, decided that a different level of tint was appropriate for cars; that they could be darker than the Australian Design Rules specified. If Ministers and departments can decide to override Australian Design Rules and specify a darker degree of tint than is specified in the Australian Design Rules, then I think that the parliament has a right to say, "We like the Australian Design Rule better.

We are going to disallow your change to the vehicle inspection manual". That is exactly the kind of situation which this amendment is designed to address. I suggest that, if this provision had been in place at that time, perhaps the Minister would not have got away with overriding an Australian Design Rule on that occasion.

Question put:

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

The Assembly voted -

AYES, 10	*NOES, 7*
Mr Berry	Mrs Carnell
Mr Corbell	Mr Cornwell
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Mr Moore	Mr Kaine
Mr Osborne	Mrs Littlewood
Ms Reilly	Mr Stefaniak
Ms Tucker	
Mr Whitecross	
Mr Wood	

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clause 6 agreed to.

Clause 7

MR WHITECROSS (11.01): I seek leave to move together amendments Nos 1 to 3 circulated in my name.

Leave granted.

MR WHITECROSS: I move:

Page 4, lines 4 and 5, proposed subsection 14(2), omit "that is more than 6 years old,".

Page 4, line 7, proposed subparagraph 14(2)(a)(i), after "apply", insert "in respect of which application for registration in the Territory is being made in a calendar year that is the second, fourth or sixth anniversary after its date of manufacture".

Page 4, line 25, after proposed paragraph 14(2)(a), insert the following paragraph:

> "(ab) in the case of a motor vehicle or trailer in respect of which application for registration in the Territory is being made in a calendar year that is the third, fifth, seventh or subsequent anniversary after its date of manufacture - a certificate of inspection under section 26AP is issued certifying that the motor vehicle or trailer and its parts and equipment comply with such of the requirements of the Manual as are applicable to the motor vehicle or trailer and its parts and equipment;".

Mr Speaker, my amendments deal with specifying a system of regular inspections in order to obtain registration of motor vehicles; namely, after three years, five years and seven years, and every year thereafter. The reason that the Labor Party is so moving has been canvassed at the in-principle stage. It is a regime which is judged by the NRMA as being an appropriate frequency. It is a regime which accords with international practice. It is a regime which addresses the deficiencies of the Victorian scheme, which the Minister seeks to impose on us, and of the system of car park inspections which the New South Wales Roads and Traffic Authority says does not detect significant faults such as brake faults.

Mr Speaker, I have to say, in further supporting these changes and in perhaps addressing some of the remarks that Mr Moore made at the detail stage, that Mr Moore seems to advance the argument that having bad brakes does not cause accidents. I was initially surprised by this logic coming from Mr Moore - that bad brakes do not cause accidents - but then I remembered that Mr Moore also believes that not wearing a bicycle helmet reduces the risk of head injury. So, perhaps I should not be as surprised as all that. The simple fact is that the kinds of statistics that the Minister and, indeed, Mr Moore rely on are based on police reports, and the police reports are based on, not a forensic analysis of the cause of the accident, but an analysis of what offences have been committed.

What are the causes specified by the police in their reports when they are looking at fatal accidents? The causes are drink-driving, speeding, driver inattention - that is, negligent driving - and bald tyres, all of which are offences under the Motor Traffic Act. They do not get under the car and check whether the suspension was in good order. They do not have a look at whether one of the wheel cylinders was seized up or whether there was too much travel in the brake pedal, or whether there was too much play in the steering system. Mr Speaker, these are important contributing factors to accidents. In fact, they are contributing factors to accidents where the primary cause of the accident may be speed, road condition, drink-driving or some other factor. The fact that there is a primary cause of error by the driver, like speed or drink-driving, should not mean that we do not take every step we can to ensure that the vehicle the person is driving is in a roadworthy condition.

The underlying proposition of the Minister seems to be that it does not matter what condition the vehicle is in; it does not make any difference. But, Mr Speaker, the reality is that it does. The reality is that it is a contributor. Reputable motoring authorities all over the world agree that the statistics in relation to component failure's contribution to vehicle

accidents are understated. I believe that a system of regular inspections does produce better results. That is the experience of the studies that have been done. Mr Kaine put his finger on it in his concluding remarks at the in-principle stage. This is really about money. The Government's policy in relation to this has always been about money. The Labor Party believes that more attention ought to be given to public safety.

MR KAINE (Minister for Urban Services) (11.05): As foreshadowed in the in-principle debate, the Government opposes these amendments because their effect is to return to annual inspections. In fact, Mr Whitecross's amendment No. 1 introduces the factor that I mentioned that would lead to the result where not only would we be inspecting the fleet every year but we would be inspecting a greater number of vehicles than the fleet. That amendment No. 1 alone would add 10,000 to 15,000 compulsory inspections each year. These are the three amendments that, in effect, would take us back into the Dark Ages. This new, enlightened Labor Party would take us back to that, and these are the amendments that would do it. These are the amendments that would cause a capital outlay of $14m and the necessity to hire up to 36 new inspectors. Mr Whitecross says that it is a matter of money. It sure is. For 3 per cent of fatal traffic accidents, it is not warranted. The system without all of this is effective and, as I have said before, it satisfies this community.

MR WHITECROSS (11.07): There was one important factor I did not mention in my earlier remarks, Mr Speaker, which was to draw the Minister's attention to the fact that, under the commencement provisions of this Bill, he does not have to commence particular provisions straightaway. I would certainly hope that, if these amendments were passed, the Minister did not commence clause 7 straightaway. If the Minister is serious about avoiding queues, he will need to provide time for private testers to come into operation and for Phillip testing station to come into operation, to ensure that those queues which the Minister is so anxious to avoid are, in fact, avoided.

Question put:

That the amendments (**Mr Whitecross'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.

Clause agreed to.

Clauses 8 and 9, by leave, taken together, and agreed to.

Clause 10

MR WHITECROSS (11.11): Mr Speaker, I seek leave to move amendments Nos 4 and 5 together.

Leave granted.

MR WHITECROSS: I move:

> Page 7, line 35, after proposed subsection 26AD(2) insert the following subsection:
>
> "(2A) A person is not eligible to be appointed as an authorised examiner if the person is a dealer within the meaning of the *Sale of Motor Vehicles Act 1977*.".
>
> Page 11, line 11, proposed paragraph 26AG(3)(ab), after proposed paragraph 26AG(3)(a), insert the following paragraph:
>
> "(ab) the applicant is a dealer within the meaning of the *Sale of Motor Vehicles Act 1977*.".

Mr Speaker, these amendments deal with what I consider to be a problem with the current Bill, given that we are maintaining a system of inspections on transfer of ownership - not Labor's preferred position, but the position of the Government. The regime that has been established by the Government is one where motor vehicles in the ACT will be inspected only on transfer of ownership, and that inspection can be conducted by an authorised examiner on authorised premises in the private sector. In fact, the examiner could be a dealer who is selling the very vehicle we are talking about, or could be an inspector operating on premises from which the vehicle is being sold.

When we are inspecting vehicles on average only every five years, as we are with this system, I do not believe it is appropriate that the person carrying out those inspections is a person who is engaged in selling vehicles, or the premises from which those inspections are being carried out are premises from which vehicles are being sold. It seems to me that there is a pretty clear risk of conflict of interest. If we are going to go down this path of testing vehicles only on change of ownership, I believe that for the integrity of the system it is important that we ensure that the people testing the vehicles are at arm's length from the people selling the vehicles. My amendments Nos 4 and 5 would not have been necessary if we had had the system of inspections that I proposed, because there would have been a break in the nexus between the selling of the vehicle and the inspection of the vehicle; but when you are inspecting and selling at the same time you should not have the same people inspecting as selling. Mr Speaker, my amendments are designed to ensure that that does not happen.

MR KAINE (Minister for Urban Services) (11.13): Mr Speaker, I understand the reservation that Mr Whitecross has about this, but I have to say that I do not believe that the objective that he seeks by these amendments is achievable. You can prohibit a dealer from carrying out inspections, but there are a number of ways that that prohibition could be avoided, and legally avoided. For example, a dealer will have a very costly investment in workshop equipment. In fact, all he needs to do is to turn that workshop equipment into a separate registered company and it is totally unrelated to the dealership and he can legally become an inspector. Similarly, any person within a dealership who is not, in fact, the dealer can still become an authorised examiner and, depending on arrangements within a dealership, what appears to be a dealer's premises could conceivably still be approved as authorised premises. So, simply putting these amendments or prohibitions in the Act, in my view, achieves nothing.

I understand his motivation to obviate the possibility of a dealer certifying his own vehicles, but I think it would be quite ineffective. I think it sounds good; but, unless he can come up with a more positive way of achieving his objective, it has no practical value. For that reason, I do not support the amendments.

Question put:

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

The Assembly voted -

AYES, 10	*NOES, 7*
Mr Berry	Mrs Carnell
Mr Corbell	Mr Cornwell
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Mr Moore	Mr Kaine
Mr Osborne	Mrs Littlewood
Ms Reilly	Mr Stefaniak
Ms Tucker	
Mr Whitecross	
Mr Wood	

Question so resolved in the affirmative.

MR WHITECROSS (11.18): Mr Speaker, I seek leave to move together amendments Nos 6 and 7 circulated in my name.

Leave granted.

MR WHITECROSS: I move:

Page 11, line 23, after proposed subsection 26AG(3), insert the following subsection:

"(3A) The Registrar shall not approve premises to be authorised premises unless the equipment to be used on the premises to test a motor vehicle or trailer that does not exceed 4.5 tonnes, to determine whether or not brakes fitted to it comply with such of the requirements of the Manual as are applicable to the motor vehicle or trailer, is a Roller Brake Testing machine that complies with the prescribed requirements.".

Page 16, line 23, after proposed subsection 26AP(1), insert the following subsection:

"(1A) An authorised examiner shall not complete a certificate of inspection in respect of a motor vehicle or trailer unless the machine used by the authorised inspector to determine whether or not the brakes fitted to the motor vehicle or trailer comply with such of the requirements of the Manual as are applicable to the motor vehicle or trailer, was a Roller Brake Testing machine of the kind specified in subsection 26AG(3A).".

Mr Speaker, these amendments deal with Labor's proposal that the registrar not approve premises to be authorised premises and examiners not complete a certificate of inspection unless the premises concerned have roller brake testing machines that comply with prescribed requirements. The reason for these amendments is that we believe that if we are going to do a job we have to do the job properly.

Labor supports private inspectors being allowed into the field; but Labor also believes that brake testing is an important thing, and the only effective way of testing brakes, short of dismantling them, is with a roller brake tester. Only a roller brake tester will give you testing of the performance of individual wheels and individual brakes to ensure that all your brakes are working, as opposed to just testing the general stopping power which might disguise the fact that a particular wheel cylinder or brake is defective in some way. That is why we are moving these amendments.

In the in-principle stage Mr Moore expressed the view that he did not think anyone in the private sector would have roller brake testing equipment. I can assure Mr Moore that I have been advised that there is at least one roller brake testing machine already in operation in the private sector, and it is likely that others will also be available. I think there is every likelihood of a number of people in the private sector being able to comply with these requirements and provide an inspection system.

Given that under this regime only a very small number of inspections will be done each year, we do not need a huge number of inspectors out there in the marketplace. There will not be the demand for inspections to justify a lot of people setting themselves up as authorised inspectors or authorised premises, but the ones who do ought to do the job properly. There will be some private testers complying with these requirements, able to test brakes properly, and able to do the other checks that will be required under the vehicle inspection manual. I therefore believe that these amendments are appropriate.

Brakes are an important safety system and they will be tested properly only if proper equipment is used. Mr Speaker, I would not be moving these amendments if it were not for the fact that I was advised that the department was contemplating much more lenient brake testing requirements. I felt it was appropriate to put into the Act something to ensure that a proper kind of brake test was implemented.

MR MOORE (11.21): I want to speak briefly in opposition to these amendments, Mr Speaker. The prime thing I want to say is that anybody who has been listening this evening or who will be reading the *Hansard* ought not believe anything that Mr Whitecross has attributed to me. That is the most important thing I want to get across.

MR KAINE (Minister for Urban Services) (11.22): Mr Speaker, the Government opposes these two amendments because they are impractical. The fact is that some vehicles cannot be tested on roller brake testing equipment because of the way they are built. One particular type of motor vehicle that cannot be tested on them is motorcycles. It is just plain dangerous to attempt to do so. There are other kinds of vehicles that, because of their construction, cannot be inspected on them. The Dickson inspection station does not inspect all vehicles on roller brake testing equipment and uses other suitable equipment for testing those vehicles that cannot be accommodated on the roller brake testers installed. What Mr Whitecross is saying here is that all premises that test vehicles have to have a roller brake system and all vehicles have to be tested on that system. It cannot be done. It is impractical. So he is setting up an impossible situation.

The other factor is that these roller brake systems do not come cheaply. I have heard of figures as high as $30,000 to buy one. If we find that the private operators out there cannot afford to buy such equipment, you are not going to have sufficient accredited inspection stations out there to perform all the inspections that are going to be required every year. The Dickson station will not be able to handle them all. Mr Speaker, these are impractical amendments that cannot be satisfied, and they would put constraints on the whole system that would make it unworkable. For those reasons, we oppose them.

MR WHITECROSS (11.24): I still urge members to support my amendments Nos 6 and 7. If Mr Kaine is convinced that difficulty exists about the phrasing of amendment No. 7 - he has not taken up the opportunity to move an amendment to it - he could still support amendment No. 6, which would ensure that roller brake testing equipment was available for the vast majority of cars for which it was the most appropriate way of testing the vehicles, and still allow the authorised examiner to complete a certificate of inspection for the small number where it was not appropriate. It seems to me that Mr Kaine has made out a good case for supporting my amendment No. 6, even if he will not support my amendment No. 7.

Amendments negatived.

Clause, as amended, agreed to.

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

Bill, as amended, agreed to.

SUSPENSION OF STANDING ORDERS

MR HUMPHRIES (Attorney-General): Mr Speaker, I seek leave to move a motion to suspend so much of standing orders as would prevent order of the day No. 11, Executive business, from being called on.

Leave not granted.

ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

That the Assembly do now adjourn.

Mr Alf Turner - Retirement

MR SPEAKER: I wish to inform the Assembly that one of our long-serving attendants, Mr Alf Turner, is leaving the Assembly tomorrow. Alf has been with the Assembly for six years, having joined the secretariat in November 1991 as a sessional attendant. Alf has had an important and sometimes hectic job coordinating the attendant services in the chamber, and I am told he particularly dreads budget days, days when 20 or so Bills are due to be presented, and days when annual reports are presented. On behalf of all members, I thank Alf for his service over the last few years. I wish him all the best in the future, and no more budget days.

Development Applications - Question on Notice

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.27): Mr Speaker, before we rise, I wish to draw the Assembly's attention to question on notice No. 462 asked of me today by Ms McRae. The question asked for details of every development application lodged in 1995, 1996 and 1997; the success or otherwise of those development applications; the length of time each took to process from lodgment to completion; and a brief description of each application.

I am advised, Mr Speaker, that my department dealt with 960 development applications in 1995, 853 in 1996, and 518 so far this year. The resources which would be required to provide the information requested by Ms McRae for each of those 2,331 development applications is, in my view, an entirely inappropriate use of resources and, in my view, cannot be justified. I can say that in 1995 the average time for completion of each application was 57 working days. In 1996 the period was 38.6 working days.

In 1997 to date the period on average is 19.5 working days - a quite significant reduction. I propose, with the leave of the Assembly, to not answer this question in the detail sought by Ms McRae, but to invite her, if there is any particular issue she wishes to pursue, to contact me to find out the most suitable way of providing that information.

Ms McRae: I raise a point of order, Mr Speaker. I do not believe there are standing orders that allow the Assembly to give the Minister such leave. I would like you to guide us as to whether the Assembly can possibly allow the Minister to not do his duty.

MR SPEAKER: Ms McRae, I am not speaking as Speaker now; I am speaking as a person who on occasions put a question or two on the notice paper. I do remember several responses saying that the resources were not available.

Ms McRae: No, Mr Speaker. I raised a point of order. The Minister said, "by leave of the Assembly". I do not believe that the Assembly can give the Minister such leave. If the Minister puts the question on notice and provides the answer to me in the way that he has, I may choose to bring it back to the Assembly and object; but he has come with a specific requirement to ask for leave of the Assembly, and I believe that is out of order.

MR SPEAKER: If you want an answer, Ms McRae, I am happy to give it to you. No, he does not need leave of the Assembly.

MR HUMPHRIES: No, I do not need leave. Mr Speaker, I will rephrase what I am saying to the Assembly. I propose not to answer the question in the detail provided. As a courtesy to the Assembly, I advise the Assembly of that. If members wish to move a motion to a contrary effect, they can do so, or they can exercise some other power in the standing orders to ask me why the answer has not been provided. Literally hundreds of person-hours, in fact hundreds of person-days, would be required in PALM to provide the information required, and that is simply not justified, given the limited resources of the Territory at this time.

Mr Steve Dobbie

MR STEFANIAK (Minister for Education and Training and Minister for Sport and Recreation) (11.30): Some members may realise, but others may not, that a person who has contributed a lot to Australian football is about to leave his role as chief executive officer, and that is Steve Dobbie, who, for the last six years, has done a wonderful job for ACTAFL in Canberra. Steve is going to a new job with the Canberra Southern Cross Club.

Mrs Littlewood: To Tuggeranong.

MR STEFANIAK: It is in Tuggeranong. That is right, Mrs Littlewood. It is a step upwards for him, I think, and something he is looking forward to. As Sport Minister and someone who has known Steve for some years, I must say that I think we will all miss him. ACTAFL certainly will. His boots there are going to be very big to fill.

He has done so much in the last six years for Australian football in Canberra. He has been a pleasure to work with. He is a completely straight shooter, and a very honourable and decent man. I would like to pay tribute to the work he has done for Australian football over the last six years.

Finally, Mr Speaker, on a completely different note, I hope one of Mr Moore's amendments in relation to deleting the provision in the Motor Traffic (Alcohol and Drugs) (Amendment) Bill in relation to section 556A does not have - - -

Mr Moore: I take a point of order, Mr Speaker. I believe that Mr Stefaniak is reflecting on a vote of the Assembly.

MR STEFANIAK: I was going to tell a little story, for Mr Moore's benefit.

MR SPEAKER: You are certainly reflecting on a matter that was debated earlier this evening.

MR STEFANIAK: Are you ruling that I cannot, Mr Speaker? I will accept your ruling on that. I will tell Mr Moore privately the little story I was going to share with members in relation to the effect of that particular section. I will close on that, Mr Speaker.

Dickson Motor Vehicle Registry

MR KAINE (Minister for Urban Services) (11.32): I know it is late, but I would like to inform the Assembly of the excellent customer service standards being maintained at the Dickson Motor Vehicle Registry.

Mr Moore: At the moment, at 11.30 at night?

MR SPEAKER: I am not surprised.

MR KAINE: They may still be there. All too frequently the registry is an easy target for bad press about queues and the like. Unfortunately, the criticism is often misplaced and ill-founded, given the extent of the services provided there and how few the complaints are about how customers are treated. It is often also unfair to the dedicated and skilled staff who work there.

I am aware of two senior executives of the ACT Public Service who have been so impressed by the exemplary standards of our customer service that they received that they brought it to my attention. Indeed, one of these was the chief executive of my department, who went to the registry unannounced to have his driver's licence changed from New South Wales to the ACT. I think he is sitting in here tonight. He told me how pleased he was with the competence and friendliness of the service. Just a week later, when renewing his licence, the chief executive of the Chief Minister's Department reported a similar experience.

Members may shrug that off and say, "Well, senior public servants. Of course, they would get good service". However, just last week we received a letter from a QC. QCs are not usually people who go around telling people how good they are, but I would like to read from the letter. It says:

> I have lived in Canberra for 31 years and over that period I have lost count of the number of times I have been to the Motor Registry to have vehicles checked.
>
> On Wednesday 20 August 1997 I arrived just in time to be the second-last vehicle checked and was checked in lane No. 3 by one of your officers whose name I believe to be John Alcroft. He was in company with another gentleman whose name I do not know but who had a moustache.

It was not me. The letter continues:

> I wish to inform you that in more than 30 years of dealing with all branches of the Public Service and private enterprise, I have never before met such courtesy and such helpful service.
>
> After the experiences of some years ago when it was commonly the view around Canberra that the only people who took on the job of vehicle inspectors were those who hated everybody and wished to embarrass or provoke as many people as possible, it came as more than a simple surprise to be treated with the friendly courteous helpful demeanour of these two gentlemen.
>
> I congratulate you on obtaining their services.

Mr Speaker, the day-to-day workload at Dickson is one of the highest public contact loads in the ACT Public Service. There are more than half a million phone, mail and counter transactions a year, 40,000 vehicle inspections a year, 50,000 random inspections a year - we talked about these earlier tonight - and more than 10,000 licence tests a year; and EFTPOS has recently been introduced, without a hitch, further improving the service. Mr Speaker, I take this opportunity to say "well done and thank you" to motor registry staff and to give a real perspective to the occasional criticisms about queues and registration reminders.

Question resolved in the affirmative.

Assembly adjourned at 11.35 pm until Tuesday, 23 September 1997, at 10.30 am

ANSWERS TO QUESTIONS

MINISTER FOR POLICE AND EMERGENCY SERVICES
LEGISLATIVE ASSEMBLY QUESTIONS

QUESTION ON NOTICE
NO 442

Road Rescue Fee

Mr Wood - asked the Minister for Police and Emergency Services - In relation to the Road Rescue Fee

(1) As it is now more than six months since its introduction

(a) how much money has been raised in the first six months of the collection of that fee;

(b) how much of this total has been spent on the placement and maintenance of a fifth ambulance crew;

(c) how much has been allocated from this total to offset the cost of all road rescue services provided by the ACT (including fire fighting services)

(2) Will this Road Rescue Fee money be kept in a separate fund and used for these purposes.

Mr Humphries - the answer to the Member's question is as follows:

(1) (a) $1,371,551

(b) The Road Rescue Fee money is collected by Road User Services and transferred to the Emergency Services Bureau's Territory Account (Consolidated Revenue) which is then transferred in full to the Central Finance unit of the Office of Financial Management. Funds to operate the 5th Ambulance (and the 6th Ambulance to be established soon at Gungahlin) are appropriated to the Emergency Services Bureau as part of its budget.

(c) The Emergency Services Bureau is appropriated monies for the delivery of outputs, the details of which are contained in the Budget Papers.

(2) There are no separate funding arrangements for ACT road rescue services.

MINISTER FOR HEALTH AND COMMUNITY CARE

LEGISLATIVE ASSEMBLY QUESTION
Question No 446

Drug Use Prevention Programs

Mr Berry - asked the Minister for Health and Community Care - For each of the financial years 1995/96, 1996/97 and 1997/98

(1) Can you provide details of any drug use prevention programs (a) administered by your department; or (b) funded by your department.

(2) Could you provide details of the nature of these programs.

(3) What is (a) the cost of these programs; and (b) the source for the funds.

(4) What is the number of participants that are or were in the program.

(5) What is the length of the program.

(6) Has there been any assessment made of their effectiveness.

Mrs Carnell - the answer to the Member’s question is:

All organisations funded by the Department of Health and Community Care, Alcohol and Drug Program are required to adopt a ‘harm minimisation’ approach in line with the National and ACT Drug Strategies. A harm minimisation approach to alcohol and other drug problems utilises a range of strategies including demand reduction, supply control, controlled use abstinence and problem solving, therefore it can be assumed that all such services have a certain element of prevention factored into their programs. Prevention is an integral part of health promotion and all drug and alcohol programs wholly or partly cover drug use prevention.

The following table is a detailed list of all programs provided in the ACT during 1995/96, 1996/97 and 1997/98. Some programs for 1997/98 are still being developed.

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

Electronic copy of this page is not available but it is included in the printed Hansard

MINISTER FOR HEALTH AND COMMUNITY CARE

LEGISLATIVE ASSEMBLY QUESTION
Question No. 452

Canberra Hospital - Decentralised Hot Water Project

Ms Tucker - asked the Minister for Health and Community Care upon notice on 2 September 1997:

In relation to the replacement of the existing 3 steam boilers at The Canberra Hospital with 8 boilers as part of the decentralised hot water project -

(1) Could you provide the cost benefit analysis, including any environmental impact assessment, that was undertaken to justify this project.

(2) What is the timetable for the installation of the new boilers.

(3) What was the gas fuel consumption per month of the existing 3 boilers over the year before the commencement of replacement works.

(4) What is the current monthly gas consumption of the new boiler system since the installation of the new boilers commenced.

(5) What is the expected monthly gas consumption of the new 8 boilers once fully installed.

(6) What was (a) the monthly gas consumption of The Canberra Hospital as a whole over the 96/97 year, and (b) what is the breakdown of the main components of this gas consumption.

(7) As part of the redevelopment project in The Canberra Hospital:

  (a) what other heating systems have been or will be replaced;

  (b) what new heating systems have been or will be installed; and

  (c) what is the justification for these works.

Mrs Carnell - the answer to the Members question is:

(1) The decentralised hot water project was included in the 1996/97 Capital Works Program at an approved project cost of $1,710,000. Investment in this project is estimated to deliver a positive net present value of $2.3M after ten years, or the equivalent of a 26% return on the investment. The project was not subject to a formal environmental impact assessment. The project will however deliver significant operating cost savings to the hospital, at the same time reducing the hospital’s gas consumption and thereby reducing the level of greenhouse gases generated by the hospital.

(2) The decentralised hot water project commenced in early 1997 and is due for completion by January 1998. Under the current program the new boilers will be installed and operational by December 1997.

(3) For the year prior to the commencement of the decentralised hot water project (April 1996-March 1997) the hospital consumed an average of 9,076 GJ of gas per month. As the three boilers are not metered separately consumption on a per boiler basis is not possible.

(4) In the five months (April-August 1997) since the commencement of the decentralised hot water project the average monthly gas consumption was 11,799 GJ. This compares with the average monthly consumption of 11,703 GJ for the period April-August 1996. As the hospital has continued to operate throughout the implementation of the project, the gas usage during the construction phase is marginally higher due to the requirement to operate the old and new systems concurrently.

(5) When the project is completed it is conservatively estimated that the hospital's gas consumption will reduce by at least 1,000 GJ per month. This equates to a reduction in greenhouse gas emissions of 588 tonnes CO_2 per annum.

(6) (a) For the financial year 1996/97 the average gas consumption was 9,110 GJ per month.

(b) The hospital consumes gas for heating and domestic hot water and steam production. The steam is currently used for cooking, a minor amount of sterilisation and production of heating and domestic hot water. The majority of the gas usage is required for the production of domestic and heating hot water.

(7) (a) The redevelopment project made various modifications to the existing heating systems in the hospital and, where necessary, installed additional heating systems to provide appropriate levels of heating for the clinical and administrative areas of the hospital.

(b) Through the redevelopment project new heating systems were installed in the new buildings established on the hospital campus. This includes the Maternity, Diagnostic and Treatment, Administrative and Psychiatry buildings. Heating in each of the new buildings is based on small direct fired boilers which service the individual buildings. In some areas reverse cycle air conditioning has been provided for both heating and cooling.

(c) The modifications to the hospital's heating systems throughout the hospital redevelopment were necessary to deliver appropriate environmental conditions to the wards, clinical treatment and administrative areas of the hospital.

APPENDIX 1: Incorporated in Hansard on 4 September 1997 at page 2933

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO THE

STANDING COMMITTEE ON PUBLIC ACCOUNTS' REPORT No. 26

REVIEW OF AUDITOR GENERAL'S REPORT NO. 11 OF 1996

"FINANCIAL AUDITS WITH YEARS ENDING TO 30 JUNE 1996"

TABLING STATEMENT

THE STANDING COMMITTEE ON PUBLIC ACCOUNTS' REPORT No. 26 REVIEW OF AUDITOR GENERAL'S REPORT NO. 11 OF 1996 - "FINANCIAL AUDITS WITH YEARS ENDING TO 30 JUNE 1996"

GOVERNMENT RESPONSE

I am pleased to table the Government's Response to the review by the Standing Committee on Public Accounts of the Auditor General's Report No. 11 of 1996 ***- Financial Audits with Years Ending to 30 June 1996.***

The Government is appreciative of the work of the Committee in helping to achieve open and accountable government. The Government as always is responding to the Committee's recommendations in a positive manner.

The Government agrees with all the Committee's recommendations. This response provides detailed advice to the Assembly on all of the Committee's comments and recommendations.

One of the Committee's recommendations relates to progress in the responding to the PAC's Recommendation in its Report No. 24 of April 1997 concerning mutual recognition arrangements in relation to collection of fines owed by persons resident outside the ACT.

The Government has previously responsed to the Committee's Report Number 24 which was tabled in the Assembly on Wednesday 25 June 1997 by the Attorney-General.

Further developments on this matter are outlined in the response.

Another of the Committee recommendations relates to progress by the working party established to develop policies in dealing with changes in accounting for the values of infrastructure assets.

The Government is pleased to advise the Legislative Assembly that the Department of Urban Services has developed policies in dealing

with changes in accounting for the values of infrastructure assets which are outlined in the Response.

Another of the Committee recommendations relates to progress with development of amendments to the *Agents Act 1968* to give legislative backing to the transfer of interest on trust accounts by banks to the Agents Board.

The Government is committed to providing a statutory basis for the transfer of interest from agents' trust accounts to the Fidelity Guarantee Fund. The emphasis of this Government is to reduce red tape and introduce competition in the market place to the extent consistent with consumer protection.

In particular, the Government must ensure any new legislation meets the ACT obligations under the national Competition Principles Agreement. The review of the *Agents Act 1968* was conducted prior to the implementation of the Competition Principles Agreement.

When a new Act is finalised it will provide for a statutory basis for payment of interest from agents' trust accounts.

The final Committee recommendation relates to measures taken to ensure that a reliable bond tracking system is established in the ACT Office of Rental Bonds without further delay.

The response details the measures taken and I am able to advise the Assembly that negotiations for purchase of a new computerised system are underway and it is expected to be in place by the end of 1997.

I trust that this information is of assistance to the Public Accounts Committee and to other Assembly Members.