DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

11 November 1997

Tuesday, 11 November 1997

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The Assembly met at 10.30 am.

ABSENCE OF SPEAKER

The Clerk: I wish to inform the Assembly that the Speaker, Mr Cornwell, is absent from the Assembly for a short period this morning. In accordance with standing order 6, the Deputy Speaker, Ms Roberta McRae, shall perform the duties of the Speaker.

MADAM DEPUTY SPEAKER (Ms McRae) thereupon 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.

PETITION

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

By **Mr Hird**, from 44 residents, requesting that the Assembly provide additional, safe car parking close to the Weetangera Preschool premises.

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

Weetangera Preschool - Car Parking

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Parliament: that the undersigned parents and citizens affiliated with the Weetangera Preschool are concerned about the lack of safe parking facilities available for parents and their young children while attending the preschool.
>
> Your petitioners therefore request the Parliament to provide additional, safe car parking close to the Weetangera Preschool premises.

Petition received.

CRIMES (AMENDMENT) BILL (NO. 4) 1997

Debate resumed from 25 September 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR WOOD (10.33): Madam Deputy Speaker, the Opposition will be opposing this Bill. The Minister wants courts to take more notice of the prevalence of the type of offence when sentencing occurs. Of course, they do so already. With this Bill, the Minister also wants to see that the rehabilitation of prisoners and reparation are not more important than other considerations in sentencing. Our laws make it clear that sentencing clearly depends on the circumstances of each case. Mr Humphries has not made a convincing argument for change. The provisions which Mr Humphries's amendments propose to change arise from the Australian Law Reform Commission Report No. 44 of 1988. In general, it argued that prevalence is often seen as a court's reaction to a perceived crime wave. One problem with that is that the courts do not have the statistics-gathering role necessary to make good judgments. Courts could react to media coverage of certain offences and not the realities. Courts could take notice of members of parliament, for example, who may decide what they think are crimes which are prevalent. But, most importantly, the Australian Law Reform Commission argued that sentencing on the basis of prevalence was inconsistent with the principle that individual offenders should, as far as possible, be punished only in accordance with the severity of their particular offence and their own culpability. So the offender may be punished, not on the basis of individual activities but rather because of the perceived frequency of a particular crime.

Our courts already have the flexibility to consider a number of factors when sentencing. There is ample scope, in the present principles, to allow courts to set the appropriate sentence, without risking a public perception that the sentence has to be closely related to the latest media scare, or other claim, about particular types of crime. In his speech, Mr Humphries said that the Full Court of the Federal Court, which serves as the Court of Criminal Appeal in the ACT, has not yet ruled on this issue. Well, it has now, in the interval between Mr Humphries's speech and today. Its ruling will set aside any of the Minister's anxieties. Its ruling makes it clear that these amendments are unnecessary. I am sure that Mr Humphries has carefully studied that ruling. It was a test case for the amendments introduced in 1993, the amendments which the Government seeks to change in this Bill. One justice made the point that the main objective was that a sentence should be just and appropriate to the offence. Judges in our courts can continue to make their judgments, using the considerable discretion they have. There is now clearly no need for Mr Humphries's amendments and no need to move away from the basic principle of our system of justice. Mr Humphries made no satisfactory case in his introduction speech, and any arguments he had were demolished by that outcome in the Full Federal Court.

MR MOORE (10.38): Here we go again! It was back in 1993 that Mr Humphries tried this on once before - the old thumping of the drum on law and order. That is the crunch of what we have here. What we have in this particular piece of legislation, the Crimes Act, at section 429, is a section that says:

> **Sentencing to be just and appropriate**
>
> 429. (1) The sentence imposed by a court for an offence shall be just and appropriate.
>
> (2) Without limiting the generality of subsection (1), the sentence shall, as far as practicable, be such as to -
>
> (a) facilitate the offender's rehabilitation into society; -

in other words, a high priority that this Assembly has set -

> and
>
> (b) encourage the offender to make appropriate reparation to any victim of the offence.

But the judge can take other matters into account. Let us look at section 429A, subsection (1), paragraphs (f), (g) and so on. They can take into account:

> (f) any action the person may have taken to make reparation for any injury, loss or damage resulting from the offence;
>
> (g) the degree of responsibility of the person for the commission of the offence;
>
> (h) the degree to which the person has cooperated, or undertaken to cooperate, with law enforcement agencies in the investigation of the offence or other offences;
>
> (i) the deterrent effect ...

Well, here it is! It is in here, after all. I must be misreading. It says:

> (i) the deterrent effect that any sentence or order under consideration may have on any person;
>
> (j) the need to ensure that the person is adequately punished for the offence;
>
> ... ...

Mr Humphries, these are already in here. The Assembly has set the priority for how the courts look at this. What is more, in a review case not so long ago, the courts found that the judge was right to have taken into account some of these issues. It seems to me that all we have is a bit of gut reaction from this Minister.

I will deal in a moment with the issue of prevalence of crime. Prevalence of crime is given a high priority by this Minister. First of all, I will deal with the purposes for which the sentence is imposed. They include: To punish the offender in a way that is appropriate in all the circumstances and to deter the offender or other persons from committing the same or a similar offence. That is in clause 4. If we give that the highest priority, are we not turning around the real goal we want in a just and equitable society, just to feel good? That is what it will do, and it will make certain members of the community feel much better. This is just the thumping of the same drum, the law and order drum. Here we go; we are getting a bit close to an election; we have a bit of motivation from one of our judges; so, let us race down this path.

Mr Humphries: Two.

MR MOORE: No; I think not, Mr Humphries. I think you are on the wrong line. It seems to me that the notion of denunciation that we hear as well is also a part of the same tub thumping that we have been talking about. The legislation already deals with punishment particularly well.

There is another issue, I think, that is important. Clause 5 of the legislation, as I read it, is effectively consequential upon clause 4; but clause 6 is a very interesting one. Section 429B currently reads:

> The court shall not, in determining the sentence to be imposed on a person, increase the severity of the sentence that would otherwise be imposed because of any of the following:
>
> ... ...
>
> (e) the prevalence of the offence;
>
> ... ...

Under the current Act, the court is not going to take into account the prevalence of the offence. Why not? Well, it is very simple. What we will get, if we allow this amendment to go through, is a situation where the public perception of prevalence drives the way that somebody is punished. In January we will have somebody appear before the court and they will be given a two-year penalty for a particular offence. In April somebody else will appear before the court, having committed the same offence, and will be given a four-year penalty; but, in the meantime, we have had the local media running a major campaign on that particular crime. So, the perception of the prevalence of the offence is out there; the perception that there is a huge increase in crime will be there. This perception is what happens all the time. Our statistics are showing us that we live in probably the safest city in Australia; and, as such, it is probably one of the safest cities in the world.

Yet, many people do not feel that way because of the way the perception is created. We do not want judges taking that perception into account. That is our role. It is our role, this Assembly's role, to take into account the public perceptions of crime and to respond to the public perceptions.

It is terribly unfair that the person in April gets a four-year sentence when the person in January got a two-year sentence for the same crime. That is what this amendment is about. It is part of the same thumping of the tub on the law and order campaign. It seems to me that the arguments that have been put up again in favour of this process are similar arguments to those that you can find at page 796 of volume 1 of the 1993 *Hansard;* and page 3427 later in that year, in volume 3, will show the same sorts of arguments. The Assembly rejected it then, and I hope that this Assembly rejects it again.

MR STEFANIAK (Minister for Education and Training) (10.45): I listened with interest to what Mr Moore said. With the greatest respect to him, I think he is completely out of touch with reality, and out of touch with community expectations and, indeed, with judicial expectations in this instance. I would ask members who are going to oppose this Bill to tell me what other jurisdiction in Australia does not have a similar provision in its legislation. I think the answer to that is: All of them have the provision that prevalence of the offence is something that can be taken into account in the sentencing process.

Mr Moore: And they are all wrong.

MR STEFANIAK: No; they are not all wrong, Michael. I think commonsense, precedent over many years and experience in the criminal law dictate that it is essential that one of the factors to be taken into account in sentencing is prevalence of an offence. I think that is something that the ACT community would want to see occur. I note that the Chief Justice, Jeffrey Miles, wants to see this provision back in there. I note that a very experienced judge who has dealt with many criminal law matters over the years, Justice John Gallop, also has commented that he wants to see this provision in there. I note that the Director of Public Prosecutions has indicated that they want this provision in there. If you asked most practitioners, even those in the private sector who are not with the DPP, the defence counsel, they would expect and probably want a provision such as this in there. There are very good reasons for that. It is an essential part of considerations before a court.

Two learned judges in the ACT have already commented that they feel they have been stymied by not being able to take this particular provision into account, when relevant. My colleague Mr Humphries, the Attorney, said when he introduced this Bill:

> ... there are five fundamental purposes for which a sentence may be imposed. They are to punish the offender, to deter the offender or others from committing criminal acts, to rehabilitate the offender, to express the community's disapproval of the crime, and to protect the community from the offender.

Prevalence of an offence is certainly a very important consideration when a court and a sentencing judge go through those five fundamental purposes for which a sentence may be imposed. To specifically remove that provision puts the ACT at odds with the criminal law systems throughout the rest of Australia. It does nothing to protect the community; it does nothing for the proper administration of justice. It is wrong, I think, for any of those five fundamental purposes for which a sentence can be imposed to have any greater weight than the others; they are all equally important. There are lots of factors that need to be taken into account in terms of sentencing.

Prevalence of the offence is something that every other jurisdiction recognises. Two out of the three judges of our own Supreme Court want to see it reinstated here, and for very good reasons. They are very experienced judges, and I think we should take heed of what they say because they are doing this on a day-to-day basis and are charged with protecting the community as, indeed, this Assembly is in terms of making sensible laws. I do not think members opposite, Mr Moore or anyone else who might be opposing this is properly doing their job of protecting the community; I think they should hearken to what the two learned judges want to see occur and bring the ACT back into line with every other jurisdiction in Australia. That is certainly, to my knowledge, and I have checked with the Attorney, who also indicates that he cannot think of any other jurisdiction that does not have this provision. Certainly, it is something the community, which is getting a little sick and tired of criminals perhaps not being treated as the community expects, wants. They are getting sick and tired of not having a provision such as this.

Mr Wood also mentioned the Federal Court. I am advised that is not a terribly persuasive decision if you actually look at the reasoning of the three judges. There are some very interesting obiter dicta and statements made by those three judges in relation to this issue. That is not as strong a decision as perhaps Mr Wood might think it is, when you actually look at it. The Attorney, no doubt, will speak more on that when he sums up. All in all, I think the community, the Chief Justice and Justice Gallop would expect this Assembly to assist the Supreme Court in its role by bringing in legislation such as the Attorney has. I would ask members opposite and Mr Moore to reconsider their attitude in relation to this.

MS TUCKER (10.50): I actually find this a very disturbing amendment, and we will certainly be opposing it. On the issue of the function of sentencing: Mr Stefaniak claimed that Mr Moore's statements were out of touch with the community and judicial expectations. I believe that this amendment is actually out of touch with fundamental concepts of justice. If we look at this, we will not see that fundamental concept being respected. I quote here from Moira Rayner's "Rooting Democracy. Growing the society we want". She says that one of the principles of the rule of law is this:

> The law does not permit the arbitrary exercise of power ... No-one can be punished except for a breach of a law, and the punishment should be tailored to the crime, its consequences and the individual offender's circumstances.

Report No. 44 of 1988 of the Australian Law Reform Commission on sentencing outlined a number of key principles of sentencing which have guided its recommendations. Amongst those principles is this:

> Goals such as the incapacitation of the offender or the pursuit of general deterrence should not be objectives of the imposition of punishment.

Consideration of prevalence in sentencing will result in inconsistency of punishment. Similar offenders who commit similar crimes in similar circumstances should be punished in similar ways. Where a particular crime is prevalent in a locality and prevalence is a consideration in sentencing, the principle of consistent application of punishment cannot be upheld. Consideration of prevalence in sentencing punishes offenders for the crimes of other offenders and is therefore unjust. In a just society people are treated as individuals in a way that is proper for them.

The other thing I find particularly odd about this is that it does not recognise, if you like, the ability of the client group that we are dealing with. Using the language of the consumer society, the customers - in this case, the clients - are the people who apparently are going to be aware of the prevalence factor in sentencing; therefore, they will be aware of the fact that the crime they are committing is becoming more prevalent; and, therefore, they will be deterred because they will know this and will know that the sentence is going to be greater because more people are doing it.

If you look at the life stories and case histories of most of the people our courts are dealing with, they do not watch the news every night; they do not read the paper every day; they are not aware necessarily at all of what is going on in the community around them. They do not premeditate; they do not think, "Okay; I might commit this crime, but I will not commit that one because there is a prevalence issue about that and I will be sentenced more".

Surely we need to be acknowledging that if we actually want to reduce crime in our society we have to look at the root causes of it and work out how to support people in our community so that they do not turn to crime. We cannot continue to have a law and order response which will just mean that we will be incarcerating more and more people in our community. They will become brutalised by the experience of incarceration; they will then be released back into the community; and so it goes on. It is not a very progressive or intelligent way of dealing with the issue of crime in our society.

The other issue for debate today, of course, is the focus of section 429. In our view, this section in the current Act is satisfactory and appropriate in its direction and emphasis. The Act provides that facilitation of rehabilitation and encouragement of reparation are matters of consequence in sentencing. This focus reflects the need of the wider community to be assured that action is being taken to protect their safety by rehabilitating offenders rather than by taking the simpler and initially cheaper option of punishing offenders without regard to the potential for further harm. The five fundamental purposes for which a sentence may be imposed - punishment, deterrence, rehabilitation, protection of the community and denunciation - are considered adequately in the current Act. The principle of punishment in sentencing is self-evident, and it is not truly necessary for it to be mentioned in the Act.

MR HUMPHRIES (Attorney-General) (10.55), in reply: Madam Deputy Speaker, to close this debate: I am disappointed but not surprised at the view taken by members of this place on this matter. Mr Moore is right; this issue has been debated before. At the time it was debated, in 1994, the then Opposition, the now Government, indicated that it was concerned about provisions in the legislation, would monitor the operation of the legislation and would come back to the Assembly with amendments to the legislation if there appeared to be problems with its operation. There is evidence of problems with its operation, and I do not ask for me to be believed on that subject; but I do ask for the Director of Public Prosecutions and the Chief Justice of the ACT Supreme Court to be believed on that subject. They are people who deal with this problem on a day-to-day basis; they are at the coalface. They have argued strongly that that is the case, notwithstanding the decision in Stafford's case.

Mr Wood: They would not be worried now, after the Federal Court decision.

MR HUMPHRIES: That is not the case, Mr Wood. In a moment I will read you a letter from the Chief Justice to indicate that, and I hope it will change your mind. But let me run through a few of the arguments, first of all.

Mr Wood made the rather extraordinary statement, I thought, that judges already take prevalence into account, notwithstanding the legislation, when they sentence individual prisoners. That clearly is not the case; or, if it is, it clearly lies outside the law and is some sort of idiosyncrasy by an individual judge. The judges and the magistrates, for that matter, are specifically excluded from considering prevalence when they sentence a prisoner. I refer Mr Wood to paragraph 429B(e) of the Crimes Act, which reads:

> The court shall not -

I repeat -

> The court shall not, in determining the sentence to be imposed on a person, increase the severity of the sentence that would otherwise be imposed because of any of the following:
>
> (e) the prevalence of the offence;

They are clearly not entitled to take that into account. Mr Moore made reference to paragraph (i) of subsection 429A(1), and it is true that that provision deals with the court having the right to take into account "the deterrent effect that any sentence or order under consideration may have on any person". But, clearly, those two provisions are meant to mean different things. This is a matter I drew to the attention of the Assembly at the time of the original debate, if my memory serves me correctly. Prevalence is fairly clear, and there is no difficulty in this debate about what it means. It means the extent to which a certain offence is occurring in the community. Clearly, that is a general provision, rather than the specific provision about deterrent effect in paragraph 429A(1)(i).

Mr Moore: Yes; I am talking about section 429B when I talk about that.

MR HUMPHRIES: Yes; I know. I am quoting from section 429B. The words "The court may not have regard to the prevalence of an offence" clearly mean that the court may not have regard to those matters.

The Government's argument is very simple. There are two bases for moving and supporting this amendment. One is the strongly expressed view of senior members of the legal profession on this subject, people who deal with this problem on a day-to-day basis. The other is the in-principle argument that the community deserves and requires to be protected in the face of serious problems with particular types of crime. It deserves, and demands, to be protected in the face of those sorts of crimes. We have the situation, to which Mr Wood has referred in recent days, where there have been a spate of armed robberies in this Territory - a series of armed robberies. I see, from the newspaper yesterday, that the police are making good progress on breaking up one ring of armed robbers; that is very laudable. Breaking one ring will not solve the problem of armed robbery. There are a number of devices which I think can be employed to deal with armed robbery. Putting more police on the beat is one approach this Government has used, but I am the first to admit that that tactic will be effective only very marginally in preventing armed robberies. Hopefully, it will be effective in clearing up armed robberies, and indeed the clear-up rate is an important factor in dealing with armed robberies. The more likely you are to be apprehended, after the offence, the less likely you are to commit the crime in the first place - in theory, at least.

The other important consideration is the extent to which you can have police in the right place at the right time. It is most unlikely, of course, that police are going to be outside a bank, a building society, a service station, a chemist or a corner store when an armed robber happens to walk in and hold a gun in the face of a shop assistant.

Debate interrupted.

REMEMBRANCE DAY

MADAM DEPUTY SPEAKER: Order! It being 11.00 am, I ask all members, staff and visitors to stand for one minute of reflective silence to commemorate the armistice which ended World War I and to remember the sacrifice of those who died, or otherwise suffered, in all wars and conflicts in which Australia has been involved.

Members stood in their places.

CRIMES (AMENDMENT) BILL (NO. 4) 1997

Debate resumed.

MR HUMPHRIES: I was referring to armed robbery and making the point that there are a number of ways of dealing with armed robbery. I mentioned extra police and I mentioned high clear-up rates. I have also, in the past, spoken about the need for targeted premises to take better care of their own security. Those are all matters which, I think we would agree, need to happen.

There is another device which I believe, and I might say it appears the bench believes, also needs to be available to deal with that matter, that is, the prevalence of the offence and sentencing based on prevalence. To put it simply, if the Territory is experiencing a wave of crime - for example, armed robbery - and an armed robber comes before a judge, it not only should be available to that judge, but also should be the duty of that judge to sentence so as to deter, and to base his decision on the prevalence of that offence in the community. It is a protective device. It is designed to ensure that the community is afforded some protection in those circumstances. Ms Tucker makes the point that that would be unjust in the case of individuals.

Mr Moore: And the role of the court is to apply the law to individuals. Our role is to do the general.

MR HUMPHRIES: No, that is not the role of the court entirely. There are other factors as well. One of those factors is a broad obligation to victims, whether actual victims or notional victims, and to the broader community. That obligation is met by deterring other crimes from being committed by a sentence which sends a signal. If we do not allow judges to take into account, in this particular context, armed robbery and the prevalence of armed robbery, how do we deliver that kind of signal through sentencing policy? Clearly, we cannot.

Senior members of the legal profession have written to the Government expressing their concern about this, and asked for the matter to be dealt with by the legislature. They have asked us to act in this matter. I would think that members of the Canberra community would be joining that call with some alacrity. They are concerned about the increase in armed robberies as well. What does this Assembly propose to do about that? We do not think it is appropriate to take into account prevalence when judges pass sentence. We do not think we should act in this area. I do not propose to go to the next election and say that, in the face of a serious increase in armed robbery, I sat on my hands and did nothing. I would ask members of this place to ask themselves whether they are serving their community very well by doing just that.

I might get Mr Wood's attention, because I want to address an argument he put forward. Mr Wood raised a very important point, and I hope that he will change his view, based on this particular argument. Mr Moore was also of the same opinion. This is a quite important issue and I would be grateful if you would listen to the argument. The point was made, certainly by Mr Wood and I think by Mr Moore as well, that the decision in Stafford's case has conclusively resolved the question of rehabilitation. I want to read

a letter I received from the Chief Justice. I wrote to him after the Stafford decision and asked him whether his original advice to me that the law needed to be amended still stood on the basis of the decision in Stafford's case. Of course, the Chief Justice was a member of the bench in that case. He has written back and said:

> I think that I appreciate your position, but I am able to give an opinion only "without prejudice". The Federal Court decision in *Stafford v. The Queen* may well have removed the perceived need for the proposed amendments (other than that relating to prevalence of the offence).

I will come back to that point in a minute. The letter continues:

> But the proposed amendments would reduce any remaining uncertainty. However, I would not commit myself to the general proposition that the decision in *Stafford v. The Queen*, or the proposed amendments, merely "continue the common law".

That is the relevant part of that letter from the Chief Justice. I have also consulted with the Director of Public Prosecutions and asked him whether his advice to me remains the same. His view was very strongly of the gist that the amendments should proceed, for two reasons: First of all, the question of prevalence was not dealt with at all by the court in Stafford's case; it was not touched by the court. That issue remains a live issue and remains on the table. It is unaffected by the Stafford decision. The second point is that there was a 2 : 1 majority in Stafford's case. The two judges who decided in the majority that the common law was not changed by the 1994 amendments had entirely different reasons for reaching that view, as I read the decision. The third judge was a judge of our own Supreme Court - indeed, the Chief Justice of our own Supreme Court - and his view was, and remains obviously, that there is still uncertainty on this question and he believes that the legislature needs to speak to clear up any uncertainty on that question.

The one thing I have not yet perceived clearly from members in this debate is whether they take the view on rehabilitation that we were aiming to achieve with this Bill. Is Mr Wood saying in his remarks that he agrees with what we are trying to do but believes that the Stafford decision has done it already, or is he saying that he does not agree with what we are trying to do? If he believes that it is not appropriate to do what we are trying to do as far as rehabilitation is concerned, he should put forward some arguments to explain why he takes that view. He has not yet done that in the course of his comments. The Chief Justice has said - and the DPP has supported the view - that the wording of the legislation as it presently stands elevates rehabilitation above other factors. If Mr Wood believes that is appropriate, he should say so. It is not my view that it is appropriate, but if he believes it is he should say so. If he believes that it is not appropriate but that the Stafford decision removes any doubt about its being the case anyway, he should also say so. Anybody reading this debate would be extremely unclear, I would suggest, as to what the opinion of the Australian Labor Party on this matter actually is.

Let me make the points again very clearly. I do not think the Stafford decision clears up the matter. It certainly does not clear it up as far as prevalence is concerned. I certainly believe that we have an obligation to the community to act in an area where there is, clearly, a problem with crime in the Territory. Armed robbery is one very good example of that at the present time.

Mr Moore: There is a perception, not a problem.

MR HUMPHRIES: No, it is not a perception, Mr Moore. Let me make something quite clear. I produced the figures in the Assembly in the last few weeks. There has been a rise in armed robbery. It is not perceived at all. It is actual. It is real. There has been a significant rise in armed robbery. It needs to be - - -

Mr Whitecross: Are you saying the judges have not given appropriate sentences? Is that what you are saying?

MR HUMPHRIES: That is what the judges themselves are saying, Mr Whitecross. Go and talk to the judges. They are not Easter Island statues. You can talk to them about these matters. I suspect that their views would be made very clear in the course of that. *(Extension of time granted)* It is perfectly clear that the judges are not permitted to take into account prevalence. Indeed, Justice Gallop made it clear some time ago that, in his view, armed robbery might actually be encouraged in the ACT because, at least at that time, there was a tendency for first time armed robbers to receive suspended sentences or non-custodial sentences of some sort. His view was that - - -

Mr Moore: Come on! That is his choice. He can give a sentence to an armed robber.

MR HUMPHRIES: That was his view. That was, clearly, his view. You and I are not judges. We do not deal with these matters on a day-to-day basis.

Mr Moore: He can give a sentence if he wants to - of course he can.

MR HUMPHRIES: That is not the case. Mr Moore seems to believe that judges can just turn a blind eye to the legislation and take into account prevalence by the back door in making a decision.

Mr Moore: That is not what I said. You were misrepresenting armed robbery.

MR HUMPHRIES: You can use - - -

Mr Whitecross: What we are saying is that, if the judges think it is a more serious offence than warrants a suspended sentence, they do not have to give a suspended sentence. That is what Mr Moore is saying. That is what I am saying.

MR HUMPHRIES: But if they cannot take into account prevalence, they may not be able to give a more serious sentence. They have to take into account - - -

Mr Whitecross: We are not talking about prevalence. We are talking about the seriousness of the offence.

MR HUMPHRIES: Madam Deputy Speaker, Mr Whitecross is talking rot. The judges are supposed to take into account a range of matters. They are permitted to take into account matters up to a certain point. But they are not permitted to take into account matters which the legislation specifically excludes them from taking into account, and prevalence is one such matter.

Mr Whitecross: What I am saying is that, taking account of the matters allowed under the legislation, they do not have to give suspended sentences if they do not want to.

MR HUMPHRIES: No, that is not the case. Madam Deputy Speaker, I will try to explain it to Mr Whitecross in words of one syllable or less.

Mr Whitecross: I understand perfectly well. You want to run a law and order campaign in the next election.

MR HUMPHRIES: Madam Deputy Speaker, if I could just get a word in edgeways - - -

Mr Whitecross: It is perfectly simple. You want to beat the law and order drum. There is nothing else to it.

MADAM DEPUTY SPEAKER: Order! Mr Humphries has the floor.

MR HUMPHRIES: Thank you, Madam Deputy Speaker. Judges are supposed to sentence on certain principles. They would look at a number of factors, including the record of the person being sentenced. They would look at the other factors basically referred to in section 429A of the Crimes Act. They would look at all those matters. Do you understand that so far, Mr Whitecross?

Having done that, they would be expected to pass sentence based on principles consistent with other people who are in the same position, other people with the same sorts of records and sentenced for the same sorts of offences. It may be that that would lead them to consider that a suspended sentence was appropriate. But there is one factor that might lead them to believe that that is not appropriate, that is, the fact that a certain sort of offence was prevalent. What that might mean is that a year ago it would not have been appropriate to sentence somebody to a gaol term for a certain sort of offence, such as armed robbery, but that the common currency that they were using would require a suspended sentence.

Mr Whitecross: If I am held up in a service station, how serious the offence is depends on how many other people have done it? You are a joke.

MR HUMPHRIES: Madam Deputy Speaker, it is not a question of simply addressing the person's individual case. It is a question of addressing the wider issue of the prevalence of that offence in the community. If you cannot see that, I pity what kind of government is going to lead us after the next election, should you be elected to office. That is all I can say.

Madam Deputy Speaker, Mr Moore has accused me of tub thumping. I can hardly be accused of tub thumping when I did nothing to advance this issue until I was approached by both the Chief Justice and the Director of Public Prosecutions on this matter. I can hardly be accused of being a knee-jerk reactionary based on no action at all in this area until urged to act in this area by those two senior officers in the ACT legal system. It hardly amounts to a tub thumping kind of campaign, does it?

I have made clear what the Government's priorities are. I have made clear that we need to act in this area. I have made clear that without passing amendments such as this, urged on us by the judiciary and by the prosecution service in this town, we are letting down the citizens of this Territory. We are exposing them to rises in crime in those areas without an effective response. I do not propose to go to the next election on this issue - and I will go to the next election on this issue if I have to - and say that the Liberal Government has failed to act in this area. I will point to what this Government has tried to do to address this problem - issues such as safety cameras, such as addressing prevalence of offences in the community, such as putting more police on the beat in this Territory. I will put those matters before the electorate and I will be judged on those matters; and, of course, so will you people be.

MR MOORE (11.15): Madam Deputy Speaker, I seek leave to speak again on this matter.

Leave granted.

MR MOORE: I thank members. Mr Humphries, in the course of the debate, talked about armed robbery and referred to Justice Gallop saying that he is concerned that we might actually be encouraging armed robbery in this Territory.

Mr Stefaniak: That is his view and he is an experienced judge.

MR MOORE: "And he is an experienced judge", says Mr Stefaniak. Mr Humphries said that Justice Gallop has suggested that it might actually have the effect of encouraging armed robbery in the Territory because we have to give suspended sentences. I do not know whether to attribute that to Justice Gallop or to Mr Humphries, but it is nonsense. Let me read section 101 of the Crimes Act, which has the title "Armed Robbery":

> A person who commits robbery and at the time of doing so has with him or her a firearm, an imitation firearm, an offensive weapon, an explosive or an imitation explosive is guilty of an offence punishable, on conviction, by imprisonment for 25 years.

Mr Humphries: That is a maximum sentence, not a minimum sentence.

MR MOORE: Twenty-five years! That is a maximum sentence. To suggest that a judge cannot put a first-time offender into gaol when there is a 25-year maximum penalty is absolute nonsense. What is the judge actually taking into account? Not the prevalence issue, but everything that is set out in section 429A of the Crimes Act and the things that we referred to before, such as the degree of responsibility of the person for the commission of the offence; the deterrent effect that any sentence or order under consideration may have on any person - not just on that person, but on any person; and the need to ensure that the person is adequately punished for the offence.

Yes, a judge should take into account whether the weapon used in the armed robbery was actually a plastic gun, whether it was a first-time offence and whether it was so botched, and so on, that the judge says, "It was such a pathetic pretence at armed robbery that I am going to give a suspended sentence". One could imagine that sort of possibility. But the reality is that to suggest that a 25-year penalty for armed robbery encourages somebody in this Territory to commit armed robbery is just claptrap. For you to repeat it is appalling because it is not true. For you to repeat such claptrap in this kind of debate is nonsense. It goes back to the same stuff of law and order thumping of the drum. That is what it is about.

Mr Stefaniak: Tub.

MR MOORE: Tub, if you like; I do not care. I do not care which cliche you prefer to use. It seems to me that when Mr Humphries came up with this sort of pathetic attempt to support his argument on this issue he really put the last nail in the lid of his coffin. Since we are into cliches, we might as well use them properly. It seems to me that when we dealt with this issue in the Second Assembly we got it right. That has been confirmed by the Federal Court. Yes, there is a different opinion amongst some legal practitioners, and I accept their right to hold that opinion. Things such as the letter from Chief Justice Miles and the opinion of the Director of Public Prosecutions do have an influence on people like me. But the reality is that it is unjust when someone in January gets a two-year penalty compared to somebody in April getting a four-year penalty for exactly the same offence. I will not be a part of that.

MR HUMPHRIES (Attorney-General) (11.20): Madam Deputy Speaker, I also seek leave to make a further contribution.

Leave granted.

MR HUMPHRIES: I will try to be brief, Madam Deputy Speaker. I want to explain the situation in case members have genuinely misunderstood what has been said. Mr Moore says, first of all, that the Federal Court has considered the question of prevalence. It has not. It has not touched the question of prevalence. The only issue dealt with in the Stafford decision was rehabilitation. It did not touch the question of prevalence. That issue was not resolved by the decision in Stafford's case. I suggest Mr Moore go and read it.

The second point I want to make is that Mr Moore says that, if the maximum penalty in the Crimes Act is 25 years, a judge should be able to impose that without any problem, or something including a custodial sentence. There is a fundamental flaw in that argument, and it goes like this: If the court, over a period of time, has been sentencing armed robbers, with certain characteristics of their crimes, to a suspended sentence, for argument's sake - and there was a period during which precisely that was happening in this Territory; they were customarily, for first offences, getting suspended sentences - and if a judge is faced with another prisoner with exactly the same characteristics as the earlier prisoners, whose offence is as serious as the others and in all other respects is in the same class as the others, the judge has a positive obligation under the law to be consistent with his brother judges, and they are all brother judges, and impose the same kind of sentence. That is the law.

Mr Whitecross: So he is criticising his brother judges, is he?

MR HUMPHRIES: Yes, he was. He said that. Go and read his judgment, Mr Whitecross. He was criticising them.

Mr Whitecross: He is not criticising the law; he is criticising his brother judges.

MR HUMPHRIES: He was, yes. If that is the case, there has to be some basis on which to distinguish those sorts of circumstances. It may be that the only distinguishing feature between the time of his coming to sentence and the time it was customary to impose suspended sentences is that at this point in time there is now a greater prevalence of that offence. If that is the case, the only basis on which he can sentence more severely than has previously been the case is if prevalence is a factor to which he can have regard when he sentences. If we do not pass this amendment today, he does not have that basis for acting.

Mr Moore: No; he can take deterrent effect into account.

MR HUMPHRIES: No, he cannot. Under section 429B he is not permitted to take into account prevalence of an offence. It is there.

Mr Moore: "Deterrent", I said. He can take deterrence into account under paragraph 429A(i).

MR HUMPHRIES: Mr Moore, let me ask you a question. What is the difference between deterrence and prevalence of an offence? The fact is, as I pointed out when we first debated this matter, that it is very hard to see what the difference is, because they look like two sides of the one coin. But, clearly, the court has taken the view that there is a difference between those things. It has taken that view already. There is a bit of a confused argument here. You and I might believe they can get prevalence in through the back door, but they do not believe they can. They believe that they are honouring the intention of the legislature by not having regard to prevalence. I have made that argument as clearly as I can.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 6	*NOES, 8*
Mrs Carnell	Mr Corbell
Mr Hird	Ms Horodny
Mr Humphries	Ms McRae
Mr Kaine	Mr Moore
Mrs Littlewood	Ms Reilly
Mr Stefaniak	Ms Tucker
	Mr Whitecross
	Mr Wood

Question so resolved in the negative.

ELECTORAL (AMENDMENT) BILL (NO. 2) 1997

Debate resumed from 23 September 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

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

CHILDREN'S SERVICES (AMENDMENT) BILL 1997

[COGNATE BILL:

CRIMES (AMENDMENT) BILL (NO. 5) 1997]

Debate resumed from 25 September 1997, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

MADAM DEPUTY SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Crimes (Amendment) Bill (No. 5) 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 3 they may also address their remarks to order of the day No. 4.

MS REILLY (11.28): There are three parts to this matter when you consider it in detail. There are the amendments to the Children's Services Act and the two issues to be considered there, and there is the Crimes (Amendment) Bill (No. 5) and the issues contained within it. It will be easier if I talk about some of the issues in each of those parts.

The first part in relation to the Children's Services (Amendment) Bill, the part that is probably the least problem, is the report by the Official Visitor to Quamby and other children's services institutions. The role of the Official Visitor is important because it is an opportunity for a person who is independent of the children's services area to look at the conditions and listen to the complaints of those children who are in Quamby or under orders in other children's services institutions. At times, the annual reports of the Official Visitor have been extremely important because this person, no matter who it is, has a role that is separate. There is an opportunity for children in these institutions to talk to someone who does not have either a legal connection or an emotional connection to them. It is important that this role be recognised.

One of the issues has been that the putting together of the annual report has been left slightly in limbo because at times there has been no opportunity to know when the report should be presented to the house and in what format it should be presented to the house.

The amendment that is being suggested in this part of the Children's Services Bill should be supported, for the reason that it sets out quite clearly what is to happen in the future in relation to the Official Visitor's annual report. We will not have the situation that has arisen in the past whereby the annual report has sat around for quite a long time and has not been presented to the Assembly in a timely way, thus stopping discussion of some of the issues contained within the report.

I particularly remember this being the case in relation to the Official Visitor's report because that was one of the first issues I dealt with when I came to this place in 1996. There was a long outstanding annual report that had not been presented and, in fact, discussed by members of the Assembly. That meant the issues raised in this report did not have the opportunity of being publicly aired. Some of the issues are slow to be fixed up and remedied if this happens. The amendment puts the annual report by the Official Visitor under the same conditions as similar annual reports within the ACT Public Service.

I have some problems with the timing of these amendments. A full-scale and very long review of the Children's Services Act is already taking place. The Minister should be commended for starting this process and allowing sufficient time for full consideration of it. Hopefully, many members of the community, in whatever capacity, will have the opportunity to comment on the Children's Services Act and its impact on services for children. But why do we need to put in amendments now, when a concurrent process is going on? You have to question the timing of these amendments at this stage of the life of the Assembly, occurring at the same time as a review is going on.

The amendments relating to the transfer of juveniles interstate in some respects do not change what is possible already. Currently, within the Children's Services Act there is the opportunity for children to be transferred interstate. It goes through a court process. I am sure the Minister can instance times when it has worked successfully. A process is gone through. It is a process whereby the situation in relation to a juvenile is presented to the court and a decision is made about whether the juvenile is transferred to an interstate institution. Considering the time that we are looking at for the changes to the Children's Services Act, why make these changes at this point when there is already a process through the court system?

One of the impacts of these changes is that there will be a delegation of responsibility to the Director of Family Services for these transfers. There is quite a shift from having it through the court system to having it done within the bureaucracy. I note that there are to be various checks after the event, in reviewing and monitoring the impact of these transfers; but that will be done after the director has made a decision. It is not an action that is being taken by the Minister doing it or going back to the court; it is being done within the bureaucracy itself.

I have some concerns with that, considering the seriousness of the situation. We are talking about juveniles who have committed crimes within the ACT and who, having gone through the court system, were given custodial sentences that were to be served within Quamby. Surely, the ACT community has a responsibility for the care and rehabilitation of those children within the confines of Quamby or another juvenile institution.

By sending these children interstate for a broad number of reasons, we are to some degree abrogating our responsibility to the community to look after and take care of children in custodial institutions. We should be looking at the rehabilitation of those children so that when they finalise their sentence through Quamby they are able to participate again in a worthwhile way and obtain a quality of life within the ACT community.

One of the things that are mentioned in relation to juveniles and other people in custody is the importance of maintaining family networks and community connections. In fact, if we look at some of the issues under discussion about having an adult gaol within the ACT, these matters arise. In sending juveniles interstate, we have to consider whether they will lose the family connections and community networks they already have within the ACT. One of the reasons given for transfer interstate is that parents or other important relatives are already interstate. Obviously, this is something that should be considered and would be considered by a court in looking at the transfer of a juvenile interstate in the current situation.

It is important that we do not use this responsibility being given to the Director of Family Services to transfer people interstate simply because what can be provided at Quamby is not suitable for that young person. This is where one of my major concerns lies. A number of reasons for the transfer of a juvenile to one of the New South Wales juvenile institutions were given in the explanatory memorandum attached to the presentation speech. There are two aspects of that. It is not taking account of the needs of that child within the ACT and it is not taking account of anything I have seen that recognises that New South Wales juvenile institutions are so much better than what we can offer in the ACT. It would be so easy to say, "Let us send them interstate and then we will not have to look at some of the issues that are being raised by the behaviour of these young people".

One of the reasons given for New South Wales institutions being good is that there are a number of different institutions providing a number of different levels of custodial severity. Apart from the concerns about the quality of some of the New South Wales institutions - and this is probably the first time that a lot of the New South Wales custodial institutions have ever been put up as something to aim for - why can we not look at the various security and other arrangements at Quamby and try to deal with the young person within the services we have now? We can look at several aspects of it. Is there any flexibility in the infrastructure at Quamby and is there any flexibility in the way in which the staff at Quamby manage, so that different kinds of care can be provided for different young people? I would have thought that one of the basic issues in looking at juveniles within care is looking at their individual needs. If there are issues over the behaviour of a particular juvenile that might cause safety problems for either other young offenders in the institution or staff in the institution, there are ways of looking at it other than looking at an interstate transfer.

There are issues about what kinds of behaviour management programs are offered and what kinds of rehabilitation programs and counselling programs are being offered to young juveniles within the Quamby situation. You would also have to consider the programs and training being offered to staff to handle what at times are extremely difficult young people. But what it comes back to is ensuring that people that are put into juvenile detention within the ACT are basically the responsibility of the ACT. Some of the ease

with which people could be transferred interstate is of concern. We should be looking at providing, through Quamby, a broad range of services that can respond to the needs of the juveniles within the ACT. This, I am sure, will be looked at under the review of the Children's Services Act and the other reviews of Quamby. This issue should be tackled before we move into legislation that allows for the transfer of juveniles interstate. That is the basis for my opposition to this legislation. We have a number of people with complex needs, but we should be able to address them through the services we provide at Quamby.

Mention was made in the presentation speech of recommendation 168 of the Royal Commission into Aboriginal Deaths in Custody. This should still be complied with through the system that is available today. If a young Aboriginal offender needs to be transferred interstate because of community connections or to be closer to his or her family, there is a method for doing that through the court system. This is already available. I would not like to see a change at this point in time, as a review is concurrently going on. Those are the issues that are related to children's services and the transfer of juveniles interstate.

The other part of the debate today is the Crimes (Amendment) Bill (No. 5). It deals with juveniles who serve adult sentences and then have to complete the balance of their juvenile sentences. The issues raised in the explanatory memorandum and the speech by the Attorney-General relate to the problems associated with juveniles who have been in an adult institution and who return to a juvenile institution. This amendment, I understand, will give the courts the opportunity to resolve that problem and not force or require a juvenile to return to a juvenile detention centre after serving an adult sentence. This is a commonsense amendment to the Act.

Mr Stefaniak: You said "the Attorney-General". It was me. They are concurrent Bills.

MS REILLY: This is a commonsense amendment to overcome the problems created by the mixture of juveniles and adults. The amendment recognises the differences between how we deal with juveniles and how we deal with adults. We have two separate justice systems in recognition of the differences in needs. One of the reasons given for making the changes to the transfer of juveniles interstate was that it is similar to the way in which transfers from the Belconnen Remand Centre can be managed. I think they are quite separate issues. What happens in an adults detention system is not the same as would be considered suitable for a juvenile system. I think the issues around transfers interstate for juveniles are more important and more complex than are those for adults, particularly when we are talking about the Belconnen Remand Centre. We are talking there about prisoners on remand. We are not talking about people in custodial sentences, as they are in Quamby.

There are parts of these amendments that Labor has considerable difficulty with because we are concerned about what happens to the juveniles serving detention sentences in the ACT. We think they should continue to remain the responsibility of the ACT and we should be looking at Quamby itself, the physical infrastructure, the staffing and the other services that may be required within that institution to deal with the needs of the juvenile offenders within the system.

MS TUCKER (11.45): In the Children's Services (Amendment) Bill and the Crimes (Amendment) Bill (No. 5) there are basically three issues before us, as Ms Reilly has pointed out. The first is the relatively minor issue, that the Government wants to bring the annual reporting requirements of the Official Visitor into line with those of other agencies in the ACT. The Greens are happy to support this. We have been assured that the annual report will be incorporated in the full departmental report.

The second issue, which is the subject of the Crimes (Amendment) Bill (No. 5), is to allow the courts, when imposing a sentence on an adult, to take into account the unserved component of any juvenile sentence that is still applying to that person. The Greens are also happy to support this. It is obviously inappropriate for an adult to return to a juvenile institution, particularly after they have served a sentence in an adult institution.

The third issue in this, which the Greens will not support, is that the Government wants to give the Director of Family Services the power to approve the transfer of a young person from one institution to another, including to an interstate institution. There are a number of reasons why I am opposing this. Firstly, there is already a process whereby transfer can be approved; that is, through the court. The Government argues that the court does not have the power to consider management issues which may necessitate a transfer, because the court can consider only the individual welfare of the young offender in question.

I have difficulty in accepting this argument and the quality of the advice that I have been given on this matter. First of all, I was informed that, absolutely, it was not a matter for the court to look at these issues. So, then I asked: How many times have people actually been transferred to an interstate institution through the courts? That information came later. There has been one such instance, which was in the last couple of days. Mr Moore, I will ask you to listen to this, because I think it is very important and it concerns the quality of the advice I am getting. There has basically been one transfer in the last five years, and that was in the last couple of days. My understanding of the situation is that it was actually about offences committed in New South Wales. New South Wales sought to extradite this person to have the case heard in New South Wales. So, it is not the same kind of instance as we are talking about here, anyway.

I also sought clarification on why it is not the court's role to also look at how the particular individual is impacting on other residents of the facility. This is the management issue that we are being asked to consider. Once again, the advice was really unclear: A magistrate - we are not sure who - said to someone else that they probably thought that it was not the appropriate thing for a court to do. That is not high-quality advice. That has not been tested. I asked: Is there a legal opinion to show that the court cannot take into account how this individual will impact on other residents of a facility? That is the management issue that we keep being told is the main reason for this legislation. There has not been any real test of it, and I think you can argue that the two are not contradictory. If you are looking at the individual welfare of a person and that person happens to be causing absolute havoc for other people in the facility, it is not contradictory to look at that as well. So, I just do not think any of the rationale behind the advice is solid or has been supported by any real evidence.

Then we have to go back to what is actually happening and why these young people are seen to be a problem in the facility. Obviously, as Ms Reilly said, they are very non-compliant individuals. If they are locked up in Quamby, it is not surprising that they are non-compliant individuals. That is why they are in Quamby. The issue here is: How are we supporting our young people in the ACT who have got to the point where they have been locked up? If we are not able to support them, if we think that we have to export them and contract out to New South Wales, then I feel that we are failing in our fundamental responsibilities here and that we need to address these issues.

The people working in Quamby are paid to assist these young people to find a way to work constructively in society. If we export them to a facility outside the ACT, we are not going to be exporting them to a grand, wonderful institution where their needs will be addressed. It is most likely that they will be brutalised even more. If we acknowledge that we have a responsibility to take care of these young people - and I believe that we do have that responsibility - then we have to actually take the steps to ensure that services are in place. Furthermore, as I said before, I do not believe that we have actually seen that the courts cannot take into account the impact of an individual on the other residents of a facility, anyway.

The further concern I have is in relation to young offenders who are particularly at risk. The Government has said that a recommendation of the Royal Commission into Aboriginal Deaths in Custody will be a consideration in the decision to transfer young people serving a custodial sentence. That recommendation says:

> ... where possible, an Aboriginal prisoner should be placed in an institution as close as possible to the place of residence of his or her family.

I would argue that, in the case of young people, this recommendation should not be a consideration. It is even more important that an Aboriginal offender is close to the family. I believe that this amendment is the easy way out. It is saying, "We cannot find appropriate rehabilitation and correctional programs for young offenders in the ACT; so, we will export our problems to New South Wales". It is reducing accountability.

I understand from my briefing from the Government that this particular magistrate - it is unclear which one - did suggest that it was the role of the executive arm of government to make this decision. When I sought clarification on whether that meant the bureaucracy or the Minister, once again that was not clear. I just do not think that this has been sorted out in nearly enough detail. I do not think that alternatives have been tested. We have in place a number of conventions and protocols recognising that children are a vulnerable group; for example, the United Nations Convention on the Rights of the Child. As the recent Ombudsman's report into the interaction between the AFP and youth in the ACT reminds us, legislation concerning the investigation of criminal offences involving children as suspects is different from legislation for the same purpose involving adults. The preamble to the UN Convention on the Rights of the Child states that children, because of their vulnerability, need special care and protection. Article 40 asks government to:

> ... seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law ...

The Eighteenth Report of the Australian Law Reform Commission, entitled "Child Welfare", in discussing the procedures for dealing with children involved with the criminal law, calls for:

> ... special procedures which take into account their lack of maturity and the fact that they do not and cannot always act in a fully responsible manner.

It goes on to state:

> ... because of their youth, they are usually dependent, malleable and vulnerable, and are more likely to have difficulty understanding the legal procedures.

Madam Deputy Speaker, rather than looking for special procedures for children coming into contact with the law, this legislation before us provides, essentially, exactly the same procedure as was passed by the Assembly last year for adult offenders. The only difference is that, in addition to notifying the Legal Affairs Committee, the Community Advocate and the Chief Magistrate will also be notified about any transfer within 14 days of its having taken place. This is a monitoring role. I do not believe that we have been given adequate information to persuade me at this point that this is going to be in the interests of the young people in our city who have come into contact with the law.

MR MOORE (11.54): Madam Deputy Speaker, in his presentation speech, the Minister argued that the transfer provisions in the legislation before us have a series of advantages. He argued that the proposed amendment "will allow detainees and persons responsible for them to apply for a transfer to be closer to their families, thus increasing their chances of rehabilitation". I believe that that can already be done through the courts. He said:

> It will allow the very small number of detainees with particular medical, safety, health or welfare needs to have access to the wider range of programs available in the NSW juvenile justice system.

I believe that Ms Reilly and Ms Tucker put a very good case - that that could be resolved in terms of going through the courts, because, in fact, that is talking about the specific welfare of the individual. Then the Minister went on to say:

> It will also allow the Director, Family Services to transfer a detainee on the Director's own motion, where the Director has reasonable grounds to believe that the behaviour of the transferee places at risk the safety of the staff or of other detainees in an institution.

That is the issue at hand. It seems to me, Madam Deputy Speaker, that indeed the legislation does provide for those transfers. We had a very similar issue before us a very short while ago with regard to adults. The Assembly determined that it was appropriate to allow this sort of transfer of adults as a decision of the executive arm of government which, in turn, the Minister can delegate. Ms Tucker raised the question here: What do you mean by "executive"? As far as I am concerned, an executive decision is one that is in the responsibility of the Minister. The Minister, in turn, can delegate it. That is reasonable. In this case, we are actually very specific under the legislation in directing the Minister to delegate this particular decision to the director. Whilst it is executive and there is ministerial responsibility, in the legislation we are quite specific about the director having this power.

What the Assembly did in the case of the adults was to say, "We are concerned about the way this might be used. Therefore, we want to make sure that every example shall be reported within a couple of weeks to the Minister and the Minister, in turn, shall report to the Assembly". That is according to my recollection. Perhaps it was set out as it is in this particular piece of legislation, where the director must report on a particular direction directly to the Standing Committee on Legal Affairs. That double-check, that balance, or that review process, was there particularly to ensure that this technique was not used just to get rid of the troublesome kids. The reason why young people are detained in a place like Quamby is that they are troublesome. That is the difficulty. I cannot see the director getting rid of all the troublesome children in Quamby - as perhaps is suggested to a certain extent by Ms Tucker - by removing them one at a time, because then he, or she - depending on who is the director at any given time - will not have a job to do.

Madam Deputy Speaker, I must say that, for me, this is a particularly difficult decision. It was a difficult enough decision with regard to adults. I think it is an even more difficult decision here. Ms Tucker challenged the Minister to say - and I will be interested in his response - what evidence there is that the courts do not take into account perhaps a very violent person being held in Quamby and the impact that has on the other residents there. As I see it, we must ensure that that is taken into account in a facility like Quamby, or we need to completely rebuild the facility to ensure that such people can be isolated from others.

I had the pleasure within the last couple of weeks of visiting Quamby and seeing how that process has gone. As a matter of interest, I tested the electric fence just to see what sort of a belt it gives, the question having been raised in this Assembly. I do not know whether I just do not have a good grip on earth or whether I cannot be considered a shocking person; but I did not receive a shock. Perhaps somebody saw me reaching over to touch it and turned it off so that I would not get a belt. I do not know exactly what it was; but I certainly did not receive a shock. My understanding is that the electric fence in Quamby is similar in its jolt to an electric fence used on a farm. Indeed, on a number of occasions, I have inadvertently touched those fences, and they do give enough of a belt to discourage somebody from touching them.

It seems to me that there are some questions that the Minister has to answer before I am prepared to support this piece of legislation. The particular one, which Ms Tucker raised, is that the courts do not take into account what is, effectively, the danger to other young people in Quamby. I think it is very important to say that, whilst these people might be

difficult to deal with in some ways and they are non-compliant, it does not mean that they are all violent, by any stretch of the imagination. One violent person there may, in fact, make it very difficult for other people to manage their own rehabilitation. I think that is the issue we are dealing with, and that is why, I guess, I am undecided on the issue. So, we need to have an answer from the Minister about that issue.

On the annual reporting, I must say that I favour the way the Official Visitor can already get a report into the Assembly. However, I recognise that other people believe that fitting it in with the normal processes of annual reporting is the best way to go. It is not an issue that I feel so strongly about that I would be prepared to call for a vote. I think it is better for the Official Visitor to be able to get his or her reports to the Minister as quickly as possible. I would encourage the Official Visitor to make sure that any issues that he or she comes across that need immediate resolving are resolved or are drawn to the attention of the Minister and, in turn, of the Assembly, because that is such an important role in ensuring the protection of young people - and, of course, at the Belconnen Remand Centre, older people - who are in custody.

The other issue, Madam Deputy Speaker, which is a very sensible one, is about the court taking into account the fact that an adult may still have some part of a juvenile sentence to serve and should not come back into a young people's detention centre. That would be entirely inappropriate, and I think this amendment resolves that problem very sensibly.

MRS LITTLEWOOD (12.03): Madam Deputy Speaker, the comments I would like to make today do not relate so much to the legalities as to the options that are open for young people. It really is very important that young people have a number of options. By not permitting people to be transferred interstate, we may well close off a very valuable option for some young people. I appreciate the comments made by Ms Reilly and Ms Tucker; but we do need to have as many options as possible open. If we close off this option, it means that some young person may, in fact, miss out on a program that could be best suited for them. That concerns me a great deal. The area of youth and the problems in that area are a very difficult area. Having worked in the area, I know that there is no one solution to the problems. It is a combination of solutions. I do not believe that we should close any gates or any doors; but we should leave as many as possible open.

MR STEFANIAK (Minister for Education and Training) (12.04), in reply: I thank members for their comments and their support for two out of the three prongs of these two Bills - firstly, the Crimes (Amendment) Bill, which I think is eminently sensible, satisfies a real need and is something that a lot of people who have had dealings with juvenile justice have wanted; and also the one in relation to the Official Visitor. In relation to the concerns members have expressed about the transfer of young offenders, members may be aware that the equivalent administration in other States has the capacity by way of administrative decision to transfer young persons to a range of institutions to meet their particular needs or to meet the needs of other young people in the institution. New South Wales, of course, has the choice of nine such institutions. ACT offenders too, in years gone by, were sentenced to New South Wales institutions. So, it is not something that is new.

In many instances, because 10 to 15 per cent of our detainees in Quamby actually come from interstate, they will be closer to their actual homes. We have only one institution here - Quamby - and it is there to meet the wide range of needs presented by young offenders. In the Territory, we endeavour to best meet the needs of young offenders by keeping them out of Quamby, to start with, through various other options. Because of all of this, the Quamby clientele has altered somewhat over recent years. As we have endeavoured to divert younger offenders to community sentencing options, Quamby's clientele has become older and, unfortunately, Madam Deputy Speaker, is also involved in more serious crimes. There are young people in there for very serious crimes such as armed robbery and even murder. So we are not dealing with angels, by any stretch of the imagination. There are also young people who might have committed a crime at 17, who are now serving their sentence when they are 18 or so. There are also younger offenders, aged 15 and 16. There are - not always, but on a number of occasions - some real problems in terms of how some of these offenders relate to each other and to staff.

Ms Reilly raised a number of points. Basically, she seemed to indicate that we really should be able to do everything conceivable with our one institution. I do not think one institution can possibly do that. Certainly, that is not the case in New South Wales. They have nine. I do not think any reasonable person involved in this area would expect one institution to be able to cover every conceivable need of every conceivable detainee who might come through it. We do not have a huge population. New South Wales has 20 times our population. There is eminent sense, I think, in terms of making available New South Wales institutions, where appropriate, for our young offenders. I do not think anyone really is querying whether any young offender might want to go there to be closer to family. There are other instances, though, where it is crucial, for the proper running of an institution like Quamby, for a young offender to go to a New South Wales institution that best meets everyone's needs, including those of the young offender.

Ms Reilly questions why we are bringing this on now. There is an urgency to address these issues. These are things which the Official Visitor himself has raised on a number of occasions, certainly since I have been Minister. He has raised all of these issues and certainly the issues of the over-18s and the Crimes Act, which people are accepting, but also this issue of transfer and the difficulties involved in that. The issue of the Crimes Act has been addressed, and that, obviously, will pass. The review of the children's services legislation is wide ranging. It will take a considerable time. I think it is important, as Ms Reilly says, that there is sufficient time for all parties to provide input. But it is highly unlikely, given the complexity of the issues, that that particular legislation will be passed before the latter part of next year. In the meantime, Quamby is expected to manage a wide range of young people. This is a sensible amendment which the Government is bringing on, which is in the interests of Quamby staff and other young people at Quamby and, ultimately, of the young offenders themselves.

Madam Deputy Speaker, Mr Richard Young, the director of Quamby, is outside, should members wish to talk to him. He has advised me that in 1996 Quamby did go to court on some five occasions. This related to three people whom they were attempting to transfer to New South Wales. On each occasion, the court refused it because, I am advised,

the court can look only at that particular young person and not at what that young person is doing in Quamby and doing in relation to staff and other inmates there. The particular matters in those instances, Madam Deputy Speaker, related to multiple assaults on staff, multiple assaults on fellow residents and also standover tactics against young offenders.

At present, it might very well be okay in terms of an older offender - say, a 17-year-old or someone who might have actually now turned 18 but is still there serving their juvenile sentence - who is standing over, harassing and intimidating 15- and 16-year-olds. In terms of that particular offender, the programs he or she might be doing in Quamby might be fine; but what about the effect on those younger detainees who are in there? What about if that person is difficult with staff? We have actually seen this, and Mr Young is outside to talk to any members who may wish to speak to him in relation to it.

There is a real problem here. We do not bring forward legislation simply for the sake of it. Whilst we are not saying that there are a lot of people who fit into this category, there are a limited number of young people who are very difficult, who would be better served on occasions if this provision were available - it has been available in relation to adult detainees at the Remand Centre - with, I might say, as Mr Moore has conceded, more protections than there are there. It is important, I think, for everyone that this option can be exercised.

I think Ms Reilly's speech was a bit rich and a bit derogatory of the New South Wales system. She made some fairly detrimental comments in relation to some of those institutions. I think there are some institutions there which would be of great assistance to young people who would go there. I point out to her that really only in the last few years have the courts here been able to sentence young people to more than six months in Quamby. Up until the early 1990s, I think that was about the maximum penalty you could give. Invariably, for more serious offences, young persons would go to an institution in New South Wales.

So, there is a real need here, although we are not dealing with a huge lot of young offenders. We are dealing with only some; but it is important for the proper running of Quamby, and it is important especially for the other young detainees there and the staff themselves. It is a difficult situation at the best of times. I think everyone appreciates that the young people in there have some very grave difficulties. But it is unfair, I think, to those who are going through a difficult rehabilitation process to have to risk bullying and unnecessary standover tactics from a few other, often slightly older, young people when there are no real options to move those people to something that is more appropriate, not only for the actual staff and the other young people at Quamby, but ultimately for themselves as well.

Under this legislation, it is proposed that the Director of Family Services will be able to make decisions about the safety and wellbeing of individual offenders in the context of the institution into which they are placed. The responsibility extends to assessing the needs of the other inmates. So, the director must legally be in a position to make these decisions with the whole picture in mind. I also note that there is stronger scrutiny than there is in the case of the Remand Centre because of the addition of the Chief Magistrate and the Community Advocate. Given that members have passed a similar provision in relation to

the BRC, I point out that there is stronger scrutiny here. I have absolutely no doubt that those bodies will quickly and effectively raise any concerns that might arise from any decision of the director. So, really, the protections are there, and the need is there too. It is not something that would be exercised all that frequently. There is, nevertheless, a very real need for it. I think it is not appropriate to say, "This can wait until we end up with new legislation". This legislation would not have been brought on had there not been a number of problems and a very real need for those problems to be rectified.

Members have rectified a significant problem already by their support for the Crimes (Amendment) Bill. I thank them for that. But there is a very real need here to make these sensible amendments, which will enhance the proper workings of Quamby and also will enhance the rehabilitation aspects for juvenile offenders - which are terribly important - which are proceeding there and which are assisting many offenders, but which would, I think, be jeopardised in instances where the courts simply would not be able to move very difficult young offenders to more appropriate institutions interstate that would benefit everyone.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 4, by leave, taken together, and agreed to.

Clauses 5 to 9, by leave, taken together

MS REILLY (12.14): I just want to add a few points in relation to things that have been said by other members since I spoke previously. One of the concerns I have - and I do not think it has been allayed by anything that has been said by Mr Stefaniak - is whether the courts are able to cope at this stage with the current situations. That is one part of it. The other part of it is that the Minister said that there are more serious crimes being committed by juveniles. He mentioned murder and armed robbery. I understand that this is the case. These are serious crimes. But surely it is not the seriousness of the crime that affects what happens to the juvenile in Quamby; it is some of the issues that Mr Stefaniak raised. We should not be looking at the crime as the basis for what sort of institution that person should be in, because we are looking at juveniles and we are looking at methods and ways in which to rehabilitate these people.

The other aspect of it is that no-one has presented any indication - in relation to what has been done to address these issues of troublesome kids - that the only response can be to send them interstate. Mr Stefaniak, you talked about standover tactics and the programs that these young people might be doing at Quamby. They might be suitable for them; but they are still standing over younger people. You mentioned the issue of the quite broad range of age groups within Quamby. But surely, if this is continuing, some of the programs are not addressing those issues of standover tactics, violence and management of behaviour. It appears that there is a total lack of imagination, lateral thinking or

innovation about trying to resolve the issues within Quamby. We have to recognise that we have one institution. There is a variety of ways in which young offenders might be managed, including custodial sentences. We have one institution; so we need to look at ways in which the whole process can be managed. This process obviously has a number of players within it. It has to do with those juveniles who are in custody; the staff; the support, training and management of those staff; and how we look at what we have before us - Quamby.

It is too easy and too simple to take the attitude that, if it is a troublesome child, for whatever reason - I realise that it is not just one instance - we send this young person interstate. This is where the concern is. We need to recognise some of the responsibilities we have within the ACT to manage the issues around juvenile justice. It probably goes much broader than just the actual institution of Quamby. We talked about the number of possible institutions within New South Wales. I did not realise that we had any control - once the juvenile was in the New South Wales system - over where they can go. I am quite sure that just the quantity available in New South Wales is not always supported by the quality of institutions. Quamby is a quite modern facility. It has only recently been rebuilt. I am quite sure that some of the New South Wales facilities are considerably older. Whether they would be providing a better quality of service is one of the issues. It is about quality.

One of the other concerns about the legislation, which Mr Moore and Mr Stefaniak raised, is in relation to the reporting and review of these transfers. Apart from the fact that it is done afterwards, it is reporting to an Assembly committee. It is not even reporting to the Assembly. I think it is a quite serious issue if we are looking at transferring juveniles interstate.

Mrs Littlewood raised the issue of options. We are not cutting off any options by opposing this legislation. What we are doing is saying that there is a process in place at this time - through the court system - to transfer juveniles interstate. Ms Tucker said that that system has just recently been used. There is a process there. So, I consider that this process should continue to be used at this time, because we have a review of the Children's Services Act currently going on. I think this will be an extensive, important review. Rather than trying to pre-empt some of the findings of that review, why do we not consider the system that is operational at this time and continue in that way? In relation to managing some of the very difficult and very complex juveniles within the system, maybe we need to look at some of the management practices within that, to ensure that we can deal with those situations within the ACT institution.

MR STEFANIAK (Minister for Education and Training) (12.19): Madam Deputy Speaker, I will just reiterate what I said earlier. We would not have brought forward this amendment if there had not been problems. If the staff were quite happy with the situation and thought that we had all the answers ourselves within our one institution, this would not have been brought forward. I think it is unrealistic to say that in one institution we can do absolutely everything. Sometimes we have as many as 500 young people going through Quamby in any one year. As I indicated earlier, a lot of them are there for much more serious offences than would have been the case, say, 10 years ago.

It is more than just some of them being troubled children. You have situations where young people are using standover tactics and committing multiple assaults on staff and other residents. Believe me, Ms Reilly, as you are well aware, the staff try very hard and do a very good job there in terms of the young detainees. They certainly do all they can to ensure that the behavioural standards are met and that everyone within that institution gets on as best they can. But, by the nature of some of the young people there, there are going to be instances where that is simply not possible.

I can recall a conversation I had back in 1995 with the then Official Visitor, Bill Aldcroft, about this very problem. He was extolling the need in the ACT for some very difficult young people to actually go - whether they wanted to or not - to a New South Wales institution which was more appropriate to their needs, saying that it would be better for everyone at Quamby if they went there. In terms of what we are talking about today, that is really what this is all about. We would not be bringing forward the legislation if there was not that need. It is not correct simply to say, "This can all be taken up in the Children's Services Act".

Whilst we are dealing with only a handful of people, they are still a handful of people causing considerable problems. Despite the very best efforts of the staff and everyone else to resolve those problems, on some occasions that simply cannot occur. You say that this is a simplistic solution. A lot of the best solutions are fairly simple. This is fairly basic. We have, across our borders and not all that far away from here, another State which has nine institutions - some of which, Ms Reilly, are quite modern; some of which, in fact, are very appropriate for the type of young person whom I think we are talking about here and with a track record of taking ACT offenders in years gone by.

So, I think what you are saying is not correct. It does not recognise reality. The courts cannot take everything into account. That is quite obvious. I am sure that, in the instances I gave, which Mr Young told me about, the courts would have liked to actually send to New South Wales those three inmates whom I spoke about who were causing great difficulties there. On five different occasions we tried to have them sent interstate, and on each occasion we could not because, if they themselves say that they are happy at Quamby, at present there is nothing that can occur. That is a real problem. That is why this amendment has been brought forward. I do not think it is something that can wait. It is something that the staff, the Official visitor and any number of people associated with juvenile justice have been wanting for some time, along with the other amendments which you have actually indicated that you are supporting. So, I just reiterate that. Whilst we are not dealing with a large number of young people, this is an important issue. It is an important issue for the staff and for the other residents of Quamby.

MR MOORE (12.24): I indicated in the in-principle stage that I had significant difficulties with this issue and asked the Minister to give us some examples, which he has done. Whilst I heard the Minister talking about individuals who may be violent to other people - his term was "using standover tactics" - in some ways, of as great a concern for me is a situation where you simply have two people who cannot stand each other, who are effectively at war. We see it in institutions other than Quamby. We see it in schools, where two students are very difficult. Individually, they are absolutely fine; but, when you put the two of them together, then you have an explosive mixture.

It seems to me, Madam Deputy Speaker, when I come to these issues, that there are always very good arguments on both sides. They are the ones that cause me most stress and pain. But, in the end, we have a responsibility here to make a decision on such issues. In this case, my decision will be in favour of the legislation. I will support the legislation. I will support these clauses. But, in doing so, I just draw the attention of the Minister and of the person who will be the director, identified here, to the fact that as these issues come through the Standing Committee on Legal Affairs, as the Assembly becomes aware of them, I certainly, and my office, will be monitoring them very carefully - if, indeed, I am re-elected.

I would say, Minister, that you and other members should watch this very carefully. It cannot be something that is just for the convenience of staff in Quamby. It really must be something that is done for the welfare of all the individuals who are detained. One of the things that give me some confidence in this is the fact that notice is also given to the Chief Magistrate and to the Community Advocate. I will leave the Chief Magistrate for the minute. The role played by the Community Advocate in this area of the protection of children in our society, I think, has been significant. I believe that that provides yet another monitoring factor. I hope that, should this system be misused, the attention of the Assembly would be drawn to it and the matter then corrected.

Question put:

That the clauses be agreed to.

The Assembly voted -

AYES, 7	*NOES, 6*
Mrs Carnell	Mr Corbell
Mr Hird	Ms McRae
Mr Humphries	Ms Reilly
Mr Kaine	Ms Tucker
Mrs Littlewood	Mr Whitecross
Mr Moore	Mr Wood
Mr Stefaniak	

Question so resolved in the affirmative.

Title agreed to.

Bill agreed to.

CRIMES (AMENDMENT) BILL (NO. 5) 1997

Debate resumed from 25 September 1997, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LEAVE OF ABSENCE TO MEMBER

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

That leave of absence be given to Mr Osborne for today, 11 November 1997.

Sitting suspended from 12.32 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Former Deputy Chief Minister

MR BERRY: My question is to the Deputy Chief Minister and Attorney-General. Minister, will you detail any discussions you had with the former Deputy Chief Minister in relation to arrangements or conditions that would apply following the departure of Mr De Domenico from the Assembly?

MR HUMPHRIES: Did you say "arrangements or conditions that would apply following his departure from the Assembly"?

Mr Berry: Yes.

MR HUMPHRIES: I am not very sure I understand the question. Perhaps Mr Berry could explain what he means. What sort of arrangements? Do you mean how he would get out of the building or what? I think he knows the way.

Mr Berry: I will repeat the question. Will the Minister detail any discussions he had with the former Deputy Chief Minister in relation to arrangements or conditions that would apply following the departure of Mr De Domenico from the Assembly?

MR SPEAKER: I have a bit of a problem with this.

Mr Berry: If he does not want to answer it, he can simply refuse to answer it.

MR SPEAKER: Just a moment. Questions directed to a Minister are supposed to relate to part of his responsibilities.

Mr Berry: That is right. This is to the Attorney-General.

MR SPEAKER: Mr Berry, that is my problem. I am not sure whether that is covered by the Minister's portfolio responsibilities.

Mr Berry: He is the Attorney-General.

MR HUMPHRIES: You say "arrangements or conditions". I do not understand how you have a condition on him resigning from the Assembly. If you are asking whether - - -

Mr Berry: You are vacillating, Gary.

MR HUMPHRIES: No, I am not. I am saying to you that I do not have a clue what you are talking about, Mr Berry. I can have a wild stab at answering this question from Mr Berry. If Mr Berry is asking me whether I tried to impose any conditions on Mr De Domenico's resignation from the Assembly, I am not sure how I am supposed to have been able to do that. I certainly did not impose any conditions on his departure from the Assembly, as Attorney-General, as a fellow Liberal MLA or in any other capacity.

I have not had any discussions with Mr De Domenico about his departure from the Assembly, except that at approximately the time he was departing I did have some discussions with him about a member of his staff. I recall that it was at the time the Chief Minister was overseas. I had some discussions with him about a member of his staff. As I recall, he wanted to retain her employment within the ACT government service. I had some discussions with her. Just as we have done for any other members who have retired and had staff still on the payroll, I had discussions about that.

I have also had discussions with Mr De Domenico concerning his ongoing legal matter before the Discrimination Commissioner and subsequently, but they are not in any sense conditions on his departure. If Mr Berry is alluding to that, there is no sense in which Mr De Domenico has made any undertakings or promises or in which conditions were set relating to that matter in respect of his retirement from the Assembly.

MR BERRY: My supplementary question may help the Minister clarify the matter even further. Will the Deputy Chief Minister unequivocally deny that any discussions took place between him and Mr De Domenico in relation to the payment of the former Deputy Chief Minister's legal fees or any other matter that might make it attractive for Mr De Domenico to leave the Assembly?

MR HUMPHRIES: I have already told the Assembly that I have discussed the question of Mr De Domenico's legal fees with him. I discussed it with him on several occasions after the legal action began and I became Attorney-General, and I have discussed it, I think, on one occasion since he left that position. I have already made it clear that I have discussed the matter with him on several occasions. I have discussed the matter also with other members of this place, as Mr Berry would know if he talked to his erstwhile leader, Mr Whitecross, who was involved in those discussions. You have not been talking to your colleagues again, have you, Mr Berry? Never mind. That is the totality of that.

If Mr Berry is suggesting in all of this that Mr De Domenico was offered any inducement to leave the Assembly through a promise that his costs would be paid, it is certainly not true, and the proof that it is not true is the fact that it has not happened. Mr De Domenico's costs have not been paid by the Government. There never was any proposal from the Government to pay his costs.

Mr Berry: Or the deal was ratted on.

MR HUMPHRIES: Mr Berry made a comment semi sotto voce to the effect that a deal was ratted on. There was no deal. To suggest that there was a deal is highly improper. It implies that some use of public money was to be engaged in to deal with Mr De Domenico's departure from the Assembly. That is emphatically not true. If Mr Berry believes it is true, he should say so, not under his breath but loudly so that we can deal with the matter as a motion of censure or something of that kind.

MR SPEAKER: It should be dealt with properly through the Assembly. You are quite right.

MR HUMPHRIES: That is right.

Land Use Changes

MRS LITTLEWOOD: Mr Speaker, my question is to the Minister for the Environment, Land and Planning. Last week Mr Wood indicated his lack of support for employment for young people when he asked the Minister whether he was aware of the proposal to develop a five-star resort on the northern shores of Lake Tuggeranong. In doing so, he asked the Minister to assure the Assembly that he would protect such valued parkland.

Mr Berry: Is it going to have a big blue ribbon on it?

MR SPEAKER: Will you be quiet, Mr Berry.

MRS LITTLEWOOD: Minister, are you aware of other proposals to change land use in the Territory Plan from open space? Can you indicate when these changes occurred?

MR HUMPHRIES: That is a very good question, Mrs Littlewood. Thank you for that. I must admit that when Mr Wood stood up last week to champion the cause of the ACT's green spaces I felt a little bit sheepish. I thought, "Here is Mr Wood, the great champion of Canberra's green spaces, the man who never let a bit of green space slip between his fingers, defending those green spaces and attacking me for even thinking about allowing some area of the Lake Tuggeranong foreshore to become residential, accommodation or something else that is not green space". Suitably chastened, I went away to check on Mr Whitecross's record of defending urban open space in this city - - -

Mr Whitecross: Mr Whitecross's or Mr Wood's?

MR HUMPHRIES: Mr Wood's. I beg your pardon. It is so easy to confuse you two. It is so easy for Mr Wood to make that comment. It is so easy for Mr Wood to appear to be the champion of those open spaces. He asked me last week, "Will you protect such valued parkland?". Mr Speaker, I have discovered that at least six variations to the Territory Plan were initiated by Mr Wood to convert community land of one sort or another to residential land. I will list them. In February 1994 the land use for the Gleneagles golf course was varied from rural restricted access recreation to residential at the initiation of Planning Minister Bill Wood. I would run away, too, if I were you, Mr Berry. In March 1994 the land use for the Tuggeranong Homestead was varied from community access to residential access. Who can forget that?

Ms McRae: And who approved it? Who was on the Planning Committee?

MR HUMPHRIES: Not me.

Ms McRae: And who was part of it?

MR HUMPHRIES: Not me. We did not argue against many of these conversions. They were actually quite good ideas.

Ms McRae: No, but you are now.

MR HUMPHRIES: Not at all. Ms McRae fails to understand. We are not arguing that these are wrong at all. Many of them are a quite good idea. But we have never pretended, as Mr Wood has, that we should not be converting rural, recreational or open green space into residential. Mr Wood did.

Ms McRae: Where is the five-star hotel?

MR HUMPHRIES: What were you going to do on Tuggeranong Homestead?

Ms McRae: Where is the five-star hotel?

MR HUMPHRIES: What were your plans for Tuggeranong Homestead? What was that going to be - a kiddies' playground perhaps, or an open sculpture park? You were going to put a hotel on it, were you not? You wanted to put a hotel there.

Ms McRae: But where is it?

Mrs Carnell: It sounds like a good idea. It might employ someone.

MR HUMPHRIES: That is right. It is not there now because there was an Interim Heritage Places Register citation placed on the place. You people got rolled. That is why it is not there now. Who can forget North Watson? In March 1994 North Watson land was varied from entertainment, accommodation and leisure to add residential as a use. In May 1994 the land of the Bocce Club at Kaleen changed from restricted access recreation to residential - you guessed it. In February 1994 work began to initiate a plan variation to change the land use of areas at North Duffy and Holder from community use to residential use. That proposal was later withdrawn because of public opposition. Early in 1995 Mr Wood initiated a plan variation to change the use of the Yowani Golf Club site at Lyneham from restricted access recreation to residential B1, three-storey residential. The man who invented the pink bits, the man who was all in favour of loading these things into the Territory Plan and converting hundreds of acres of land from recreational and green space into residential, has the nerve to come forward and tell the Government that it should not even consider converting about five hectares on the shores of Lake Tuggeranong. You have to say, Mr Speaker, that this really is the pot calling the kettle black.

Former Deputy Chief Minister

MR CORBELL: Mr Speaker, my question is to the Chief Minister. I refer the Chief Minister to an answer given to the Estimates Committee in attempting to justify the $35,000 worth of verbal advice from Mr Knop's firm, Profile Paul Ray Berndtson, to the Government well after the advice was received. Will the Chief Minister deny that part or all of the consultancy fee paid to Mr Knop was for his successful attempt to find a position which would attract the former Deputy Chief Minister to leave the Assembly or that the consultancy fee for verbal advice was paid for a period during which Mr Knop was arranging an offer for the former Deputy Chief Minister?

MRS CARNELL: I can absolutely totally deny that any of the $35,000 was paid for a consultancy fee for Mr De Domenico to get a job with anybody, whether it was Ian Knop or anybody else. I think one of the things that those opposite might have forgotten is that the way head-hunters or executive search agents work is that the company who wants the staff member pays. That is actually how it works. Maybe they did not know, Mr Speaker.

Trees in Schoolgrounds

MS HORODNY: Mr Speaker, my question is to Mr Stefaniak as Minister for Education. Mr Stefaniak, what consideration has been given to ensuring that trees in schoolgrounds are going to be maintained adequately under the school-based management system? Our concern is that expenditure on tree maintenance will have a low priority and that big old trees particularly, rather than being pruned for safety, will simply be chopped down.

MR STEFANIAK: I thank the member for the question. I would be interested to hear of any instances of trees being chopped down or any such proposals Ms Horodny might know about. One of the beauties about Canberra which you would appreciate, Ms Horodny, is that people are very aware of our wonderful natural environment. Trees, of course, play an essential part in that. In schoolgrounds trees, apart from adding to the beauty of the surroundings, are very practical in that they provide shade. With Canberra having such a high incidence of sunlight, that is a very important consideration.

Mr Kaine: I shall never see a thing as lovely as a tree.

MR STEFANIAK: Indeed, Mr Kaine. I am surprised at the question. In my experience trees are a very valued part of the landscape around schools. In fact, in some of the outlying areas of Canberra, the newer areas of Canberra, school communities are terribly keen to see the trees grow as quickly as possible because they provide shade.

Mr Corbell: I raise a point of order, Mr Speaker. I am loath to save the Minister, but he is not the Minister for the Environment and he should not be talking about where trees are in Canberra. What about trees in schools and what you are doing about them?

MR SPEAKER: There is no point of order. I cannot rule on the obvious.

MR STEFANIAK: I will sit down, Mr Corbell. Ms Horodny asked me about schools. Ms Horodny, I would like you to tell me about it if you know of any instances of trees being removed. I would be very surprised if any school board or any school was keen to cut down its trees. I think a school would look at that only for very good reasons, and in many instances with some reluctance. Trees are an essential part of schoolgrounds. I specifically stress the importance of the role they play in providing shade. If you have any instances, Ms Horodny, let me know.

MS HORODNY: I ask a supplementary question that you might want to take on notice, Mr Stefaniak. Apparently, a couple of big old trees at Palmerston Primary School were removed. I would like to know what the situation around that was.

MR STEFANIAK: I will certainly take that question on notice, Ms Horodny. I am not aware of that, so I will see what occurred with those trees and get back to you.

Former Deputy Chief Minister

MR WHITECROSS: Mr Speaker, my question is to the Chief Minister, Mrs Carnell. Chief Minister, will you deny that any discussions took place between you and the former Deputy Chief Minister, Mr Tony De Domenico, in relation to a prospective job offer from the private sector before the offer was made to Mr De Domenico?

MRS CARNELL: Yes, I would deny that. How could I have a discussion with him about an offer that had not been made? I am not sure how I could do that.

MR WHITECROSS: I ask a supplementary question. Maybe you knew about it before it was made to Mr De Domenico.

MR SPEAKER: Order! No preamble.

MR WHITECROSS: Is it not the case that you told Mr De Domenico that he would be getting a call offering him a job? Is it not the case that you were so desperate to get rid of Mr De Domenico that you were willing to pay somebody to find him a job? Is it not the case that the verbal advice you were waiting for from Mr Knop, which you paid $35,000 for, was, "Good news, Chief Minister; we have found Tony a job."?

MRS CARNELL: I can guarantee, Mr Speaker - and I will answer the same question again - that I, or for that matter anybody else in this Government, did not pay one cent to anybody to get Tony De Domenico a job anywhere. It is that simple.

Health Budget

MR HIRD: Mr Speaker, I am worried about Mr Whitecross. He might have a heart attack. My question is to the Chief Minister in her capacity as Minister for Health and Community Care. I refer to a claim made yesterday by the Leader of the Opposition, Mr Berry - wise about all - that health costs had risen by $80m over the term of this Government. Can the Minister advise whether this claim is true? Secondly, what impact would a cut of $80m have on the provision of health services to Canberra?

MRS CARNELL: I thank the member for the question. Mr Speaker, in plain English, what Mr Berry is claiming - it appears, if you can work out what his press release and his little stunt yesterday actually said - is that somehow we had spent $80m extra on health. Again, put simply, we have not. The Auditor-General knows that; the Office of Financial Management knows that; Canberra Hospital knows that; in fact, most members of this Assembly know that. Unfortunately, Mr Berry does not seem to be able to work it out.

Mr Berry might like to look at Budget Paper No. 2. I know that he finds budget papers a bit difficult to understand, but Budget Paper No. 2 is the easy one to understand, Mr Berry. Even you may be able to handle that one. On page 11 it says that the budget outcome for 1995-96 was $312m and that the forecast outcome for this financial year would be $302m - in fact, $10m less. I concede that that is oversimplifying the equation, but is that not exactly what Mr Berry has done? I suppose I could spend a few minutes here trying to explain to Mr Berry where he went wrong in his mathematics; but, let us face it, what is the point when you are dealing with somebody who puts revenue and expenditure on the same side of the ledger and then adds them up? Everybody knows that you cannot do that. Ms Follett might have had problems with the brackets, but at least she did not put the revenue and the expenditure on the same side of the balance sheet.

Mr Speaker, this is the same MLA who wants to be the next Treasurer. He still does not understand the difference between accrual budgeting and accounting and the old cash system. Of course, he liked the old cash system, because it meant you could try to cover up such things as blow-outs in Health - in fact, four out of four blow-outs in Health. You could do things like use business rules, but even they did not work very well.

This Government has spent additional money on our health and community care services and we have also made significant savings - exactly what we said we would do. Indeed, by the end of 1998-99 savings of more than $27m will have been achieved in Health. All of those dollars have been put back into the health system. Those savings and new expenditure have provided for things like - - -

Ms McRae: Extra expenditure, but imaginary savings. Very good!

MR SPEAKER: Order! I will start dealing with people if this continues.

MRS CARNELL: Mr Speaker, those savings and new expenditure have provided for such things as cardio-thoracic surgery - something the mob opposite - - -

Mr Berry: Not yet.

MRS CARNELL: The surgeon has started. He is actually on the payroll now, so we are very close.

Mr Berry: Not one person.

MRS CARNELL: He has actually started; there is no doubt. They have provided an adolescent unit, a new renal dialysis centre, a convalescent unit to be opened in the next couple of months, a new mothers and babies centre and more than 1,100 fewer people on our surgery waiting lists. I am pleased to be able to report to the Assembly today that waiting lists for elective surgery are at their lowest point for more than four years. You have to go back to July 1993 to find fewer people waiting for surgery in the ACT. This Government has managed to reduce the number waiting from 4,569 to just 3,400 in its term - a reduction of 25 per cent. Mr Berry obviously thinks that is the wrong priority. He said yesterday that spending this extra money on health was the wrong priority. I am sure that the 1,169 fewer people on the waiting list did not think it was a wrong priority. Look at the money Mr Berry spent on health. He blew out four health budgets out of four and managed to make waiting lists go up by over 100 per cent - 180 per cent, I think.

Our approach has also meant that we are spending more money on mental health, disability services, immunisation programs, health promotion and home and community care. Obviously, Mr Berry thinks that they are the wrong priorities. I do not; nor do the people on this side of the house. We have brought our health budget under control. Obviously, Mr Berry thinks that is the wrong priority as well.

Let me deal with the second part of Mr Hird's question. By his criticism of our decision to make health a priority, Mr Berry has signalled that he will cut $80m out of the health budget if he is elected to government next year. The reason I say that is that Mr Berry suggested yesterday that his bogus figure of $80m was a wrong priority for this Government. If Mr Berry is right in his figures, which he is not, that must mean that when he gets to government he is going to take $80m out of health because it was a wrong priority. Taking $80m out of health and community care services amounts to a reduction of more than a third in the total budget. Not even I promised that in opposition.

Mr Humphries: That is saying something.

MRS CARNELL: That is certainly true. The savings that this Government has achieved - unlike Mr Berry, we have achieved them - we have reinvested in the systems, in the things we promised we would do, such as cardio-thoracic surgery. For Mr Berry to do what he indicated yesterday he was going to do and cut $80m out of Health, he would have to shut down the entire Community Care arm of Health. He would get rid of all of that. As well as that, he would have to get rid of Public Health Services and HealthPact all in one go, or he could take a different approach and he could cut 50 per cent from the budget of the Canberra Hospital. Would that not be a great move, Mr Berry?

Mr Hird: A little doozey.

MRS CARNELL: Would that not be a real doozey, as Mr Hird says? Mr Speaker, the upshot of all of this proves just how nonsensical Mr Berry's claims are these days. Not only can he not add up, or alternatively work out what is revenue and what is expenditure, but he cannot come up with one policy, one vision, one idea in health, education, employment or anywhere else. Mr Speaker, last week I mentioned in question time that those opposite still had not come up with one question about the things that they said mattered in this election. We are now into our second week, and we have not seen anything different so far. Mr Berry overran four health budgets during his time as Minister. He also managed to close 200 public hospital beds and increase waiting lists by 180 per cent. Those are the kinds of numbers that most voters understand. Even Mr Berry obviously understood those numbers.

I make one final point about a rather amusing moment. I understand that Mr Berry put out a media release last Thursday, when I was absent from the Assembly, having a go at me for not attending the Health Ministers conference. The funny thing was that I found out about it from a journalist who rang me on my mobile and said, "Where are you?". When I answered that I was in the middle of a Health Ministers meeting, the person laughed and hung up.

International Hotel School

MS McRAE: Mr Speaker, my question is to the Chief Minister. In the last two years, Chief Minister, this Government has paid Mr Knop and his firm, Profile Paul Ray Berndtson, over $198,000 for mostly verbal advice. Will the Chief Minister assure this Assembly that Mr Knop, who is on the board of the International Hotel School, has not used any of the resources of the Hotel School in the conduct of his private business?

MRS CARNELL: Mr Speaker, I think those opposite should really apologise for this attack on Mr Knop. I think this is seriously bottom line unacceptable. Mr Knop has put more into the ACT over the last couple of years than most people have, for absolutely no benefit at all to himself. One of the things that those opposite seem to forget - - -

Ms McRae: Why do you not answer the question?

MR SPEAKER: I would remind members that standing order 117(d) states:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion ...

Ms McRae: Yes, that is of a member, not of a person.

MRS CARNELL: So you are allowed to attack anybody else you feel like attacking?

Ms McRae: No-one is attacking. I asked you a question. You could answer the question.

MRS CARNELL: You are straight attacking.

MR SPEAKER: That is not correct, Ms McRae. It simply states:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons ...

We are not dealing with members here; we are speaking of people. The standing order goes on:

> ... notice must be given of questions critical of the character or conduct of other persons;

Stay within those guidelines, Chief Minister.

MRS CARNELL: Thank you very much, Mr Speaker. It is obviously an attack on somebody who has done an enormous amount for the ACT over the last couple of years. By the way, when you talk about the Hotel School, he has done an extraordinary amount to bail out something that those opposite, quite simply, stuffed up. When we came to government, the debt of the Hotel School was approaching $30m. I think it was $27m.

We had to write that off and start all over again. We needed people who understood how to run something, unlike those opposite. Mr Knop has done a great job as chairman of that particular entity, as have other members of the board. Mr Speaker, he has also - - -

Mr Corbell: She does not want to answer the question.

MR SPEAKER: I warn you, Mr Corbell.

MRS CARNELL: Mr Knop is also a director and chair of a number of other entities. He is a director of Capital Finance Australia Ltd, chairman of the Financial Institutions Commission of New South Wales, a director of the Canberra Tourism and Events Corporation, a director of Wilhelmsen Lines Australia Pty Ltd, chairman of the Asia Pacific Practice Board of Ray and Berndtson and deputy chairman of the Canberra Car Rally. He is a person with exceptional talents in the business area.

Those talents have obviously been recognised by the New South Wales Labor Government. Other assignments that Mr Knop has recently undertaken include such things as searching for the chief executive of the New South Wales Government Waterways Authority, the head of the Office of the Status of Women for the Department of the Prime Minister and Cabinet, the director-general of the New South Wales Department of Transport, and the manager of the Transport Management Centre, New South Wales Roads and Traffic Authority. That indicates to me that the New South Wales Labor Government believe that Mr Knop is a very capable person in his own right. I agree with the New South Wales Labor Government. I have absolutely no doubt about Mr Knop's credibility, about his honesty or about the fact that he goes about his job in an appropriate manner.

MS McRAE: I ask a supplementary question. Can I take it from your complete refusal to answer my question that Mr Knop has used the resources of the Hotel School in the conduct of his private business?

MR SPEAKER: I could not hear the supplementary question because of the interjections from the Opposition, who appeared to be helping; but if you did hear, Chief Minister, answer, if you can.

MRS CARNELL: Ms McRae reasked her first question. I have said that I have absolutely no reason to doubt Mr Knop's veracity, his honesty or his capacity to do his job appropriately.

Griffin Centre and Bunda Street Car Park

MS TUCKER: My question is to the Chief Minister and relates to the plan to redevelop the Griffin Centre and the Bunda Street car park and also to the plans to redevelop the ROCKS area on the other side of Civic. Chief Minister, I understand that an officer of your department has been given the task of finding new accommodation for the Ethnic Communities Council and the Migrant Resource Centre, which are currently located in the Griffin Centre and have been negotiating with community groups in the

ROCKS area and a developer over the redevelopment of the ROCKS site to include free community group accommodation and various types of commercial space - in fact, very similar things to those proposed for the Bunda Street car park. I note that the plan for the Bunda Street car park also includes a new community complex to replace the Griffin Centre. Does this mean that the Government is dropping its interest in the redevelopment of the ROCKS site and will now be focusing all its attention on the Bunda Street proposal?

MRS CARNELL: No, it does not mean that at all. The Government will always respond to ideas, particularly good ideas, that come from the private sector. The section 35/56 proposal came to us from the private sector. We made it clear to the developer that we would not give a proposal for that site a second look if it did not include a redeveloped Griffin Centre. We have been speaking to the Griffin Centre people over a number of years, as the previous Government did. Their view that they needed accommodation centrally placed in the city was very strong. When the developer came to us with a proposal that did include an exciting proposal for a redeveloped Griffin Centre with performance space, outdoor market areas and all sorts of things that they do not have right now, we were quite willing to allow them to put that proposal out to community consultation. You would also be aware that that proposal was run past the Planning and Environment Committee.

With regard to the ROCKS area, there is a proposal, but my understanding is that it initially did not come from my department but came from the Migrant Resource Centre and the Ethnic Communities Council, in cooperation with a particular developer. Again, if a good proposal is put forward that has a real community benefit, then this Government will always look at it positively. Obviously, appropriate processes have to be gone through. The people have to have appropriate input. We told the developer of section 56 that even before he puts in a formal proposal for that particular redevelopment he should take it out for general community input. Ms Tucker, you have been one of the people who have been a bit negative about proposals that get into the system before people have had input. The approach we have suggested be taken is that people have input before the project is finalised and goes into the formal procedures.

MS TUCKER: My supplementary question is: What planning studies have been undertaken by PALM about the desirability of redeveloping the Griffin Centre and the Bunda Street car park, or is this proposal another example of developer-driven planning in the ACT?

MRS CARNELL: Mr Speaker, it would be inappropriate for me to ask a question of Ms Tucker, because I actually know the answer. Ms Tucker has been to the Griffin Centre lately and she has seen the big cracks in the walls. I am sure that she is aware that the building really is, I suspect, past its useful life, not close to being past its useful life. I understand that the electrical fittings and so on are really past it now. That is the reason that the previous Government was looking at options for redevelopment. In fact, it had significant conversations with the tenants there. Similarly, we have had discussions as well.

The major message that we were getting from the Griffin Centre people was that the accommodation is substandard, that it is not big enough for all of the people in there at the moment but that they wanted to be central in Canberra. This proposal has those elements; but, as I said, there is no solid proposal yet. I understand that the developer is organising a meeting, the first of at least two meetings, at the Griffin Centre on Saturday to allow people to have input before the plan is bedded down. Ms Tucker is making the point: Do we only react to developers? Obviously, that is not the case; but I must say that, if somebody comes up with a good idea that fulfils the needs of the community in the direction that I thought this whole Assembly shared a belief in, and that is more residential accommodation in Civic and a new Griffin Centre, we are not going to be stupid enough to throw it out.

Temporary Accommodation Allowance

MS REILLY: In the last financial year 19 ACT executives were paid a total of $167,838 on top of their salaries in temporary accommodation allowance. At the same time the temporary accommodation allowance for a person without dependants rose from $110 per week to $265 per week and the rate for a person with, but unaccompanied by, dependants rose from $240 a week to $400 a week - a not inconsiderable amount and more than most people on unemployment benefit or the age pension would receive. Chief Minister, is it not a bit rich for the people who manage the ACT government service on generous salaries to be paid a lot of money to stay in Canberra?

MRS CARNELL: When you were in government you did exactly the same because it is part of the regulations under the Act. It is quite simple. I am not sure whether those opposite are suggesting that we do not comply with the requirements of legislation. At least one senior executive Mr Wood recruited from outside the ACT was paid the same thing.

Ms Reilly: For how long?

MRS CARNELL: I simply would not mention her name. I understand that in that particular circumstance there was also a reunion allowance to allow that particular person to go home and see her children on a regular basis. We are not having a go at that at all. It is an allowance. It is one of those things set up under the regulations under the Act. I am surprised that those opposite would suggest that we should not pay those sorts of things if they are a requirement.

MS REILLY: I ask a supplementary question. Considering the size of the amount that was paid, $167,838, why have you not imposed any limitations on the temporary accommodation allowance?

MRS CARNELL: I just answered that question, Mr Speaker. We are operating under exactly the same rules as the previous Government operated under and, as far as I know, exactly the same rules as the Federal Government operates under. Certainly, we could change the entitlements. There is no doubt that this Assembly could change the entitlements. You could do it too. But the fact is that we have not chosen to change the

entitlements of our chief executives, or for that matter anybody else. I am fascinated that those opposite, who are usually so wedded to these sorts of things, believe that somehow we should not pay people their legal entitlements. It absolutely escapes me. We are working under exactly the same rules as those opposite did, and very similar rules to those the Federal Government operates under.

Prostitution Legislation

MR MOORE: My question, directed to Mr Wood under standing order 116, refers to order of the day No. 19, the Prostitution Amendment Bill (No. 2). I indicated to Mr Wood as he was coming down here that I would be asking a question, although I did not tell him what it was about. Mr Wood, did you consult with representatives of the sex industry in Canberra - that is, the Scarlet Alliance, WISE and Eros - before you tabled this legislation last week? Have you received from them objections to the Bill on grounds that it is a breach of international human rights conventions, it singles out the sex industry for different treatment compared to other areas, the Migration Act already covers brothel owners and others who employ illegal immigrants, the Bill is in contravention of the ACT Discrimination Act and it fosters prejudice and racism, much of which is specifically targeted at Asian women? Have you spoken to representatives of those groups, and what action do you propose to take to deal with concerns raised?

MR SPEAKER: Mr Wood, I would just remind you that questions may be asked to elicit information regarding business pending on the notice paper, but discussion must not be anticipated.

MR WOOD: I thought that you had just allowed some discussion, Mr Speaker. It is a refreshing change to get a question, and I appreciate that. Mr Moore, as you would know, my contact with this issue goes back some time to a committee that both you and I served on. My contacts and my interest have continued. The Bill that I introduced has raised a number of quite interesting and significant questions which I believe merit debate. As I said, I have maintained contact with numbers of people on these issues over a period. Before I tabled the Bill I mentioned it very briefly to you. I did not indicate the detail of it, as you would know. I did not talk to those particular groups that you mentioned. I have since seen them, I have heard what they have to say, and I have indicated to them, as I indicate to you, that I will study their remarks. I maintain again that there are a number of very significant issues that I want to attend to and that I believe this Assembly and the community ought to consider.

Temporary Accommodation Allowance

MR WOOD: Mr Speaker, my question is to the Chief Minister. I would point out to the Chief Minister that the way temporary accommodation allowance was treated by the former Government is not comparable with what this Government has done, because we did not recruit to the same significant degree a large number of public servants from outside the ACT. The Chief Minister said that she did not want to use names, but from answers she supplied during the Estimates Committee process I have a long list of staff employed by the Government who qualify for that allowance. It is a very large number,

not the one that the Chief Minister could think of in Labor times. There are probably more, but that was the one that came to mind. Chief Minister, how do you have the gall to criticise the Prime Minister for not living here when you have to pay the most senior ACT public servants up to $400 extra a week to live in the city that they are paid to run?

MRS CARNELL: Mr Speaker, what those opposite are doing is questioning the allowances under the regulations. If the allowances are wrong, this Assembly can change them, but those opposite operated under the same allowances. People have a legal entitlement to those allowances if they come from interstate. It happens in the Commonwealth and, I understand, in other States as well. The reason that I am always willing, and I have to say obliged, to pay people their entitlements under the regulations is that I always want the best people possible for the jobs. We use full merit selection for our senior jobs. Therefore, if the best person happens to live outside the ACT, then that is the person we will take. We do not take the approach that those opposite took in government. I remember one particularly auspicious Friday afternoon when Rosemary Follett appointed three chief executive officers - at least one, maybe two, without even an interview - without any merit selection. It is not surprising that if Ms Follett was willing to take that approach she was not getting people from out of State.

Our position has been really clear. We will advertise all jobs, but particularly our senior jobs, Australia-wide. We will take the best people possible, and we will pay them the allowances that they are legally entitled to under the regulations. If we did anything else, then those opposite would have something to complain about.

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

PAPER

MR HUMPHRIES (Attorney-General): Mr Speaker, pursuant to standing order 83A, I present an out-of-order petition lodged by Mr Hird from 30 citizens relating to the release of land in Hawker for multiunit residential development.

LAND (PLANNING AND ENVIRONMENT) ACT - LEASES
Papers and Ministerial Statement

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning): I present the schedule of lease variations and change of use charges for the period 1 July 1997 to 30 September 1997 and the schedule of leases granted for the same period pursuant to the Land (Planning and Environment) Act 1991. I ask for leave to make a short statement in respect of that matter.

Leave granted.

MR HUMPHRIES: I thank members. Section 216A of the Land (Planning and Environment) Act specifies that a statement be tabled in the Assembly each quarter outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. The schedule I have just tabled covers leases granted for the period from 1 July to 30 September. I am also tabling two other schedules in relation to variations approved and change of use charges for the same period. A record of all leases and applications to vary crown leases is available for public inspection at my department's shopfront at Dame Pattie Menzies House, 16 Challis Street, Dickson.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Environment Protection Legislation - Government Response

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.19): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee on Planning and Environment Report No. 35 on the Environment Protection Bills. The report was presented on 4 November. I move:

> That the Assembly takes note of the paper.

Mr Speaker, as I have said before, the Environment Protection Bill is the most significant piece of environmental legislation introduced by this Government and indeed among the most significant legislation introduced by any ACT government. I welcome the overall support by the Planning and Environment Committee for this legislation. I believe that the committee report is a very reasoned assessment of the issues that relate to the Bill. We all share the same goal of wanting environment protection legislation which ensures a high standard of environmental management for the ACT.

I commend the committee for its commitment to making the scrutiny of the Bill useful and worth while and welcome the spirit of cooperation that the committee members have shown. This spirit of cooperation extended beyond the formal report of the committee, and I am pleased to announce that at a round table meeting held last night the Government and members of the committee were able to reach agreement on all except two of the committee's recommendations and these relate to the new noise policy. The Government has agreed to 49 of the 56 recommendations either totally or in substance. Of the remaining recommendations, I understand that the committee now accepts the Government's position on five of them.

I wish to record that the Environment Protection Bill could not have been, and was not, developed fully by a single author or agency. The Government drew significantly on the advice of a reference group established specifically to advise on this Bill. Members of the reference group gave freely of their time and expertise. I would like to record my thanks to them. In its deliberations, the committee applied the same approach by taking extensive written and oral submissions from stakeholders.

In tabling the detail of the Government's response to each of the committee's recommendations, I should highlight some of the more important principles underlying the Government's support for the committee's recommendations. First, a full six months will be taken to prepare for commencement, during which time we will conduct a comprehensive public and industry awareness campaign. Secondly, provisions will be included to ensure that statutory decisions are taken independently of the Government, except where the Minister intervenes formally and in a transparent and accountable way. Thirdly, the powers of authorised officers under the Bill should be less extensive when officers conduct routine inspections than when they act on reasonable suspicions of serious breaches of the Act. Fourthly, key regulatory decisions should be notified publicly in the press and details of key records and decisions should be publicly available for inspection but without laying bare the commercial activities of regulated businesses. For this reason, we agree that the Bill should include a mechanism under which businesses can apply to the Environment Management Authority to keep confidential sensitive information which would otherwise automatically be available to the public.

The Government notes the spirit of compromise adopted by the committee and has made compromises itself in developing this response. For example, we have accepted in substance the committee's recommendation that applications for the authorisations be formally notified and submissions sought. In discussion, the committee has agreed that this two-stage process would not apply to more routine applications such as those relating to ozone, pest control or fire hazard reduction. As with all the provisions of the Environment Protection Bill, I will be evaluating the effectiveness of this provision. It is my intention - and I have the full support of the Planning and Environment Committee - that a statutory review of this legislation be conducted within two years of its commencement and that the findings of this review be brought into the Assembly within six months of that time.

I also wish to advise that in discussions with the committee agreement has been reached on including economic and social considerations in the objects clause. The Government was very strong in its commitment to integrating economic, social and environmental considerations in decision-making and so too was the committee, and they have agreed to an amendment to their recommendation. As was the case with a number of other recommendations, there was entire agreement on the principles and the goals. The differences lay in the method of giving effect to those principles or achieving those goals. The emphasis on integration of economic, social and environmental considerations in decision-making should be welcomed by all the stakeholders, including business.

On the disagreed recommendations, the Government adheres to its decision to provide for a noise limit for motor sports at Fairbairn Park that is five decibels higher than the general limit. On the issue of noise averaging at the boundaries of different noise zones, the Government has undertaken to provide the committee with information on what residences will be affected by this averaging and to hold further discussions. It is my intention to table the amended Environment Protection Regulations in the December sitting period to enable debate to occur in the term of this Assembly. It goes without saying that the Government will be moving amendments to give effect to all the recommendations which we have supported or reached agreement with the committee about at the round table discussion. I believe that we are now well placed for a full and informed debate on the Environment Protection Bill 1997.

MR CORBELL (3.25): Mr Speaker, the Labor Party welcomes the overall approach by the Government to the environment protection legislation. There has been a great deal of discussion and debate both within the committee process and more recently at a round table that was held last night, which the Minister referred to earlier. I would like to express my appreciation to the officers of Environment ACT who were present at that round table. It went for three hours or so and there was a very thorough discussion of all of the issues raised by the Planning and Environment Committee. Without their advice and input, I do not think we would be in the position we are in today, with the Government having accepted the overwhelming majority of the recommendations from the committee and given the committee some feedback on where they believe our recommendations did not take into account all the factors which they believed were necessary to particular areas of the Bill. Their support is greatly appreciated and I thank them again.

Clearly, the Environment Protection Bill is a very important piece of legislation. I have consistently said that it is the most significant piece of environment protection legislation to come before this Assembly. The Labor Party is very concerned to see that this piece of legislation is passed as quickly as possible. Fortunately, we have had a very thorough debate and discussion that will allow the Government to have this legislation implemented by Thursday. This is in marked contrast to what has happened with other significant legislation, such as that on electricity and water, on which the Government has not entered into the detailed consultation and discussion that it should have with Assembly members and with the wider community. On the environment protection legislation they have.

The issues of disagreement that the Government has flagged in its response relate to noise. The Fairbairn Park issue will be debated further, once the Government tables its regulations in this place. I am sure that we will have plenty of opportunity to address those issues then, so I will not do so now. I welcome the Government's willingness to provide the committee with information on those areas of Canberra affected by the averaging provisions in the legislation to do with noise levels. Hopefully, once we receive that information we will be able to work on a position which protects the amenity of residents but provides the flexibility that the Government is looking for. I must stress that in looking at that particular issue I will be focusing very strongly on the amenity of residents, to ensure that the noise levels residents will potentially be subjected to under this legislation are no more of an imposition than currently exists.

I welcome the Minister's announcement today that he intends to undertake a statutory review of the legislation within two years of it coming into operation. I think this is a very sensible proposal. Because this is such an extensive and comprehensive piece of legislation, because it is such a complex piece of legislation and because the requirements placed on the officers of Environment ACT to administer this piece of legislation are so strenuous and so complex, it is only sensible that two years down the track the Fourth Assembly have the opportunity to oversee the operation of the legislation.

I know that in discussions in the committee - and my colleagues on the committee may wish to emphasise this - there were areas in which we were prepared to see how the provisions operated and, if they were not operating effectively, to come back and amend the legislation to make it work better. Having a formal review mechanism in place will allow the next Assembly to do that. I welcome that initiative from the Government. I welcome the Government's response to the committee's report. I think overall it is a positive response and a demonstration of the effectiveness of the committee system and dealing with the overwhelming bulk of objections, problems and concerns in a round table situation and in the committee process and leaving for the floor of the Assembly the most contentious issues that cannot be resolved except through the mechanisms of this place. I welcome the response and I look forward to the debate on Thursday.

MR MOORE (3.30): Mr Speaker, it is very satisfying to have a response of the type that has been tabled today by the Minister to Report No. 35 of the Standing Committee on Planning and Environment. Over the last almost three years of this Assembly, with a couple of notable exceptions, the committee has demonstrated a very positive working relationship in producing many reports. It has found ways to deal with issues brought to it by the Government, it has sought compromises with the Government and with each member of the committee and it has tried to take into account the concerns of the community as a whole. I think we have been particularly successful in doing that. In pursuing that goal with the environment protection legislation we have achieved what I think is very rarely achieved in parliamentary processes, and that is a very sensible approach which reflects community values. It reflects community values because we are fortunate enough to have a proportional representation system that elects members with a range of views that are put in the Assembly, in committee deliberations and in negotiations with government.

Mr Corbell described some of the processes that we went through as late as last night, when the Government sat down with the committee and explained where they thought we had misunderstood something or perhaps not taken something into account. After that process, in one or two cases we still simply disagreed. Appropriately, those matters will be resolved on the floor of the Assembly. But what was refreshing to me was that even though we modified recommendations in agreement with the Government it became clear to each of us that we had the same intention; that we were looking at the principles behind the legislation and trying to deliver according to those principles. In a number of cases we wanted to go about it in different ways, but when it came to the crunch we said, "No, this way will do". Compromises were made on both sides of the fence. I think this was a very useful exercise, and because of it we have much stronger environment protection legislation. That was the goal that all of us were interested in achieving.

MS HORODNY (3.33): Mr Speaker, I too have to say that it has been a very satisfying process that we have undertaken in this committee, both in the work that we have done within the committee and in the round table that we held last night. On leaving that meeting last night, I wondered why we could not deal with more Bills from this Assembly in that way. I think it was very satisfying all round to clarify points, to try to work with the common ground and to put aside the issues on which we could not reach agreement and debate them here on the floor, as we will on Thursday. It was a very satisfying process. I hope we can conduct more of those processes here in this Assembly.

I believe that the most important part of the Bill is the education program that is going to be run over the next six to 12 months. I believe that that is a very pivotal part of this whole legislation. The way we instruct and educate our community on environmental protection is a critical part of this Bill. It is also very important that the government of the day seek good advice on how best to impart information to the community and how best to get value from that whole education process. That is obviously a critical part of the whole partnership between business, government and the community.

Question resolved in the affirmative.

STATE, TERRITORY AND COMMONWEALTH LEADERS CONFERENCES
Ministerial Statement

MRS CARNELL (Chief Minister): I ask for leave of the Assembly to make a ministerial statement on ministerial meetings held on 6 and 7 November 1997.

Leave granted.

MRS CARNELL: I would like to advise members of the outcome of the special Premiers Conference on tax reform, the Domestic Violence Summit, the COAG meeting and the Treaties Council meeting which were all held on last Thursday and Friday in Canberra. I will deal with each of these meetings briefly in turn. The special Premiers Conference was an opportunity for the leaders of all jurisdictions to discuss tax reform and possible ways ahead in the debate about how our system should be structured. While there was unanimous agreement that Australia did need fundamental reform of its national taxation system heading towards the twenty-first century, I have to say that there is still a long way to go before significant progress and agreement can be achieved. Members will have seen from the communique that there were a number of principles that were agreed to.

The Domestic Violence Summit, unfortunately, lasted for just one hour. While it was an important step forward for all State, Territory and Commonwealth leaders to come together to address this crucial issue, the time allocated for discussion and the resources committed by the Federal Government were, at least in my view and the view of a number of other leaders, I have to say, inadequate. While the ACT did agree to work as part of a national task force to tackle domestic violence, only $12m was allocated to the States and Territories in new funding for projects over the next 3½ years. Domestic violence is a national issue that does require a national commitment; so, I suppose that last Friday's meeting represented, at least, a good starting point. One positive outcome of the summit was advice that the Federal Attorney-General will be issuing a discussion paper entitled "Model Domestic Violence Laws" which proposes complementary legislation across the country to ensure continuity of safety and protection for survivors.

The meeting of the Council of Australian Governments, or COAG as it is more commonly called, followed immediately after. The key issues discussed included Commonwealth-State roles and responsibilities in environmental regulation, greenhouse strategies, illicit drugs and gas reform. The ACT dissented from endorsing the

Commonwealth's international negotiating position on climate change. We were the only State or Territory to do so. While the council itself agreed to the Prime Minister's position, I felt strongly that I could not do so and, therefore, objected on behalf of this Assembly.

Ms McRae: Hear, hear!

MRS CARNELL: And New South Wales agreed. The Prime Minister did outline some of the measures which will be part of an environmental package to be announced by the Commonwealth on 20 November. These measures include things such as encouraging reduction of residential emissions; reduction of industry emissions, including through expansion of the greenhouse challenge program and improving energy codes and standards; reducing transport emissions, including those from private cars; reducing energy sector emissions, including by accelerating energy market reform and encouraging use of renewables; establishing and further enhancing carbon sinks and, in particular, the encouragement of plantation establishments; and reducing emissions from the Commonwealth's own operations. I was able to place on record the ACT's excellent achievements in these areas. Mr Speaker, I am sure we are all looking forward - I must admit I am - to the Prime Minister's statement on the 20th.

The council also agreed to the formation of a high-level working group chaired by the Commonwealth to further develop the national greenhouse strategy. The aim was to finalise the strategy by the end of June 1998. COAG also gave in-principle endorsement to a head of agreement which will result in fundamental reform of Commonwealth-State roles and responsibilities for the environment. The agreement, to be finalised within the next few weeks, will include reforms such as Commonwealth responsibilities and interests to be focused on matters which are of genuine national environmental significance; significant streamlining, greater transparency and certainty in relation to environmental assessment and approval processes; rationalisation of existing Commonwealth-State arrangements for protection of places of heritage significance through the development of a cooperative national heritage places strategy; improved compliance by the Commonwealth and the States with State environment and planning legislation; and establishment of more effective and efficient delivery mechanisms and accountability regimes for national environmental programs of shared interest.

With regard to illicit drugs, the council agreed on the need for strong and concerted national action to tackle the social and economic impacts of illicit drug use on the Australian community. The ACT agreed to participate in a national illicit drug strategy founded on a partnership between governments and the broader community, including volunteer and community organisations. The strategy will be the next major phase of the current national drug strategy and will make a balanced attack on both demand and supply and on minimising the harm that drugs cause. It would come as no surprise to members that I have a significantly different approach on this issue from that of the Prime Minister. However, I was encouraged by his commitment to drug education in schools and to a broader community education and information campaign. As part of the national strategy, there will also be investigation of current sentencing practices, including new approaches to the diversion of users from gaol to treatment. I certainly welcome that study.

As I indicated in my statement to the Assembly last week, I also signed the Natural Gas Pipeline Access Agreement which will introduce competition into the natural gas sector. The agreement represents a further major step in competition reform, will ensure free and fair trade in the natural gas sector and promises to deliver substantial economic and environmental benefits for Canberrans. The council also endorsed the report "Monitoring Compliance with COAG Principles and Guidelines for National Standard Setting". The report establishes a role for the Commonwealth Office of Regulation Review, ORR, in reviewing and advising on draft regulation impact statements prepared by ministerial councils and national regulatory bodies. The office will report on the number and quality of completed regulation impact statements and, if appropriate, propose that the COAG Committee on Regulatory Reform raise any concerns with heads of government.

Following the COAG meeting, the first meeting of the Treaties Council was held. The Treaties Council is the culmination of a push by leaders to make the Commonwealth more accountable to the States and Territories before they sign major international agreements and treaties. As I advised members last week, four treaties and one international instrument were considered at this meeting. The Treaties Council supported the Commonwealth in its efforts to promote the development of the United Nations Convention on the Rights of the Child, the draft optional protocol on the sale of children, child prostitution and child pornography. The Treaties Council also called on the international community to support the timely development of the protocol in the interests of children around the world.

The Treaties Council agreed to further work being carried out between the Commonwealth, States and Territories on the World Trade Organisation agreement on government procurement. The World Trade Organisation negotiations on financial services are due to conclude in December, and the Commonwealth agreed to maintain close consultation with the States and Territories on this issue. The Draft Declaration on the Rights of Indigenous Peoples, if adopted by the UN, will become an international instrument of less-than-treaty status. The Commonwealth agreed to maintain consultation with the States and Territories about this instrument. Finally, the Convention to Combat Desertification was also discussed. Obviously, the ACT had little input into that one.

I thank members for the opportunity to advise the Assembly on the discussions that were undertaken at this meeting. A number of important issues were involved and, if members have any further questions on any of the issues that I have raised, we would be more than happy to answer them. I present the following paper:

> Financial Premiers Conference on Tax Reform (6 November 1997), the Domestic Violence Summit, and the Council of Australian Governments (COAG) and Treaties Council Meetings (7 November 1997) - ministerial statement, 11 November 1997.

I move:

> That the Assembly takes note of the paper.

MR BERRY (Leader of the Opposition) (3.46): First of all, I thank the Chief Minister for making this statement promptly after the meeting. I think it is quite appropriate that these statements in relation to the Council of Australian Governments meeting and other meetings which occurred should be brought to the attention of the Assembly as soon as possible. I think the statement is timely. I have a few things to say about the content, though. The first thing that I would like to draw attention to is the issue of tax reform. Clearly, John Howard, though he made the promise not to before the last election, wishes to introduce a consumption tax in Australia and is strongly moving towards it, as are some of the States.

Mrs Carnell: So does ACOSS.

MR BERRY: Mrs Carnell interjects, "So does ACOSS". What Mrs Carnell does not do in her interjection is talk about some of the conditions that go with ACOSS's position. What I would like Mrs Carnell to come out and say at this point is whether or not she supports a consumption tax.

Mr Moore: Do you? You are polling as the next Chief Minister.

MR BERRY: Of course not. Fundamentally, I am opposed to a consumption tax. It is a regressive tax.

Mrs Carnell: It is actually not a regressive tax; not technically. It is actually a progressive tax.

MR BERRY: That is why you are sitting on that side and we are sitting on this side. It is not a regressive tax!

Mrs Carnell: No. You pay more, the more you buy; therefore, it is a progressive tax.

MR BERRY: Mrs Carnell, I would like to get this on the record. You said, "You pay more, the more you buy; so, it is a progressive tax". I would like to counter that by saying that if a kilo of steak costs $10 it costs - - -

Mrs Carnell: If you buy two kilos you pay more.

MR BERRY: I dare say the rich do not eat 20 kilos of steak. They still eat only 10 kilos, and they pay much less tax as a percentage of their income. That is the clearest statement of the Chief Minister's understanding of the consumption tax that this Assembly needs to hear, and I am very glad that it is on the record now. I will be making it public to the rest of the ACT community that Mrs Carnell thinks that a consumption tax is a progressive tax.

Mrs Carnell: No; I said "technically".

MR BERRY: "Technically a progressive tax". That is like manna from heaven. Thank you very much. The very reason that I raised the issue of a consumption tax was that I was hoping to extract that sort of a statement from the Chief Minister. I am happy that I got it so early. My tactics were justified. Mr Speaker, this issue is a very serious

one for the Australian people. It threatens the not so well off in our society something fiercely. It has affected those in similar societies across the oceans negatively and will do the same here. It is a taxation regime to be opposed; it is a taxation regime for the rich; it is a taxation regime for the middle classes. It is not a taxation system which looks after the poor people in society; it is not a taxation system which looks after the working poor or people on benefits and those sorts of things. Mrs Carnell, after your statement, you should be ashamed of yourself. It is an absolute outrage that you would say that this is, technically, a progressive tax. Thank you.

Mr Speaker, a few other matters, I think, need to be talked about. Mrs Carnell did mention some debate about domestic violence at the Domestic Violence Summit. Her speech mentioned the $12m that was allocated in funding for projects for States and Territories. That is a pittance. It is not anywhere near enough, and I think it was a shameful attempt by the Prime Minister to seek to indicate that he was in some way being generous. I mean, $12m across Australia! What a joke! How much does that boil down to, per capita, for the ACT?

Mrs Carnell: It works out at $200,000 over 3½ years.

MR BERRY: What a big hit! The people who are suffering from domestic violence will not notice the difference. It is an outrageous pittance and is not something that we should boast about. I wish that the Chief Minister had opposed that strenuously and angrily.

Mrs Carnell: I did, and got into huge trouble.

MR BERRY: Obviously, the huge trouble that you got into modified your ways, because you went on here to say:

> Domestic violence is a national issue that does require a national commitment; so, I suppose that last Friday's meeting represented ... a good starting point.

It was a bad starting point, in my book. The $12m is a pittance.

Mrs Carnell: That is not what New South Wales thought.

MR BERRY: The $12m is a pittance. Those two areas, I think, were the areas of most concern for me, because the issue of taxation in Australia is likely to head down the wrong path and will impact on poorer people severely. With an attitude like that of the Chief Minister, the Prime Minister and other conservatives, it is clear that the poorer classes in our community are not in focus when it comes to looking at taxation reform. These are a group of people who are interested only in those who are well off. I think that is a shameful approach. Their approach has that similar attitude to the not so well off that is shown in relation to the domestic violence issue. I am upset that more was not done in relation to that. I am mostly upset that the Chief Minister did not take an angrier stance in relation to that, because I think it was absolutely outrageous to make this suggestion: "We have to start somewhere".

The other thing I found a little interesting was the Treaties Council. It seems to me, on the face of it at least - and I would be happy to be corrected - that the Treaties Council is some way of heading off the Federal Government's entitlements to enter into international treaties in accordance with the Constitution, a power which was given to them by the States. It strikes me that now some of the States at least, who have been lunching out on some of the world government paranoia over the years, are trying to turn back the clock. The fact of the matter is that the Commonwealth was given the power and authority to deal with international treaties a long time ago, and it is not likely that they would give it up; neither would I want them to. I think it is appropriate that international treaties should be signed on behalf of Australia and not be able to be watered down by individual States.

Can you imagine a situation in Australia where each of the States and Territories was responsible for dealing with international treaties? Can you imagine the different regimes which would operate in relation to a whole range of matters in various States? Can you imagine, say, the difference between Queensland and the ACT; the difference between the ACT and perhaps the Northern Territory; even the difference between Victoria and the Northern Territory on a whole range of issues? Can you imagine what the people of the Northern Territory and the people of Victoria might say about Aboriginals? They would be quite different. So, to suggest that we wind back the clock in relation to those things is wrong, and I must say that the Treaties Council suggests that to me. They do not have any authority.

I think it is quite appropriate for the Commonwealth to consult with the States and Territories, as they advance these issues. I was involved in the signing of our acceptance of arrangements for international treaties in the past and was keen to do so. The practice in the past, as I recall, was that, once the majority of States were on board, the treaties would be signed. I think that is an appropriate course. It is a power that is available to the Commonwealth and one that should persist. I do not think it ought to be watered down. I hope that the Treaties Council is not a way that might further that aim; that is, the aim of watering down our commitment to international treaties, which in many cases are quite appropriate.

Mr Speaker, I go back to my very first words in relation to this report to the Assembly. I think it is timely and appropriate that the Chief Minister does report to the Assembly in the way that she has. I have some difficulties with the way it has been handled.

Mr Humphries: You always do, Wayne; so, what is the difference?

MR BERRY: There should be no surprises that we are different politically, and there should be no surprises for you, Mr Humphries. In fact, you would be very disappointed if I thought the same way as you did.

I did not mention the issue of drugs which, of course, was dealt with in the course of the meeting. The fact of the matter is that John Howard's approach on drugs is unacceptable and is not the way forward as far as the Territories and the States are concerned. But I think we are stuck with it for a while at least, and not much can be done to turn his head around on some of those in-principle issues which we all support, though there are some opportunities for advancement in the announcements that have been made.

I trust that the Chief Minister will grab each opportunity as it presents itself, so that we can improve the lot of those people who are involved in drug use; but, most importantly, that we can deal, if we can, with that very important decision, the first decision to get involved in drug use.

I think education is one of the most important features to be addressed. It is of particular concern to me to see reports of very young people involved in activities, which are really not for the young, to support drug habits, and I trust that urgent action will be taken to deal with those issues. For too long in the ACT we have been preoccupied with the single issue. As I have said before, I believe we have lost a lot of ground and have a lot of ground to make up in relation to that matter. I hope we are able to do so, and I hope, by way of education, we are able to discourage people from becoming involved in drug use. At the same time, I trust we are able to help those who have become involved, within the constraints which have been forced upon us by the Prime Minister, Mr Howard.

MR MOORE (3.58): Mr Speaker, it will not be too long, I hope, before Ministers who go to such meetings will have met their obligations under what I hope will become the Administration (Interstate Agreements) Act. I hope that the consultation will be undertaken so that we actually know what is going on and can advise Ministers accordingly.

That having been said, Mr Speaker, I must say that the amount of money that John Howard was going to put down for the domestic violence situation - I think the word Mr Berry used was "paltry"; it is certainly the implication of what he said - was paltry. That is absolutely correct. Indeed, Mrs Carnell herself has indicated that she considers the same to be true. It is a huge problem. Unfortunately, I must say that $12m right across Australia comes down to less than a dollar a person, and that is over three years; so, we are probably talking about pretty close to 20c a person a year to deal with such a substantial problem. I think there is a huge disappointment, in that Mrs Carnell in her comments talks about it being a good starting point and, as such, was attacked by Mr Berry. Indeed, it depends on how you interpret a starting point. Perhaps the words "starting point" should have been changed to "a good spot to think about starting". That kind of contribution seems to proceed from a starting point. However, the model domestic violence laws will be, I think, a very important issue for us and something that I look forward to dealing with if I am back here in the next Assembly.

The next issue is the taxation issue. Mr Berry raised the consumption tax. I must say that my view of a progressive tax is probably similar to Mr Berry's in this situation. I see income tax as a progressive tax. In other words, where we talk about a progressive tax, we talk about a tax that means that, the more you earn, the higher percentage you pay. That is opposed to the word "progressive" in the way Mrs Carnell was using it, which was that, the more you buy, the more you pay. The critical fact, to my mind, in the difference between a consumption tax and an income tax is that one is just so much more progressive than the other. I think that is the way in which Mr Berry used the term.

I must say that I have been an opponent of a consumption tax for some years, although I must say that it was not one of the issues that influenced me particularly in the election which John Hewson lost. Most pundits said it was because of a consumption tax.

For me, there were other issues about health and education. I believe we should not trust a Liberal government on those issues. At least Dr Hewson was honest about it. Mr Howard promised not to attack those. Of course, since then he has broken his promises in an awful way. It seems to me, however, that it is time to review this view of a consumption tax.

The reason is that it seems to me that, in our most progressive forms of taxation, the really wealthy wind up paying very little tax. In that sense, it is effectively regressive, because the very people who ought to be paying the taxes are not. I realise that I am not using the words in the technical sense.

Mr Humphries: Is it technical?

MR MOORE: Technically, I have just explained my view. Perhaps you missed it. I just explained what I mean by a progressive tax, which is not different from Wayne Berry's understanding. In this case, what I am saying is that at the moment we basically have very few ways of taxing the very wealthy at all. It seems to me that a consumption tax does contribute to that. Therefore, I think there is a role for a consumption tax. But the thing that worries me most is that the agreement generally across the major political parties and across the States seems to be that we should have no increase in the tax burden. This issue is very interesting. The other night I heard Mrs Kernot speaking to teachers - - -

Mr Humphries: Who?

MR MOORE: The former leader of the Democrats, now a member of the Labor Party. Ms Tucker was there. Mrs Kernot ran a whole series of things that I thought were very sensible, I must say. The disappointment to me was that, in the questions afterwards, nobody said, "How are you going to pay for this? You are no longer a Democrat; you are a member of the Labor Party. Do you advocate an increase in taxation?". As far as I know, there are very few members of parliament across Australia who have advocated an increase in taxation. I use this opportunity to go for the bed tax again - one of my favourite forms of taxation. I believe we should have an increase in taxation. I have said that very publicly. I do not mind saying it and I think it is time that we also had an honest approach from people who say, "Yes; it is time for us to carefully increase our taxation bases in order to meet these specific needs". What strikes me is that neither of the major parties is doing that. Are the Greens doing that? I am not sure; so, we will listen and hear. I think they are, actually.

Then we run into the issue of climate change. I want to make it very clear that I congratulate the Chief Minister for her stance - obviously, a very difficult stance to take when every other State and Territory agrees with the Prime Minister and ours is the only jurisdiction that says, "No; this is unacceptable". I must say that it is appropriate. I am disappointed that Mr Berry did not congratulate the Chief Minister here. In opposition, you do not always have to be kicking heads; there are times when people actually take the right action. You should also say, "Yes; that was the right thing to do". Indeed, it was the right thing to do. It is interesting, as the Chief Minister mentioned and is obvious from the statement, that even the Labor Premier of New South Wales agreed to this position on climate change. I must say that is very disappointing.

There are also issues here about environment protection and heritage. The Chief Minister's statement talked, amongst other things, about rationalising the approach to heritage. I think that is very important. Page 5 of your statement refers to the "existing Commonwealth-State arrangement for the protection of places of heritage significance through the development of a cooperative national heritage places strategy". I think that is a very positive statement. Often heritage goes across States, of course, and I think this is also an issue that it is appropriate to deal with.

On illicit drugs, it is quite clear that we all disagree with John Howard. I just take time to say that Mr Berry implies that in some way there was only a single focus on drugs in the ACT over the last few years.

Mr Berry: There was.

MR MOORE: And he indicates that now with an interjection, "There was". What absolute nonsense! His own practice is that, if he keeps saying the same things over and over again, then he actually believes them and hopes that other people will believe them; and I suppose some do. It seems to me, Mr Speaker, that you have only to look at the ACT's drug strategy to realise the breadth of effort that goes into it and the fact that it is also under review at the moment.

Personally, I have spoken at a whole range of forums about a huge range of strategies. Indeed, I have invited Mr Berry to sign the Charter for Drug Law Reform, which goes well beyond a single strategy and is something that I have dealt with very widely over the last three or four years. This just shows that once again Wayne Berry is wrong. He is wrong so regularly that it is very difficult to deal with.

Mr Berry: He is spot on.

MR MOORE: Look at the Charter for Drug Law Reform, Wayne; it has a very broad-ranging way of dealing with things. Remember the charter that you have refused to sign.

Mr Berry: One political party at a time, Michael; I can be in only one.

MR MOORE: I hear an interjection, "One political party at a time". Of course, as you would be aware, Mr Berry, there would be at least 80 Labor MPs from around Australia who have signed that Charter for Drug Law Reform and do not have any difficulty with it. What we sought to do is the very opposite of what you have tried to do. Instead of undermining other people's approach, we tried to get a coordinated approach to what was the best for people in Australia. *(Extension of time granted)*

I now move to the Treaties Council. I guess one of the disappointments for me was that, had we been working to get the Administration (Interstate Agreements) Bill through the Assembly to become an Act, then I would have been putting pressure on our Chief Minister to see what she could do about the Draft Declaration on the Rights of Indigenous Peoples to ensure that it became more than a declaration.

Mr Berry: Get the Liberals to put Pauline Hanson last everywhere in Australia.

MR MOORE: Once again we have an interjection from Mr Berry; this time that if only the Liberals would agree to put Pauline Hanson last. As an outsider, whom this has no impact on whatsoever, it seems to me that it is very easy for Labor to say that, because they will get this huge advantage in doing so. I happen to think that is a good thing as well, and I have publicly supported Kim Beazley in saying it. But I do have to say that, of course, it is easy for Labor to do, because they get all the advantage and no disadvantage; whereas, in that particular situation, clearly the Liberals are going to have some political disadvantage. I still think it is what they should do, but it is a harder decision to make. Let me just add that the Draft Declaration on the Rights of Indigenous Peoples, I believe, ought to have been dealt with as a higher level international agreement.

This leads me to another difference of opinion with Mr Berry, and it is a difference of opinion; it is not just one of those cases where his facts are wrong. I believe a treaty negotiation should involve as many of the people in Australia as possible. What we have seen far too often with international treaties is that there is a quid pro quo, an advantage in effectively doing deals. The international pressure that is put on those who are signing and becoming involved in international treaties is such that it seems to me that, the more they are dealt with by the States and Territories, the more they are then brought into the community; the more light they see, the better off we are because the less opportunity there will be for this sort of international badgering to go on. Certainly, at the moment the greatest of the international badgerers is the United States, considering their widespread power, their money and the influence they have throughout the world. It seems to me that we have to be very careful to ensure that we are not just doing the lackey's job but are being very careful to consider the important issues dealing with our international treaties.

Having said that, I think one of the most important issues, although not so much for the ACT but for Australia, is the Convention to Combat Desertification, which I heard of only when the Chief Minister made her statement. As somebody who has lived on the edge of a desert for quite some years, I think there are some really interesting issues. The issues are also tied up, ironically, with climate control and greenhouse. I will be very interested to see a copy of that. I see the Chief Minister acknowledging. I appreciate that. I will get a copy. It seems to me that, being the country with the widest desert areas of all, we ought to take an interest in what goes on there and understand what it is that States such as South Australia, Western Australia and the Northern Territory in particular, New South Wales, Victoria and Queensland to a lesser extent, say and how they react to that sort of treaty, so that we can also be appropriately supportive of other Australians in dealing with such conventions and that we can use a convention such as this to ensure protection of our environment.

MS TUCKER (4.13): I would like to make a few comments on this as well. The first issue covered by Mrs Carnell was tax. I think that, in the debate, ACOSS's position on this has been a little unclear, and I would like to clarify it. My understanding of ACOSS's position is that it is very concerned about how both the major parties have narrowed the debate on tax reform. I have not understood that they have actually said, "We support a consumption tax 100 per cent". But what they have said is, "Let us stay open-minded here. Let us make this a broad debate". Members will recall that I sought to have this

place recommend to John Howard that there be a community summit on tax, that the community be involved in this, because basically at the moment the tax debate is being hijacked by the business community, who have only a narrow interest. The focus of the debate should not be all about efficiency or about whether we want a GST or not. Other critical goals of taxation - such as equity, employment, environmental sustainability and ensuring that there is an adequate taxation base - are being forgotten.

I believe that it is essential that we keep at the forefront of our minds what tax is for. The reality is that Australia's revenue base has fallen $8 billion to $10 billion in the last 10 years. An adequate tax base is essential; otherwise, social services will keep being cut, and disadvantaged groups and the environment, in particular, will continue to suffer. I was personally very disappointed to see, in a paper tabled by Mrs Carnell last week, that apparently there was consensus that one absolutely key platform of any debate is that there will be no increase in overall tax and that there should be reductions in personal income tax. If that is what is coming out of these meetings, then we do have a problem.

Mr Moore says that he is open to seeing taxation being debated in that way; he wants to see whether it is necessary and equitable for the society that we increase some kind of taxation. Of course, it has to be part of the debate. It is very worrying that the debate has been narrowed to the degree it has. I think the main focus of ACOSS's response was that it wanted to see this debate broadened so that there is a full understanding of the implications of never raising income taxes - in fact, of ensuring reductions in personal income tax. We might have to pay a great price for that, in terms of equity in our society and social harmony generally.

On the issue of domestic violence, I understand that Mrs Carnell was not comfortable with the position that was put there. I commend her for that. It was an outrageous effort. One hour is hardly a summit, and the amount of money was a pittance. I also commend the Chief Minister on dissenting from the Commonwealth's international negotiating position on climate change. The measures included in the environmental package by the Prime Minister are interesting - encouraging reduction of residential emissions; reduction of industry emissions, including through expansion of the greenhouse challenge program and improving energy codes and standards; reduction of emissions from motor vehicles; and reduction of energy sector emissions, including by accelerating energy market reform and encouraging use of renewables.

The energy market reform is interesting. It is not necessarily going to have a good outcome for the environment; but it has been put there as one of the dot points. For all these matters that are listed, though, we would like to see real programs put in place in the ACT. For some time, we have had with the parliamentary drafters several Bills which would directly address issues of reducing emissions from residences in the ACT. We are consistently arguing for alternatives to private cars and transport. Of course, we want also to improve energy codes and standards. We had a debate on that just recently in the context of residential tenancies. So, we look forward to working with local and Federal government to actually turn that into real programs which will bring about real results.

I will not go on at length about drugs, except to say that I have joined the Parliamentary Group for Drug Law Reform. I believe that it is a very valuable opportunity to stand up for a progressive response to the issue of drugs in our community. This morning, in this place, we had a debate about increased crime in the ACT. The response is that we need to be sentencing people for longer, maybe bringing in prevalence and whatever. This is a very unsophisticated approach to the issue. The crime increase in the ACT and, indeed, around Australia is often related to the drug trade. If we are going to put young people in gaol, we can pay for their accommodation in that gaol; we can pay for their brutalisation in that gaol; and they will come back to our community after that experience and once again cause great problems for themselves and for the community generally. We really do have to look at how we can address the issue of drugs in our community. If we did that, we probably would not be having the debate we had this morning and people would not be wanting heavier sentencing and incarcerating people at a greater rate and for longer periods of time.

On the treaties, I want to make just one comment, particularly about the desertification convention. That has been going on for many years. I would love to hear from Mrs Carnell what the discussion was. It should have been in place a long time ago. I know that countries in Africa in particular and other countries have been trying to work with developed countries. Australia should have been taking a real lead in that. I would love to understand better what the problem is. I do not know whether it is that Queensland still loves clearing forests or what it is; but, obviously, there is something that is stopping this essential convention.

MR HUMPHRIES (Attorney-General) (4.20): Mr Temporary Deputy Speaker, I want to make a brief contribution to the debate. I heard the Chief Minister's comments about the domestic violence package after she attended the meeting last week. I also heard, with some surprise - perhaps not really with much surprise, to be frank - the comments made by the Leader of the Opposition about the Chief Minister's response to the issues. I note that Mr Berry takes the view that Mrs Carnell did not fight hard enough against the Prime Minister's package.

I have to make one small reflection, though, Mr Temporary Deputy Speaker. Those, such as you, who have been around for a fairly long period of time can cast their minds back to the period when there was both a Labor Chief Minister and a Labor Prime Minister in this town. Think of all the occasions when the Labor Chief Minister, or anybody in the Labor team, for that matter, criticised the Federal Labor Government or the Federal Labor Prime Minister. On occasions when they were ripping services out of the ACT, on occasions when they were closing schools, on occasions when they were privatising the Commonwealth Bank, on occasions when they were selling off Qantas, on occasions when they moved public servants out of the ACT and reduced government departments - when they did all those things that the members of the Labor Party, at least in this place, so hate - where was the Labor Party locally when it came to criticising their Federal counterparts? Of course, Mr Temporary Deputy Speaker, the record will show that in those matters they were silent - stony, totally, poker-faced silent.

It is a refreshing change to see a Chief Minister who will stand up for the ACT, irrespective of the impact that might have on her colleagues of the same persuasion at the Federal level. I, for one, welcome that. I think the ACT is well served by that approach. We know that, with the present Chief Minister, we will get that. With the alternative Chief Minister, with the man who would be king come 21 February, we know what we can expect because of the past practices of the Federal and local Labor Party.

MRS CARNELL (Chief Minister) (4.23), in reply: Mr Temporary Deputy Speaker, Mr Berry does it again. Mr Moore said that Mr Berry is simply wrong; and I have to say that he was simply wrong on a number of the issues that he spoke about. One of the areas particularly on which he was wrong was the area of the tax debate. I am actually quite open on what my position on this is. My position on the tax debate is that I will not support, nor will this side of the house support, any new tax regime that either entrenches the current inequities in the system or, for that matter, disadvantages people on lower incomes. So, whatever it may be, those things are absolutely bottom line and sacrosanct.

There is no way that I would support a tax reform package that allows people on higher incomes to, shall we say, minimise their tax to the extent that they can now. Similarly, I would not support a tax regime that taxed those people on low incomes at an unfairly high rate. Mr Temporary Deputy Speaker, the thing that distinguishes me from Mr Berry is that I do know what I want from tax reform. What I want is jobs. That is exactly what ACOSS says as well. They believe, and I believe too, that the only way we can create real jobs in this country in the longer term is to stimulate growth; and the only way we can stimulate growth is to become internationally competitive; and, on that basis, we need an internationally competitive taxation scheme.

That seems quite simple; but it is obviously a leap ahead of the attitudes of Mr Berry opposite. I think that all of us are looking for a way to restructure our taxation system in a way that is fair to those people who are on low incomes but at the same time makes sure that Australia is competitive in the offshore market; that is, tax reform equals jobs for the future. Mr Berry, obviously, does not believe that at all. In fact, let us look at Mr Berry's approach and the approach of those opposite in this place. What about the debits tax? That is interesting. Did those opposite support the changes in FID and BAD tax? The debits tax did actually produce a higher amount of revenue for the ACT, to be able to be spent on other things. Was there any support? Absolutely none.

Mr Berry: It discriminated against low-income earners. That is what we mostly opposed.

MRS CARNELL: The fact is that it did not. As you know, there is a rebate system there for - - -

Mr Corbell: If you know about it and if you know where to write to. That is really progressive!

MR TEMPORARY DEPUTY SPEAKER (Mr Wood): Order!

MRS CARNELL: Mr Temporary Deputy Speaker, it is very interesting to see where the BAD tax came from. It came from ACOSS. That is the story. Every time we have put forward any initiative to increase the amount of revenue that we raise here in the ACT, those opposite have rejected it every single time. Mr Berry is very good - and maybe Mr Corbell is too - at getting up and talking about what they do not support in terms of tax reform, in terms of tax levels, whether it be Federal or local. But we have not heard what they do support. We certainly have not seen them support anything here - not one thing - to increase our levels of revenue. Mr Berry has not indicated what he supports federally in terms of any tax reform that will happen in the future.

Mr Berry: I do not support a GST.

MRS CARNELL: There you go, Mr Temporary Deputy Speaker; he does not support a GST. That is fine. What do you support? It is quite simple. The good thing about what the Council of Social Service is doing is that it is saying, "We need jobs. Therefore, we need to become more competitive. How will we do that?". Mr Berry is not doing that. I think that wonderful article by John Passant in the *Canberra Times* yesterday made very clear what Mr Berry supports. The actual quote from Mr Passant was:

> Jobs are the issue, yet what program has the Leader of the Opposition in the ACT developed to cut unemployment?
>
> When he was last in government, he did not appear to have many solutions to the problem. What new approaches has he offered? Nothing concrete so far.

He is still giving you "so far". Mr Passant then went on to quote a number of Labor Party policies. Maybe Mr Berry supports such wonderfully progressive approaches for the community as death duties and wealth taxes - and the list goes on.

Mr Corbell: They are not Labor Party policies.

MRS CARNELL: Mr Temporary Deputy Speaker, those certainly were issues that used to be in the Labor Party platform the last time I saw it. Maybe, if Mr Berry does not support anything else, that is the approach that he would take. But, again, he has not told anybody. So, maybe he would like to hop up and tell everybody whether he does support wealth taxes and death duties. That seems to me to be a pretty fair request. I have to say that I am sick of those opposite. I am sick of Mr Berry's harping on this tax situation, because he is simply wrong. He simply cannot come up with one thing that he can support - not one idea, not one way to raise one extra dollar to be able to spend it on all of the things they promise every single day. You know as well, Mr Temporary Deputy Speaker, that it is true.

The fact is that they have promised millions and millions of extra services, extra capital works in this town, and all they have managed to do is oppose every single revenue measure that we have put in place. As Mr Passant said, they have never indicated one new policy or one new approach. Can you take seriously anybody who takes that approach on such things as tax reform, on such things as jobs, on such things as the future of this country? Obviously not.

Mr Berry: You have a long time to go yet, Kate. You have 3½ months.

MRS CARNELL: Mr Temporary Deputy Speaker, Mr Berry said that he has a long time to go. What about the last 2½ years, when those opposite absolutely opposed everything? It is the crossbenchers that have come up with the ideas that have not been coming from the Opposition. At least Mr Moore came up with a bed tax. I do not agree with it; but at least he did that. Mr Temporary Deputy Speaker, I believe that the approach on this of those opposite is absolutely laughable, and I am confident that the people of Canberra believe that too.

Question resolved in the affirmative.

QUESTIONS WITHOUT NOTICE

International Hotel School

MRS CARNELL: Mr Temporary Deputy Speaker, earlier today, in question time, Ms McRae asked me about the activities of Mr Ian Knop in relation to his association with the Australian International Hotel School. Specifically, Ms McRae asked me whether I could categorically state whether Mr Knop has used the facilities at the hotel for his personal business activities. For the information of Ms McRae and all other members, I table a copy of a letter I received today from the director of the Hotel School, Professor Michael Conlin. I will read this letter into the record so that the matter can be laid to rest and Ms McRae can reflect on whether she will continue to accept questions that are written for her by Mr Berry's office without first checking them and without wondering about the morality of the approach that was taken. It says:

> Dear Chief Minister,
>
> Over the course of the past year during which Ian Knop has served as Chairman of the Board of Management of the Australian International Hotel School, he has consistently used the Hotel Kurrajong for both business and personal reasons not related to the functioning of the AIHS.
>
> On Mr Knop's specific direction, all and any charges related to his use of the Hotel on any business not related to the School have been quarantined in three specific city ledgers. These accounts have been billed to Mr Knop on a 30 day basis as is industry practice, and these accounts have been discharged in a timely fashion.
>
> Mr Knop has been scrupulous in ensuring that his use of the Hotel for business and personal reasons has been kept separate and apart from his proper use of the Hotel as Chairman of the Australian International Hotel School's Board of Management.

> I should also add that Mr Knop has been very instrumental in bringing business to the Hotel Kurrajong through his consistent recommendations of the property to personal and business associates in Canberra, Sydney and beyond.

The letter is signed by Professor Michael Conlin.

Mr Knop has also willingly provided me with copies of at least eight separate invoices which have been paid by him to the Hotel School. These invoices total some $6,887 that Mr Knop has paid for accommodation, functions and other expenses. In other words, Mr Knop himself has paid. I am not prepared to table these invoices as I, for one, would regard that as an incredible invasion of privacy; but I am prepared to show these invoices to those opposite, or to any member, for that matter, if they are interested. What Professor Conlin's letter and Mr Knop's invoices show is that there is absolutely no basis for the inferences that Ms McRae and, I think, in this debate, Mr Berry are making. I would ask both of those members opposite to consider offering an apology on this issue - - -

Mr Berry: If you are going to mention them, table them.

MRS CARNELL: You can see them, if you want to. Mr Temporary Deputy Speaker, what we are seeing from Mr Berry now, and certainly from Ms McRae in question time, is an unwarranted attack on somebody's honesty, on the way he conducts business - somebody about whom they have no evidence whatsoever to indicate that he is anything but, I think, one of the best corporate citizens that you could ever ask for in these sorts of situations. Mr Temporary Deputy Speaker, these sorts of insinuations have been found not only to be - - -

Mr Berry: For $35,000 worth of verbal advice, I would be a good corporate citizen.

MR TEMPORARY DEPUTY SPEAKER: Order!

MRS CARNELL: Mr Temporary Deputy Speaker, Mr Berry's attack on this person, with no evidence, is unacceptable. There needs to be an apology right now. Those opposite, when they were in government, had a number of consultants that were paid for verbal advice. It is normal business practice. But the bottom line here is that Ms McRae's question in question time and the interjections that Mr Berry has made are offensive and they are baseless. The very least that those opposite can do now is apologise or, alternatively, put up. But they are not doing that. They are just running down a good corporate citizen. Let us see an apology.

Trees in Schoolgrounds

MR STEFANIAK: Mr Temporary Deputy Speaker, Ms Horodny asked me a question in relation to a couple of big trees at Palmerston Primary. I have been advised by my department that no trees have been removed from Palmerston District Primary School. There are, however, two large trees on an adjacent oval, and some damaged branches have been removed in the last couple of days. The trees are still there. I understand that the branches were damaged by vandals. A similar event has also recently occurred at Ngunnawal Primary; but in both cases the trees are actually still standing. I am also advised that no trees have been removed from any government school in the Gungahlin district.

CARNELL GOVERNMENT'S PRIORITIES
Discussion of Matter of Public Importance

MR TEMPORARY DEPUTY SPEAKER: Mr Speaker has received a letter from Mr Berry proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> The wrong priorities of the Carnell Liberal Government.

MR BERRY (Leader of the Opposition) (4.37): Mr Temporary Deputy Speaker, the Carnell Liberal Government has built itself a stack of wrong priorities. This has meant that millions of dollars have not been spent on maintaining decent services in this city. Whether it be putting thousands of public servants out of work in a recession or wasting $500,000 on a re-election campaign, it is a collection of expenditures or cutbacks or wrong-headed ideas that Labor would not have committed itself to.

Let us have a look at some of the highlights. The first is the Liberals' job reduction scheme in the ACT Public Service in a recession. Fifty million dollars over three years is our claim. Over their term, according to our estimates, the Liberals will have spent $50m on putting ACT public servants out of work during a recession. In fact, the rate of redundancies has risen more over the past 12 months than at any other time since 1992. This is totally irresponsible and is contributing to the ACT's economic woes. It is a reason for the crisis of confidence.

Kate Carnell has joined John Howard as the public servant's worst nightmare. While John Howard has cut the number of Commonwealth public servants in Canberra by 7.8 per cent, Kate Carnell has matched him. Since she was elected, she has cut the ACT government service by 7.6 per cent. In fact, Kate Carnell has made greater cuts in the Public Service than has any other State or Territory government - and you wonder why the ACT economy is in recession. The Chief Minister now claims that she has spent only $20.8m from her central redundancy pool. How cute! Unlike the previous Labor Government, the Carnell Government now separates centrally-funded redundancies from agency-funded redundancies. The latest Estimates Committee report says:

> By the end of the current financial year -

that is, 1996-97 -

> the Government will have provided some $25.59m for redundancies. Of this amount, $12m will come from the central redundancy pool and $13.59m will be agency funded.

Mr Humphries: But these are your figures, Wayne, and they are stuffed.

MR BERRY: No. Gary Humphries just interjects, "These are your figures". No; these are your figures. The latest Estimates Committee report says:

> By the end of the current financial year the Government will have provided some $25.59m for redundancies. Of this amount, $12m will come from the central redundancy pool and $13.59m will be agency funded.

Mr Humphries: On a point of order, Mr Temporary Deputy Speaker: The question is: Did he add the total in as well when he added up these figures?

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

MR BERRY: Surprise, surprise, Mr Humphries - over $25m in one year!

Mr Humphries: This is Berrynomics, is it?

MR BERRY: No. Those are the facts - over $25m for just one year. These figures indicate that agency-funded redundancies are running at a higher rate than the central pool redundancies. This can only indicate that the number of redundancies under the Liberals is double, if not more than double, the figure Mrs Carnell has put up for the central pool. We know that it is more. We know that the Department of Urban Services alone spent $9m just in this past year on agency-funded redundancies.

If Mrs Carnell wants to dispute Labor's claim - or if you want to dispute it or if anybody else over there wants to dispute it - what I would like her to do is put up. Just supply all of the figures for all of the agency-funded redundancies since February 1995. Come on; open up the books and tell - - -

Mr Humphries: Mr Temporary Deputy Speaker, Mr Berry has invited me to put up, and I would be delighted to.

MR TEMPORARY DEPUTY SPEAKER: No; sit down, Mr Humphries.

Mr Humphries: He did. He invited me to, just then. I distinctly heard him. I think Mr Hird heard him as well, and so did Mrs Littlewood, I am sure.

MR TEMPORARY DEPUTY SPEAKER: Order! Sit down, Mr Humphries.

Mr Humphries: All right, Mr Temporary Deputy Speaker.

MR BERRY: Prove your claim. Too many jobs lost, too many millions spent in a recession - that is the position that you have created here in the ACT.

Now let us talk about Mr Humphries for a moment and about the self-publicity stunt on World Environment Day - $8,000 worth. Gary Humphries's self-publicity stunt on World Environment Day, a full-page newspaper advertisement with the smiling Minister's photo, would have an estimated cost of around $8,000, including advertising fees, artwork, et cetera. If you dispute the numbers, give us the real numbers. He spent $8,000 - it was probably more than that - on a little self-publicity stunt. It must be remembered that this is the same person who, when in his honest phase, promised before the last election to introduce legislation to ban taxpayer-funded advertising featuring politicians. Where have you been? Where is the legislation, Mr Humphries?

In 1995, the Carnell Government waived $10.8m of stamp duty for CRA Ltd so that it could restructure the company. The Liberals admitted at the time that the ACT gained no financial or economic benefit from this gift to CRA. What a waste - $10m in revenue which could have been used for providing services over the past three years!

Escalating health costs amount to an extra $80m over the term of the Government. Before the last election, Kate Carnell promised that she would save $30m from the ACT health system. Instead, health costs have risen by $80m. Have a look at your own budget papers. What you people are not doing is looking at your own budget papers. Health costs have risen by $80m over her term of government. Mrs Carnell cannot respond to this claim. The only response she made yesterday was that she came in under budget this year. That is easy, if you put enough in at the front. There is no claim to success at all. All Ministers, everybody, can come in under budget if you just keep increasing the budget. Let us not forget that, in 1996-97, health costs were $42.8m extra and 800 fewer patients were treated at the Canberra Hospital. Where are you people coming from when you go out there bragging about your performance in the health system? In 1995-96, health costs increased by $22.83m; in 1996-97, they increased by $42.8m; and in 1997-98 they increased again by $14.6m. This adds up to $80.23m in my book. All of these figures come from the Government's own budget papers and the Treasurer's statements.

A promised saving of $24m in the sale and lease-back of the ACT fleet has turned into a $30m-plus cost to the taxpayer. Kate Carnell promised that the sale and lease-back of the ACT fleet would save the taxpayer $24m. Now, with contracts signed and sealed, the Auditor-General has found that the deal will cost the taxpayer up to $30m. This is typical of this Chief Minister. Instead of accepting an auditor's report on the chin, she argues it out with the auditor.

Mr Temporary Deputy Speaker, the Liberals opposite have us paying $85m in rent for buildings that we already own. All they wanted to do was cash themselves up by selling the people's property and then leasing it back. The ACT Government is paying $85m in rent for buildings that it owned - $49m for the Magistrates Court building and $36m for the Dame Pattie Menzies Building in Dickson. We used to own the vehicles we drove, as well; now we lease them. We used to own the buildings our employees work in; now we pay rent for them. This is disguised borrowing, and there is no way of getting out of it. This is a government just cashing itself up and disguising its borrowings. If a bloke on the street told you that he was selling his house so he could rent it back, you would say, "You are crazy. You are mad".

Mr Humphries: That is the depth of Berry economics, is it?

MR BERRY: Why are you buying your house, Mr Humphries? Why do you not sell it and rent it back? Sell it and rent it back.

Mr Hird: On a point of order, Mr Temporary Deputy Speaker: I draw your attention to standing order 42. I would ask Mr Berry to oblige the house by standing by standing order 42.

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

Mr Hird: With a great deal of respect, I have to say that every member speaking in this place has to address you, sir, and not the Opposition or the Government.

MR TEMPORARY DEPUTY SPEAKER: Order!

Mr Humphries: That is true, Mr Temporary Deputy Speaker. That is what it says.

Mr Hird: That is true, and I raise that as a point of order, sir.

MR TEMPORARY DEPUTY SPEAKER: Order! I understand the forms of this house, Mr Hird, and they are being followed.

Mr Hird: Under standing order 42, sir, order him to speak to the Temporary Deputy Speaker.

MR TEMPORARY DEPUTY SPEAKER: I refer you to the standing order which deals with persistent interjections.

MR BERRY: The Bruce Stadium redevelopment is likely to cost the taxpayer up to $15m extra. It looks as if the Chief Minister is crawling back into her hole on the Bruce Stadium. She has retreated to the claim that this project will cost us only $12m. The way I figure it, if you look at the costs of the stadium, the costs of the development of Football Park over in Phillip, the costs of accommodation for the soccer teams that might come here for the Olympics, and the underwriting of tickets, you are getting close to $50m. That is a lot of money, and I do not think the community really would accept that cost. They would question it, at least.

In the last sitting period, the Chief Minister was forced to admit that the ACT taxpayer is now exposed to a potential debt of $24m. The ACT Government is covering the $7m that the private sector is to come up with to make this project viable. As we are already fully committed to the project, Labor believes that the ACT Government will be liable for the full $24m if the private sector fails to deliver. Of course, to Kate Carnell, any amount of millions of dollars is worth spending just to get Olympic soccer. It is a fine aim; but there is a limit to it. I do not think the taxpayer has been fully informed.

Mr Temporary Deputy Speaker, I turn to the light poles issue. The Chief Minister's latest revenue raising venture is to sell the ACT's light poles to ACTEW.

Mr Moore: It is not a loss of money. We have not lost any money on it so far.

MR BERRY: Now the Chief Minister claims that there has been no decision made. Michael Moore seems to be defending the Chief Minister, saying that it is such a good idea.

Mr Moore: That is not what I said at all.

MR BERRY: You said that we have not lost any money on it.

Mr Moore: It is another thing on which you are wrong, Wayne. That is not what I said at all.

MR BERRY: You said that they had not lost any money on it. The implication I drew from that was that you thought it was all right. I apologise. If you think it was a bad decision, say it. Now the Chief Minister claims that there has been no decision made on the streetlights sale; but, in the Estimates Committee this year, the then CEO of ACTEW, Dr Mike Sargent, admitted that over $100m had been allocated to buy the streetlights. His Minister, Trevor Kaine, joked that it was either the streetlights or the stormwater drains - either way, the Government was going to get its hands on the $100m. In fact, November's edition of the *Electrical Supply* magazine restates this intention. It states:

> In Canberra, the ACT Government owns the city's 62,500 street lights but in this year's budget determined that the ACTEW Corporation would have to buy them for $100m or about $160 per light.

A couple of times here today you asked, "What would Labor do?". I can tell you this: If we were going to borrow money, we would tell the community that we were going to borrow it. We would not try to disguise it. That is what you are trying to do. It is a public relations stunt to try to cover up borrowings. You want ACTEW to buy the streetlights. "Is ACTEW putting up a good fight?", you might ask. Is that why the deal has not been made yet? We know that ACTEW will be forced to increase prices to cover the costs of the loan. You may consider the $100m as revenue; but it will cost every electricity consumer in this city, and that is a wrong priority. This is about wrong priorities. Who will own our light poles once the Liberals sell ACTEW?

The futsal slab - what an icon! - is now claimed to have contributed $3m to the local economy. The futsal slab, the rarely used eyesore on the lake - - -

Mr Humphries: The one that only Labor MLAs go to?

Mr Whitecross: We did not have to kick anyone off.

MR BERRY: That is right; we did not have to elbow anybody out of the way when we went around there and used it yesterday. There was plenty of space.

Mr Humphries: You did not have to kick anyone off - except non-sitting Labor candidates.

MR BERRY: It does not cost anything to book it. It cost $300,000, plus ongoing management costs. The futsal slab is a $300,000 justification for the Chief Minister's trip to Brazil. It has rarely been used and it is considered by most Canberrans an eyesore and a white elephant. Maintenance costs will accrue, of course.

The period of this Government has seen an amassing of wrong priorities, which is indefensible. There is nobody who can defend this Government's performance. It has been a disaster for the ACT. It has taken us into recession and has led to more unemployed than when Mrs Carnell came to office. This Government has been a disaster.

MR TEMPORARY DEPUTY SPEAKER: Order! The member's time has expired.

MRS CARNELL (Chief Minister) (4.53): Mr Temporary Deputy Speaker, I did not hear anywhere in Mr Berry's critique, which is probably a nice way to put it - - -

Mr Hird: He is leaving the chamber.

MRS CARNELL: But he always does. I did not hear anywhere in Mr Berry's critique of the Government's priorities that he actually mentioned jobs. Did he mention jobs anywhere? Apart from redundancies, did he mention jobs? I do not think that he mentioned anywhere how he might actually create jobs or how he might get the economy moving.

Mr Temporary Deputy Speaker, there are four essential issues facing Canberra, at least for us on this side of the house. Those are employment, especially for young people, but for everybody; economic development; environmental integrity; and, of course, ensuring that we have an advanced education, health and welfare sector. Those have to be the bottom lines for this city. The reality is that that is what this Government's priorities are, and our approach to our policy direction deals precisely with each one of these areas.

A key priority has been to get our own house in order. We have done this through our industrial agreements and through other innovative approaches to senior management employment. The downsizing of our Senior Executive Service by something like 33 per cent has resulted in a saving of about $1m. We have maintained education funding in real terms. We have increased the funding for health; but not by $80m. At the same

time, we have managed to reduce waiting lists in health by 25 per cent and to come in on budget - something that no other government has managed to do since self-government. We have been able to announce, as a result of our innovative approach with InTACT, that over the next two years all teachers will have computers for their own use. We have got the high speed rail project moving. We have received the tick for an upgrade of Canberra Airport to international status. We have significantly revamped our departmental structures and we have become more efficient in terms of our customer service approach.

With regard to jobs, we have put in place very innovative programs such as the Youth500 scheme, which, as of about a week ago, had managed to place, I think, 303 young people over a very short period of time. We have put in place such very successful schemes as our business incentive scheme, with very close to 2,000 jobs to be created over the next three or so years and some $50m in investment.

Mr Temporary Deputy Speaker, you can see from the approach that we have taken that we have a very clear view of our direction, unlike Mr Berry. When I was having a look at notes for this speech today, I found an old TWU press release with regard to ACTION. It spoke about Mr Berry in really great terms. It referred to his arrogant and provocative behaviour and underhand manner - these are the TWU's words, not mine - when he risked a $6.5m saving on ACTION buses for straight ideological reasons. We all know about the VITAB deal - a great deal for Canberra! We all know about Mr Berry's opposition to the new private hospital, with $20m of investment and real jobs in the construction phase and, of course, when we get this whole hospital up and running.

Mr Temporary Deputy Speaker, those things are, I suppose, in a nutshell, very simple. We know where we are heading. We have our priorities on the table. Everybody knows what they are. They are predominantly about jobs and economic diversity and having a fair society with good education and good health. But what does Mr Berry believe in? What is it that those opposite really want? One of the things I can do is very quickly run through some of the things Mr Berry spoke about. What we are facing here, after next February, is the possibility of having a Treasurer who does not even understand the difference between income and spending. For Mr Berry's benefit, income is the money that comes in - the revenue - and spending is what you spend it on. You actually do not add the two together on one side of the balance sheet. It is a very bad approach if you do that, Mr Temporary Deputy Speaker, because you could actually think you were a millionaire when you were not. That is a very tragic approach. Unfortunately, Mr Berry simply does not understand the difference. As Mr Moore said, he was wrong.

Let me run quickly through his list of make-up figures. Mr Berry said that we had spent $50m making public servants redundant. Spending from the ACT Government's central redundancy pool in 1996-97 was $11.8m. That was the year of the recession. He did mention that we had spent $50m in a recession. That year we spent $11.8m. Mr Temporary Deputy Speaker, over the last two years, spending of $20.8m under this Government compares with spending of $30.3m over the previous two years under the Follett Government.

Mr Humphries: On redundancies.

MRS CARNELL: On redundancies, that is it - $20.8m from the central redundancy pool from us; $30.3m from Ms Follett. So, Mr Berry must think that Ms Follett's approach, or his own - he was Ms Follett's deputy for a very long time - was wrong. He lists escalating health costs and this ridiculous $80m figure. If you believed Mr Berry on this, as I think I said in question time, you would then assume that Mr Berry plans to take $80m out of health, assuming that the figures are right. If he believes that that is bad - - -

Mrs Littlewood: Mr Temporary Deputy Speaker, I draw your attention to the state of the house.

Mr Moore: Mr Temporary Deputy Speaker, I would like to draw your attention to the state of the house, noting in particular that Mr Berry is not even here, nor are any members of the Labor Party other than yourself, when it is their discussion of a matter of public importance.

MR TEMPORARY DEPUTY SPEAKER: If you are drawing attention to the state of the house, you have done that.

(Quorum formed)

Debate interrupted.

ADJOURNMENT

MR TEMPORARY DEPUTY 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.

CARNELL GOVERNMENT'S PRIORITIES
Discussion of Matter of Public Importance

Debate resumed.

MRS CARNELL: Mr Temporary Deputy Speaker, I was talking about health costs. In fact, $11m less has been appropriated to the health budget in 1997-98 than was appropriated in 1995-96. Waiting lists have been reduced by 25 per cent and the health budget has been brought under control. It would seem like a pretty fair outcome. But it appears that, as I said before, Mr Berry must be interested in taking $80m out, if he believes that that is a wrong priority. I believe that health is a very good priority.

Mr Berry referred to $30m for the ACT fleet lease-back deal. We got $24m in revenue from that deal. Mr Berry does not know the difference between revenue and expenditure. It is tragic. He mentioned $300,000 for the rarely used futsal slab. The Lakeside Arena has attracted events that have brought $3m in economic benefits into the ACT - obviously, a bad investment, Mr Temporary Deputy Speaker! He mentioned $15m extra for Bruce Stadium. The figure is wrong. The budget is quite clear - $12.3m has been allocated to the Bruce Stadium upgrade to secure Olympic events for Canberra. Mr Temporary Deputy Speaker, even the most conservative approach to the Olympic events is that they will bring some $20m into the ACT economy, plus, obviously, the benefits of the Raiders, the Brumbies and others.

Mr Berry said that $100m had been ripped out of ACTEW to buy light poles - a very unusual statement. No decision has been taken with regard to the streetlight purchase. This will be decided by the next Government. In any case, it is revenue; not expenditure. It is that simple. We still have the streetlights. ACTEW gets paid an amount of money - basically, a rent figure for our renting them back. Of course, the decision, if it were to be made, would need to be backed up by the board of ACTEW.

Mr Berry's list includes $7m saved by not maintaining Housing Trust properties. Housing Trust maintenance spending increased by $5.53m in 1997-98. Mr Temporary Deputy Speaker, how can savings be characterised as money squandered? For the life of me, I do not understand. His list includes $5m for handling the 1996 industrial dispute. Mr Temporary Deputy Speaker, the cost of capitulating to the union wage claim - which, obviously, Mr Berry thought we should do - was $27m per year. That is what it would have cost if we had said, "Fine; anything you say; let us just sign here" - $27m - not once, but every single year, or $225 for the average household every year.

Mr Corbell: You could have gone to conciliation. You did not want to go to conciliation, did you? Instead, you promoted conflict. That is why it cost us so much money.

MRS CARNELL: That is what Mr Berry - and, obviously, Mr Corbell - thinks was an appropriate approach. Mr Berry lists $500,000 for the Feel the Power campaign. Mr Temporary Deputy Speaker, the ALP has been lobbying for an increase - - -

Mr Kaine: Mr Temporary Deputy Speaker, on a point of order: Could you ask the monkey over there to keep quiet while the Chief Minister is speaking.

MR TEMPORARY DEPUTY SPEAKER: Order! That is inappropriate language, Mr Kaine. I point out that the interjections from that side are much less than they were - - -

Mr Kaine: Would you ask the member opposite, who does not seem to have any manners, to keep quiet while the Chief Minister is speaking.

MR TEMPORARY DEPUTY SPEAKER: Let me point out, Mr Kaine, that the interjections from my left are much less than the interjections from my right were when Mr Berry was speaking. Nevertheless, I take your point.

Mr Kaine: On your ruling, Mr Temporary Deputy Speaker: He just keeps chattering constantly - not interjecting, chattering.

Ms McRae: On a point of order, Mr Temporary Deputy Speaker: I would like to remind Mr Kaine that no-one, but no-one, stood up and took a point of order when Mr Humphries and Mr Hird were indulging themselves. So, on a bit of fairness - - -

MR TEMPORARY DEPUTY SPEAKER: Order! Let us get on with the debate.

MRS CARNELL: Mr Temporary Deputy Speaker, in relation to the $500,000 for the Feel the Power campaign, the ALP has been lobbying for an increase in promotional spending - not a decrease. So, they are not suggesting that we should not have spent the money; they are just suggesting that Tourism should have spent it, not Business. How can you say that that is money squandered?

Mr Corbell: You spent it on the wrong priority. There is no money for promotion interstate.

MR TEMPORARY DEPUTY SPEAKER: Order!

MRS CARNELL: He has already been warned.

MR TEMPORARY DEPUTY SPEAKER: Carry on, Chief Minister.

MRS CARNELL: Mr Berry said that we are paying $85m in rent for buildings that we own. Mr Temporary Deputy Speaker, the lease-back of the Magistrates Court building and the Dame Pattie Menzies Building generated up-front revenue of $49m. Rental payments over 15 years will be less than the borrowings for this $49m. His list contained $1.1m in ignored consultancy reports. The $1.1m Booz Allen and Hamilton report has generated, or will generate, more than $27m worth of savings for the health system by the end of this year.

Mr Berry's list includes $208m in revenue or spending reductions - almost half of the $422m. The spending figures also are falsely inflated by unsubstantiated claims in such areas as health. The difference between the reality and Mr Berry's claim is $63m. The $30m spending on the car leasing arrangements actually had up-front revenue of $24m and savings of $400,000 per annum - the difference being $30m.

Mr Temporary Deputy Speaker, I could run through all of this; but the bottom line of what we have here is that all of Mr Berry's statements were just wrong. They were not even just a bit wrong; they were fundamentally wrong. Of Mr Berry's "squandered" money, $222.8m cannot be substantiated at all by any figures - and he did not substantiate it - which leaves $200m of the original $422m. But, of that $200m, $135m is actually revenue or spending reductions and $65m is expenditure. Mr Temporary Deputy Speaker, that means that the ACT taxpayer is actually $70m ahead, even on the issues that Mr Berry raised.

MS TUCKER (5.08): While I agree that the Liberal Party, in government, has had some poor priorities - and I have argued extensively about this over the last three years - the question I have to ask myself when I look at this matter of public importance is: How would the Australian Labor Party have been different? The reason I got into politics was that neither major party, I believed, had the right priorities. We basically saw, with the Howard Federal Government - while particularly repugnant - that the way was made easy for them by the former Hawke and Keating quasi-Liberal governments. Basically, they made the people and the environment subservient to the economy. They implemented the Hilmer report and the market reforms, deregulated the financial markets in Australia and sold off our forests for a pittance to foreign paper companies.

In the local area, the public transport, or lack of it, in the ACT might have got worse under the Liberal Government; but public transport had been degenerating under the former Labor Government also. In respect of the reduction in quality of community health centres, in my view, both Labor and Liberal have not done sufficient in that area in terms of primary and preventive health care. All we ever seem to hear about is the waiting lists. We have seen cuts to funding for community centres. These cuts started under the previous Labor Government. We have seen poor planning decisions. We have turned the ACT into a big shopping mall, supporting ridiculous developments in a policy vacuum. Labor and Liberal voted together to weaken the planning laws in the ACT, reducing opportunities for the community to appeal on planning decisions. In disability services, the lack of after-school care and school holiday programs for children under 12 with a disability has been highlighted in reports since early 1990. The lack of a social plan for the ACT is also a result of Labor's work, as well as the Liberal Government's work.

So, I do not believe that the priorities of either major party are appropriate. That is why we are here. Hopefully, the Greens have been able to influence the priorities to some degree. Mrs Carnell's Government has been open to some of our input. So, I do not really want to support this matter of public importance, which seems to be just about throwing a few insults around, once again without any real, positive contribution from the Labor Party. I am increasingly frustrated at how little we get from the Labor Party in terms of positive solutions. It is all very well to continually bag what the Liberal Government is doing; but we need to see from Labor how they will do it differently. It is critical information, not just for the community but for members of the crossbenches, because we have to make very hard decisions in this place, as the community does, and we need to have those decisions informed by real policies. We need to get a real idea of what a Labor government would actually do to address the issues that we are all facing in this town.

MR WHITECROSS (5.12): I was just waiting for some further embellishment from the Greens. Mr Temporary Deputy Speaker, in response to Ms Tucker, I should say, just briefly, that, when Ms Tucker needs to make a decision about whether she is going to have a Labor government or a Liberal government, she will be well informed about what that choice means. When the Labor Party is deciding how to vote on issues, it bases its decisions on its views of the policies that are appropriate for the people of Canberra. On many occasions, they do not happen to be the same as the policies of the Liberals. But that is how the Labor Party approaches things and that is how it will continue to approach things.

Mr Temporary Deputy Speaker, I am rising in support of this matter of public importance because I share the concern about the misguided approach that this Government has taken to governing the Territory over the last three years. Ms Tucker clearly does not think that the Liberal Government has done anything wrong, and Ms Tucker does not think that there are any concerns to express about the Liberal Government. The fact is that I am very concerned about the misguided way that the Government has been governing the Territory over the last three years.

Let us look at just a few things. Mr Berry has put together a bit of a shopping list of silly and disastrous things that the Government has done. I want to highlight just a few of them. First of all, you have the policy stuff-ups. They have spent plenty of money on policy stuff-ups. Let us begin at the beginning. Who can forget the strategic plan? It cost us $100,000 to do a strategic plan for the running of this Territory, prepared without any consultation with the members of this Assembly and without having the Commonwealth signed on. We are trying to run the national capital, where the Commonwealth is the significant player; but do we have the Commonwealth signed on? No. Do we have members of this Assembly signed on, even though we have a minority government and Mrs Carnell is always going on about council-style government? No.

We spent $100,000 on that, and within days this place had said to the Government, "That was a waste of time. Now go back and do it properly". So, then we waited, and we waited, and then we waited some more. At the end of all that waiting, what happened? They said, "Let us have a get-together called the National Capital Futures Conference, where we can make it a lot of other people's problems and we can talk for a little while" - - -

Mrs Littlewood: On a point of order, Mr Temporary Deputy Speaker: Mr Whitecross is overacting again.

MR WHITECROSS: They said, "And, hopefully, someone else will come up with a solution for us, because we do not have a strategic plan". That is a policy stuff-up, if ever I saw one.

For three years, Mrs Carnell has been giving out money under the business incentive scheme and its predecessors. Mr Humphries, about a week ago - at five minutes to midnight - said, "We have come up with this good idea. We are going to have an industry plan. We have been giving away the money for three years; but now we have decided that we will have an industry plan to decide how we are going to do it". What a good idea! Another policy stuff-up! They suddenly realise that they have been handing out the money on an ad hoc basis, with no structure; so they want to rush around at the last minute and have an industry plan.

Then, of course, there are the supermarkets. Who can forget the supermarkets? The Government went out there and made a completely ad hoc decision, with no rational basis that anybody has been able to discern. Not even the Greens, who supported it, agreed that it was rational, because the Greens wanted to do group centres as well, which at least had some consistency about it. But, no, the Government had no rational basis for it. They dug themselves into a hole, and then they sat there in their hole until

a pollster came to Mr Humphries and said, "I have some bad news. Most of the ACT community think this is a lousy policy". So, Mr Humphries said, "Gee, how are we going to get out of this? I know. We will commission a report to say that our policy was wrong, and then we can back down". So, $14,000 was spent to commission a report to prove that Mr Humphries's original policy was wrong. If he had listened to the community in the first place, he would never have done it.

Then there is the $72,000 they spent on rates. At the last election, Mrs Carnell said, "We are going to fix the rates system. Trust us". They paid consultants $72,000 to come up with a solution to the rates problem. It had been on Mrs Carnell's table for five minutes before she put it in the bin. She said, "We are not going to do that. That is a bad idea". They spent $72,000 on a report, which is where? The terms of reference for the report were so badly structured that the report could not even be taken seriously by the person who commissioned it - Mrs Carnell. So, instead, they had a moratorium for another 12 months. At the end of another 12 months, what did they do? They implemented the Labor Party's policy from before the last election. So, after spending $72,000 and after two years of equivocation, what did they do at the end of that? They implemented the Labor Party's policy. Well done; what a great idea!

Then we have the $26,000 they spent trying to figure out how to sell ACTION buses and then lease them back. But they had a problem, because selling them and leasing them back depended on this little tax rort, where they could do some arbitrage between Australia and Canada and it was all going to be great. The only problem was that the Australian Taxation Office was not too keen on being ripped off. So, it said, "No go. It is all very nice for you; but we actually want to maintain the revenue of Australia", while Mrs Carnell was trying to figure out a way of leasing the buses offshore to erode the revenue base of Australia, just to make a few dollars for herself. Mr Temporary Deputy Speaker, they spent $26,000 on that. At the end of the day, they had to tear it up. So, they are the policy stuff-ups.

Then we have all the wasted resources spent on figuring out ways of disguising borrowings. I have just mentioned the ACTION buses. Then, of course, there is the Magistrates Court building. We spent millions of dollars building a Magistrates Court building; then we sold it to someone else so that we could rent it back from them. How much of the public servants' valuable time was spent on that? It was the same with the Dame Pattie Menzies Building. We spent millions of dollars building the Dame Pattie Menzies Building so that we could sell it to someone so that we could rent it back. How much of OFM's valuable time was spent organising that?

Then we have the ACT fleet, which the Auditor-General said was not an operating lease, as claimed by the Government, but simply a finance lease; that is, a way of raising cash. The Auditor-General said that we would raise $24m from it, and we were going to have to pay out over $30m. Mr Temporary Deputy Speaker, how much of the taxpayers' valuable money has been spent organising these charades - not to mention the charade about ACTEW, where we get a $100m dividend from ACTEW so that we do not have to borrow money? But we are going to borrow the money, lend it to ACTEW and ACTEW

is going to give it back to us. How many of the resources of the Territory are going to be wasted on that, Mr Temporary Deputy Speaker - all to disguise the fact that the Chief Minister has to borrow; all for the petty pride of the Chief Minister; so that she can get up in this place and say, "We have no borrowings."? But we all know that she has. She has fooled no-one; but she has wasted the taxpayers' money on these things.

Then we have the $50m on redundancies. Mrs Carnell said, "It was only $20m". According to the Estimates Committee report, it was $25m - nearly $26m - in one year. So much for telling the truth to this parliament, let alone anything else. It was $26m in one year, and in the previous two years they spent about another $20m on making people redundant. In an environment where we are in a recession and unemployment is going up, this Government is spending money on redundancies - putting people out of work. They cried crocodile tears about John Howard putting people out of work; but Mrs Carnell is doing it, and spending millions and millions of taxpayers' dollars doing so.

I do not have time to go into Mr Humphries's bizarre escapade where he spends taxpayers' money telling them how concerned he is with greenhouse gases and then he comes in here and says that he actually does not believe in the greenhouse effect. He is happy to tell everyone out there that he cares about the environment; but then he comes in here - he must have thought that he was in opposition for a minute - and tells us that he does not actually believe in the greenhouse effect.

Last but not least, we have all the money the Government spent on behalf of Mrs Carnell pursuing the big O - the Olympics. We are refurbishing Bruce Stadium so that we can host the Olympics. Now we are refurbishing the Phillip Oval to soften up the AFL, who cannot play at Bruce Stadium anymore. Then we are going to spend some money at Manuka to soften up the cricket people. Then we are spending $10m on hosting the Olympics, then $5m on ticket guarantees - all so that Mrs Carnell can put out some feel-happy press releases about what a great person she is. All this is based on the economic benefits of thousands and thousands of international visitors who, experience shows, will not come.

MR MOORE (5.22): The discussion of this matter of public importance raised by Mr Berry is so important that he has not been here, other than when he was actually speaking, to listen to it. It is a matter of such importance that he is not interested in what other people's perceptions are. It is a matter of such public importance that he raised the issue in the paper this morning, which was well ventilated. So, how important is it to look at the wrong priorities of the Carnell Liberal Government? I must say that there is a difference between me and Ms Tucker. I listened carefully to her speech on this issue when she talked about the problems of both Labor and Liberal. The difference between me and Ms Tucker is that she has not had to sit here through a Labor government. I have had to sit here through both Liberal and Labor governments; that is the difference. Having identified the difference, I must say that her insights, having not sat through a Labor government and having sat through only a Liberal government, are rather excellent. The choice is, if I can use the old cliche, between Tweedledum and Tweedle much dumber.

It seems to me that the notion of a matter of public importance that talks about "the wrong priorities of the Carnell Liberal Government" was strange in the first place. Why was the word "wrong" used? Why was Mr Berry, in putting this up, not talking about misplaced priorities, different priorities or questionable priorities? Being wrong is usually not a matter of opinion; it is usually a matter of fact. It is a great shame that Mr Berry does not understand the distinction. That is why so regularly we apply to him the term "wrong", whereas to others - including others within the Labor Party to whom I have very rarely applied the term "wrong" - we simply apply the term "mistaken", perhaps "having misunderstood" or "having different priorities".

These priorities are not my priorities, and I think they are misplaced. The way they have spent money, I think, is misplaced. As far as I am concerned, there has been too much money put into the commercial and business sector and not enough money taken out of it. I mentioned earlier today that, as far as I am concerned, one of the ways we should take money from that sector is with a bed tax. I think there is much too much money spent on tourism. We should be taking money from tourism and using that to advertise, so that that sector gets the advantage but also makes a contribution to the sector. You could even take a proportion of the bed tax to do that, as they do in the Northern Territory. That, in turn, would release money for much more important priorities - for my money, particularly education and health. That is where the priorities should be.

Mr Whitecross also raised the issue of a strategic plan. Indeed, Mr Speaker, Mr Whitecross is correct. After we spent all that money on a strategic plan - which I had some responsibility for initiating - the Assembly said, "No, not good enough. Go and do it again". We did not say that it was wrong. We said, "It is not good enough for what we want. Go and do it again". It led to the National Capital Futures Conference, and there is some work still to be done. The part of the National Capital Futures Conference that was most frustrating was that, after he had not attended any of the sessions - Ms Tucker and I were there for almost all of the sessions, if not all of them - we then had Wayne Berry walking in at the end of the thing and saying, "This is all hopeless. It is all wrong". He had no idea what had gone on throughout the conference.

Ms McRae: He did, actually.

MR MOORE: He did not. You can say that he knew what went on. He certainly did not. You could tell from his speech. He said that all these things ought to have been done, and many of them were discussed and done and were issues raised by the conference. He had a couple of quite valid points to make about who was there and how they were represented. Of course, they were valid points to make at any time. But marching in afterwards and slamming it around without any attempt to work together was how he made his mark.

Mr Speaker, when we look at mistaken priorities or jaded priorities, as far as I am concerned and, I think, as far as a wide and growing number of members of the community are concerned, it seems that the Labor and Liberal parties have got their priorities wrong. Their priorities are more and more like each other's. That has occurred over the last 10 years. What we see from the Carnell Government is an attempt to get out

there and at least go for something. They are doing something, and they are setting their priorities. What we see from Labor in opposition is no attempt whatsoever to establish any of their priorities, other than to set their priorities on what the Government has done wrong. This is a minority government. You have the power to initiate change.

Mr Whitecross: You and I disagree about that, Michael.

MR MOORE: Mr Whitecross says that it is not true. I concede that there have been some attempts to change priorities by motions - indeed, very rarely; but there have been some attempts by legislation. In the vast majority of cases, those pieces of legislation have been successful. So, if you have a problem with the priorities of the Carnell Government, why do you not set about setting some priorities yourself, rather than sitting there embroiled in the notion of being disempowered? I will tell you the reason. It is that Labor and Liberal can think only in terms of government and opposition; that is all there is.

At least we have seen some changes in the Assembly recently. Credit goes to the Government for appointing a task force to look at government and how we are going to deal with government in the next little while. I hope that, with that task force appointed and with its reporting date after the election, Labor will begin to see its way clear to say, "Whilst we still are hoping and driving for majority government" - I understand why you are doing that; but I hope that you will at least have a second string to your bow - "what are some of the alternatives we can look at if there is not majority government?". I think there is an issue about, at the very least, keeping an open mind there. I hope that that will be the case and I hope, indeed, that my discussions with people within your party will do that.

Mr Speaker, one of the really positive things that have occurred over the last little while in this Assembly has been the very sensible way in which major pieces of legislation have been dealt with in a cooperative way. That is the right priority. It is a priority that was shared by Labor and by Liberal - - -

Ms McRae: What about the adoption legislation? It happened in the last Assembly, too. It is nothing new.

MR MOORE: Ms McRae interjects that, of course, it happened in the last Assembly as well. It did; but not to the same extent. I think, from what we have seen here, the most important priority for us all is to say, "How can we manage to work together for the best possible outcomes in Canberra?". This is the thing that we are all criticised for. If it is the case, then we ought to be criticised. The irony is that the criticism often comes from people who have no idea of what actually happens in here. Our priority should be to have much less of this sort of debate and to do much more of that working together to ensure the best possible outcomes for the people of the Territory.

MR HIRD (5.31): Mr Speaker, the subject of the matter of public importance is "the wrong priorities of the Carnell Liberal Government". Wayne Berry accuses this Government of having wasted $422m. His claims not only created anger within his own party, but again demonstrated his inability to understand the facts. I note that Mr Berry has been absent most of the time during this debate. Mr Berry should be the last person

to attempt to attack this Government's record in financial management. Apart from the fact that the Chief Minister has been able to turn Mr Berry's alleged $422m waste into a $75m benefit - as detailed in today's *Canberra Times* - the simple fact is that Mr Berry and his mates in the Labor Party are hopeless financial managers. That is a fact that has been demonstrated time and again during the terms when they have been in office - terms in which Mr Berry has been a key player and certainly in the inner sanctum.

I would like to bring to the house's attention two glaring examples in recent years of Labor's bungled financial mismanagement which this Government has had to prop up - not by choice, but because we are locked into the bad deals made by Mr Berry's mates in the Labor Party. There was the Harcourt Hill land development project - a $75m joint venture agreement signed by the Labor Government in 1993. This Government has had to prop up this agreement with a $20m loan to keep it afloat. That should be fresh in Mr Berry's mind, because it came before this parliament for approval only last week. I notice that they are very quiet now, Mr Speaker.

MR SPEAKER: Do not encourage them to be anything else.

MR HIRD: Then, of course, there was the Hospitality School, established in the old Hotel Kurrajong in 1994 by the Berry Labor Government, at a cost to ACT taxpayers of $11m.

Mr Moore: Come off it, Harold!

MR SPEAKER: Order!

Mr Moore: Mr Speaker, I am just interjecting to make him feel comfortable.

MR HIRD: I feel at home, Mr Speaker.

MR SPEAKER: Do not provoke them, Mr Hird.

MR HIRD: I will repeat that: At a cost to ACT taxpayers of $11m. That turned out to be yet another lemon, another Labor Party failure, which this Government, to the credit of the Chief Minister, had to prop up because of the bad deal - another $16m to keep it afloat. I could go on, Mr Speaker, about the Executive overspend when the former Chief Minister in the Labor Government overspent nearly half a million dollars; she just signed a cheque. I could go on and on. What prudent members of this community will be wondering, of course, Mr Speaker, is how Mr Berry arrived at the $422m waste claim. Obviously, he has not yet learnt that, to arrive at the real financial position, you simply subtract expenditure from revenue. Do not forget, sir, that when we came into office in 1995 the cupboard was bare and there were huge amounts owing. God help the citizens of Canberra, Mr Speaker, if we become saddled with this crew opposite after the election next year.

MR SPEAKER: The discussion is concluded, mercifully.

PERSONAL EXPLANATIONS

MRS CARNELL (Chief Minister): Mr Speaker, I ask for leave to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MRS CARNELL: Mr Speaker, earlier, in an interjection, I incorrectly said that a goods and services tax was a progressive tax. It is not a progressive tax. I was wrong. Mr Speaker, I was wrong, and when I am wrong I am always willing to admit it.

MS TUCKER: I also seek leave to make a personal explanation under standing order 46.

MR SPEAKER: Yes, proceed.

MS TUCKER: I believe that Mr Whitecross misrepresented the essence of my speech on the last matter that we debated. He said that I apparently had no problems with the Carnell Government. What I made quite clear in my speech was that I have different priorities from both Labor and Liberal. I do not see their priorities to be that different from each other's. However, I give credit where it is due, unlike some members of this place who tend to want to oppose everything for the sake of it, and that was what I said.

SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
Report and Statement

MR WOOD: Mr Speaker, I present Report No. 16 of 1997 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement on the report.

Leave granted.

MR WOOD: Report No. 16 of 1997 contains the committee's comments on nine Bills. I commend the report to the Assembly.

BOARD OF SENIOR SECONDARY STUDIES BILL 1997

Debate resumed from 28 August 1997, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

MS McRAE (5.37): Mr Speaker, I think, as the Minister said in his speech, this legislation is long overdue. It is absolutely time that the ACT had its own stand-alone statutory authority for the Board of Senior Secondary Studies. It is the case, I believe, with pretty well every other State. The Board of Senior Secondary Studies performs an incredibly important role in controlling and managing the future of our students and their career prospects under its responsibilities in terms of Years 11 and 12. The principal functions of the board, as we know, are to accredit or register courses taught by recognised educational institutions; to approve, consistent with national agreements, educational institutions for teaching vocational education courses; to establish guidelines for the development of courses by the board or by a educational institution; to establish principles and procedures for the assessment of attainments of students and the moderation of those assessments; to provide to persons who have undertaken courses or units of courses certificates of their attainments; and to provide information on the performance of students and former students, and the policies and procedures of the board. It also, of course, can review from time to time its own operations and the operation of this Act, and advise the Minister on any section referred to in this Act.

In the ACT the Board of Senior Secondary Studies takes on an even greater importance because we do not have external exams, and a stand-alone body that provides authority and the consistency of quality in our certificates and the management of courses in the ACT has to be totally beyond reproach or beyond criticism. So this Bill, as I say, is long overdue and is strongly supported by the Labor Party. The claim by the Government that it is based more or less on the model that has been operating for years with some changes has to be contested a little. The Government, after long work by members of subcommittees and other members who have paid attention and worked with the board for a long time, has decided to put on parents. It has nominated positions for parents who are not members of the current board. Parents will, in future, have two appointees, one from the government sector and one from the non-government sector; so there is a nice little pair there. Similarly, it has said that employers will be represented for the first time. Here we find an interesting shift in logic in the whole approach to the membership of the board, which I will come back to.

I would like at this point to thank the Minister and his staff for the advice and the information that they have provided to me, and the courtesy and care with which they have responded to all my questions. I am able to proceed quite well informed on what happens in other places and the sorts of decisions that the department had to make when they were coming up to the membership of the board. When we look around Australia, pretty well every authority has the same problem as besets the ACT, namely, that it is almost impossible to get a board of any sort of manageable size. I know that anybody who looks at a board that is greater than eight people says, "Oh, oh; how on earth do they ever come to a decision?". Big boards are fairly difficult to deal with. The ACT has not done too badly. I think it is 13 members. It is one of the smaller boards around Australia.

Western Australia, for instance, has 14. Tasmania has 20, plus the chief executive officer. The Northern Territory has 17. New South Wales has 23, with three who are ex officio. In South Australia they get up to 27. In Queensland there are about 15. I gather that there are changes afoot, particularly in New South Wales, where they are grappling with a very big board that they find quite difficult.

Membership of the boards varies from State to State as well and tries to reflect the key interests that must be represented around the table when grappling with these very serious issues to do with assessment, the credibility of assessment, the relevance of those assessments to the ongoing vocational education, further education, and general workplace capacity to work, that must come out of good assessment processes in the ACT and everywhere, and in particular to provide that quality control for the courses that are registered by boards around Australia. So you do see a reasonable diversity of membership around Australia, with all of them trying to balance the same interests; trying to balance government and non-government schools, trying to balance employers' interests, vocational education's interests, universities' interests, and general community interests. In each case they are coming out with a slightly different solution, but effectively trying to solve the same problem.

The answer that we have come up with here and that is part of this legislation is definitely not to the approval of everybody in the ACT. All members have been lobbied by different interest groups to try to increase the size of the board and include them around the table. I commend those groups for their interest because this is, indeed, a crucial board, as I have said several times already, both for the interest of the registration of appropriate courses and for the future interests of students in the system. There are different unions that would like to be represented and there are more parents that would like to be represented on the board.

There are several ways that we can come up with a solution, and I have grappled with several of them. One of the first solutions that I thought of was to create ex officio places, additional places around the table, so that at least people could be involved in the discussion if not in the final decisions. But that, of course, was fraught with difficulty because very often decisions are not made by vote; so, at what point do you throw people out? At what point do they not become full participants? It is fraught with difficulty, so I abandoned that idea, although it definitely had some appeal. In essence, it is a reflection of what happens already, albeit not at the main table, in terms of participation at subcommittee levels, of which there are numerous numbers and which allow plenty of participative activity by any interested body, as we have seen in the past, which has yielded a place at the table.

The next interesting point was to say, "Okay, if we want to increase the size of the board, whom can we throw off?". At this point I come to a point of difference with the Government, which may or may not be supported by others. I think it is time we grew up. Although I accept the Government's argument that somebody who does not reside in the ACT has proven to be a very valuable sounding-board and a very valuable addition to the board thus far, I think, given that we are moving to a statutory authority, it is time we severed that link. It is time to say that we are quite capable of running our affairs for the ACT and to take that person off the board, with the proviso, of course,

that such people can be invited from time to time to address the board, can be invited to react to board decisions and to offer new initiatives. These people could be picked from around Australia when new and interesting things are happening in terms of vocational education in Year 12.

I will come back to my substantive point of difference. What I found when I was thinking about it is that the level of thinking about the board had been in terms of the balance between government and non-government interests, forgetting that the shift has gone to the greater inclusion of parents, meaning, of course, a greater level of community input, and the inclusion of employers. It has moved away from an entirely government and non-government educational institution board to a much broader-based board than it was before. So, when you start to think about that, the logic then comes. I am afraid that, on every other board that I am aware of, where the Chamber of Commerce is represented, so is the TLC. I do not accept the argument, which is put by some, that the AEU represents the TLC. They do not. They are there to represent the Australian Education Union and its members.

If we look at the composition of the board as it is currently proposed, there is a lovely set of matching pairs. We have the VETA - the Vocational Education and Training Authority - along with the Canberra Institute of Technology - the CIT. We have the Australian National University and we have the University of Canberra. We have the Association of Independent Schools and we have the Australian Education Union. We have the chief education officer from the Catholic Education Commission and we have someone from the Secondary Principals Association from the government side. We have the ACT P and C for the government schools and we have the Association of Parents and Friends from the non-government schools. We have the chief executive from the Department of Education and we have the executive officer of the board itself. As well, we have the ACT Chamber of Commerce.

It seems to me that once you start to pair them off the Chamber of Commerce looks a little lonely. It is missing its partner; it is missing the TLC. I think it is very important to remember that, particularly in the light of the push to include vocational education and training, to include the CIT; to look at the broader base of what all this education is for; to move away from just an academic role and to have a really good look at accredited vocational education authorities; to look at accrediting other educational outlets, and to look at the role of assessment in a broader context. It seems to me that, once you have the employer in, you have to put in the TLC. That broad range of interests that the employer represents, I think, has to be matched by the broad range of interests that the TLC, the Trades and Labour Council, represents. I think there is therefore a gap. If you start rethinking this board, not in terms of the government and non-government sectors but looking at the broader role that this very important board plays, I think that inclusion is a necessity. To follow up on that, later I will be moving an amendment which people can debate on its merits.

I want to reiterate that I am very pleased that we are moving to this. It is very important, as we have seen in the past, that we remove all capacities for Ministers or a government to involve themselves in any way in this, so that there is absolutely no expectation that any government, opposition, legislative assembly or anybody else can interfere in the registration of courses, in the assessment of students, or in the credibility and quality of

the assessment tools that are put in place. Unless we do that we do offer some level of discredibility to our system, which I think is entirely unwarranted and never has been warranted. I do not think we have a problem that we need to fix. I think we are facing the future and saying that the ACT now is well and truly a self-governing body.

The ACT has learnt a lot from the boards of senior secondary studies that have served us well since the beginning of the Schools Authority. The ACT has an excellent assessment process and an excellent level of quality outcome for its students. The ACT is now going to place itself in a much better position to deal with the broader world. The ACT and Region Chamber of Commerce, the CIT, the VETA - I believe the TLC ought to be there - plus a very good balance of government and non-government schools, union and school representatives are saying, loudly and clearly, that this is a partnership in which we are all involved - parents, carers, guardians, independent and non-independent schools, teachers and union interests; that all of us are working together around the table, albeit a very big one.

Finally, this being the first step, I would like to suggest that we put on record that it should be reviewed in two or three years' time. We are venturing into new waters here. We do want to be sure that a review is anticipated and known about, so that people can watch the progress of this board and, in particular, watch the progress of boards around Australia. As I have said, they are all grappling with the same problems of size, representation, technical needs, whether somebody has to report back to their parent body, whether someone is there as an individual with an individual interest, whether this is a good reflection of the key interests in this area, or whether we need to work toward another model.

For the moment I am confident, particularly if people take my suggestion of the TLC inclusion seriously, that we will end up with a very good board. I think we have got around the table the key and major interest groups, but I do not want to seal off opportunities for change, because we are in such a rapidly changing environment, particularly with the onslaughts of our good Dr Kemp. I want to be sure that we are always a step ahead and able to serve our students well, both in the assessment processes and in the ongoing registration and maintenance of the correct registration of people who offer courses and the educational institutions that have registered. With that, I commend my forthcoming amendment to the Bill and reiterate the Opposition's support for this Bill.

MR MOORE (5.51): Mr Speaker, there is no doubt that we need a Board of Senior Secondary Studies. We have had a Board of Senior Secondary Studies; but it is appropriate that it be established as a body in its own right, and that is why I will be supporting this legislation. I do have a few minor amendments, and, indeed, I see Ms McRae's amendment as minor to the sense of the legislation.

Having said that, I find it disappointing that the board is of such a size. I have listened to the argument since the legislation was tabled that the board is consistent in size with similar boards around Australia. I think that is not a good enough argument for establishing a board of this size. A stronger argument is that by having a board of this size there is a wide range of community views that are critical to education and critical to the way we go about dealing with curricula at the senior secondary level; that having this number of people involved in the process will enhance that, and I do not disagree.

I think, though, that a board of this size is reasonably difficult to manage. I think a board of this size winds up with a whole series of issues that are simply about its size. A much more efficient size, as far as I am concerned, for a board of this kind, is four or five members.

It seems to me that there is an administrative way of dealing with the issue that I raise. The administrative way of dealing with it is to say that of this group of people, however it works out after the amendments are moved, five form the executive of the board. They do the work and bring that back to the board as a whole. It seems to me that there is a possibility of doing that administratively. Instead of this whole board meeting six or seven times a year, as I understand it currently does, it could meet perhaps twice a year to discuss and endorse the decisions that are made - not in terms of a rubber stamp, but in terms of looking carefully and perhaps modifying some things at the edges. I think that would be a better way of going about it.

Mr Speaker, let me just foreshadow a couple of amendments. One is a technical amendment that I will deal with. It has been circulated. The other is an amendment to clause 7 of the Bill that I have also just circulated. It is about ministerial directions. Ms McRae said something to the effect - I hope I am not misrepresenting her - that we now have the opportunity to ensure that these decisions are made out of the political arena; that they are made appropriately by the board. There is one exception to that, and that is that the Minister may, by instrument, give directions to the board in relation to the performance of its functions. It seems to me it is very clear that the Minister cannot interfere with individual assessments or an individual student, and that is appropriate. However, the Bill goes on to say, "the Board shall give effect to a direction under this section". So the Minister still has that power.

The way that this Assembly deals with those issues as a rule is to make such a direction a disallowable instrument. We normally do that under section 10 of the Subordinate Laws Act. Therefore, I have circulated an amendment to that effect. It is just a double-check on the power of the Minister to make that direction. Furthermore, it is my understanding that membership of the board, being statutory appointments, except where they are public servants, would be subject to the Statutory Appointments Act, and therefore there is a double-check by the Assembly on the appointments that are made. I will speak to Ms McRae's amendment when we get to that stage of the debate.

Mr Speaker, apart from those minor factors, it does give me pleasure to support this Board of Senior Secondary Studies Bill. I recall preparing courses while I was teaching, and helping other people as well to prepare courses, that were to go to the Board of Senior Secondary Studies. The quality of courses in Canberra is a great credit to the board. It was very interesting to me, having taught in South Australia at Year 12 level, at matriculation level, and having moved to Canberra, to see the quality of the courses operating here. In spite of the fact that in South Australia the courses were developed Statewide and many of them were very good, they missed many of the qualities that were attained by the system that operated in Canberra. The ability to make courses relevant

to the students on the one hand and to meet very high academic standards on the other hand is, I think, a feature of this system that operates in Canberra and is a credit to the people who are on that board even now. It also is a credit to the people who put this together back when the Schools Authority was originally established. Mr Speaker, I hope I have not put you to sleep in this speech, but I support the legislation.

MR STEFANIAK (Minister for Education and Training) (5.58), in reply: Mr Speaker, I thank members for their fine comments in relation to the work that the board does. Since I became Minister I have been quite amazed at the smoothness with which the board operates. The ACT and Queensland, I think, are the only places in Australia where we have continuous assessment, where we do not have some form of exams, and when you have that you have the potential, I think, for a number of problems to crop up. Of course, problems do crop up from time to time, but the fact that they are very few and far between speaks volumes for the respect the Board of Senior Secondary Studies has had over the years. When you look at the other very important roles of the board, its success speaks volumes for the competence that we have almost come to take for granted over the years.

I thank members for all their comments in relation to the matters at hand. First, in relation to Mr Moore's amendments, I am pleased to see that he picked up that "14" should have been "13" in paragraph 15(c). His more recent amendment in relation to disallowable instruments, for the purposes of section 10 of the Subordinate Laws Act of 1989, also will be supported by the Government. The Government does have some problem with Ms McRae's amendment, and I look forward to seeing what other members say in relation to that.

Mr Speaker, one of the big issues when we look at what is the ideal size of the board is just who should be on it, and members have referred to the different situations around the country. In relation to Ms McRae's comments, I agree with her that it would be sensible for us to have another look and see how it is all going in two to three years' time. I think that is a sensible period. We can then assess whether any further changes need to be made by way of amendments at that time. It is a reasonable period to see how the new arrangement will work. I note, however, from the comments made by the members, that there is a natural and quite reasonable optimism that this board will work very well. It has an excellent track record.

In terms of numbers, there are always difficulties. It is always a balancing act to maintain a board small enough for decision-making but large enough to cover the areas of expertise required, and what we are dealing with here is, in fact, an expert board. The board has been expanded to include a parent and a Chamber of Commerce and Industry nominee. To expand it further, I believe, would upset the balance between the government and non-government sectors, the VETA and the university sectors, and the major providers and shareholders.

This board will serve two very important purposes. Firstly, it removes the possibility of a Minister being placed in the invidious position of being asked to intervene in decisions on the assessment and certification of individual students. I think the previous arrangements could have seen the assessment of individual students being raised in debate

in the political arena. That would be improper. This Bill now removes what I am sure all would agree would be an entirely inappropriate scenario. Secondly, giving the board statutory status bestows on it a significant degree of neutrality. The Department of Education and Training is only one provider of education in the Territory, and issues that stretch across non-government schooling would be much better handled by a statutory board clearly separated from the department. Of course, every other State and the Northern Territory have a statutory body to carry out the functions of accreditation, assessment and certification. It is most appropriate, therefore, and certainly not least in terms of transparency, that the ACT follows suit.

Our board is unique amongst its contemporaries, in that ours is the only system that relies on school-based curricula, and, along with Queensland, is the only jurisdiction to rely solely on school-based assessment. I think members will agree that that is a situation that has served us well and is worth preserving. We have been well served by this board and by its predecessors for over 21 years, but the legislative basis is clearly dated and we are overdue for a change. I firmly believe that amending the status of the board and addressing the functions of accreditation and approval for vocational courses will serve only to strengthen and enhance our deserved reputation as an leader in senior secondary education.

This board, as I said before, is an expert committee. It makes decisions about assessments and certification of Year 11 and Year 12 students and accredits courses. It is essential that it functions well for the credibility of the ACT Year 12 Certificate, and that its decisions are both relevant and accepted nationally and internationally. In other States where board membership has been reviewed, decisions have been taken to restrict membership of technical experts.

It is important also - some members have touched on this - that there is a balance between government and non-government schools, the VETA and the university sectors, and major providers and stakeholders. I accept the important role that bodies like the Independent Education Union play. They were one of the key proponents who wanted to be added. However, adding them would have upset the balance between providers. There is a ratio of government and non-government students in this sector of 7 : 3. The ratio of nominees from the government and non-government sectors is 4 : 3. The IEU, too, is one of two unions covering the non-government sector, and not necessarily, I understand, the biggest.

One proposal was that if the TLC did get a representative it would be from the IEU. I do not think that would be desirable, in that we do have that balance between the government and non-government sectors. In terms of that point about the need for the TLC that Ms McRae is putting, the AEU is a very significant component of the Trades and Labour Council and I cannot see any real reason why that body's interests could not be taken on board by the AEU. Also, in terms of the Government's principle, that person, by the very nature of the job, almost certainly would be a member of the AEU. That is something that can be borne in mind.

One thing that has not been mentioned by the members is the structure of the board. The board operates five subcommittees and 45 subject panels with some 350 members. The board meets separately with all college level principals and other stakeholders, and these forums provide wide participation for many groups. Other groups perhaps interested in being involved in this, such as the TLC, are already members of other bodies. For example, the TLC is already a member of the board's vocational education and training subcommittee. Of course, if they wanted to do so, they could join other board subcommittees.

Finally, Ms McRae did mention the external member. I think the board requires an external member because of the nature of our school population. Many of our students seek to study and work after Year 12 outside the ACT. That is just part of the nature of where kids go after they finish Year 12. It is thus very important to keep our policies in line with those of other States. We do not always have access to areas of educational expertise, for example, in outcomes and criterion reference assessment.

I again state that the Government is happy that the membership of the board can be reviewed in two to three years' time. I think that is a very sensible suggestion. No doubt, if there are any problems arising from this, that can be picked up then. I thank members once again for their comments. I have a number of procedural amendments which I will be moving in the detail stage, and I will speak briefly to them then.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 7, by leave, taken together.

MR STEFANIAK (Minister for Education and Training) (6.07), by leave: I move amendments Nos 1 to 7 that are circulated in my name, Mr Speaker, and which read as follows:

Page 2, line 19, clause 3, insert the following definition:

"'national agreement' means an agreement that -

(a) is entered into by the Territory, the Commonwealth, the States and the Northern Territory;

(b) deals with the provision of vocational education; and

(c) is declared by the Minister, by notice published in the *Gazette*, to be a national agreement for the purposes of this Act;".

Page 2, line 20, clause 3, definition of "recognised educational institution", omit the definition, substitute the following definition:

"'recognised educational institution' means a school, college or other educational institution at which a person provides, or offers to provide, senior secondary education, being a school, college or institution that is -

(a) conducted under paragraph 6(1) of the *Schools Authority Act 1976;* or

(b) registered or provisionally registered under Part III of the *Education Act 1937*;".

Page 3, line 12, clause 5, paragraph (1)(b), after "agreements", insert "recognised".

Page 3, line 15, clause 5, paragraph (1)(c), omit "an educational institution", substitute "a recognised educational institution".

Page 3, line 19, clause 5, paragraph (1)(e), after "certificates" insert "and transcripts".

Page 3, line 30, clause 5, paragraph (2)(b), omit "consistent national standards", substitute "national agreements".

Page 4, line 32, clause 5, paragraph (4)(d), omit "nationally agreed standards", substitute "national agreements".

Mr Speaker, I also present the supplementary explanatory memorandum. In addressing these amendments I will address all 11 of my amendments because they are of the same nature. These amendments are the result of comments received during circulation of the exposure draft Bill. Changes have been made to the interpretation section. A definition of "national agreement" has been added. The definition of "recognised educational institution" has been revised. These two amendments have required a number of subsequent minor changes to ensure consistency. A further amendment clarifies the role of the board in providing transcripts of records. A minor amendment corrects the reference to the Secondary College Principals Association. The last amendment that I will be moving to the Bill clarifies procedures for lodgment of an application for review where the board refuses to issue a certificate. Assembly members will observe that the amendments do not change the intent of the Bill and are designed to clarify issues.

MS McRAE (6.09): The Opposition will be supporting those amendments. They have come from comments that different people have brought up during consideration of the exposure draft of the Bill and they seem fairly sensible and straightforward.

Amendments agreed to.

MR MOORE (6.09): Mr Speaker, I move:

> Page 6, line 2, clause 7, after subclause (4), add the following new subclause:
>
> "**(5)** An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

As I indicated in the in-principle stage of the Bill, Mr Speaker, this is just to ensure that any instrument giving directions to the board in relation to the performance of its functions and made by the Minister is subject to review by the Assembly.

MR STEFANIAK (Minister for Education and Training) (6.10): The Government will be supporting that amendment, as I indicated earlier, Mr Speaker.

MS McRAE (6.10): The Opposition also will be supporting that amendment. It is a sensible measure. It makes it completely clear that this is not a board that is there to be directed by the Minister. It makes it an absolutely open process then for the Assembly to review.

Amendment agreed to.

Clauses, as amended, agreed to.

Clause 8

Amendment (by **Mr Stefaniak**) agreed to:

> Page 6, line 21, paragraph (1)(i), after "Secondary" insert "College".

MS McRAE (6.11): I move:

> Page 6, lines 28 and 29, paragraph (1)(m), omit the paragraph, substitute the following paragraph:
>
> "(m) 1 person appointed after consultation with the ACT Trades and Labour Council;".

I have spoken already about this amendment. It is to put in a representative of the TLC to represent TLC interests. Mr Stefaniak mentioned in his speech that the Independent Education Union had sought a place on the board and it had been suggested at one point or another that the IEU nominee may well be the nominee of the TLC. I do not think it is for us to anticipate whom the TLC will nominate. As Mr Moore says, it will come past an Assembly committee anyway. It has to have the verification of the Minister in the long run.

I think the more important issue in terms of this amendment is that the TLC has its own overarching interest, has its own role to play in the ongoing employment and management of employment centres in the ACT, and has a very important role to play in the nature of accreditation and the types of vocational training courses and training centres that are offered in the ACT. It is an equal partner to the Chamber of Commerce and Industry on many other committees.

My reason for putting this amendment forward is not simply to allow a place for the IEU. In my opinion, it is neither here nor there whether the IEU takes up that spot. It is to put the in-principle case that, wherever the Chamber of Commerce and Industry sits, so should the TLC. Whoever the nominee of the TLC is should then represent the interests of the ACT Trades and Labour Council in a technical way, as do all other members who are nominated by their various organisations. Although they come with their own individual expertise, they are on the board to represent the interests of the member organisations that they come from. I commend the amendment to the Assembly.

MR MOORE (6.12): Mr Speaker, it is interesting that Ms McRae presents this, in one sense at least, as a counterpoise to the new position on this board of the ACT and Region Chamber of Commerce and Industry. I think that is a valid way to present it. I think my preferred option would be to have neither of them on there. However, I can see that these are people who are appointed after consultation. This whole board is operating because the people on it can offer something here. These people are not appointed to represent the interests of, double-check and report back to, a particular body. I think there is an important distinction to be made there. Sometimes that is an appropriate way to go for some bodies. In this case it is not. In those circumstances I will support this amendment.

MS McRAE (6.13): Mr Speaker, I forgot to speak to the other part of my amendment. It is a double whammy sort of amendment and maybe, logically, I should have put it in two parts. I understand what Mr Stefaniak and his advisers say, namely, that they have found in the past that a person who does not live in the ACT can be a valuable member of the board. I do not think that in this day and age we need that person anymore. Part of my move here is to make a place for the TLC, rather than to expand the number of members of the board. So my amendment requires the removal of that person and the inclusion of the TLC person. I had not said that in my speech.

I have no problem with this because I sincerely believe that if the board needs advice from anybody interstate it can simply ring them up and invite them to come and talk to the board, or they may distribute their papers and ask for comment.

Mrs Carnell: You would not be paying for oral advice, would you?

MS McRAE: Never, never, never, Mrs Carnell. I think it is absolutely absurd to argue that because a person lives in New South Wales they provide valuable feedback about courses and the management of courses in other States. Where are we going to pick from? Emerging and interesting work is being done in Tasmania at the moment, but maybe next year the emerging and interesting work will be done in other places. So I just do not see the point anymore.

To follow through on Mrs Carnell's rather peevish interjection, the point of the phone call was to ring and invite them to attend the board. Let me make it absolutely clear. If her Government wants to follow the daft policy of paying people for their telephone calls, it may. That is not what I am suggesting in this amendment.

MS TUCKER (6.16): The Greens will be supporting this amendment moved by Ms McRae. In light of the representation of the ACT and Region Chamber of Commerce on the board, I think it is quite reasonable to have the Trades and Labour Council represented. I would also support the suggestion that the position be made available by removing the person appointed from outside of the ACT. I agree with Ms McRae that it would be quite possible and probably more useful to invite people from various vicinities of Australia to discuss current educational issues rather than have just one person anyway.

MR STEFANIAK (Minister for Education and Training) (6.16): I will not reiterate what I said earlier in relation to the TLC, but I stress that I think it would be unfortunate for the external member to go. I reiterate what I said about our school population. A lot of our students, by the very nature of the ACT, go and do their tertiary studies interstate. That is a fact of life. That is why having a person from interstate on the board is very important. Yes, I suppose you can have people come in from time to time, but I do not think that is the same as having someone there. I think the ACT is more unique than other States and Territories in terms of the movement of its students, and that is why I think that person is very important. I note that Ms McRae probably has the numbers on that. I accept that her amendment is going to get up, but I think that is one of the things we will be looking at very closely over the next two years.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 9 to 14, by leave, taken together, and agreed to.

Clause 15

MR MOORE (6.18): Mr Speaker, I move:

> Page 8, line 36, paragraph (c), omit "14", substitute "13".

This is a technical error which, I must say, I picked up only in my final re-read with my staff this morning, and I decided to move an amendment. It is something that I believe the Scrutiny of Bills Committee should have picked up because when you read the legislation it makes no sense referring back to section 14. Quite clearly, it refers to section 13. It is very important that these things be picked up. It is quite clear to all members, I imagine, that in the end this may have been remedied by a Clerk's correction. We would have the prerogative to do that. I thought, though, that it was important to draw attention to it because these are the sorts of things that we do not want to see slip through in the legislation. We really have to do it correctly. It is like the Henry VIII clause from last week's sitting. We really need to ensure that the technicalities of our legislation are exactly right.

MS McRAE (6.19): I want to commend Mr Moore, and I cannot resist making the point that it just shows how impossible it is to measure literacy. We all read it; it all made sense; it all flowed through; it all had logic; and did we notice it? No. It took Mr Moore, on his third reading or whatever, to notice it. It is a really interesting side issue. First of all, what a range of different skills we all have in literacy - what we do and what we do not notice - and how important it is to have people like Mr Moore about, in the absence of Ms Szuty, to pick up these things. It is a rare and extraordinary skill for someone to notice absolutely everything. I confess that if I were ever tested on that I would fail. Thank you, Mr Moore, and we will be happy to support this amendment.

MR STEFANIAK (Minister for Education and Training) (6.20): Congratulations, Mr Moore. The Government is happy to support it as well. I do not think I have seen anything better since I noticed a decimal point relating to the Racecourse Development Fund in the wrong place. It was 7.5 per cent when it should have been 0.75 per cent. Well done!

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

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

> Page 10, line 28, clause 21, subclause (1), omit "An educational institution, or a person on behalf of an educational institution", substitute "A recognised educational institution, or a person on behalf of a recognised educational institution".
>
> Page 12, line 27, clause 26, paragraph (2)(b), omit "college", substitute "recognised educational institution".
>
> Page 13, line 11, clause 27, paragraph (3)(b), omit the paragraph, substitute the following paragraph:
>
> > "(b) be lodged within 1 month after the day specified by the Board as the day on which the certificate that is the subject of the application would have been issued.".

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

Bill, as amended, agreed to.

FINANCIAL INSTITUTIONS (REMOVAL OF DISCRIMINATION) BILL 1997

Debate resumed from 25 September 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (6.22): Mr Speaker, the Opposition will not be opposing this Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LEGAL PRACTITIONERS (AMENDMENT) BILL (NO. 3) 1997

Debate resumed from 23 September 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR WOOD (6.22): Mr Speaker, I will be very short about this, because the Opposition will be supporting this sensible measure. The purpose of the Bill is to regulate the practice of foreign law in the ACT. It will place lawyers practising foreign law here on the same regulatory footing as ACT legal practitioners as regards such matters as indemnity insurance, trust accounts and discipline. Most importantly, with the reciprocity, Australian lawyers will be able to practise overseas, and that is a very important benefit arising from this Bill. This is a necessary step, and the Opposition supports it.

MR MOORE (6.23): I rise to support the legislation. It is interesting legislation. I would like to note a couple of little things. The first one is the very significant role that the Law Society plays in this legislation. It would be very interesting if we were not to have a Law Society. I remember at one stage drafting some amendments to an Act about the Conservation Council and the drafters were very keen not to have the body actually named in the Act at that time. As it turned out, we finally got to understand that, if the Conservation Council disappeared and another body followed it, we would have the power to interpret it as the body. The Law Society seems to take on a different entity from the Conservation Council. The Law Society is quite happy to be in the legislation - or Mr Humphries fought very hard to make sure it was in there, which is the other possibility. I suppose there is a third possibility, that is, that, once we had the Conservation Council in one Act, it became a reasonable thing to put other societies in other Acts. But I think we would find, if we were to look at legislation, that the Law Society has been mentioned in it for some time.

Another very interesting thing is the amendment to section 191ZE of the Act. I do not recall ever seeing the word "however" in a piece of drafting. Maybe it is just me. It seemed unusual. The legislation says that locally registered foreign legal practitioners have the same duties to maintain the standard of professional conduct of the legal profession of the Territory as domestic legal practitioners. The word "however" is then used. I do not find anything wrong with that. I just think it is interesting reading. Perhaps it makes the legislation a little more readable. I think anything that makes legislation a little more readable is a very good thing. It certainly does not have a downside. I thought it was interesting, because I could not recall seeing it previously. Perhaps Mr Humphries will recall some other occurrences of that. I suppose we will all go and get our computers out and do a search for "however". Mr Speaker, I will be supporting the legislation.

MR HUMPHRIES (Attorney-General) (6.26), in reply: To take the last point first, I do not think I have seen "however" used in legislation, at least in that context. Perhaps there is a drafting revolution going on that we are not aware of. I think the sense is conveyed perfectly by the use of that word, rather than "notwithstanding subsection (1)", or whatever the usual phrase would be; so I do not mind that.

Mr Moore: It is repeated in the next section as well.

MR HUMPHRIES: Is it? I did not realise that.

MR SPEAKER: If you two gentlemen would like to go outside and talk about this, that is fine.

MR HUMPHRIES: We are enjoying this admiration of the drafter's art, Mr Speaker. It is a very fine art to be admiring.

MR SPEAKER: I suggest the lobbies are useful for that.

MR HUMPHRIES: Yes, but perhaps at another hour of the day we would admire it more. Mr Speaker, I thank members for their support for this Bill. It is quite important to allow the reciprocity arrangements that have now become part of a national agenda to be implemented in the ACT. It certainly does, as Mr Moore observes, build in very strongly the role of the Law Society, but that role is already quite central to the Legal Practitioners Act. They are, if you like, a private regulatory body - a body which is entirely private, which has very significant obligations to regulate the profession. That is anomalous, perhaps. It is not replicated elsewhere. Even the Medical Board does not enjoy the same powers as the Law Society does.

Mr Moore: It may have an impact on the cost of justice.

MR HUMPHRIES: It could have an impact on the cost of justice. I would not hazard an opinion about that. I would say, though, that the Legal Affairs Committee of the previous Assembly, of which I was chair, did examine this question and took the view unanimously that the matter was not a matter that the committee felt able significantly

to change as a matter of recommendations to the Assembly. There may be a better way of dealing with that process. I do not argue that there is not a better way. I simply say that I do not know what that way is at this point in time. Mr Speaker, I thank members for their support for the legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 6.28 pm