DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

4 December 1997

Thursday, 4 December 1997

Thursday, 4 December 1997

The Assembly met at 10.30 am.

(Quorum formed)

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ENFORCEMENT) (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.32): Mr Speaker, I present the Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill amends the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995. As members will recall, that Act was amended in December 1996 to introduce a specific scheme for the regulation of the sale and copying of films classified as X-rated. In the period the scheme has been in operation, the Registrar of X Film Licences and inspectors have been involved in the inspection of all premises for which X film licences have been issued, as well as liaising with police in relation to the possible illegal sale of classified, unclassified and refused classification films by unlicensed persons. After addressing some unsatisfactory practices which had developed in the less regulated regime, the registrar advises me that he is satisfied that there is currently an improved level of compliance by X film licensees. However, there have been a number of alleged breaches of the Act which have highlighted certain deficiencies in the structure of the scheme as first introduced which I propose to address in this Bill.

The Bill amends section 24 of the Act by repealing subsection 24(3). That subsection currently contains a defence to a prosecution for possessing a film classified RC or an unclassified film with the intention of selling or exhibiting the film or copying the film if the film has been classified as X, R, MA, M, PG or G after the alleged offence. The subsection has the effect of not requiring a person to have a film classified unless, or until, they are prosecuted for allegedly selling, exhibiting or copying the unclassified film. This defence, if left in the Act, will directly undermine the intention of the overall classification scheme.

The remaining provisions of the Bill, save for the last, which I will deal with shortly, relate to the amendment of the provisions concerning the return and destruction of seized films. The proposed amendments introduce provisions to require persons from whom a film is seized to provide the Registrar of X Film Licences with satisfactory proof that a film is classified X, R, MA, M, PG or G before the registrar is required to return the film. A person can satisfy the registrar that a film is so classified by providing a classification certificate if the film is already classified or by submitting the film for classification to the Office of Film and Literature Classification and providing the subsequent classification certificate. A person will have 120 days to provide such evidence.

It is appropriate that the responsibility to prove the classification status of a film rest with the person from whom the film was seized, because whether a film has been classified will be peculiarly within the knowledge of that person. That knowledge obviously cannot be held by the registrar and, in the absence of evidence to the contrary being provided to the registrar within what is, at 120 days, a generous period, the registrar should be entitled to assume that there is no such evidence. Were the onus to prove that seized films are unclassified to be placed on the registrar, the costs and difficulties associated with doing so would render the enforcement system unviable.

A period of 120 days for the provision of satisfactory proof is included in the Bill. However, there is provision to allow the registrar to extend this period, either on the application of the person from whom the film was seized, before the period expires, or on the registrar's own motion, at any time, if such an extension is considered reasonable. This will allow circumstances to be appropriately addressed where the classification of a seized film may not have been able to be completed within the 120-day period.

Members will note that, strictly speaking, the provision also allows the registrar, by using the power to grant an extension to the period of 120 days, to apply the provisions to films seized prior to the commencement of the proposed legislation. If it were otherwise, seized films which are not classified would have to be returned to licensees, even where they have been convicted by a court of an offence in relation to the films. In any event, persons from whom films have already been seized will not, at the end of the day, be disadvantaged, because under the amending legislation the registrar will be required to give them notice providing them with the opportunity to satisfy the registrar that the films are classified.

The amendments will ensure that only classified films are returned. I believe that this is the only acceptable outcome, as to require the registrar to return a film that is unclassified would, in my view, directly undermine the regulation of X film licensees. A similar provision applies to circumstances where no proceedings have been taken against the person from whom the film was seized or where the proceedings have been taken and the charge has been dismissed. I acknowledge that not to return a film in such circumstances is unusual, but I do not believe that it would ever be appropriate to return to a person a film that the registrar believes is not classified, given that persons from whom films are seized are given at least the minimum 120 days to prove that seized films are in fact classified.

A case recently arose in which a prosecution against an X film licensee, for allegedly possessing approximately 16,000 unclassified films with an intention of selling the films, was dismissed on technical grounds associated with deficiencies in the procedures followed when the films were submitted for classification by the prosecution to the Office of Film and Literature Classification. The end result was that a total of 16,000 films, some of which had been refused classification when submitted to the OFLC as part of the case, and others which were known to still be unclassified, had to be returned to the licensee. That, in my view, is totally unsatisfactory.

The proposed amendments also introduce requirements for the registrar to notify persons from whom a film has been seized of their rights in relation to the return of the film and the fact that, if satisfactory information establishing that the film is classified X or below is not provided within the specified period of 120 days, or any extension of that period, the film can be destroyed. This will ensure that persons affected by the provisions are fully informed about their rights and obligations. The proposed amendments also require the registrar to destroy any film seized if the person from whom it was seized, after being notified of the relevant provisions relating to the return of the film, does not satisfy the registrar that the film is classified X or below.

Again, while a film might be destroyed even though a prosecution has not been launched, or no offence has been proved in relation to the film, it is a fundamental principle of the scheme contained in the Act that, where a film has been seized in circumstances where an offence against the Act is alleged, the person from whom it is seized should bear the onus to prove that the film is classified before it is returned. If a person is unable, or unwilling, to do so, then it is preferable that the film be destroyed, rather than returning a film which could be unclassified, or, if submitted for classification, could be refused classification. I believe that we should do everything possible to guard against the possibility of such films resurfacing in an adult shop for sale or being shipped interstate to be sold illegally.

The proposed amendments also require the registrar to destroy a seized film where that film has resulted, at least in part, in the cancellation of the licence of the X film licensee from whom it was seized, or where it has been associated with a defined offence under the Act. This is a change to the current situation, where any film associated with a defined offence is required to be returned to the person from whom it was seized, even if they are successfully prosecuted for the offence, unless the film has been refused classification. Currently, in the course of prosecuting a matter, the Government may be required to go to the expense of having an allegedly unclassified film classified. Even on successful prosecution of a person in relation to the seized film, the film must still be returned after having been classified X or below at government expense. This is an unacceptable situation and the Bill will prevent persons from benefiting from their offences in this way.

The Bill also includes a capacity for the registrar to retain a seized film even though the film would have been otherwise required to be destroyed. I have included this because the retention of allegedly unclassified films or refused classification films will enable the registrar to establish a body of material which will prove invaluable in the future regulation of the Act and in the education of licensees in relation to their obligations

under the Act. The final provision of the Bill amends section 64A of the Act so that films seized and dealt with under the provisions included in the Bill are not subject to forfeiture orders from the court. It should be noted, however, that such orders apply only to films that have been refused classification. I commend the Bill to the Assembly.

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

MAGISTRATES COURT (AMENDMENT) BILL (NO. 2) 1997

MR HUMPHRIES (Attorney-General) (10.43): Mr Speaker, I present the Magistrates Court (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

That this Bill be agreed to in principle.

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

Leave granted.

Speech incorporated at Appendix 4.

MR HUMPHRIES: I thank members.

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

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 7) 1997

MR HUMPHRIES (Attorney-General) (10.44): Mr Speaker, I present the Motor Traffic (Amendment) Bill (No. 7) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

That this Bill be agreed to in principle.

The Motor Traffic (Amendment) Bill (No. 7) 1997 amends the Motor Traffic Act to provide incentives for the payment of fines. Where a fine defaulter has been sent a penalty notice and then a default notice and has still not paid the outstanding fine, the Registrar of the Magistrates Court will notify the Registrar of Motor Vehicles. The Registrar of Motor Vehicles will then put in place the following action: If the defaulter holds

a driving licence, that licence will be suspended. If the defaulter does not hold a driving licence but is the registered owner of a motor vehicle, that registration will be cancelled. If the person owns more than one vehicle, the registrar will suspend the registration of the vehicle which has the shortest period of registration to run.

If the defaulter has neither a driving licence nor a vehicle registration, they will be disqualified from holding a driving licence. During the time that a person is disqualified they will be unable to obtain a driving licence or register a motor vehicle. If the defaulter is from interstate, disqualification means that an interstate driving licence no longer entitles them to drive in the ACT. The suspension or disqualification will be lifted once the fine is paid, the fine is remitted, the person has served a period of imprisonment in relation to the fine, or the conviction which gave rise to the fine is quashed. This part of the fine default package is modelled on a system that has been in place for some years to deal with people who default in paying parking and traffic infringement notice penalties. Introduction of that system resulted in greatly increased compliance in paying infringement notice penalties. I expect that the present proposals will greatly increase the rate of payment of court-imposed fines.

Some people may criticise the use of these measures to enforce the payment of non-traffic fines. I would say to those people that all of us in society have rights and obligations. Society cannot operate if people exercise their rights but refuse to meet their obligations. Where there is an obligation to pay a fine and that obligation is not met, I see nothing unacceptable in depriving the person of some right as an incentive to pay the fine. I commend the Bill to the Assembly.

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

CHILDREN'S SERVICES (AMENDMENT) BILL (NO. 2) 1997

MR HUMPHRIES (Attorney-General) (10.47): Mr Speaker, I present the Children's Services (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

The Children's Services (Amendment) Bill (No. 2) 1997 amends the Children's Services Act 1986 so that fines imposed on children may be recovered under the new fine recovery scheme proposed by the Magistrates Court (Amendment) Bill (No. 2) of 1997. The procedure for dealing with defaulters, including children, is now set out in the provisions of Part IX of the Magistrates Court Act and the amended provisions of the Children's Services Act which enable the registrar to commit child fine defaulters to a period of detention at a juvenile institution.

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

REMAND CENTRES (AMENDMENT) BILL (NO. 2) 1997

MR HUMPHRIES (Attorney-General) (10.48): Mr Speaker, I present the Remand Centres (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

> That this Bill be agreed to in principle.

I seek leave to incorporate my presentation speech in *Hansard*.

Leave not granted.

MR HUMPHRIES: Okay. Mr Speaker, the Remand Centres (Amendment) Bill (No. 2) 1997 amends the Remand Centres Act to enable fine defaulters to serve out their period of imprisonment in respect of fine default at a remand centre. Section 15 of the principal Act sets out the categories of persons who may be detained in a remand centre. The amendment made by this Bill enables persons committed to imprisonment on default of payment of a fine under the new scheme to serve that period of imprisonment at a remand centre. This is intended to provide some flexibility to ACT Corrective Services when determining where a fine defaulter will serve the period of imprisonment required under the new legislation.

It is not contemplated that persons liable to undergo a lengthy period of imprisonment in default of payment of a fine will be detained at a remand centre. It is more likely that such persons will go to prison in New South Wales, as is presently the case. However, where a person has to serve only a few days in respect of a fine, it is considered appropriate to facilitate that imprisonment being served in a remand centre in the ACT.

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

CRIMES (AMENDMENT) BILL (NO. 7) 1997

MR HUMPHRIES (Attorney-General) (10.50): Mr Speaker, I present the Crimes (Amendment) Bill (No. 7) of 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill amends provisions of the Crimes Act 1900 to reflect the changed arrangements for commitment of defaulters to imprisonment. Under the new scheme the registrar, rather than the court, will issue warrants of commitment. The amendment effected by clause 4 ensures that, under the new arrangements, periods of imprisonment for fine default will be served cumulatively. There will be no discretion in the registrar to order that such periods of imprisonment be served concurrently.

The Bill also makes a series of amendments to the provisions which will enable a fine defaulter to perform community service work as an alternative to imprisonment for fine default. Various provisions are omitted, as they are inconsistent with the proposed new enforcement arrangements under the Magistrates Court Act which do not include community service work for fine defaulters. The changes to the community service provisions of the Act in relation to fine default effected by the Bill will not apply in relation to a person who is already the subject of a community service order when the new scheme commences.

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

SUPREME COURT (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.52): Mr Speaker, I present the Supreme Court (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

Earlier this year I asked for a review of court enforcement procedures to be carried out. That review was undertaken by a working party comprising representatives of the Attorney-General's Department, the Registrar-General, the Law Society, the registrars of the Supreme Court and the Magistrates Court and the sheriff. In its report the working party made a number of recommendations, and this Bill arises from one of those recommendations. However, this Bill does not represent the sum total of changes likely to be made. Using the recommendations of the report as the starting point, a full consideration of what other legislation changes are appropriate will be undertaken. That review, which will among other things look at having commonality as far as is appropriate between the courts, will involve extensive consultation with interested groups.

This Bill will give the Supreme Court the capacity to order the sheriff to make a forced entry of premises occupied by a judgment debtor for any purpose connected with executing a judgment against the judgment debtor. The Bill will correct an inconsistency between the capacity of the Supreme Court and that of the Magistrates Court.

The Magistrates Court (Civil Jurisdiction) Act 1982 already allows the Magistrates Court to make an order allowing a bailiff to make a forced entry to premises to seize property where the judgment debtor has refused entry or cannot be contacted.

The Bill will allow the court to make an order to force entry only in specific circumstances. The sheriff must first either have been refused entry by the judgment debtor or other occupier after having informed or made reasonable attempts to inform the debtor or occupier of the procedure in relation to execution and the sheriff's intention to seek an order if entry is refused, or have been unable to contact the debtor or occupier to obtain consent after having made reasonable attempts to make contact. On application by the sheriff, the court will be able to make an order if satisfied that the judgment debtor resides at the premises, or there is property on the premises that the sheriff is entitled to seize, or that the sheriff is entitled to sell the premises themselves in execution of the judgment.

The Bill will provide for the sheriff to enter premises using whatever force is necessary and reasonable, with the assistance of police if necessary, and will provide an immunity for acts done or omitted to be done in good faith in carrying out an order. At present, in contrast to a bailiff, the sheriff has no power to make a forced entry of a judgment debtor's residential premises, although the sheriff can make a forced entry of non-residential premises. This Bill will correct that anomaly but will also require the sheriff to seek an order of the court in order to make a forced entry of non-residential premises occupied by a judgment debtor.

Providing for a forced entry of residential premises to seize property may also assist in avoiding what is a most undesirable circumstance - that of a judgment debtor having his or her house sold in order to satisfy a judgment debt. Members will remember an unfortunate incident at the end of last year when a house was sold under a writ of venditioni exponas for a sum considerably less than its real value. While there is no suggestion that allowing the sheriff to make a forced entry to seize property in that case would have made any difference to the outcome, it may be that, in other cases, a forced entry would permit personal property to be seized and sold without the need for the sale of any interest in land.

I should stress, however, that, even with the capacity to order a forced entry to seize personal property to satisfy a judgment debt, there will always be cases where the sale of an interest in land is the only possible result. The court, after all, must be able to enforce its judgments and a creditor is entitled to satisfaction. However, allowing the court also to order a forced entry for the purposes of the sale of the premises may result in a better price being obtained at the sale. I commend the Bill to the house.

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

MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL (NO. 2) 1997

MR HUMPHRIES (Attorney-General) (10.56): Mr Speaker, I present the Magistrates Court (Civil Jurisdiction) (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

> That this Bill be agreed to in principle.

The Bill will replace section 349 of the Magistrates Court (Civil Jurisdiction) Act 1982 with a new section 349. Section 349 provides the Magistrates Court with a power to order a bailiff to make a forced entry of a judgment debtor's premises to seize property to satisfy a judgment debt in circumstances where the judgment debtor has refused entry or cannot be contacted. The new section 349 will retain this capacity but will extend the Magistrates Court's powers, in that an order will be able to be made for any purposes connected with executing a writ of execution and when either the judgment debtor or another occupier of the premises denies entry or is unable to be contacted. The Bill will also provide specifically for police assistance for a bailiff in forcing an entry and will provide an immunity for a bailiff for acts done or omitted to be done in good faith in carrying out an order of the court.

The amendments to section 349 are part of a package of amendments to the enforcement powers of the courts. The Supreme Court (Amendment) Bill 1997 will amend the Supreme Court Act 1933 to provide the Supreme Court with a power to order a forced entry by the sheriff. This Bill will provide consistency in relation to forcing entry as far as is appropriate between the Magistrates Court (Civil Jurisdiction) Act and the Supreme Court Act. I commend the Bill to the house.

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

ROADS AND PUBLIC PLACES (AMENDMENT) BILL (NO. 2) 1997

MR KAINE (Minister for Urban Services) (10.58): Mr Speaker, I present the Roads and Public Places (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR KAINE: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill amends the Roads and Public Places Act of 1937 in relation to providing control over the placement of objects in a public place. The Bill provides a procedure, other than prosecution, that can be utilised to exercise control over the placement of objects in a public place, thereby ensuring the maintenance of public access and amenity.

The current legislation does not allow for the removal of objects where a permit has not been issued. The Bill will provide a mechanism for the issue of an order to remove objects placed in a public place without a permit. The format of the order will provide the opportunity for a person to apply for a permit. Refusal to issue a permit gives the applicant the right to seek review of the decision by the Administrative Appeals Tribunal. Mr Speaker, the Bill provides an administrative solution to the removal of objects placed in a public place without a permit.

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

ENVIRONMENT PROTECTION REGULATIONS - SUBORDINATE LAW NO. 36 OF 1997
Motion for Amendment

MR MOORE (10.59): Mr Speaker, I move:

> That the Environment Protection Regulations (Subordinate Law No. 36 of 1997) made under the *Environment Protection Act 1997* be amended by omitting from subclause (2) of Item 10 of Table 2 in Schedule 2 at page 27 "50 dB(A)" and substituting "45 dB(A)".

Mr Speaker, I am in a particularly difficult situation because only a couple of minutes ago I saw land on my desk an amendment to be moved by Mr Corbell to my motion. This has taken me quite by surprise, I must say, because Mr Corbell has stood up with the committee and said, "We will do exactly what the committee has recommended; we will not move from the committee's position", and the first time I know about it is when it appears in writing on my desk two minutes before I am due to debate the issue. I think it is an appalling approach to the Assembly. I must say that I am incredibly surprised at Mr Corbell's action. I have worked with him on many issues on which we have had differences and I have actually understood what he was trying to achieve, but this is not consistent with the approach that he has taken again and again. However, I will listen to his part of the debate and try to understand why it is that he wants to amend the motion.

Mr Speaker, the Standing Committee on Planning and Environment considered this issue in great detail. The results of our consideration can be found on pages 90, 91 and 92 of the report of the Standing Committee on Planning and Environment on the Environment Protection Bill 1997 and the consequential provisions Bill. We identified from submissions of the Ridgeway Residents Action Group that the background noise at the Ridgeway has been very thoroughly established at between 36 and 37 decibels.

Under the legislation that was in place prior to the introduction of the Environment Protection Act, noise at the Ridgeway was restricted to 41 to 42 decibels. What I am proposing in my motion to amend the regulation is that the level be at 45 decibels. Mr Speaker, the Government, in turn, has said, "No, what we are going to do is increase that; we are going to make the noise level 50 decibels", which is different from any other place in Canberra.

There is a great deal of debate as to what this means and what it does not mean. The debate has been particularly peppered by the Minister sitting over there - the Minister for Sport and Recreation, Mr Stefaniak - throwing furphies into the debate. One that has been attributed to Mr Stefaniak - and I hope that he will correct me by saying that it was not he who said it - was that this regulation would prevent the FAI rally from going ahead and would prevent the Summernats at Watson. That is simply untrue. If Mr Stefaniak said that, he should apologise to the people of Canberra for those comments that were attributed to him. I hope that he can stand up here and say, "No, they were not appropriately attributed" or that I have misunderstood and they should have been attributed to somebody else.

The regulation in Schedule 2 on page 27 limits motor sport activities conducted at Fairbairn Park. It deliberately deals with Fairbairn Park and says that the activity has to be conducted between 10.00 am and 5.00 pm and that any noise being emitted must not exceed 50 dB(A) at the latitude and longitude given. Mr Speaker, that has nothing whatsoever to do with the FAI rally. It has nothing whatsoever to do with Summernats. It is very specific. Why have we had an approach like that from Mr Stefaniak and from the motor sports? Why are they being dishonest? That is what it is; it is dishonesty.

Mr Speaker, I have had many approaches to my office, as I am sure have other members, from people saying, "What are you going to do? Why are you stopping the FAI rally? Why are you stopping Summernats?". We are not; it is part of a furphy. If you are going to say, "Why are you going to stop some races at Fairbairn Park?" we begin to have an argument, and a reasonable argument. That argument was dealt with by the committee in detail. We looked at the difference between how the ACT's Pollution Control Authority monitored the response of the New South Wales Environment Protection Agency and how they measured the ambient noise level at the Ridgeway. There were slight differences in method and, therefore, differences in outcome. What we recognised when we saw the differences in method and differences in outcome is that comparisons with New South Wales, saying that we are having exactly the same as New South Wales, are simply erroneous. That is what the Minister for Sport continued to do.

Why the Minister for Sport? Yes, this is an issue between sport and the environment. I understand that motor racing does come under his portfolio. But the reality is that Mr Humphries is the Minister for the Environment and it was his role to protect the environment. It was his role to ensure that the environment for people in our community is protected. In saying "our community" I recognise that there is a border there, a line drawn between Queanbeyan and the ACT. I think I have heard Mr Stefaniak say on radio, "Why does Mr Moore bother about these 20 or so people who do not even vote in the ACT?". The reason is that Mr Moore and the Assembly committee made this decision

not on the ground of votes, as Mr Stefaniak obviously wants to beat up this issue, but on the ground of what is the right thing to do in principle. The right thing to do in principle is to ensure that people are protected from environmental pollution - in this case, noise pollution.

The interesting part is that comparisons between the ACT's policy and the policy in New South Wales are particularly difficult to make and it is no good just saying, as Mr Stefaniak has been wont to say and I am sure he will say again in the debate as it continues, "We just wanted to do exactly the same as New South Wales for racing venues that have been established for some time". Of course, he does not want to look at what happens with new racing venues, because they have a much stricter control system than we have here. But comparisons are very difficult, because a sliding scale is applied in New South Wales, depending on a whole series of factors, whereas what this Government has chosen to do is to change the way we deal with Fairbairn. When they chose to change the way we deal with Fairbairn, they also decided that they were going to allow pollution, particularly, of the Ridgeway and, to a lesser extent, of Oaks Estate. Measurements at Oaks Estate lead me to believe that there is not a particular concern for us to deal with. I think most of us would agree that, because of the different topography, that is not a concern.

The committee listened to officials who appeared before it at a public hearing on 7 October 1997. They said that in a situation other than motor racing the limit will be 45, which is the same as would apply in any Canberra suburb, including Oaks Estate, whereas if the noise is generated from motor racing it will be another five decibels higher, namely 50 decibels, at the Ridgeway. In other words, we are prepared to allow every Canberra suburb to be protected from noise pollution, but we are not going to allow people who live across the border the same protection from the pollution that the citizens of Canberra are creating and that is our responsibility. That is what is there. It is written there very clearly on page 91. I must say that that was one of the major influences for me.

Mr Speaker, it was not just the Ridgeway Residents Action Group that appealed to the committee. We had a submission from the Queanbeyan City Council, no doubt influenced by some of their citizens. We also had a submission from the New South Wales EPA which I had to circulate to members of the media because the media were being misled by Mr Stefaniak and others saying that the regulation before us at the moment is the same as the one for New South Wales. It is not. I warn the Minister that, if he stands up here and says that it is, the evidence will be very clear that he is misleading this Assembly. If I were Mr Stefaniak, I would be very careful about what I did in this chamber on this issue. We have only a week or so to go, but you are not in a position to be able to mislead this Assembly, Mr Stefaniak; so you should choose your words very carefully compared to what you have been saying publicly. We have to debate this issue accurately in this Assembly. It is not the time to whip it up into a bit of raw electioneering.

It seems to me that we, as an Assembly, have a responsibility not only to the people of the ACT but to the people in our region. It is very easy to deal with the people in our region when we are the centre of business and it is going to bring more money into our pockets.

It is easy to say, "Of course we need a regional approach, provided it is understood that we are the biggest community in the region and, therefore, we gain some benefit". The real test of our sense of region is when something we are doing has a negative impact on others in our region. Are we prepared to stand up and say that we are prepared to provide for them exactly the same protection as we are giving to all our citizens? How do we do that? The committee made it very clear with its recommendation that we ensure that the level is five decibels above background.

Ms McRae: I wonder what the noise reading is in here now. You have a big voice, Michael Moore.

MR MOORE: Ms McRae wonders what the noise level is in here. I will make it very clear to her. It depends on exactly where you measure it.

MR SPEAKER: Whatever it is, it is too loud.

MR MOORE: Mr Speaker, the regulation was drawn up to ensure that the level does not exceed 50 decibels. In my motion, as members will see, I have simply modified that 50 decibels to 45 decibels. That is consistent with recommendation 35 at page 92 of the Planning and Environment Committee's report - the report in respect of which four members sat in a press conference and said, "We will stick by it. This is what must be done. This is our unanimous report".

There were some modifications to our report when we sat down at a round table conference with the Government and said, "What can we do? Can we modify it? Are we prepared to negotiate?". We did that in a spirit of cooperation on a number of issues until we got a very sensible piece of legislation that passed through this Assembly unanimously. There have been no further round table discussions on this. I would be happy to participate in a round table conference. I am still happy to adjourn this debate and participate in a round table conference in order to resolve this issue, if there is a compromise to be made. I have always been willing to do that. Nobody has suggested that to me at this stage. The Government came out with a suggestion. The committee, in turn, responded with a proposal for five decibels above background. We went into a round table conference. Mr Stefaniak was there for this part of it. We said, "No, we still have not found a compromise position".

We did that in round table discussions with a whole series of issues. Mr Stefaniak had to leave because he had a further commitment at the time. Nobody has come back and said, "Perhaps there is a compromise to make. Perhaps there is another position". The first time I see one is a few minutes before it is to be tabled today. If there is the ability to make a compromise, I have an open mind. In fact, I said that to Mr Hoyle of the motor sports clubs the other day. Nobody has come to me about a compromise. Of course I am open-minded. I have always been open-minded on such issues. If there is a compromise to be made, then let us adjourn the debate. Let us sit down and deal with it. Let us bring it back to this Assembly next week, having dealt with the issue in a sensible and rational way.

MS HORODNY (11.14): Mr Speaker, I believe that much misinformation about the noise issue has been put out by the motor sports groups associated with Fairbairn Park and aided by the Minister for Sport, Mr Stefaniak. The amendment to the Environment Protection Regulations proposed by Mr Moore will not impose a new regulation of five decibels above background at the nearest affected residence. This was the rule for many years under the old Noise Control Act. The problem was that the motor sports activities at Fairbairn Park were hardly ever able to achieve this standard and were regularly given exemptions by the Government to allow motor sports to continue with noise levels of 10 and even 15 decibels above background. All that is being proposed by Mr Moore is to bring the Government's proposed regulations back to the previous level so that the Fairbairn motor sport activities have to comply with the same noise laws as everyone else in the ACT is subject to.

If anything, the new regulations will allow a slight increase in noise levels. The old Noise Control Act specifically referred to excessive noise levels relative to the background noise level at a particular location. The amended regulations refer only to a specific noise level of 45 dB (A), which is based on the assumption that the background noise level at the Ridgeway is 40 dB(A). The Ridgeway residents have regularly stated that the background noise levels there on the weekends when motor sport racing is likely to occur are often down to 37 dB(A).

The motor sport clubs also claim that this amended regulation will somehow close down all motor sport in the ACT. This is a total furphy. It should be remembered that the Fairbairn Park complex comprises five different tracks catering for five different types of racing and more than five different types of events. Some types of racing, such as go-karts and mini-bikes, have been able to achieve the plus 5 dB(A) standard. The two noisiest tracks are the hill climb and the formula 500 speedway, but the hill climb area is no longer used and the condition of the speedway has deteriorated to such an extent that races can no longer be held there without a significant upgrade of the track.

It is also misleading to claim that there is a vibrant motor sport industry based around Fairbairn Park that will be destroyed by this move. Anyone who has followed this debate over the years will know that there have been internal disputes within the Fairbairn Park control council about control of the tracks and that there have been various reorganisations of the clubs due to declining support. The motor sport activities that occur at Fairbairn Park are more at a hobby level by a relatively small group of enthusiasts. The viability of commercial motor racing events there is extremely doubtful.

The Fairbairn Park area is certainly not a model of best practice environmental management, either. We had the recent case of building rubble being dumped on the site without approval, and I understand that other tracks on the site, in particular the go-kart track, have been extended in the past without approval. I was advised recently that used sump oil has been regularly poured on the dirt tracks there over the years to provide better traction and to suppress dust. This also included oil from old electricity transformers which potentially contains hazardous PCBs. I referred this matter to the environment protection section earlier this year, and they have now listed this site as potentially contaminated land that needs further investigation. The recently completed preliminary environmental assessment for granting a long-term lease over the site was also quite inadequate and I understand that this proposal has been deferred.

There is also the cross-border issue, and Mr Moore referred to this. It is not just the Ridgeway residents in Queanbeyan who will be affected by the noise from Fairbairn Park. There is also a new residential development called Capital Terraces on the other side of the railway. The Queanbeyan City Council is very much against this proposal. I would like to read a letter that I received recently from the mayor, Frank Pangallo:

> I believe the ACT Environmental Protection Bill 1997 is to come before the Legislative Assembly at its next sitting ...
>
> Of particular concern to the residents of Queanbeyan is noise generated by ACT motor sports in the area known as Fairbairn Park.
>
> In this regard I have discussed this matter with ACT Government Ministers expressing my concern at the 10 dBA noise limit above background by motorsport activities measured at affected residences. The NSW area surrounding Canberra imposes a realistic 5 dBA maximum above background which is suggested be adopted by your government.
>
> This will have a beneficial effect on residences, particularly in Queanbeyan, the closest of which is approximately 800 metres from the site.
>
> Also of concern is a proposal in the Bill which introduces the concept of noise zones. It is felt that this fails to address the noise impact on the individuals it is designed to protect. This concept does not adequately reduce, regulate or relate to times of emissions. In addition it allows higher and unacceptable noise levels every day of the year.
>
> The above two important points in the draft Bill appear contrary to the Intergovernmental Agreement on the Environment which has been signed by your government. I urge you to amend the Bill to take into account the objections of Queanbeyan residents to the 10 dBA noise limit above background, and to amend the concept of noise zones so that the practical applications associated with this concept are clarified to reduce noise emissions and protect individuals.

I hope Mr Humphries is listening to this as well. The other letter that I would like to quote from is from the New South Wales EPA. It reads:

> ... it has been reported in the press that the ACT Government is considering drafting a specific Regulation for the Fairbairn Park motor sport facilities. The reports indicate that the proposal will bring the ACT approach into line with that of NSW. This appears not to be the case. The EPA understands that the proposal is based on a blanket 10 dB(A) above background permissible noise emission level.

> The background is apparently to be determined by taking the average of background levels over a week period. This differs significantly from the NSW approach in two key aspects.
>
> Firstly, determination of a background level based on a weekly average does not take into account the change in amenity most residences experience during a 24 hour period or on weekends and public holidays ... Motor sports at Fairbairn Park occur almost exclusively on weekends and predominantly on Sundays. The averaging approach is understood to give a background level of 40 dB(A) which, under the proposed Regulation, may give an acceptable noise emission level from the facilities of 50 dB(A) at the receiving residence. Actual background noise levels have been measured on a weekly basis as 38-40 dB(A) and on Sundays as 36-40 dB(A) (based on environment ACT and NSW EPA data). This indicates that the intrusive noise level from Fairbairn Park could be as much as 14 dB(A) above the background level.
>
> Secondly, the NSW approach to motor sport facilities provides for a noise exposure approach with a sliding scale of number of events and allowable noise emission levels ... Under this approach the Fairbairn Park facility would be treated as a single venue and the overall impact on noise amenity would be significantly lower than that under the ACT proposal.

I do not see why the Government should be propping up motor sport activities at Fairbairn Park that are not environmentally responsible and cannot comply with the existing noise limits that apply to all other citizens of the ACT. What it boils down to is that this is a bunch of big boys who like playing with noisy toys and perhaps they need to act a bit more responsibly.

MR STEFANIAK (Minister for Education and Training and Minister for Sport and Recreation) (11.25): Mr Speaker, Mr Moore and Ms Horodny do not seem to appreciate that we are dealing with a question of fairness to everyone. Ms Horodny made a number of points. I think she will find that only four of the current tracks are actually in use. I know there are, in fact, five tracks there. She seems to think that under Mr Moore's proposal mini-bikes and the go-karts would actually operate. I am advised by the motor sport people - and they have had a lot of experience at Fairbairn Park over many years - that, if this move by Mr Moore is successful, only some mini-bike and some go-kart club events would occur. It would be impossible for a lot of others to occur. Even Ms Horodny concedes that those other events simply could not occur and many hundreds, perhaps thousands, of Canberra residents and residents in the region would miss out on their legitimate entertainment and activity.

Ms Horodny is also wrong in saying that no-one is going to be affected commercially; that no businesses will be affected. There was a meeting with about 35 or so people involved with motor sport, including a number of small businesses who were greatly concerned by the effect Mr Moore's proposal would have on their small businesses. They do a lot of business in supporting the people who use Fairbairn Park and the various motor sport facilities there.

Ms Horodny read a letter from the Queanbeyan branch of the EPA stating that Fairbairn Park should be treated as a single venue. Under the Government's regulations, there is a point at which to measure noise and any noise coming from that park would be measured. It is very difficult to discern between tracks unless you have a trackside measurement of 95 decibels at 30 metres, which incidentally is used at Fraser Park just across the border and at Wakefield Park and which is something that my party and I were pushing late last year but unfortunately we did not have the numbers for that. I think everyone would agree that that is considerably louder than what is proposed now, but it is something that is used at many New South Wales tracks.

In relation to Mr Moore's points, I have already tabled a document in relation to the New South Wales EPA and we intend to leave it at that. In terms of things like the FAI rally, I understand from the motor sport people that last year they were keen to have an event there but that was not possible because of noise. Let us look at what has occurred over the last few years. This noise argument has been an ongoing argument for probably more than 10 years. There are a few significant factors here. In 1990, when the Ridgeway Residents Action Group started, there was a significant proposal to upgrade Sutton Park. It was a big proposal which would have made that very much a first-class motor racing facility. I can understand the concern of a number of people then that they might have had a Le Mans track at the base of their hill. When that died, we went on to a series of exemptions in 1992.

Mr Moore talks of 20 or 30 people. I would like him to produce them. It is only Mr Murnain, who seems to be the main complainant, and his co-convenor who regularly complain. I have been advised by the motor sport people - and have also talked to a number of people on the Ridgeway - that there are a large number of people up there who have no problems. I have talked to some five who have no problems. I have been advised by two lots of motor sport people, one of whom actually competes and lives on the Ridgeway, that they doorknocked the area and, apart from Mr Murnain and his co-convenor, they really found no-one who had a significant problem at all with it. I think we are talking about very few people indeed. I think we are talking about a large number, many thousands, of people from Canberra and the region who enjoy a legitimate pastime.

Let us look at the exemptions. I do not think anyone thinks that exemptions were an ideal system. That system was initiated by Mr Wood. It was a system which enabled motor sport to continue - I certainly conceded that - but there are probably better ways of doing it. After a lot of effort, that is what we are coming up with. The exemption system gave very good latitude. A lot of events were able to be held. For example, I think you could hold at least five events at 20 decibels above ambient background noise at the nearest affected residence, a significantly greater number of events at 15 decibels above background and a large number of events at 10 decibels above background.

One must take into account, too, the work of the Canberra motor sport community in improving Fairbairn Park, which neither Ms Horodny nor Mr Moore mentioned. Whereas in the past I think they used probably anything up to 60 exemptions in the first year or so, they are now down to fewer than 20 a year. My colleague Mr Humphries can no doubt give exact figures on that. That is a result of significant improvements they themselves have initiated.

What we are talking about here is a question of fairness. In the Government's regulation, motor sport would run between 10.00 am and 5.00 pm, during daylight hours. I think it is conceded by Mr Moore and Ms Horodny that it is only a weekend activity. Under the Government amendment it would not be any more than 10 decibels above ambient background noise at the nearest affected residence measured on the Ridgeway, and that would apply for any residences in the area. I do not think anything could be fairer than that. Certainly, events are restricted to no more than 10 decibels above ambient background noise. That is a significant concession by the motor sport community. They have to go to quite a lot of trouble to meet that. They have made many improvements in recent years to do that.

Mr Speaker, I am now going to stop talking for a second. I have a noise meter on my desk and I would appreciate it if all members would be silent for 10 seconds. I thank members. The meter, which is set on 50 decibels, registered between 46 and 47. There is an airconditioning unit on. I do not know whether people were moving, but I thank members for not talking. The meter is pointed to my right of Ms Reilly's chair. Now that I am talking, it is well and truly over 60 decibels. I am fairly close to it. When Mr Corbell adjourned debate on one of the Bills, it ranged from 50 to 60 when someone over the other side said a few words. That is a nice little test. That gives you some idea of what ambient background noise is. That 46 would be slightly higher than what Mr Moore is proposing. You heard what it was like in here when we all did not say anything.

Mr Speaker, I think it is terribly important for governments to balance the rights of everyone. We did not go ahead with the main track at Sutton Park. There was not the money for it. Now I feel that there is just a handful of people who unreasonably and selfishly complain about noise that, in my opinion, is largely not a problem. We have come up with a regime for motor sport which is difficult but which they can live with and which is fair to the residents of the Ridgeway and Oaks Estate and anyone else in the region. It is a stricter standard than applies at Fraser Park, which is very close to the new suburb of Jerrabomberra, and at Wakefield Park.

Mr Mike Attwell, who writes for the *Chronicle* on motor sport, is very critical of Mr Moore's move. He writes:

> The proposal brought by members of the ACT Legislative Assembly is to support the demands of a minority group of people from New South Wales.
>
> The attempt to stop the activities of thousands of groups and individuals in the ACT region and interstate flies in the face of a majority of ACT constituents and their families.
>
> The ironic part of this proposed legislation is the 5 db limit which would be implemented by the ACT Standing Committee is not in line with the NSW requirement of 10 db at existing NSW circuits.
>
> A frightening precedent would be established with this legislation.

Let us also look at what someone else says, someone who came to motor sport late in life. I think a number of members might have received this letter. *(Extension of time granted)* The Reverend Canon Lyle Hughes from the Anglican Parish of St Barnabas at Coonamble states:

> Dear Sir,
>
> It has recently been brought to my attention of the ludicrous move, by some people who seem to have lost touch with reality, to lower the level of decibels, from 10 to 5, above ambient background noise. If these people were honest and fair then the limit would apply to all noise including aircraft and the like. I believe that these people's agenda is purely aimed at entertainment and sporting activities in which they have either no connection nor interest.
>
> My particular interest is in motorsport, specifically at Fairbairn Park. I am 54 years old and have recently taken up Karting, something which I have wanted to do for many years. I chose to join the Canberra Club, which is located nearly 600 kms from where I currently live, for several reasons. Some of the main reasons were:
>
> i) that the nearest large city that I relate to is Canberra. Canberra is, for me, about the same distance as Sydney.
>
> ii) I do have family in Canberra as I also do in other Capital cities including Sydney.
>
> iii) When I attended Canberra Club as a spectator, I was warmly welcomed.
>
> iv) The Club displayed a professional and caring outlook on the sport of motor racing.
>
> v) The younger members of the Club were treated with respect and were nurtured and encouraged by the older Club members.
>
> And the list does go on. Because of Karting at Fairbairn I make a special effort to attend race meetings. This means that I, in some small way, am supporting the Canberra economy. I know that this sport does bring many dollars into Canberra. Beyond the Karting fraternity, other sports will be affected ...

He mentions a few which may not be right. He then says:

> To lower the decibels means also that most lawn mowers would not be able to be used ...

He is a bit wrong there. He then states:

> Over the years I have seen some forward thinking from the ACT Government. There have also been some massive blunders. I appeal to you and your colleagues don't make a massive blunder with this legislation. I believe that if some of the controlled sporting activities of the ACT are stopped then people, especially our kids, will use their energies in other non-productive areas. The sporting future of our nation relies on encouraging people to be involved in all forms of sports. Why single out part of this encouragement, especially when it is out of step with the State which surrounds all the boundaries of the ACT?
>
> If legislation proceeds it will mean that I, and probably many others, will relocate.

He goes on to talk about a karting club in Dubbo, 160 kilometres from him. He finishes up by stating:

> Hoping that I don't have to discontinue my sporting activities in the ACT because of you people.
>
> Yours faithfully,
>
> Lyle Hughes.

That is indicative of a number of people outside the ACT who come here to use facilities. He also makes a very valid point about young people. He makes some very complimentary remarks about how the clubs are conducted. I think it is important to look at such things as the benefit young people get from this activity. I have been out there on a number of occasions. I have presented prizes to the mini-bike riders and the go-kart drivers. I have seen many young drivers from eight upwards benefit from this activity.

I have spoken to a father of about 35 years of age who has been a motorcyclist for many years. He told me that none of the kids who have come to the club have been involved in serious accidents. They have turned out to be good drivers. He told me sadly that he has lost a number of mates he grew up with who had bought a bike when they were 17, had no proper training and unfortunately suffered tragic consequences. He spoke very highly of how effective the sport is in training kids to be good, responsible drivers. I get similar comments about the karts.

Mr Speaker, I have been up on the Ridgeway. I have been up to where the sound is measured. I was there on a few occasions in 1990-91. I have been there on seven occasions during this Assembly. On only one occasion was there any discernible loud noise, and that was during a major event fairly recently. I remember being asked to go up there on Sunday, 29 May 1995, when two or three motorcycle events were being held.

I went there between 2 and 3 o'clock. There were seven races. I barely heard one of them, which I heard for 90 seconds. A couple of others I could just discern. Two of them were drowned out when the birds in a tree started tweeting, and a couple of aircraft flying over during the other ones quite clearly drowned out any noise there was. There were a couple of races I could not hear - and I have pretty reasonable hearing.

What the Government has proposed is a very reasonable compromise which has been developed over many years to resolve a difficult problem. I think it is unreasonable, and indeed selfish, for people to want a lower level of noise. A lot has been done to improve sound problems at Fairbairn Park. The motor sport community has done a hell of a lot in that regard. Improvements have been made and we now have a sensible regulation. The limit is lower than some that apply in various parts of New South Wales. I accept that there is complex legislation in that State, but again I hark back to Fraser Park and other sites. I think we have a very fair piece of legislation. It is going to be hard for motor sport to comply with that at all times. It imposes restrictions on them, but to restrict noise levels further would be totally unreasonable and would be doing a great disservice to the many thousands of men, women and children in Canberra and the region who get a lot of enjoyment out of this legitimate sporting activity.

MR CORBELL (11.40): Mr Speaker, I move:

> Omit all words after "omitting", substitute "Item 10 of Table 2 in Schedule 2 at page 27.".

The amendment the Labor Party is moving today proposes a law in relation to motor sport in the Territory which is consistent across the Territory. We are proposing that item 10 of Table 2 in the Schedule be deleted. We are proposing that there be no specific regulation for Fairbairn Park. There is a basic reason why we are proposing this. We are proposing it because motor sport activities should be authorised and dealt with under the environment protection law in the same way right across the ACT. We should not have one law for Fairbairn Park and one law for motor sport activities in the rest of the Territory. It is unreasonable to expect people like the Canberra Kart Racing Club to undertake a certain activity at Fairbairn Park and work under a different regime from a regime they would have to work under if they were conducting an activity elsewhere in the Territory outside of Fairbairn Park.

The major argument that has been put to the Labor Party in relation to the regulation of Fairbairn Park is that it treats the residents of New South Wales differently from the way it treats residents of the ACT. What we are proposing is that motor sport activity across the ACT be treated in a consistent fashion. If our amendment were successful, all motor sport activity would apply for an environmental authorisation, a licence to pollute, and that would be dealt with by the Environment Management Authority, which would grant authorisation with whatever conditions it believed appropriate for an event or series of events. A resident in New South Wales or the ACT concerned about that grant of an environmental authorisation could appeal against it or part of it in the AAT. Equally, if representatives of certain motor sporting activities believe a decision by the EMA is unjust, they also can go to the AAT. That is a consistent approach to the authorisation of motor sport activity in the Territory. What the Government is proposing with their regulation is not a consistent approach.

Mr Speaker, the Government has gone up hill and down dale in this debate. We have heard different things from Mr Humphries and different things from Mr Stefaniak. That has only resulted in the motor sport community getting very confused about what the Government's position is. We have said very clearly that we believe that motor sport activity in the ACT and authorisation for motor sport activity in the ACT should be consistent right across the Territory. There should be no special circumstances for Fairbairn Park. Motor sport activity is motor sport activity. The law that applies in the ACT should be consistent across the ACT.

We feel very strongly that the motor sport lobby is taking a risk if they see that a system of environmental authorisations without a specific regulation for Fairbairn Park is the way to go.

MR SPEAKER: Order, Mr Corbell! It being 45 minutes after the commencement of Assembly business, the debate is interrupted in accordance with standing order 77.

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

> That the time allotted to Assembly business be extended by 30 minutes.

MR CORBELL: The motor sports lobby is taking a risk, because there is a possibility that the EMA will be stricter than they would be under a regulation. There is also a possibility that they will be less strict. We are already trusting the EMA to make a decision about authorising motor sport activity everywhere else in the Territory. We are already trusting them to make sensible decisions about the level of noise allowed, how often it is allowed and when it is allowed everywhere else in the Territory. Why do we not allow them to make that same judgment, that same decision, about Fairbairn Park?

This should be an issue that is dealt with by the Environment Management Authority. This place should not decide what is and is not allowed at Fairbairn Park within the constraints of the Environment Protection Act. That should be a decision taken by the Environment Management Authority. We are already asking them to make that decision about events elsewhere in the Territory. Therefore, we should require them to make that decision also in relation to Fairbairn Park.

Mr Speaker, we believe that this is a sensible compromise. I know that my amendment took Mr Moore by surprise this morning. I received his motion late last night and I tabled my amendment with the Clerk first thing this morning. I accept that there is the possibility for further discussion on this issue. I would be very happy to discuss it with Mr Moore, Mr Osborne, the Greens and the Government. I think it is appropriate that we continue the process of discussion and negotiation which occurred on the rest of the Environment Protection Bill.

I want to place a number of other things on the record. I am very disappointed in Mr Stefaniak's approach to some of these matters, particularly for suggesting that events such as the Summernats and the FAI Rally of Canberra would disappear if the regulation that the Government is proposing were disallowed. He knows that they would not.

It is scaremongering in the extreme to suggest that, and the Minister knows it. They were always going to be outside the Government's regulation. They were always going to need to seek an environmental authorisation. I think the Minister's suggestion was deliberately misleading and created a lot of angst and heartache in a lot of members of the community. That was quite unnecessary, except to serve your own political ends. I think that is very unjust.

The Labor Party's proposition is a straightforward one: Treat motor sport activity at Fairbairn Park in the same way as you treat motor sport activity in the rest of the Territory. Require motor sport activity to get an environmental authorisation, require the Environment Management Authority to set terms and conditions on noise - when it can occur, how often it can occur, at what times it should occur - and if people are unhappy with authorisations being granted or not being granted, have an appeal process that they can go through based on the Administrative Appeals Tribunal. Under our proposal, if residents or motor sport organisations feel they are affected, they can go to the AAT. That is a sensible compromise, Mr Speaker, and I hope that the Assembly sees fit to support it.

MR OSBORNE (11.48): I will not be supporting Mr Corbell's amendment. The reality is that the Labor Party does not want to make a decision, as we saw yesterday with the 50 kilometres an hour zone in the streets. I have heard both sides of the argument about the noise levels at Fairbairn Park and have decided to vote with the Government. I am doing this to ensure that people who enjoy motor sport in the Territory can continue to do so.

The Fairbairn track was in place a long time before the New South Wales residents of the Ridgeway moved into their plush mansions. I am fully aware that the noise which occasionally wafts up the hill from the racetrack disturbs the ambience of some Ridgeway garden parties, but they should have thought about that before they moved in. I sometimes wish that I had the courage of a Trevor Kaine or a Roberta McRae when it comes to telling the residents of Queanbeyan where to get off, but it is not all the residents of Queanbeyan or even all the residents of the Ridgeway who have kicked up a stink about this. I have had phone calls from Queanbeyan residents who use the track, begging me to support the Government's proposed noise regulation.

This issue is being run by a select and privileged few who do not want to be within earshot of the "grubby working class yobs" who like to drive fast cars. But, even so, I quiver at saying nasty things about even a handful of people, lest I be misunderstood and ordinary people in Queanbeyan think I am having a shot at them. This is not so. I firmly believe that our future lies in thinking regionally and I look forward to ever closer ties between our two cities.

However, if I did have the courage of a Kaine or a McRae, I might say something like this: "I think it is completely unacceptable that a handful of namby-pamby NIMBY silvertails be allowed to dictate to the hundreds of people from both Canberra and Queanbeyan who enjoy the racetrack". Or I might say this: "Why should I give a rat's ... what the people of the Ridgeway think? The people of the Ridgeway live 35 minutes from the nearest people who can vote for me". But, Mr Speaker, I try to avoid that kind of inflammatory talk, unlike Mr Kaine and Ms McRae.

In conclusion, I will say this to my colleagues in the Assembly: Let us allow a little diversity in the world; let us not be so proscriptive of activities which are a little loud, a little dangerous or not to our taste that we suck all the vigour out of life. Life is full of disorder, noise and risk. That is what makes it fun. We may not like racing. It may cause a little inconvenience or even irritation at times, but a lot of people do like it.

This track is already on the outskirts of Canberra. Unfortunately, it is close to a residential area in Queanbeyan. That is too bad; but, as I said, the track was there first. And mark my words, Mr Speaker: If we lowered the limit, the campaign against the track would continue. The few residents of the Ridgeway who are opposing this regulation want the track moved. I do not expect them to give up until they get their way. If we let them win, where will the kids who use this track go? What will they do? Will we be shaking our heads in an Assembly committee one day in the future wondering why it is that our youth, particularly our boys, are causing so much trouble? The bottom line is that we are elected to represent our constituents. When pushed to make a choice, their needs should come first. No Canberra resident has complained to me about the track, but plenty have asked me to protect it, and that is what I intend to do.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 2 of 1996 - Government Response

Debate resumed from 11 December 1996, on motion by **Mrs Carnell**:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 8 of 1995 - Government Response

Debate resumed from 11 December 1996, on motion by **Mrs Carnell**:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Report on Person Referred to in Assembly - W.J. Curnow

MR SPEAKER: I present the report of the Standing Committee on Administration and Procedure entitled "Person referred to in Assembly - W.J. Curnow", which includes a dissenting report.

MR MOORE (11.54): I move:

That the report be adopted.

Mr Speaker, this is the first report before this Assembly on somebody who has been referred to in the Assembly and who seeks to exercise a citizen's right of reply. It seems to me that this is a great day for democracy because what this report does is recognise that people who are referred to in the Assembly will now have the opportunity, because we are prepared to stand up for them, to say, "I believe that something said in the Assembly has adversely affected my reputation and therefore I request that my response be included in the parliamentary record in *Hansard*". The system was established by resolution in May 1995 following a report of the Standing Committee on Administration and Procedure entitled "Standing Orders and a Citizen's Right of Reply".

A citizen, in this case Mr Bill Curnow, was referred to in the Assembly and he has sought to have some comments in response put into the record of this Assembly. Mr Speaker, for my part, only last sitting I referred to Mr Tony Powell in what some people would call an intemperate way. I called him the butcher of the Y plan. If Mr Tony Powell wished to put his view through the citizen's right of reply system, I would hope that he would be able to do so, and I invite anybody to suggest that to him if they so wish. A person who has been referred to in such a way, either by name or in such a way as to be readily identified, and who feels that their reputation has been adversely affected, should be able to reply, just as happens in this chamber, Mr Speaker, under standing order 46.

This is not a judgment on the part of this Assembly or on the part of the Administration and Procedure Committee as to whether or not the person was adversely affected. It is because the individual feels that they were adversely affected. That is why it is important to protect the individual's right to respond. It is part of improving the democratic process. A similar process applies in the Senate. We were fortunate enough to have somebody from the Senate come to speak to us, the Deputy Clerk of the Senate and Secretary of the Standing Committee on Privileges, Ms Anne Lynch, who explained exactly how the system operated in the Senate. From her description, my judgment is that if this matter had come before the Senate it would have been treated in the same way as the majority view of the Administration and Procedure Committee treated it.

That leads me, Mr Speaker, to the fact that there is a minority or dissenting report included in this report of the committee. I am terribly disappointed about the dissenting report. I think the dissenting report from Mr Corbell completely misunderstands what we are trying to achieve and also deliberately misrepresents the submission of Mr Curnow's, and I will explain why.

Mr Corbell: I raise a point of order, Mr Speaker. Mr Moore is suggesting an improper motive.

MR MOORE: I withdraw "deliberately", Mr Speaker. I am sure that Mr Corbell can explain his position when he stands to speak. His report does, however, clearly misrepresent Mr Curnow, and I will explain why I say that. The nub of the argument put by Mr Corbell in his dissenting report is in italics. He says this:

> He -

that is, Mr Curnow -

> states that "*his* [Mr Whitecross' comments] *could well impugn my credibility with other people*".

Mr Corbell then goes on to argue:

> The guidelines for accepting a citizen's right of reply clearly require that individuals substantiate the claim that the person has been adversely affected in reputation.

Indeed, that is exactly what Mr Curnow does, because had Mr Corbell bothered to read the next sentence of Mr Curnow's response, instead of drawing a quote out of context, he would have seen the following words:

> I conclude that my reputation and dealings or associations with others have been -

not may be -

> adversely affected and my office as president of the Cyclists' Action Group has been injured.

Mr Speaker, to me, anyway, it is not of huge significance as to whether he has or has not. The reality is that he feels he has, and that is exactly the same as the way standing order 46 operates in here. When somebody says, "I would like to make a personal explanation under standing order 46", the Speaker's reply is invariably, "Do you claim to have been misrepresented?". The individual then stands and says, "Yes, I claim to have been misrepresented". The person then talks about how they have been misrepresented.

In this case an ordinary citizen does not have that prerogative, but what we have done, correctly - I know that all members agree with this - is say, "When an ordinary citizen has been misrepresented they should be able to use their equivalent of standing order 46 and place their explanation on the record after it has been carefully considered by the Standing Committee on Administration and Procedure". It is always easy, in general, to say, "Yes, we want to apply this piece of legislation because we think it is fair"; it is always difficult to say that in a specific case.

It seems to me, Mr Speaker, that Mr Corbell's comments are simply precious. Comments were made and Mr Curnow has put a good case. I do not want to get into a debate on the issue, but he has put a good case that his reputation has been affected, not about the issue itself. That is what it is, Mr Speaker - a good case that he believes his reputation has been affected. That is the critical thing to me. I think that should be the critical thing in our judgment when dealing with such issues. His reputation has been affected, particularly amongst his peers. That is his concern. Why is it so hard for us to allow somebody to present that view? It ought not be hard.

I am very disappointed, Mr Speaker, that the very first time this is tested the Labor Party says, "No, we are not going to let somebody actually do it. It is all right in principle; but, as soon as somebody actually wants to do it and it affects us, we are not going to do it". I think that is, at the very least, disappointing. It certainly is precious, as I said. Mr Speaker, I believe that the appropriate way to deal with this report to the Assembly is to adopt it and ensure that the comments by Mr Curnow are included in *Hansard*. This citizen, who feels he has been wronged, should have the opportunity to have that correction put on the record.

It is very important, Mr Speaker, to note that that correction is not about attacking the person who made the comments in the first place. It is about putting his perspective on the way he saw things. That is what it is about, and that is what we should allow citizens to do to enhance our democracy. The reason it enhances our democracy is that it does the very opposite thing to what Mr Osborne was talking about a few minutes ago in a previous debate. When Mr Osborne was speaking in that debate - we will get back to it, I am sure - he was saying, "Let the majority view rule. If the majority have a view and that is what is good for them, that is the way it ought to be". He did go on further, of course, to talk about his own constituents and not worrying about others who do not vote for him.

If you always take the view, "That is what the majority thinks", it means the minority misses out. The real test of democracy is how well you look after your minorities, and the real test in this Assembly will be how well we look after people who feel they have been offended. As I say, Mr Speaker, it is not that we do not do it; we do. On a number of occasions, reasonably rarely, members do do that. I was the person who did it very recently with reference to Mr Tony Powell. If he wished to do this, I would encourage members to ensure that he got his right of reply.

MR CORBELL (12.05): Mr Speaker, I did dissent from the decision of the majority of my colleagues on the Administration and Procedure Committee. I did that because I was not prepared to accept the argument that they put to me that Mr Curnow's submission fitted within the guidelines for a citizen's right of reply. It is entirely legitimate for me, Mr Moore, to make the point in a dissenting report. If you cannot accept that a member disagrees with you, I think you have a few steps to take yet. You should not stand in this place and suggest that simply because someone deigns to disagree with you on an issue they are being precious. I believe that I have submitted very clearly two strong arguments on why this citizen's right of reply should not be accepted by this Assembly.

I would like to outline those again, for members who might be listening. The first is that in a citizen's right of reply a citizen needs to demonstrate that their credibility or their reputation has been impugned by the comments of a member in this place. Mr Curnow says in his statement that Mr Whitecross's comments "could well impugn my credibility with other people". In other words, it is possible that it could be impugned. Then he goes on to say, "Because it is possible that they might be, they have been". That is what Mr Curnow says in his comments. In his comments Mr Curnow says this:

> I conclude that my reputation and dealings or associations with others have been adversely affected and my office as president of the Cyclists' Rights Action Group has been injured.

He argues that because his credibility and reputation might have been impugned it has been impugned. At no stage in his submission did he demonstrate how it had been impugned.

Mrs Carnell: I have to say that this is very precious.

MR CORBELL: Chief Minister, the standing orders and the guidelines for a citizen's right of reply require that a person seeking a citizen's right of reply demonstrate that their reputation or dealings have been impugned, and he has not done that. On that ground alone, Mr Speaker, I believe it was not appropriate for the Administration and Procedure Committee to recommend that the right of reply be accepted by the Assembly.

Mr Speaker, the second point I want to make is in relation to Mr Curnow's grounds on which he sought right of reply. Mr Curnow argued that Mr Whitecross said that Mr Curnow did not supply him with information, did not supply him with evidence, on the cause that he, Mr Curnow, was advocating. He went on subsequently to present information that he said he had supplied to Mr Whitecross. That is not in dispute. It is not in dispute that Mr Curnow did supply information to Mr Whitecross, because it is quite clear that he did. Mr Whitecross, in his submission to the Administration and Procedure Committee, said that, and Mr Curnow in his submission also said that. They both indicated that.

Mr Speaker, what Mr Whitecross was saying was not that the information or evidence had not been provided; it was that the evidence that had been provided had not convinced Mr Whitecross of the credibility of Mr Curnow's cause. That is a decision that members in this place make every day when we receive submissions. When we receive representations from community groups, from individuals and from organisations we make assessments about which information is of greater value and which is of lesser value, and we make decisions about which way we are going to vote on or discuss a particular issue. That is a legitimate decision for a member to make.

What Mr Curnow is saying is this: "Because Mr Whitecross did not agree with me I want to continue this debate, and I want my view put into *Hansard*". Well, I am sorry, but Mr Curnow lost the debate in this Assembly, and Mr Moore lost the debate in this Assembly on the issue that Mr Curnow was advocating. It is not acceptable for a citizen to use the right of reply process to perpetuate a debate, and I firmly believe that that is what he was doing. He was debating the issue. He had not demonstrated any grounds

where he had been misrepresented, and he had not demonstrated any grounds where his character had been impugned. He suggested it might have been, but he did not demonstrate that it had been. Mr Speaker, in conclusion, Mr Curnow has failed to demonstrate why his citizen's right of reply should be incorporated in *Hansard*.

I want to place on the record that the Labor Party does believe that there is an important role for the citizen's right of reply, but the role is not to allow citizens to continue a debate. Our democracy offers other forums for people to continue to advocate their cause, to represent their views to their elected representatives, to lobby and pressure their elected representatives; but that is not what citizen's right of reply is. Under standing order 46, when we stand up in this place, we are not allowed to debate the issue, and neither should Mr Curnow be. I feel that that is what he is doing.

Mr Speaker, if the Assembly is prepared to accept the recommendation of the majority on the Administration and Procedure Committee, and it seems to me that it is, then I believe the Assembly is establishing a very dangerous precedent. The precedent the Assembly is establishing is that it is opening up a situation where hypothetically any time a member in this place questions the pace of development or redevelopment in the city, any time a member in this place questions the aspirations or determinations of the trade union movement, we will have opened up the possibility for any developer or any trade unionist, or anyone else for that matter, to come into this place and say, "I believe my reputation has been impugned because you made a critical comment about the trade union movement, about development, about an environmental organisation, or whatever".

That is not what the citizen's right of reply is for. The citizen's right of reply is not for debating the issue. The citizen's right of reply is there to give citizens the opportunity to rectify where something wrong and misleading has been said about them in the chamber. That is not what has occurred in this situation, and I believe it is incumbent upon this Assembly to not accept the standing committee's recommendation. Unfortunately, I feel that it will.

MS TUCKER (12.13): I would like to make a couple of comments on this. I was supportive of the report. Mr Corbell obviously is convinced by the arguments he just put, but I am not. The resolution of the Assembly says:

> Where a person or corporation who has been referred to by name, or in such a way as to be readily identified, in the Assembly, makes a submission in writing to the Speaker:
>
> (a) claiming that the person or corporation has been adversely affected in reputation or in respect of dealings or associations with others ...

It is quite clear that Mr Curnow has claimed that he has been adversely affected. I am not going to go into the debate about the issue, but there is ambiguity in what Mr Whitecross said. I am perfectly willing to accept that what Mr Whitecross said he meant is what he meant, but I am also quite willing to acknowledge that Mr Curnow has the right to feel that because it is ambiguous he wants to clarify his position. That is all he is doing, and I cannot see why that is such a worry to Labor.

I will not use the word "precious". What will I say? I think it is rather ungracious, in a way, to deny that right, because there is no way that it is going to be significantly difficult for Mr Whitecross that this person is clearing up what is an ambiguous statement in *Hansard*. I think it is perfectly reasonable to do this. He obviously feels his reputation has been impugned. He has made that quite clear. He has gone to a lot of trouble to put in this citizen's right of reply. I thought that in this place we were encouraging the community to feel involved in the work we do here, to feel that they have a say, and the citizen's right of reply is a very fundamental way that they can address what they perceive to be injustice. We are obviously in a very privileged position here in terms of what we can say. I think it is disappointing, really, that Labor are not able to accept that what was said was ambiguous and Mr Curnow should have the right to clarify it.

MR MOORE (12.16), in reply: Mr Speaker, as I listened to Mr Corbell speak I decided that he has simply made a mistake, and I went back through the guidelines. In his dissenting report and in his speech, Mr Corbell said that the guidelines for accepting a citizen's right of reply clearly require that individuals substantiate the claim that they have been adversely affected in reputation. He went on to say:

> In my opinion Mr Curnow has failed to substantiate this claim ...

When we go to the guidelines - they are included in the report, so members will be able to see them very easily - we see that it is actually not true that the person has to substantiate that they have been adversely affected. I will read the Assembly's resolution. It says this:

> (1) Where a person or corporation who has been referred to by name, or in such a way as to be readily identified, in the Assembly, makes a submission in writing to the Speaker:
>
> (a) claiming that the person or corporation has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and
>
> (b) requesting that the person or corporation be able to incorporate an appropriate response in the parliamentary record, ...

Then there is a series of other things that apply. I have checked through that series of other things and it is incorrect to say that we need anything more than the claim. It is the claim that is critical, not the substantiation of the claim. That is how the guidelines are set up - that a person claims, not that they substantiate the claim. There are very good reasons for that. We do not want to get into debate about whether someone's reputation has or has not been affected. What we make a judgement about is whether a submission is not sufficiently serious, or is frivolous, or is vexatious, or is offensive in character.

This submission is none of those things. That is what I consider to be the mistake that Mr Corbell has made in misunderstanding the guidelines. We now have the opportunity to ensure that we allow people to put their perspective, whether we agree with them or not. That is what it is about.

MR CORBELL (12.19): Mr Speaker, I seek leave to speak again, briefly.

Leave granted.

MR CORBELL: I thank members. Mr Speaker, Mr Moore suggests that I am mistaken. I would like to assure Mr Moore that I am not mistaken. I have not made a mistake. I reject his claim in the debate today that I have made a mistake. If you look at the two points that Mr Moore raised, you will see that I am quite within my rights to interpret it the way I have. I believe it is the correct way to interpret it.

Mr Moore says that Mr Curnow needs to have said that he claims to have been adversely affected in reputation or in respect of dealings or associations with others. I think the key words there are "has been adversely affected". I think Mr Moore will see in my dissenting report that I say that Mr Curnow has not demonstrated that he has been adversely affected. He has not even claimed that he has been adversely affected. He has claimed that he may have been adversely affected.

Mr Moore: Oh, come on!

MR CORBELL: If Mr Moore wants to enter into an argument about words, we will too. We believe that our position is just as legitimate. It is entirely appropriate for members in this place to argue the toss about how we interpret the guidelines. We believe that the interpretation of the guidelines that Mr Moore is advocating here today is not appropriate for the citizen's right of reply. The citizen's right of reply is about ensuring that an injustice done to a citizen can be corrected in the *Hansard* record. That is not what Mr Curnow is doing.

Mr Moore highlighted the other guideline that is in the resolution, guideline (1)(c), where the Speaker has to make a decision about whether the submission is not obviously trivial or frivolous, vexatious or offensive in character. Mr Speaker, I would argue that you made a decision that it was not and you wanted the Administration and Procedure Committee to consider it, and I accept that that was an entirely appropriate decision for you to make. But that does not rule out the committee making a decision that the submission was frivolous, vexatious, or offensive or trivial in nature. It is entirely appropriate that I, as a member of the Administration and Procedure Committee, make the decision that it is frivolous and vexatious, and that it is a perpetuation of the debate. It is not an attempt to correct the record. It is an attempt to perpetuate the debate. That is why I dissented from the majority recommendation of the committee, and I believe it is an entirely appropriate dissent to make.

Question resolved in the affirmative.

Response incorporated at Appendix 5.

ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Report on Person Referred to in Assembly - W.J. Curnow - Statement by Member

MR WHITECROSS: Mr Speaker, I seek leave to make a statement in response to the comments by Mr Curnow that have been adopted.

Leave granted.

Mr Moore: Why did you not do it in the debate?

MR SPEAKER: Yes, I thank you for your interjection, Mr Moore. I am a little surprised it was not done during the debate.

MR WHITECROSS: Mr Speaker, I canvassed both options with you in private and at the time you did not express an opinion one way or the other. I assumed that either option was open to me.

MR SPEAKER: You have received the permission of the Assembly.

MR WHITECROSS: Thank you, Mr Speaker; but you editorialised from the chair, so I am responding to your editorial comment.

Mr Humphries: Sensitive!

MR WHITECROSS: No; if Mr Speaker wants to debate the forms of the house, I am happy to do it, Mr Humphries.

MR SPEAKER: I do not know whether this is under standing order 46 or not, but you have been given leave of the Assembly, Mr Whitecross. Proceed.

Mr Moore: No. You refuse the right to Mr Curnow. You do not have it, no.

MR SPEAKER: So leave is refused.

MR WHITECROSS: We debated whether the majority of the Assembly should decide that it should be incorporated in *Hansard*. Now that it has been incorporated, I wish to respond to it. If it had not been incorporated, I would not have responded to it.

Mr Osborne: Yes, let him speak.

MR WHITECROSS: Thank you.

MR SPEAKER: Is leave granted?

Leave granted.

MR WHITECROSS: It is a perfectly consistent position. Mr Speaker, it would have been entirely inappropriate for me to have stood in this place, attacked Mr Curnow's words and then to have voted against his statement being incorporated in *Hansard*. I followed what I believe to be the correct process, and that is to allow the debate on whether it should be incorporated and then, if that decision was made by the majority in this place, to respond.

MR SPEAKER: That makes sense, yes.

MR WHITECROSS: Thank you, Mr Speaker.

Mr Moore: The hypocrisy is that you are standing up to speak in a way that you would not let him do.

MR SPEAKER: Order, Mr Moore!

Mr Corbell: Are you going to call him to order?

Mr Wood: He will not get a warning.

Mr Corbell: He will not warn Mr Moore. You do not warn Mr Moore, do you?

MR SPEAKER: Be careful.

MR WHITECROSS: Mr Speaker, the citizen's right of reply is an essential part of democracy and I am an avid supporter of it. The right of reply procedures have been in operation in the Legislative Assembly since 1995. Based on the right of reply procedures used in the Senate, it provides citizens with an opportunity to counter statements made by politicians, under privilege, exercising the prerogative of freedom of speech, if citizens feel that they have been aggrieved or unfairly misrepresented in the Assembly. The right of reply was originally implemented in England in the seventeenth century as part of the Bill of Rights and as a fundamental part of the Westminster system.

It is important for elected representatives to be able to represent their constituents without fear of legal action. That is not to say that elected representatives should be able to violate others' privacy or destroy professional or personal credibility. Obviously, that would be contrary to our responsibilities, which is why the right of reply procedure serves as a useful check on parliamentary privileges exercised by elected representatives. However, just as the onus is on elected representatives not to abuse their privileges, it is important for citizens not to abuse or be vexatious in the use of the citizen's right of reply.

Mr Speaker, Mr Curnow is the first person in the ACT to have used the citizen's right of reply. He claims that the statements I made in this place have left him aggrieved and unfairly treated. Without getting into a prolonged debate regarding who is right and who is wrong, I do not believe the procedure used should be abused in the way that I feel it has been, although I accept the decision of the Assembly in relation to this matter.

Firstly, to use the right of reply the citizen must show that they have been unfairly affected by statements made by an elected representative under privilege.

Mr Moore: I take a point of order, Mr Speaker. I believe that Mr Whitecross is reflecting on a vote of the Assembly.

MR SPEAKER: No. I do not uphold the point of order, Mr Moore.

MR WHITECROSS: Thank you, Mr Speaker. In Mr Moore's remarks earlier he referred to standing order 46. Anyone who has tried to use standing order 46 knows that you, Mr Speaker, in upholding the standing orders, certainly sit us down quick smart if we do not demonstrate where we have been misrepresented. Mr Speaker, the damage that could be referred to could be commercial, professional and/or personal. The citizen is required to write to the Speaker of the Assembly, making out his or her case. The Speaker then refers the matter to the Standing Committee on Administration and Procedure and the standing committee is asked to make a judgment, not only about the relative merits of the case but also about whether it is necessary for a citizen to have a statement tabled in the Assembly and incorporated in *Hansard* so as to put their side of the case on the public record. I might add at this juncture that this procedure was introduced in 1989 in the Senate. In all the time that it has existed there have been some 20 cases of citizen's right of reply being utilised.

In the case of Mr Curnow, I think it is important to note that at no time during my statements in the Assembly did I name Mr Curnow. I accept that Mr Curnow was named during the debate - I believe by Mr Kaine - but I would hasten to add that it was not by me. Therefore, I would conclude from that that it is quite difficult to prove that any statement I made in the parliament would have impacted on Mr Curnow in such a manner as to cause aggrievement. As I have already outlined, the concept of the right of reply is to ensure that natural justice is available to all citizens. Citizens who believe that their elected representative has misrepresented a fact or statement are provided with the opportunity to correct the record. The process of having to apply to the Speaker for the Standing Committee on Administration and Procedure to assess the case ensures impartiality and objectivity, particularly as the committee is not allowed to make value judgments about a claim or about a member's language.

I have, however, been disappointed by the committee's apparent disregard for my right to natural justice. As the Assembly would be aware, and as the committee would be aware - - -

Mr Moore: That is what you are exercising now.

MR WHITECROSS: Listen, Mr Moore, and you will learn. As the committee would be aware, this issue was first raised with the Speaker in August this year. The committee took three months to consider this issue before I was even asked to comment on the efficacy of the claim and the issue surrounding it, by which stage a draft report had been prepared. When I was invited to make a submission to the committee I was provided with three working days - the committee had three months - within which to complete the task. While I understand that the committee has a number of tasks and references, I believe that such a process is less than satisfactory.

Mr Curnow believes that I made statements which the broader community would understand to reflect on his personal standing and credibility. Mr Speaker, I refute such claims. The thrust of my comments in the Assembly on 8 May related to the debate instigated by Michael Moore on bike helmets. The issue at the time involved the debate over whether sufficient evidence existed to prove that bike helmets reduced the incidence of injury to the brain. Mr Curnow and I disagree over this issue. The object of the right to reply is not to debate the issues but rather to ensure that citizens have the opportunity to correct the record if their reputations have been impugned. In relation to this, I believe it is important to clarify a few of the issues which were raised in Mr Curnow's statement.

Before I do that, Mr Moore indicated in his remarks that he did not believe Mr Curnow had attacked my reputation in his right of reply. I reject utterly the suggestion by Mr Moore that Mr Curnow has not attacked my reputation. In Mr Curnow's right of reply he says that I made an untrue statement. He says that I impugned his credibility. He also deliberately misinterpreted and misrepresented my words and by doing so has implied that I deliberately made a false claim that I had not received any information from CRAG or Mr Curnow in relation to bike helmets. That is the essence of the first half of his argument that I deliberately made a false claim that I had not received any evidence from Mr Curnow, Mr Speaker. If that is not an attack on my reputation, I do not know what is. Of course, Mr Speaker, I had received evidence. What I said was that he had failed to produce evidence that there is some danger posed by wearing cycle helmets, not that he had failed to provide me with information. So, Mr Speaker, he has attacked my reputation, and that is why I believe it is important that I correct the record.

Mr Curnow does not believe that there is, or ever has been, sufficient evidence to show that the wearing of bike helmets reduces injuries to the brain. Instead, Mr Curnow believes that the compulsory requirement to wear a bike helmet has resulted in a reduction in the number of people riding bicycles and an increase in the risk of head injury. He believes that the National Health and Medical Research Council's research paper entitled "Football Injuries of the Head and Neck" substantiates his claim that by wearing a bike helmet individuals can actually increase damage done to the brain in the event of an accident.

Mr Curnow is entitled to his opinion. However, I believe that as an elected representative my primary duty is to ensure the safety of bike riders and children in our community who choose to ride bicycles, and I did that to the best of my ability. The National Health and Medical Research Council report does, in fact, acknowledge that by wearing helmets the extent of injury done to the brain in the event of an accidental blow may, in fact, be increased. However, it is talking about football helmets. The report goes on to indicate that this research is specifically tailored to football injuries. I quote:

> Helmets ... must be sport-specific to be effective. The demands of an individual sport must be researched and then an appropriate helmet configuration, shock-absorbing material and outer surface must be constructed.

The report goes on to state:

> Helmets are designed to serve a number of functions. They absorb the force and decelerate the blow at the point of impact, resist impact-induced deformation, withstand surface abrasion and distribute the focal impact over a larger area. There is experimental evidence that cycling and ice hockey helmets achieve at least part of this aim.

The report also states:

> The evidence that helmets reduce soft tissue injuries is shown by studies examining the effectiveness of cycling helmets.

In another review undertaken by Michael Henderson from the Motor Accident Authority of New South Wales, entitled "The Effectiveness of Bicycle Helmets - A Review", the wearing of bicycle helmets has been proven to result in a reduction in risk among some child helmet wearers of 63 per cent for head injury and 86 per cent for loss of consciousness. Dr Henderson's study also points out that in the two years following the introduction of the bike helmets law the number of bicyclists with head injuries decreased by 48 per cent.

In conclusion, Mr Speaker, when I raised some of these issues in the Assembly on 8 May I was not attempting to malign or falsely accuse Mr Curnow. However, I was attempting to ensure that the facts were provided to the community. Mr Curnow does not believe in the wearing of bike helmets. However, it is my belief that as legislators we are morally obliged to reduce the risk of harm and damage to our children and fellow citizens. Just as many people in the community do not like wearing seat belts, it has been shown that, in the event of an accident, wearing seat belts may save lives. This is not a guarantee that seat belts save lives, but the potential of saving life is increased if a seat belt is correctly worn.

I believe that the evidence currently available on the public record proves that, while a bike helmet may not absolutely protect an individual from brain injury in the event of an accident, it will substantially lessen the risk. At the end of the day that is all anyone can ever hope for; that is, to substantially lessen the risk of harm or damage to our children and loved ones using bicycle helmets. I defend my right to interpret the evidence provided by Mr Curnow as I did. I resent the attack on my reputation, and I resent, Mr Speaker - - -

Mr Osborne: That is all you had to say, Andrew; not carry on with all that crap.

MR SPEAKER: Order!

MR WHITECROSS: Mr Osborne says that my opinion in relation to the safety of wearing helmets is crap. That is what he said.

MR SPEAKER: Do not respond to the interjection. Ignore it.

MR WHITECROSS: I am not sure whether you think "crap" is an unparliamentary word, Mr Speaker.

MR SPEAKER: I did not hear that. If you said the word, Mr Osborne, please withdraw it, because I think it is unparliamentary.

Mr Osborne: I withdraw it, Mr Speaker; but what Mr Andrew Whitecross has gone on with for the last 10 minutes has been garbage. You should have just said what you said in two or three lines. You go on like a big sook.

MR SPEAKER: That I cannot do anything about. Order!

MR WHITECROSS: Mr Speaker, thank you. Let it stand on the record that Mr Osborne thinks that improving safety for bicyclists is garbage, but, Mr Speaker - - -

MR SPEAKER: Order! That is not the case.

Mr Osborne: I take a point of order, Mr Speaker. I want Mr Whitecross to withdraw that. What I did say was that what he said was garbage. I want that to stay on the record.

MR WHITECROSS: I was debating the point you said it - - -

Mr Osborne: Are you going to withdraw that? Would you ask him to withdraw that, Mr Speaker?

MR SPEAKER: Order! Do you have a point of order, Mr Osborne?

Mr Osborne: Yes, I was misrepresented by Mr Whitecross on the issue of bike helmets.

MR WHITECROSS: I am sure that Mr Osborne can take a point of order. If he wants to explain words there is a procedure under standing order 47. At the present time he might wish to avail himself of that standing order.

Mr Osborne: Mr Whitecross said that I said something along the line that improving safety bike helmets was crap. I never said that. I would like Mr Whitecross to withdraw that imputation.

Mr Corbell: I take a point of order, Mr Speaker. If Mr Osborne is concerned about something Mr Whitecross said he can make a personal explanation under standing order 46, which usually occurs at the conclusion of the debate.

Mr Moore: On the point of order, Mr Speaker: Mr Whitecross very clearly said "in conclusion". He concluded his speech and then went on further. The appropriate time for Mr Osborne to do it was at the conclusion of the speech. The hypocrisy of Mr Whitecross is that he has done the very thing that he wishes to deny to Mr Curnow.

MR WHITECROSS: No, I have not.

MR SPEAKER: The Clerk has drawn to my attention that standing order 47 is available only if there is a debate. There is not a debate at the moment.

MR WHITECROSS: Never mind. Well, standing order 46 would have done. I think Mr Osborne has explained his words.

Mr Speaker, let me finish by saying that I believe that if the Assembly is going to allow explanations of this kind, which attack my reputation and motives, it is appropriate for me to be able to get up in this place and set the record straight as to what I say. That is what I have done today. I stand by my right to do it if Mr Curnow is to be given the right. I believe it was inappropriate in this case, but I accept the decision of the Assembly. If Mr Curnow is given the right, then I claim the same right, Mr Speaker. That is what I have done today. I stand by my right to defend the safety of bicyclists. If Mr Curnow and Mr Moore have a different view, that is fine; but I do not believe that the right of reply - - -

MR SPEAKER: Repetition is creeping in here and I will rule against it very shortly.

MR WHITECROSS: I do not believe that the right of reply should be used to go on with debates, as Mr Moore has allowed on this occasion.

PERSONAL EXPLANATION

MR OSBORNE: Under standing order 46, I wish to make a personal explanation.

MR SPEAKER: Yes, Mr Osborne.

MR OSBORNE: I will not mention the issue that Mr Sook over there has been speaking about, Mr Speaker, but what I would like to do is - - -

Mr Corbell: I take a point of order, Mr Speaker. Mr Osborne knows that he should address members by their correct title and not by the name "Sook".

MR SPEAKER: I do not know that he was addressing anybody, actually.

Mr Corbell: Mr Speaker, Mr Osborne used the word "sook" in relation to Mr Whitecross. It is unparliamentary, Mr Speaker.

MR SPEAKER: The word "precious" comes very easily to mind from the Chair, and I would remind everybody - - -

Mr Whitecross: On a point of order, Mr Speaker: You have referred to Mr Corbell as "precious". I think in doing so you have impugned his character and I ask you to withdraw that remark.

MR SPEAKER: I said that the word "precious" comes easily to mind in this entire chamber at the moment, Mr Whitecross.

Mr Whitecross: Well, thank you, Mr Speaker. I think in the context it was directed purely at Mr Corbell and you should withdraw.

MR OSBORNE: Mr Speaker, to clarify whom I was speaking about, when I said "sook" I was talking about Mr Whitecross. On the issue of when Mr Moore was speaking - - -

Mr Moore: Is Mr Corbell precious?

MR SPEAKER: Order! Just continue, Mr Osborne. Let us get this sorted out.

MR OSBORNE: I do not know. I think they are all precious, sweet little things over there, Mr Moore.

I need to clarify a couple of points that Mr Moore spoke about during his speech before. He may have misrepresented my view, but he has apologised. I would like to clarify it for the record, Mr Speaker. Mr Moore said that I said that the only view that counts is the majority view. I did not say that. He then went on to say that my only view was what my constituents wanted. I did not say that either, Mr Speaker. What I did say on the issue of the Fairbairn raceway was that the bottom line is that we are elected to represent our constituents and, when pushed to make a choice, their needs should come first. That was on the issue of the Fairbairn raceway. I thought I should clarify that for Mr Moore's benefit.

Sitting suspended from 12.41 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Political Advertising

MR WHITECROSS: Mr Speaker, my question without notice is to the Attorney-General. Mr Humphries, yesterday you told this Assembly that you had, in October, signed an electoral regulation relating to government-funded political advertising in the six months prior to an election and that you had tabled it earlier this week. Later on, you apologised for misleading the Assembly and admitted that that was not the case. Then, late last night, you came back into the Assembly and told the Assembly that the regulation had been signed on 28 November or gazetted on 28 November. You said:

> ... these regulations were gazetted last Friday, and I table them now.

Minister, the regulation you actually tabled was unsigned and undated. When did you sign the regulation? Will you table a copy of the signed regulation? Will you also explain what you intend to do about the advertising supplement, which has clearly breached this regulation?

MR HUMPHRIES: Mr Speaker, I indicated to members last night that the regulation had been gazetted last Friday. I was in Japan last Friday; so, I obviously did not sign it last Friday. Certainly, it was gazetted last Friday. That is what occurred last Friday. It was made operative from 1 December.

Mr Whitecross: Someone must have signed it. So, who signed it?

MR HUMPHRIES: I think the copy I made available to members, which was a copy for the purposes of gazettal, had my name and, I think, the Chief Minister's name on it. You have it; so, you can tell me, Mr Whitecross. It had names written on it, as I understand it.

Mr Whitecross: It was not signed. It was unsigned, undated and unnumbered.

MR HUMPHRIES: I was not giving you a copy that conforms with the requirements of the legislation.

Mr Whitecross: I just asked you for one then.

MR HUMPHRIES: If you would just like to listen, Mr Whitecross, you will hear. I was giving you a copy to provide you with the information about the content of the regulation, not to give you all the signed, sealed and delivered other requirements to go with the process of gazettal. I was giving you a copy so that you could find out what the contents were. If you begrudge that, then I certainly will not do it in future, I can assure you.

Mr Speaker, I think I have already answered the question about what to do about the hospital. In fact, I have a copy, which I will table, of a letter from Mr Brian Johnston, the chief executive of the Canberra Hospital, to Mr Phillip Green. He begins by apologising for the breach of the regulations concerning the publication of a photograph which appeared in a supplement to the *Chronicle* newspaper. He explains that the hospital management was negotiating with the *Chronicle* from 21 October to have the supplement inserted on 25 November. On 17 November the copy to be used was sent to the company that was doing the layout design. The hospital management signed approval on quotes by the *Chronicle* on 20 November, and apparently this company then booked the supplement on 25 November. It was not published on 25 November; it was published on the following Tuesday, which was this Tuesday - which was, of course, after 1 December. The letter says further:

> The Hospital management did not receive notification of the regulations covering the publication of a photograph of an MLA until Wednesday, 3 December 1997.

I can indicate that the Government certainly made it very clear to the ACT Administration, particularly through a decision of Cabinet, that there were to be no publications that contained photographs of MLAs, and now clearly this has been breached. I would say, without expressing an opinion, that this appears to have been a breach by the Canberra Hospital. But, given that they appear to have, in good faith,

attempted to publish this before the date concerned, I do not personally propose to take any further action on the matter. The matter has been drawn to the attention of the Electoral Commissioner. He is well aware of what has occurred. It is open to him now to take action on the matter. I do not enforce those regulations in that sense, particularly when in any case it is an arm of government which is involved in the breach. It is more appropriate for that to be done by the Electoral Commissioner.

MR WHITECROSS: Mr Speaker, I have a supplementary question. Minister, in your answer you indicated that you were, in fact, in Japan on the Friday, the day that this regulation was gazetted. Are you therefore saying that this was gazetted before you signed the regulation? That is the first part of my supplementary question. The second part of my supplementary question is: Since the advertising supplement was in breach of your regulations and in breach of the principle you laid down in January 1995, that advertising which features photos, statements or signatures of politicians will not be paid for by the ACT Government, will you pay for the supplement?

MR HUMPHRIES: Mr Speaker, the answer to the first supplementary question is no. The answer to the second question is that I do not have copyright in all the photographs of me that might appear around the place, nor do you have copyright in your photographs.

Mr Whitecross: It is a government department.

MR HUMPHRIES: But I did not ask the government department to publish it; quite the contrary. The Government instructed government agencies not to publish photographs of Ministers or members of the Assembly. It was a clear direction. It was made in Cabinet. The decision was disseminated, or we intended that it be disseminated, to all relevant areas of the Public Service. Obviously, it did not reach this area in time to assist in not publishing this on that due date. Certainly, as I understand it, efforts were made to ensure that the area concerned did not publish any photographs of their own Minister. I gather that some possibility that it might have done so originally was averted by their deliberately taking the step of removing a photograph of their own Minister.

In the circumstances, I have done all that was reasonably possible - short of roaming through the corridors of various agencies of government and searching through drawers to try to find anything that might contain a photograph of me - to prevent that from being published. I might say that it is pretty rich to have criticism from this Opposition of the steps this Government has taken on this score, when you people plastered your photographs all over government publications ad nauseam in the period right up until the elections in 1995 and 1992. I do not have the folder with me at the moment - but I am sure that it is coming down right now - containing all of the examples of breaches of this principle by the former Labor Government.

Ms McRae: You created the principle retrospectively. Get away! It is your idea, not ours.

MR HUMPHRIES: No. Mr Speaker, I am not saying - - -

Mr Whitecross: This is what you reap by your standards.

MR HUMPHRIES: Those standards are high standards. Obviously, they are standards that are far too high for you to have conformed with, and you people - - -

Mr Whitecross: Too high for you, too, because you have breached them already.

MR HUMPHRIES: No, we have not breached them. An agency of government, against our express direction, has breached them. I think, in the circumstances, we have taken all reasonable steps to ensure that that should not occur. What more are we expected to do, Mr Whitecross? Mr Whitecross, of course, has no answer to that very simple question.

MR SPEAKER: Mr Humphries, were you going to table something?

MR HUMPHRIES: No, Mr Speaker.

Ms McRae: No. That was the question; but he would not answer it.

MR HUMPHRIES: I answered the question completely.

Ms McRae: You were asked to table it.

MR HUMPHRIES: I am sorry; I was going to table this, Mr Speaker. I table that letter.

MR SPEAKER: I thought you were.

MR HUMPHRIES: I thought you meant the other examples. I will table them as well, if you like.

School Computer Facilities

MR HIRD: My question is to Mr Stefaniak. I understand that the Chief Minister and you, in your capacity as Minister for Education and Training, this morning made an important announcement concerning a major technology package which will benefit Canberra schools in particular - - -

Ms McRae: You were not even allowed to do it all by yourself.

MR HIRD: Listen, Ms McRae. You are a teacher. You will appreciate this.

Ms McRae: Not anymore, Mr Hird.

MR HIRD: I am sure that you will, because this morning, as I understand it, all teachers were right on the edge of their chairs with so much excitement. Can the Minister advise this parliament about the detail of the package?

MR STEFANIAK: I certainly can; and they did seem pretty excited, Harold. That is for sure. I think today's announcement is a great achievement for this Government and a really excellent one for all ACT government school teachers and students. The comprehensive information technology package is aimed at keeping Canberra students and teachers at the forefront of the information revolution. It is an investment in our youth, Mr Speaker - a resource that is much valued by this Government. It is about ensuring that our teachers and schools have the equipment and the backing to harness the power of information technology.

The IT package is valued at over $20m - let me repeat that; over $20m - a fantastic amount of money, you will all no doubt agree. The key elements of the package, Mr Speaker, are a pentium computer - yes, a pentium - to be provided for every permanent teacher over the next two years under the technology for teachers program; up to 5,000 computers per year for each of the next four years for the use of students in government schools, and at very cheap rates; approximately $12m of Microsoft software provided free of charge to schools; establishment of a dedicated digital network for fast and reliable communications, including Internet access; $5m in IT grants for schools over the next four years to help fund the provision of computers, training and infrastructure; a new school administration system, which means a minimum for each school of about $10,000 per annum - say, for the three smaller schools - for each of the next four years; and also, importantly, support and professional development for staff.

This package will ensure that our education system remains the best education system in the country. An important element of this lies in equipping our young people with highly developed skills to enable them to harness the power of IT creatively and in ways that add value to the lives of all of us. This package of assistance consolidates the premier position of our schools in the Australian education system. It firmly focuses our education system on the future. It lays the groundwork for changes in education delivery, student-teacher relationships and student outcomes.

An extremely important fact about this package, Mr Speaker, is that it is already paid for. It is possible, thanks to the strategic partnerships formed by the InTACT group, along with funding supplementation from the Commonwealth and existing budget funding. This Government places education as a very high priority, and this important announcement made this morning is an indication of our commitment to the young people of this city. Education is an investment in our future, and this IT package is a very significant investment in the future of this Territory.

Political Advertising

MR CORBELL: Mr Speaker, my question is to the Attorney-General. Attorney-General, in relation to your new regulation relating to government-funded political advertising in the six months prior to an Assembly election, will you outline what steps the Government has taken to advise government departments, authorities and Territory-owned corporations of this policy, and specifically will you tell the house how this advice was given and when?

MR HUMPHRIES: Mr Speaker, Mr Corbell might not be aware, but members opposite who have been in government will be aware, that when governments make decisions in Cabinet there is a minute secretary at the Cabinet meetings and, indeed, generally the head of the Chief Minister's Department also attends the Cabinet meetings. Decisions which affect areas of government are then taken away from the Cabinet room and relayed to the necessary areas of government. That is not a great surprise, I am sure, Mr Corbell.

In this case, I understand that that was the situation as well; that the decision taken by Cabinet sometime last month - I think, in the early part of last month - to adopt that position was recorded at a Cabinet meeting and the decision was taken by the officers who attend Cabinet meetings back, in part, to each area of government. I understand that that decision was conveyed to the heads of agencies, as is usual, or to officers within the offices of the heads of agencies. They, in turn, are expected to disseminate the information to various areas of government where publications might be produced or authorised for publication.

In addition, I know that a number of officers in other areas had the issue discussed with them. Certainly, I consulted all of my agency heads and asked them whether there would be any problem in implementing this policy when it was adopted. They advised me that they would take steps to ensure that it was satisfactorily implemented. As far as I am aware, that was done within those areas. Mr Speaker, obviously, it is unfortunate that one area of government did not get the message, or at least did not have the message in time to be able to prevent this from happening in this case.

I realise that members opposite are very quick to condemn in those circumstances; but, in any large organisation like government, those problems will occur. When a decision like that is made, if someone does make a mistake further down the line, somewhere in the very large body of people who make up the very dedicated Public Service of the ACT, it seems hardly reasonable to make a huge issue out of that mistake. This mistake was made, apparently, in complete honesty. They were attempting to comply with what they thought was the direction that had been given. They duly took out photographs of the Minister for Health, but omitted to remove one of me. If you think this is a big Federal issue, Mr Corbell, go ahead and make an issue for the election - - -

Mrs Carnell: But your name is not even on it.

MR HUMPHRIES: My name is not even on it.

Mrs Littlewood: They might not have known who you were.

MR HUMPHRIES: That is possible. They might not. Mr Speaker, I am satisfied with the steps taken so far. As I say, I do not propose to do further than I have done, which is to make sure that the Electoral Commissioner is advised of the matter.

MR CORBELL: Mr Speaker, I wish to ask a supplementary question. Minister, will you advise the Assembly of the date of the Cabinet meeting at which that decision was made?

MR HUMPHRIES: I will find out and I will advise you.

Total Fire Bans

MS HORODNY: My question is directed to Mr Humphries in his role as Minister for Emergency Services. Minister, you would be aware that last week it was very hot and dry in Canberra and that at the very beginning of the week there was a total fire ban declared in the ACT. You would also be aware that bushfires are currently raging across New South Wales and that New South Wales has a total fire ban in place. It has come to my attention, however, that the total fire ban in the ACT was lifted last week, just before the FAI car rally commenced in Canberra. As you would know, during a total fire ban the access roads through the ACT pine forests are closed to the public to prevent any possibility of a fire starting in these areas. If a total fire ban had been in place over last weekend, then the FAI car rally could not have been held, as planned, in the pine forests. As it happened, I heard on the news that a couple of small fires were started along the edge of the rally track from sparks from the cars, but luckily they were extinguished quickly. Minister, could you explain the basis on which the total fire ban was lifted last week? Was it because of pressure to not stand in the way placed on the Chief Fire Control Officer by elements in the Government and the bureaucracy who have been promoting this FAI car rally? Was the Government creating a significant risk to the community and ACT forests by holding this rally at such a bushfire prone time?

MR HUMPHRIES: Mr Speaker, I have to say that I am disappointed with the tenor of the question; but it does rather fit in with some other questions that Ms Horodny has asked in the past, which have suggested that controls or appropriate decision-making in other parts of government have been unofficially affected by the requirements of something like the FAI Rally of Canberra. As I recall, the last time this allegation arose, it was in respect of making environment grants available to fix up damage supposedly caused to the banks of Lake Burley Griffin or somewhere like that from - - -

Ms Tucker: Just answer the question.

MR HUMPHRIES: I will answer the question. I am just putting this in context. Mr Speaker, I think that it is quite unjust to make that suggestion. The ministry does not make decisions about the times when total fire bans are applied. Those decisions are made, as you indicated, by the Chief Fire Control Officer. They are made entirely on the basis of the need for the community to protect against the starting of fires.

I have no idea whether there were any comments made to the Chief Fire Control Officer concerning the holding of the Rally of Canberra or, indeed, as I have just been advised, the fireworks display on the shores of Lake Tuggeranong on Sunday by the Tuggeranong community festival, which also, I gather, probably would not have occurred but for the lifting of the total fire ban. Those recreational issues are very much secondary to the need to protect the ACT from fire. I have no doubt at all that the officers concerned who made those decisions made the decisions about the time to apply or to lift the fire ban on the basis of what was in the best interests of that issue and that issue alone.

Ms Horodny, if you have any evidence that that was not the case, other than the suspicion of some people that the FAI rally was held on a certain day and the ban was lifted the day before and therefore there must have been some connection, then I think you should bring it forward. If officers made that decision in that way, for improper reasons, then, of course, we should deal with that issue. But I have no evidence to suggest that that was the case.

MS HORODNY: I have a supplementary question. Minister, could you tell us what measures were taken during the FAI rally to enforce section 8 of the Bushfire Act, which prohibits the smoking of cigarettes in ACT forest plantations over the summer period, as I understand that the public were encouraged to come and watch the rally action in the Stromlo Forest? The period of exclusion is from October through to April of the following year.

MR HUMPHRIES: Mr Speaker, let me say that total fire bans are determined by the Chief Fire Control Officer and depend on such factors as temperature, wind, growth and availability of resources. As I said before, those sorts of decisions are made on the basis of those factors, rather than on the basis of what events are being held.

Ms Horodny: Which question are you answering?

MR HUMPHRIES: I am giving you information about the issue you have raised. You suggested to me that some other criteria were used. I am telling you which criteria were used to make that decision.

You also asked about what steps were taken to prevent smoking in and around this event. I understand that there was a total ban on smoking in the spectator viewing areas on both days of the rally. So, that was imposed. I do not know how well it was enforced; but it was certainly imposed. That step, I think, was reasonable to protect the forest in the circumstances of the rally.

Ms Horodny: We do not know how well it was enforced.

MR HUMPHRIES: We do not have any inspectors running around with little ashtrays, pushing them into people's faces; but we certainly did take it seriously as far as the ban on smoking was concerned. Mr Speaker, I think those steps were reasonable in the circumstances.

Chronicle - Advertising Supplement

MR WOOD: Mr Speaker, my question is to the Chief Minister. Chief Minister, yesterday, in answer to a question about the government-funded political advertisement in this week's Canberra *Chronicle*, you said:

> Again, I have not actually read the article. This is not advertising ... These are excerpts from the annual report. They are for the information of the people of Canberra, and it is information that is contained in the annual report ...

Chief Minister, the government-funded political advertisement has, in the top right-hand corner, "Advertising Supplement". It is quite clear. There is no dispute about that, I expect. Will you now apologise to this Assembly for misleading it, as your deputy was forced to do yesterday?

MRS CARNELL: If you are getting this desperate for a question, I am really surprised. I am very happy to answer that. I said that it was not advertising. I went on to say, if you remember, "meaning that it is not selling anything", Mr Wood. I understand that, if something is not editorial and is written by somebody who is paying for it, it actually has to have "Advertisement" up at the top. I am quite happy to say that, in strict terms, obviously, this is an advertisement; but it is not selling anything. Mr Speaker, it is not government-funded political advertising at all. There is not the name of an MLA, including me, anywhere in this whole publication.

Mr Speaker, as I said, I had not read it, let alone proofread it, and I had not been asked what I thought should go in it. As I said yesterday, I had been asked whether I had any objection to the hospital going ahead with this approach, because the board of the hospital was very keen to do so, on the recommendation of Mr Johnston. I also said yesterday that Brian Johnston has used this approach in other hospitals of which he has been CEO, because he believes very strongly that it is important that the community appreciates the service that is available at the Canberra Hospital.

Mr Speaker, in answer to another question asked of me yesterday, I think by Mr Osborne, I spoke about our customer commitment approach that we have taken in government. Mr Speaker, this sort of approach that Health and Community Care has taken is very much down that path. It is to get information that people need to know about out to the community. Mr Speaker, I do not know whether anybody remembers this publication. Let me remind those opposite, who could be, at times, regarded as a tiny bit hypocritical, that this publication, *A Guide to ACT Government Services*, went out four weeks before the last election. It cost, from memory, $55,000. Remember, Mr Speaker, that the supplement does not have the name of any MLA or any Government member in it. But this document has, right on the front page, "Rosemary Follett, David Lamont, Bill Wood" - right there, Mr Speaker.

Quite seriously, on one side, we have a document that cost $55,000, that came out four weeks before the election, and that had the names of the ministry on the second page into the document; and here we have a document from the Canberra Hospital, containing a word from the chair of the board and information about the services that the hospital provides and the great job that a lot of good public servants are doing. I have to tell you, Mr Speaker, that I know which one I would rather have.

MR WOOD: I have a supplementary question, Mr Speaker. The Chief Minister has referred to a document put out by the former Government. It was that document, and perhaps others, that inspired the Government to produce all this rhetoric that they now cannot keep up with.

MR SPEAKER: Ask your question.

MR WOOD: My supplementary question, however, relates to the Chief Minister's memory, which is quite good, because she said yesterday that she was not selling something, and she added facetiously, "We are not selling the hospital". Does that not make the point that the hospital is being promoted; it is advertising; it is endorsement; and that is exactly what you said you would not do?

MRS CARNELL: That is not what we said we would not do. I have to say that the only thing in this document that we did not mean to happen, obviously, is the photograph of Mr Humphries - without, by the way, Mr Humphries's name anywhere. And it was a photo picked up out of another - - -

Members interjected.

MR SPEAKER: Order! Both sides of the house will come to order and stop interjecting.

MRS CARNELL: Thank you, Mr Speaker. Mr Speaker, the photograph of Mr Humphries that was used for the environmental awards was a photo that had already been published by the hospital in an internal magazine called *Hospitell* earlier in the year. It might have even been earlier that month; but it was certainly a while ago. Mr Speaker, Mr Humphries was not asked, and nor was I, about their lifting that photo. A decision was made internally. But the rest of the publication, Mr Speaker, apart from that one photo, with Mr Humphries's name nowhere near it, is a publication that tells the people of Canberra about the services, the history of the hospital, what is happening with waiting lists, the hospital in the home project, the cardio-thoracic unit, the rehabilitation independent living unit, the community dialysis unit, the adolescent ward and capital works. Mr Speaker it is about accreditation.

I think that a lot of Canberrans would be very interested to know of the achievements that the Canberra Hospital has made over the last 12 months or so. I would have thought that a lot of Canberrans would have been interested in such things as commendations and complaints at the hospital and the fact that the commendations greatly outweigh the complaints.

Mr Hird: On a point of order, Mr Speaker: I am sick and tired of those over there asserting that we are not responsible. Mr Wood asked a supplementary question, and they are just talking amongst themselves. They are not interested in the facts of what the Minister for Health is talking about.

Members interjected.

MR SPEAKER: Order! The house will come to order. There is no point of order in what Mr Hird said. However, if you are going to have discussions, I suggest that you either keep your voice down while the answer is being given and allow the person who asked the question to hear it or have your conversations outside. I address that to everybody.

MRS CARNELL: Mr Speaker, Mr Wood asked me a question about whether the information in this document was actually selling the hospital or promoting the hospital. I was running through the document to explain to everyone what is actually in this document. There is a run-down on the Clinical School, what has happened and where it is up to; but I do not actually see at the bottom of it "and please come in and use it".

There is reference to Mental Health Services, Mr Speaker. Yesterday, I was asked a question about Mental Health Services. I have to say, Ms Reilly - Ms Reilly, listen just for a moment - that I was horrified when we actually checked about what your staff member did to an ASO2 yesterday. It is fine getting stuck into me; but, Mr Speaker, let me tell you what actually happened. Ms Reilly said that, when you phone the number, the people in Mental Health Services do not know anything about any changes. Ms Reilly got a staff member, or somebody, to ring at lunchtime - we track all of our calls - and ask what changes or improvements were planned for the next 12 months. The ASO2 who was on the phone at lunchtime said - and again I quote - that she would take a message and get the relevant officer, who was obviously out at lunch at the time, to ring back later. The caller did not take up the offer, and hung up. Mr Speaker, you do not set up ASO2s. Quite seriously, you can set up this side of the house; but do not have a go at junior public servants.

Petrol Prices

MR OSBORNE: My question is to the Minister for Fair Trading, Mr Humphries. Minister, in May this year, the petrol price in Canberra was 78.7c a litre. When Woolworths entered the market in September, its opening price was 71.9c. At about that time, you said in the media that you expected that the ACT would follow other markets and experience a price reduction of up to 10c a litre from the 78c mark. You said in the Assembly that you could not guarantee a fall, but predicted lower prices on a more sustainable basis than the flash-in-the-pan reduction that followed Burmah's entry into the market.

Mr Moore: Flash-in-the-pan?

MR OSBORNE: Flash-in-the-pan. You also said in a newspaper report that you thought that the Burmah experiment was a dismal failure and had had no effect on petrol prices. Things looked good for a while, Minister. By the time a second Gull station opened late in September, the selling price was 68.9c a litre, and not long afterwards prices went as low as 67.9c a litre. But five days later, on 1 October, petrol prices around town rocketed. That day, Shell stations lifted their price by 9c a litre to a peak of 77.9c. Today, my office has contacted numerous outlets to check their prices. From those who would speak about the price of their fuel and the ones that we observed, it would seem that the average price today is nearly 77c a litre. Interestingly, Burmah would not reveal its price; but the attendant there said that all petrol prices in Canberra are the same. Mr Humphries, do you stand by your prediction that petrol prices will fall for a sustained period; or do you, like me, fear another price hike at Christmas?

MR HUMPHRIES: Mr Speaker, let me thank Mr Osborne for that question. I also am very cynical about the intentions of the petrol companies, particularly the major companies who still control a large number of outlets in the ACT. Yes, I do fear that price hikes at Christmas will be attempted in cases where the companies feel that they can get away with that. The fact of the matter is that the new players in the marketplace - which, we have already seen and you have quoted already, have had a positive effect on petrol prices in the Territory - are still small in number.

We have recently seen the opening of the Conder Woolworths Plus petrol outlet on the site at Tuggeranong and the two Gull stations in the ACT as well, which I think are now open. Certainly, the one at Belconnen is open, and I think the other one on the Monaro Highway is now also open. Mr Speaker, the impact of those sites, particularly on prices in Tuggeranong, I believe, has been demonstrated over the last four or five months, particularly since the Woolworths Plus outlets opened. Prices have been, on occasions, very competitive, particularly in Tuggeranong. I believe that that is a phenomenon which can be sustained across other parts of the ACT as well, as more such outlets open.

I have already explained to the Assembly the difficulty in organising sites in some cases; but a site in Mawson has been identified and is in the process of being released. Sites in Belconnen and other parts of Canberra are being negotiated, and I hope that they will also come on stream. I hope that the positive effect that those additional players will have on prices will be sustained. I have not in the past undertaken, and I do not now undertake, that they will always produce a downward trend in prices, because prices are always subject to a number of factors, including factors outside of Australia altogether. But the existence of those extra competitors in the marketplace is a positive thing. We have already seen that in terms of petrol prices in some parts of the ACT. The effect has been more sustained than it was with Burmah. So, my comments about these new players stand, and I hope that they will be sustained over a period of time as other outlets open.

ROCKS Area

MS McRAE: Mr Speaker, my question is to the Minister for Land and Planning. Minister, yesterday, you advised this house that no decision had been taken on the redevelopment of the ROCKS area. Then, last night, you came back into the house to advise that you had, once again, misled it and that, in fact, a memorandum - - -

Mr Humphries: That is not true. Mr Speaker, to accuse members of misleading is very serious. I did not mislead the house at any stage, and I would ask that that be withdrawn.

MR SPEAKER: Please withdraw.

MS McRAE: I will withdraw "misled" and say that you had, once again, given the house the wrong information and that, in fact, a memorandum of understanding had been signed. Minister, when was that memorandum of understanding signed, and who signed it? Further, what are the commitments in the MOU? Will you now accept that the concerns of the tenants and users of the ROCKS site are, in fact, valid?

MR HUMPHRIES: The answer to the last part of the question is no, because the memorandum of understanding does not entail any commitment that any of the particular proposals will occur. It is merely an arrangement between the Government and the proponent who has come before the Government to deal with its proposal vis-a-vis the Government, not vis-a-vis anybody else. Mr Speaker, I have not misled the house and nothing that I have said to the house at any stage is inconsistent. The Government has not made any decisions about the redevelopment of that site. It has entered into a memorandum of understanding with that proponent - the NDH company - but that does not imply either that that company is certain to have the right to redevelop that site or that any particular feature, if a redevelopment does occur, should exist in that redevelopment. So, nothing I have said is inconsistent - - -

Ms McRae: So, when did you sign it? Who signed it? That was my question.

MR HUMPHRIES: It was signed the day before yesterday, and it was signed by the head of the Department of Urban Services.

MS McRAE: Mr Speaker, I have a supplementary question. So, when you advised the house that no decision had been made, was it really because you did not know? If you do not know, why is it that a Planning Minister is excluded from decisions relating to his portfolio? How would we find out how many other decisions have been made without your knowledge?

MR HUMPHRIES: What a stupid question, Mr Speaker! I have indicated - - -

Ms McRae: We found out only after you went back to check when we asked the question. You did not know.

MR SPEAKER: Order! A question and a supplementary question have been asked. Mr Humphries is answering.

MR HUMPHRIES: I am sure that Ms McRae, as Planning Minister after next year's election, will know everything that is going on in every part of her portfolio and will be able to answer questions without - - -

Mrs Carnell: Just like Mr Wood could.

MR HUMPHRIES: Just like Mr Wood was able to do when he was over here.

Ms McRae: So, you did not know. You are the Minister for Planning, and you did not know. Come on!

Mr Corbell: A major redevelopment in Civic, and you know nothing about it.

MR HUMPHRIES: Mr Speaker, if those opposite feel that they have won a triumph by being able to show that the Minister did not know something about some aspect of his portfolio at some point in time, then I am sure that they will ride on those triumphs to victory in government after February next year. But I do not think that a victory in the election is built on such tin-pot victories. The fact is - - -

Ms McRae: You did not know.

MR HUMPHRIES: She sits over there saying, "You did not know; you did not know". For goodness sake!

MR SPEAKER: Ignore it, I would suggest, before I decide to take further action.

MR HUMPHRIES: I can just see Ms McRae in her little newspaper hat, with her tin sword, over here, bringing dignity to the office of Minister for the Environment, Land and Planning. I have indicated clearly to the house at every point what has happened with this matter. It will be a sad day indeed in the processes of the operation of this parliament if a Minister who comes back to give further but not contradictory information to the house, to make sure that the house is fully informed about an issue, is accused of misleading. If he is to be accused of misleading in that circumstance, we can see Ministers not being in the position of doing that in the future, and the house will be the poorer for it. I stand by the view that that is a very appropriate parliamentary practice. If we have members of the house who are so desperate to win votes in an election that they will characterise this as a misleading of the house, that is very sad for those members.

Youth500 Scheme

MRS LITTLEWOOD: My question is to the Chief Minister in her capacity as Minister for Business and Employment. The Minister would be aware of my interest in young people and jobs. I refer to the innovative Youth500 scheme that was announced by this Government in the 1997-98 budget. Can the Minister advise how the scheme is progressing in its aim of creating 500 jobs for young Canberrans before Christmas?

MRS CARNELL: Thank you very much for the question, Mrs Littlewood. Mr Speaker, back in August the Government set itself and the Canberra community what it thought was a pretty ambitious target. Members will remember that earlier in the year a seminar was put together by the Youth Coalition with the business community and members of the Government that, amongst other things, put recommendations to the Government on employment approaches. One of the employment approaches that they put forward, along with the CES, was Youth500.

Using Commonwealth subsidies and $1,000 incentive payments by the ACT Government, we set out in partnership with the CES and the private sector to try to encourage employers to take on people under the age of 21. Our target, as the name of the scheme shows, was 500 jobs by Christmas. It meant that over the 20 weeks between when the scheme was launched and Christmas we had to achieve 25 jobs every week to achieve the 500. It certainly was an ambitious target and an innovative approach, one that brought together the Commonwealth and ACT agencies and the business sector in a partnership to help find new employment opportunities for young people.

I should point out that Youth500 was criticised by only two groups in Canberra. I would have to say that nobody would get a whole lot of money for guessing which two. They were the Labor Party and the Trades and Labour Council. I suppose there was really only one group that criticised it, because I suspect they are one and the same thing. Members would have been interested to note that Youth500 had been very conspicuously left out of the "Working Capital" statement that Mr Berry put forward. Obviously, that side of the house does not support this approach at all.

What has happened to the scheme since it was first launched back in August? I can advise the Assembly today that, perhaps, we were a little too pessimistic, because Youth500 met its target today, a full three weeks before Christmas. Mr Speaker, I know those opposite cannot help themselves, but this is really very exciting. A total of 500 young Canberrans have now been placed in jobs across the city in work ranging from signwriting to retailing, to office administration, in just 17 weeks. That is an average of 30 placements a week. I am advised that many more employers of potential employees are waiting in the wings to take part.

Youth500 has become, without doubt, the most successful employment assistance program ever run in the ACT. It is a great example of what we can achieve as a community if we are enthusiastic, positive and committed to working together to tackle the problem of unemployment. It is positive proof that this Government's creating jobs for Canberra strategy, that we have gone down the path of in the last two budgets, is actually working. At least 300 employers have been involved in the scheme. Those 300 people are deserving of the thanks of everyone in this Assembly, and everyone in Canberra, for that matter, for getting behind Youth500 and being prepared to give our young people a go.

I would like to use this opportunity to thank our Department of Business, the Arts, Sport and Tourism, particularly Adam Stankevicius, the CES, the ACT and Region Chamber of Commerce and Industry, the Canberra Business Council, and the Youth Coalition - John Gregg, in particular - for really getting behind this community-based idea, because there are 500 Canberrans out there that possibly would not have had a job and would not be out there developing new skills if it had not been for this project.

Some people thought it was an impossible task. I have to say that I was not confident that we would make 500 by Christmas. But I know that all of those opposite just wanted it to fail. They still cannot say, "Congratulations". I think that is really sad, Mr Speaker. But it has not failed, and it has created a partnership worth building on. Mr Speaker, I can advise that the Government plans to extend the Youth500 scheme until Christmas, as we always said we would and in keeping with our original commitment, because we are aware that there are other employers who want to take part in the project and there are young Canberrans under the age of 21 who are keen and ready to enter the work force. Indeed, Mr Speaker, we may have to rename the program Youth600 before Christmas. I think this is really exciting. It shows that an idea that came from a joint community forum via a government that was willing to work in that arena can really achieve great ends for young people in Canberra.

MRS LITTLEWOOD: I wish to ask a supplementary question, Mr Speaker. I ask the Chief Minister whether she would be good enough to pass on my congratulations to those involved.

MRS CARNELL: Yes.

Greenhouse Gases

MS TUCKER: My question is directed to the Minister for the Environment, Land and Planning, Mr Humphries, and relates to the Minister's announcement of a greenhouse gas reduction target for the ACT. Basically, my question is about the detail of the target. Our original motion requested that the target include greenhouse gases emitted outside the ACT as a result of electricity use within the ACT because, obviously, the ACT does not have its own power station. Could you tell us whether the target you have announced includes a reduction in those gases as well?

Mr Humphries: In those gases?

MS TUCKER: The ones that are produced in the production of the electricity which we use here but which is produced outside the ACT. That was our original motion.

MR HUMPHRIES: The answer is yes.

Downer Oval - Use by Canberra Suns

MS REILLY: My question is to Mr Stefaniak as Minister for Sport and Recreation.

Mr Stefaniak: Not housing?

MS REILLY: No; I have never asked a sport question before.

Mr Stefaniak: Are you sure you do not want to ask a housing question? I have some very good answers for you.

MS REILLY: No; this is a sport question, Mr Stefaniak. It is an exciting day for both of us.

MR SPEAKER: Would you two like to get together outside at some time, or will you ask your question, Ms Reilly?

MS REILLY: It is an important day, Mr Speaker; you should not spoil the pleasure that we are getting out of it. Minister, when did you or one of your departmental officers sign an agreement with the Canberra Suns for their use of Downer Oval? Was the basis of this agreement that there would be lights provided and change sheds put on Downer Oval?

MR STEFANIAK: I am not too sure that any agreement was signed in relation to the Canberra Suns. They are, I understand, a new team. It is just evidence of the continued increase in demand in the inner north area for sporting facilities. The Canberra Suns is, I understand, a women's soccer team. I think it has junior and senior women's soccer teams. It is just one of a number of teams who will use or currently use Downer Oval, which is a delightful oval, Ms Reilly. I know you have been there. I have been there. In fact, I played football there dating back to the 1960s; so I am well aware of it.

I am not too sure whether anyone has signed an agreement, but there is certainly considerable overuse of Dickson and Hackett. It is interesting to look at a document showing the usage hours there, which I will table, Mr Speaker. Dickson 1, for the 1996-97 financial year, had something like 4,375 ground-hours of use. Lyneham 2 had 1,918. Downer 1 had about 425. There are three ovals at Downer - two rugby pitches and an Aussie rules oval, from memory, Ms Reilly. It is a nice spot. It is an oval which a number of junior and, I think, senior women's soccer teams use. I think the Suns have a couple of teams in a seniors competition. Also, Ms Reilly, junior softball is played there, as well as, I understand, Aussie rules and some other sports.

You might be aware, Ms Reilly - I hope you are, although you are not your party's sport spokesperson - that there has been a floodlighting program and ground upgrade, which often includes things like canteens and other facilities, operating for about four or five years. In fact, it was started by the previous Government, your party. During that time, a considerable amount of money has been spent on upgrading ovals in about 20 locations around the city, promoting greatly enhanced opportunities for thousands of members of sporting teams to improve their skills. I table the ground usage statistics, which Ms Reilly might find handy.

Ms Reilly: Is this for Downer?

MR STEFANIAK: That is for Downer, Hackett, Lyneham and Dickson.

MS REILLY: I have a supplementary question. I understand from your answer, Mr Stefaniak, that you played football at Downer Oval in the 1960s - I have not played football there - and there is quite considerable usage. My question was: Have you signed an agreement with the Canberra Suns for the use of Downer Oval? Also, when are you going to consult on these changes with the surrounding residents and the current users? It is used by the boy scouts. There is a designated walking area nearby. It is used by softball teams, by walkers and joggers and by people practising golf. Are you going to discuss with them the changes that you are making to Downer Oval? Have you signed the agreement, was it contingent on these changes, and are you going to discuss these changes with the local community?

MR STEFANIAK: In answer to that, I had discussions with five Downer residents last Friday. I indicated to them that I was happy to have further discussions with them over a number of issues. I am having discussions also with the various sporting groups. I have had discussions with ACTSport, who, incidentally, are very keen to see those improvements to the oval proceed. I am amazed at your question, Ms Reilly, because, whilst the five people who saw me had a number of concerns, I thought initially they were coming to see me because they wanted more lights. I actually found out that they did not want any lights at all. I must say that it is the first group that has come to see me saying, "No, we do not want facilities".

Ms Reilly: They just want to know what is going on.

MR STEFANIAK: I understand, in relation to the lights, that, as do any improvements, they go through a planning process. In fact, some people have put in objections to the lights. That is still to be decided by the planning authorities, Ms Reilly. I have indicated that I am happy to look into that further. I will be talking to sporting groups and those members of the community again. I must say, Ms Reilly, that, in my view, what is proposed certainly seems quite reasonable - not over the top. The specifications for things like lights are based on Australian standards. In fact, there are requirements to minimise the effect of glare and spillage into surrounding areas, which is something that we do very effectively with our lights in Canberra. That is something that we adhere to at all ovals.

In terms of whether any agreement has been signed with the Canberra Suns, which, I understand, is a women's and girls' soccer club, no doubt they have probably made ground bookings; so I can certainly check that out. I do not know whether they have entered into any agreements, but ground bookings by sporting groups are a normal way of ensuring usage of ovals. A number of groups use the oval at Downer. That is usually done on a booking system. It is sometimes rather difficult just to wander in there and play, unless no-one is using it. So, in terms of competition, yes, ovals are booked. I imagine the Canberra Suns would have booked in the normal way for the use of that oval. They might have booked other ovals as well, Ms Reilly; I do not know. But it is normal for sporting groups to book ovals, and that is usually done many months in advance.

Aboriginal Reconciliation

MR MOORE: Mr Speaker, my question is directed to the Chief Minister and deals with Aboriginal reconciliation. Chief Minister, in a document published by the ACT Government and just tabled, entitled "Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody - Implementation Report", the ACT Government promised to put out a community service announcement endeavouring to portray the Aboriginal community in a positive light. You can see that on pages 82 and 83. It was to go to air later this year, according to the document. In fact, it says:

> The Office of Multicultural and International Affairs met with representatives from Canberra's television and radio stations to seek their support for the media campaign which will be launched later this year. There was unanimous support ...

I have not seen any such campaign yet; nor have the people that I have talked to who watch more television than I, such as my children. I believe that, as yet, there has not been a campaign, unless it was a very minor one. Would the Chief Minister please bring to the attention of members of the Assembly just what is going on with this campaign, because, after all, there are just three weeks left till Christmas?

MRS CARNELL: Mr Speaker, I will have to take it on notice. I know there was some early work done, but I do not know where it is up to; so I will take it on notice and let Mr Moore know.

Mr Moore: And the cost of it.

MRS CARNELL: And the cost of it.

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

Youth500 Scheme

MR CORBELL: Mr Speaker, with your indulgence: In question time earlier today the Chief Minister made a statement about Youth500. I was just wondering whether she could oblige the Assembly by providing details of where the placements were for the 500 jobs.

Mrs Carnell: You cannot ask another question.

MR CORBELL: It was with the Speaker's indulgence.

MR SPEAKER: I am happy to give leave; but I thought, frankly, you were making a personal explanation under standing order 46.

MR CORBELL: No, I was not. Mr Speaker, I seek leave to - - -

MR SPEAKER: All right. Is leave granted?

Mrs Carnell: To ask another question?

Ms McRae: No; to seek clarification of the question that you have already answered.

MR SPEAKER: Be quiet, Ms McRae.

Leave not granted.

Political Advertising

MR HUMPHRIES: Mr Speaker, I have some extra information to supply in answer to questions asked today. I hesitate to supply it, lest I be accused of misleading the house. I was asked about the date of the Cabinet meeting at which the decision on members of the Assembly's photographs appearing in publications was discussed. That was 17 November. On 20 November information was sent to all agencies of government that they should comply with that decision of Cabinet. I understand that it went to the chief executive officer of the Department of Health for promulgation within the health portfolio.

Mr Whitecross asked me whether the regulation I signed was signed after it was gazetted. Obviously not. It was signed on 20 November, before I left for Japan, and was gazetted on 28 November, while I was in Japan. I table a copy of a letter which was sent to all chief executives on 26 November by the Electoral Commissioner and which explains the effect of the new regulation made by the Government. It was a further level of information provided to agencies of government about this particular matter. I table that letter. It is a copy of one of the letters to one of the chief executives.

ROCKS Area

MR HUMPHRIES: The MOU referred to by Ms McRae was, in fact, signed by Mr Gilmour on 30 November, which is the day after I got back from my trip.

Temporary Accommodation Allowance

MRS CARNELL: Mr Speaker, during question time on 12 November 1997, Ms Reilly asked me a question regarding temporary accommodation allowance for executives of the ACT Public Service. I undertook to provide an answer to Ms Reilly as soon as possible. I have done that in the form of a letter to Ms Reilly on 24 November attaching the relevant information. Mr Speaker, I now seek leave to incorporate my answer in *Hansard*.

Leave granted.

Document incorporated at Appendix 6.

Youth500 Scheme

MRS CARNELL: Mr Speaker, for Mr Corbell's information, I will organise a briefing on Youth500 for Mr Corbell and the names of any employers that do not mind their names being used, I am sure, will be passed on.

PERSONAL EXPLANATION

MS REILLY: Mr Speaker, I seek leave to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MS REILLY: During an answer to a question, Mrs Carnell made the imputation that I set up an ASO2. I do not agree with that. I did not ring that number. But one of the concerns I have is this: How do they know who has rung that number, and are they checking the records of public servants' telephone calls?

MR SPEAKER: Order! There is no personal explanation in what you were adding then. In fact, it was not a personal explanation at all.

Mr Humphries: Mr Speaker, on a point of order: Mrs Carnell did not say that Ms Reilly had rung; she said a member of her staff had rung.

MR SPEAKER: The point of order is upheld.

FINANCIAL MANAGEMENT REPORT AND STATEMENTS
Papers and Ministerial Statement

MRS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present, pursuant to sections 26 and 25, respectively, of the Financial Management Act 1996, the "Consolidated Financial Management Report" for the period ended 30 September 1997 and the "Consolidated Annual Financial Statements" for the 1996-97 financial year, together with the audit opinion. I ask for leave to make a statement in relation to the 1996-97 annual financial statements.

Leave granted.

MRS CARNELL: I am pleased to present to the Assembly the ACT Government's consolidated financial statements for the year ended 30 June 1997. The statements also contain, as comparative data, the audited results for the previous year which were prepared recently as a trial exercise. The consolidated operating loss for the Territory for 1996-97 was $100m before abnormal and extraordinary items. This is compared to an equivalent loss of $253m in the previous year and a budgeted loss for 1996-97 of $232m. The statement has been audited by the Auditor-General, who has given an unqualified opinion. The unqualified opinion completes a perfect score for the 1996-97 financial statements for the Territory and its full compliance with the reporting and tabling deadlines set under the Financial Management Act 1996. I think it is appropriate to congratulate all of those people in OFM and other departments who have achieved that. Unqualified audit opinions right across the Government plus meeting reporting and tabling deadlines in only the second year of accrual accounting is very impressive.

Mr Speaker, the consolidated 1996-97 financial statements also marked the end of the first full cycle of accrual and outputs-based budget management and reporting across all agencies and at the whole-of-government level by any Australian government. These reforms, which focus on services and the full cost of their delivery at both an agency and whole-of-government level, have brought the Territory to the forefront of government financial management in this country and have contributed to a significant financial improvement in 1996-97. The reforms also lead the way in a new level of government financial accountability. The consolidated financial statements have been prepared and audited in accordance with the new Australian accounting standard AAS31, "Financial Reporting by Governments", two years ahead of the standard becoming mandatory for Australian governments.

Perhaps more importantly, the consolidated financial statements and the improved operating results are the product of the ongoing financial management of the Territory and its agencies, including full consolidated financial management reports to the Legislative Assembly each month. In accordance with accepted accounting principles, the Territory's consolidated operating result for 1996-97 includes all departments, statutory authorities and corporations owned by the ACT as well as entities controlled by the ACT Government. To accurately reflect the financial performance of the Territory as a whole, internal transactions and balances between ACT agencies are eliminated so that only external trading of the Territory entities remains.

The ACT Government's consolidated operating loss for 1996-97 before abnormal and extraordinary items was $100m, or 60 per cent better than the previous year, and $131m better than originally budgeted. This operating loss for the Territory for the year is equivalent to $324, on average, for every resident of the ACT, compared to more than $828 each in the previous year. That is a dramatic improvement. The loss for 1996-97 deteriorates to $153m, following a number of abnormal and extraordinary items which are largely technical adjustments to existing asset and liability values. This is still $191m better than the previous year's $344m loss.

The $191m improvement over the consolidated operating result for the previous year stems from a $124m increase in revenues and a $29m decrease in ordinary expenses, as well as a $38m improvement in net abnormal expenses. After budgeting for a modest improvement in operating results for 1995-96, the Territory revenues were $129m better than originally expected for 1996-97, and ordinary expenses decreased by $2m. The main contributors to the improvements were an increase in Territory taxation by $58m from last year, due largely to increased dutiable transactions. Fees recovered for the delivery of goods and services were also up by $36m. Prudent financial management has also resulted in a $26m improvement in interest and other investment income.

With the continuing transition to State-like Commonwealth funding arrangements and the accompanying real reduction in general purpose Commonwealth grants, the Territory funded 67 per cent of its 1996-97 ordinary expenses from its own source revenue, compared to 60 per cent in the previous year. The Territory held net assets of $7.1 billion at the end of 1996-97. This includes $8 billion of fixed assets and $500m in cash and financial investments. Borrowings of $705m remained stable over the year, and the Territory's credit risk rating remains at AAA, the highest available in the country.

The Territory had a cash surplus from operating activities of $186m in 1996-97. This $85m improvement on budget, an increase of $59m from 1995-96, underpins the improved operating result. A sum of $158m was used to purchase new physical and financial assets. Cash holdings increased by $37m, not representing surplus cash but funds used to manage the day-to-day cash needs of the Territory - a little problem Mr Berry had with understanding results. The Territory is dependent on local economic activity for much of its revenue. The ACT Government's management of its activities and the economy has resulted in a significantly improved operating result for 1996-97.

While it is essential to address the ACT's prevailing operating loss so that today's liabilities are not deferred to later generations, the Government must continue its measured response to dramatic Commonwealth employment and spending cuts in the region. The Office of Financial Management is presently updating its 1997-98 financial projections according to audited results for the previous year and any new challenges or opportunities which may have arisen early in this financial year. While it is too early to provide a detailed forecast outcome for this financial year, I am advised by OFM that the operating loss is currently predicted to be either in line with or an improvement upon the final outcome for 1996-97. So there, Mr Whitecross! While the Government will provide more detailed information in coming weeks, this preliminary indication is extremely positive news and shows that improvements made under our reforms over the past three financial years are real and sustainable.

In conclusion, the financial achievements of 1996-97 reported in the consolidated financial statements have justified the ACT's decision to identify and manage for the first time the services delivered by all agencies and their full costs. The reforms have enabled government to focus on the real benefits and costs of services and to manage its true service delivery and financial performance with better informed decisions. The tabled statements show the financial management achievements of the Territory for 1996-97, as well as the financial challenges which remain and which we are now undeniably and responsibly addressing. The continued responsible and prudent management of the Territory's finance and economy positions us well to continue our record of improved financial performance this financial year and beyond. This is particularly important as the Territory completes its transition to State-like funding arrangements with the Commonwealth and continues its transition to a robust, private sector economy which thrives without the total reliance on Commonwealth public spending that we have seen in the past.

I would like to finish by again congratulating all members of the ACT Public Service, particularly those involved in the financial areas and OFM, for a job extremely well done. To have brought down a consolidated operating loss of $153m, down from $344m the year before last, is an amazing effort. I have to say that it would not have happened without a lot of very dedicated public servants. I move:

That the Assembly takes note of the papers.

MR WHITECROSS (3.44): I thank the Chief Minister and Treasurer for bringing this statement in at this time. I think it is very important that the Assembly get a copy of the audited statements. Especially with the end of the sittings being so near, it is very important that we have this information before us to look at. The audited statement indicates an operating loss before abnormal items of $100m. That is a significant improvement on the operating loss before abnormal items of $253m the previous year, and that is obviously an improvement which members in this place would welcome. It is interesting to note that a significant proportion of this improvement has been achieved by the receipt of significantly higher revenue than was projected in the 1996-97 budget. It is also interesting to note that when the 1997-98 budget was brought down it was projected that revenues would fall again. While some questions were asked in the Estimates Committee earlier this year about the validity of the assertions that revenue was going to fall, we were assured that, in fact, it was and that we would be mistaken to suggest that revenue was going to hold up so well. It is interesting to see in the "Consolidated Financial Management Report" for the month ended 30 September we are now being told that stamp duty for marketable securities is well above budget, even though they halved in the 1997-98 budget the amount they had received in 1996-97.

Mr Speaker, there does appear to be a significant improvement in revenues, compared to the case that was put to this Assembly in the budget. I suppose that is a somewhat concerning matter, in that, in voting on the budget in this place, members have to rely on the information that is presented to us. While, in the Estimates Committee, we sought to test the validity of the revenue assumptions that were set down, it would now appear that those revenue assumptions were on the conservative side. I am heartened by Mrs Carnell's statement, if I understood her correctly - and I encourage Mrs Carnell to correct me if I have misunderstood what she said - that she expected the operating result for the 1997-98 year to be even better than the $100m operating result for 1996-97.

That is a very significant improvement on the $236m she had in her budget papers. If it is now to be less than $100m, I think it is an urgent requirement for Mrs Carnell to come back into this place next week and give us some further information on the basis on which she and the Office of Financial Management now believe that the operating result is going to be better than the $100m which she - - -

Mrs Carnell: I said it would be better than the $153m.

MR WHITECROSS: Okay; I keep forgetting that Mrs Carnell always counts the abnormal items. Are we counting the abnormal items, or are we not, Mrs Carnell?

Mrs Carnell: The consolidated result includes abnormal items, which is $153m. What I said was that our preliminary projection is that we will come in better than $153m in this financial year.

MR WHITECROSS: Mrs Carnell indicates that she expects us to come in better than $153m for this financial year, compared to the $236m in the budget. I do not know whether Mrs Carnell, in December, is able, with her crystal ball, to predict what the abnormal items will be for this financial year; but, assuming she is, that is $153m after abnormal items, since Mrs Carnell is saying that the operating loss for the 1997-98 financial year, after abnormal items, will be less than $153m.

Mrs Carnell: That is right; that is exactly what I am saying.

MR WHITECROSS: Okay; thank you for clarifying that, Mrs Carnell. I will return to my remarks. This is a significant variation in the - - -

Mrs Carnell: It is also a significant improvement.

MR WHITECROSS: Well, improvement; I am happy to use the word "improvement", Mrs Carnell. It is a significant improvement on the budget projection of $236m. On the strength of that, I think it is appropriate that the Chief Minister, next week, provide us with a statement, or a report, setting out the basis for the projection that there is going to be an improvement of $153m on the $236m; that is, an improvement of over $80m on the budget. I think all members would value some further information on how that improvement is to be achieved. I invite the Chief Minister to come back next week with that further statement, because I believe it is absolutely essential that members be kept up to date on the state of the finances in the ACT. If the Chief Minister does expect a significant improvement, then we need to see the basis of that improvement. That statement today is the first occasion on which Mrs Carnell has indicated that she expects an $80m improvement - more like a $90m improvement, by the sound of it - on the position that she put in the budget papers earlier this year.

MRS CARNELL (Chief Minister and Treasurer) (3.50), in reply: I have to say, as it is almost our last sitting week before the election, I would be just so pleased to come back with the information that Mr Whitecross has asked for. Again I make the point that I was pleased to hear Mr Whitecross, however grudgingly, say that it was an improvement; and it is a significant improvement. My understanding is that the information, at least at some level of detail, will be available at some stage next week. Obviously, the level of detail is not as good as in an end-of-year statement; we are talking about a forecast figure.

I understand that will be available. I have to say again that this is an absolutely stunning result, taking into account that we have just been through a pretty tough time with the Commonwealth Government's downsizing, with huge reductions in staff by the Commonwealth. To be able to reduce our operating loss by this magnitude in a sustainable fashion, even those opposite would have to say our financial management has been pretty good.

Question resolved in the affirmative.

SUBORDINATE LEGISLATION

MR HUMPHRIES (Attorney-General): Pursuant to section 6 of the Subordinate Laws Act 1989, I present Subordinate Law No. 34 of 1997, being Electoral Regulations (Amendment), made under the Electoral Act 1992 and gazetted in *Gazette* No. S383, dated 28 November 1997, together with the explanatory memorandum.

PAPERS

MR HUMPHRIES (Attorney-General): Mr Speaker, for the information of members, I present the National Environment Protection Council's Report for 1996-97, including financial statements and the Commonwealth Auditor-General's report.

MR KAINE (Minister for Urban Services): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee on Public Accounts Report No. 29 which was entitled "Review of Auditor-General's Report No. 2, 1997 - Road and Street Light Maintenance", which was presented to the Assembly on 4 September 1997. I also present, pursuant to section 22 of the Territory Owned Corporations Act 1990, ACTTAB Ltd's report for 1996-97, including financial statements and the Auditor-General's report.

ENVIRONMENT PROTECTION REGULATIONS - SUBORDINATE LAW NO. 36 OF 1997
Motion for Amendment

Debate resumed.

MS McRAE (3.53): I seek to speak to this amendment because, from the perspective of sport in the ACT, it is very important that we get a level playing field. I believe Mr Corbell's amendment is treating Fairbairn Park and the sport activity at Fairbairn Park like every other noisy sport in the ACT. The consequence of our amendment would be that Fairbairn Park sports authorities would have to seek permission to conduct their sport. They will then be granted either a year's exemption or a couple of years' exemption, depending on what the Environment Management Authority seeks to give them. When that order has been given, it can then be tested in the AAT.

Labor believes this is a very positive and strong move for the motor sport industry, because it will give them a chance, outside the realms of the Assembly, to have their case tested and to have their capacity to run their sport properly clearly defined in the way it is actually done in New South Wales. It puts them on the same footing as New South Wales race parks and other similar activity, in that, whilst our environmental laws are now in keeping with and at the same level of discipline and requirement as the New South Wales laws, in fact, what happens with motor racing in New South Wales is that each of the racetracks is licensed; and then they have very specific conditions of licence which allow the number of days, the level of noise exemption permitted and the type of activity that can be conducted.

We believe that, by taking it out of the regulatory framework that is proposed by the Minister and even by Mr Moore, we are putting this racing industry on the same footing as every other racing industry, every other activity and then every other activity in the ACT. We are giving them the same capacity to run their racetrack as happens in New South Wales and, therefore, are giving residents the same rights as New South Wales residents actually have, were the racetrack to be in New South Wales. For racetracks in New South Wales, the provisions are usually 10 decibels above background; and licences then determine the number of events per year and the timing of events per year. We on this side of the house believe this is a fair and reasonable amendment to Mr Moore's motion which will have the result of removing the regulation from existence entirely - we just will not have a regulation at all - and will put the Motorsport Council on the same footing as similar bodies in the ACT.

It will give the residents who are affected by it the chance to contest the conditions of the licence, if they so wish, in the AAT. They have a capacity to argue the case if they feel the conditions are unfair. Were we to proceed with the regulation as is required by the Government, this is not a right that would then be extended to the residents; it would not be anything that they could do anything further about. So, we feel this is a much fairer, more uniform approach to racing and to noisy motor sports within the ACT and a much fairer way to deal with the cross-border issues that have emerged as this debate on the Environment Protection Bill and the management of motor sport in the ACT has ensued.

I grant that it is by no means a straightforward proposition. I think the issues that have been raised are serious ones. I am not in the business of calling people names, as other people in this debate have done. I think each of the groups that have raised objections has every right to raise objections. Each of us has a right to determine what is our own level of amenity and what rights we have, whether we live in New South Wales, as Mr Moore has continually pointed out, or in the ACT. But we believe the amendment that we are putting forward today offers a solution that is logical within the context of the environment legislation in the ACT, because it is consistent with the way that other motor sports are treated within the ACT; it is logical compared with the way motor sports are treated in New South Wales. Although their environment protection laws in regard to noise pollution are the same as ours, they offer specific licensing for their racetracks and, therefore, offer a level of exemption and flexibility for each of those racing industries. So, from the sport point of view, I believe the amendment that Mr Corbell is putting forward is the logical one that offers the security that everybody wants, plus some added rights for residents to appeal to the AAT. I commend the amendment to the Assembly.

MS HORODNY (3.59): At lunchtime we had a meeting, a round table, of parties concerned with this issue and discussed some of the problems and concerns that we all had with the different proposals that were on the table. I still believe that what Mr Corbell is proposing will create greater uncertainty for both Fairbairn Park users and Queanbeyan residents, because any authorisation would continue to be the subject of ongoing dispute and would end up in the AAT. However, from speaking with some of the residents during lunchtime today, the residents appear to prefer Mr Corbell's proposal to what the Government is proposing, because they would prefer to have their day in court to put up their arguments and to have the issue resolved in the AAT. I am not entirely convinced that will bring about a better outcome for both residents and the motor sport facility at Fairbairn Park, but I am happy to comply with the wishes of the residents. I understand the Fairbairn Park users also prefer that option.

I still believe that, by setting a specific noise level that must be complied with under regulation, the park users will be able to plan ahead; they will be able to install noise amelioration measures such as mounds; they will be able to modify their vehicles. I still believe that what Mr Corbell is proposing could lead to higher noise levels. It certainly could lead to higher noise levels than what is proposed in Mr Moore's motion and even higher than the Government's regulation. The 45 dB(A) that Mr Moore is proposing is really the absolute minimum noise level that could be allowed, and any negotiation over authorisation for Fairbairn Park is sure to lead to higher levels being allowed.

The Act actually does not leave all decisions on noise to the EMA. Table 2 in the Schedule sets out a range of circumstances where noise levels are specifically set. I still believe it is legitimate for conditions to be set in regulations, rather than leaving it to the EMA. I believe that setting the rules, which then cannot be challenged, therefore, leaves the decision in the hands of the Assembly and not the AAT. Residents could then still go to the AAT to challenge if the regulations are not being adhered to. From speaking with residents during lunchtime, it is my understanding that they would prefer to deal with the AAT, rather than have the noise regulations set. So, I am happy to comply with the wishes of the residents at this stage. The whole legislation is set to be reviewed after two years in practice. Of course, even before then, should additional problems arise, there is opportunity for the next Assembly to amend the legislation and to look once again at regulations. It is not necessarily the end of the matter. On that basis, I am prepared to support Mr Corbell's amendment.

MR MOORE (4.04): Mr Speaker, I rise to speak to Mr Corbell's amendment. I appreciate that members took time over lunch to talk through the issue and see whether we could find a compromise. It gave me time to speak to residents of the Ridgeway. I know that Mr Corbell had spoken to members of the Motorsport Council. The Ridgeway residents were actually very comfortable with the amendment that Mr Corbell has put up. It takes my mind back a couple of years now - Mr Hoyle might even be able to correct me; it was something along those lines - when I tried to arrange a meeting between the Motorsport Council and residents of the Ridgeway. I must say Mr Hoyle and the Motorsport Council were very willing to have a meeting and, in fact, readjusted their time, as I recall, on a number of occasions and continued to be willing to meet. In fact, it was the residents of the Ridgeway that pulled out of that and said they were not prepared to go into a meeting where we could look for a compromise.

So, I am absolutely delighted that Mr Corbell has been able to find a way which is acceptable to the Motorsport Council. I am sure it is not their preferred option; I am sure their preferred option is the way the Government regulation is. But it is a compromise that they are prepared to accept and a compromise that the Ridgeway residents are prepared to accept. I think that is what I was looking for and, I must say, to be fair to him, Mr Hoyle was looking for, correctly, some years ago. Therefore, I am comfortable about supporting the amendment that has been put by Mr Corbell and Labor.

MR STEFANIAK (Minister for Education and Training and Minister for Sport and Recreation) (4.05): Mr Corbell seems to have the numbers on this occasion. Having talked to Mr Hoyle, the chairman of the Fairbairn Park Control Council, the Motorsport Council seems reasonably happy with and can live with the proposal. There are a number of problems with it which I trust can be ironed out, given that it now seems that this will get up.

We on the Government side think that what we have proposed is a better solution; it does give more certainty. There is still some uncertainty in terms of what Mr Corbell is proposing. I hope that uncertainty does not see this issue continually drag on for many more years. It is unfair to the thousands of men, women and children who participate in ACT motor sport for that to happen. Mr Osborne spoke, I think, in favour of the Government motion and against the unreasonable stand taken by a few people at the Ridgeway even at this late stage. However, it does seem that what Mr Corbell is proposing, if done properly, will be suitable to motor sport. I certainly hope so.

I am disturbed to hear Ms Horodny, who, I note, will not be here next time, representing the Greens, say that this is not the end of the matter. Why we think what the Government has proposed is better is that it does give certainty and does get over problems and complaints from a few people that go back many years - well over a decade, in fact. In fact, the environment protection people in Canberra have told me it really goes back about 20 years. I am disturbed to hear the comments by the Greens that they feel that this is not the end of the matter. For goodness sake, I hope it is.

When Mr Corbell, if they are the government and he is Environment Minister, comes to regulate a regime for motor sport at Fairbairn Park, I certainly hope it is fair to motor sport. I note the comments he makes. I do not have any reason to doubt that at this stage; but I certainly hope that it will be the end of the matter, because one of the biggest problems that have been faced in the past has been the constant uncertainty, constant changing of positions and different regimes that have been tried. That is why I feel the Government proposal is far better. I note what other members have said. I can read the numbers. I also note what has been said by the Motorsport Council. The Government will not be supporting Mr Corbell's amendment, but I note the numbers in the Assembly on the issue.

MR CORBELL: Mr Speaker, I seek leave to speak again.

Leave granted.

MR CORBELL: I thank members. I will speak only very briefly. I thank members for their support for the Labor Party's amendment to Mr Moore's motion. We firmly believe that the amendment which the Labor Party is proposing is a sensible one and a sensible outcome both for motor sports - and the activities of the various motor sport groups at Fairbairn Park - and residents who live close to Fairbairn Park. We believe it is sensible because it allows for a consistent law to be in place across the Territory, not one that just singles out Fairbairn Park for particular treatment. Motor sport in the Territory will be dealt with fairly right across the Territory, without Fairbairn Park being singled out for particular treatment. It will also make sure that parties on both sides have the opportunity to appeal against a decision of the EMA. Again, that is a fair process and a process which should be consistent across the Territory.

The Labor Party has no wish whatsoever to see motor sport disappear from the Territory. It is a quite legitimate pursuit for many people in the Territory. Whilst there are some people who do not like motor sport - there are some people who do not like rugby, soccer or any code of football - it is still a legitimate sporting activity and its supporters are entitled to have the opportunity to participate in it in the Territory and to participate in a way which is consistent across the Territory, not just at Fairbairn Park. That is the intent of the Labor Party's amendment. I thank those members who indicated their support for the amendment.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.10): I want to make a couple of brief comments about this. First of all, I think we need to bear in mind that the proposal put forward by the Labor Party - none of them are here at the moment - amounts to a fairly significant challenge to the Environment Management Authority to develop now some regime that is going to be acceptable to all the parties concerned. If history is any indication, that task will be the equivalent of cleaning out the Augean stables. I do not think that we have necessarily made a decision about this matter. It could be truer to say that we have simply asked somebody else to make the decision. The real battle about what is to be the acceptable level of noise from Fairbairn Park has been shifted to another forum. Whether or not that is really a great achievement, I cannot say; but it is certainly a matter that will place a burden on officers within my department, those who constitute the Environment Management Authority, to now work out some acceptable arrangement. I would appeal to members to be tolerant of that process; to accept that difficult decisions need to be made and that balances and judgments need to be exercised in that process; and that not everybody necessarily will be satisfied at the end of the day.

The other point I note, Mr Speaker, with some wryness is the words of Mr Corbell back on 4 November when the Standing Committee on Planning and Environment handed down its report on the Environment Protection Bill and the regulations, when I was enjoined very solemnly by Mr Corbell to accept each and every one of the recommendations with great seriousness. In fact, he said:

> I put the challenge, though, to the Government. They really must accept very seriously each and every one of these recommendations. They must be prepared to implement them.

History will show that since that time there have been some round tables and, by agreement, we have moved away from some of the recommendations; but in all cases we have moved together on the position that we should adopt. It is ironic that, after this solemn lecture from the other side of the chamber about the sanctity of the decisions made by the Planning and Environment Committee, it is Mr Corbell who now comes before this place with a different recommendation to that adopted by the committee. But, Mr Speaker, such is politics.

Question put:

> That the amendment (**Mr Corbell's**) be agreed to.

The Assembly voted -

AYES, 8	*NOES, 7*
Mr Corbell	Mrs Carnell
Ms Horodny	Mr Cornwell
Ms McRae	Mr Hird
Mr Moore	Mr Kaine
Ms Reilly	Mrs Littlewood
Ms Tucker	Mr Osborne
Mr Whitecross	Mr Stefaniak
Mr Wood	

Question so resolved in the affirmative.

MR MOORE (4.17), in reply: In concluding the debate on this motion as amended, I think it is appropriate to comment on the fact that the Environment Management Authority now has a significant challenge in front of it. No doubt there will be an application from the Motorsport Council who, as Mr Corbell points out, are entitled to race. That authorisation is one that is going to have to take into account a series of issues: How much noise should be allowed; when there are exemptions; and how many times that should happen, say, in a given year. I hope that the starting point for such an authorisation will be somewhat less, although not a great deal less, than has been the case in previous years.

I think that makes a sensible starting point for how a decision should be made on this sort of issue. It will then be up to others to determine whether they wish to appeal to the AAT and whether or not that decision will hold. I would expect the decision will be appealed to the AAT. I would imagine that the bureaucrats who make this decision will not possibly be able to get it right, because there is such a strong difference of opinion. The matter will finally be resolved then in the AAT and the rights of people before the AAT, no matter where they live, will be respected by this legislature. That is the best part of this particular outcome.

Motion, as amended, agreed to.

ABORIGINAL AND TORRES STRAIT ISLANDER FLAGS - PLACEMENT IN CHAMBER

MS TUCKER (4.20): Mr Speaker, I ask for leave to move a motion relating to the placement of Aboriginal and Torres Strait Islander flags in the chamber.

Leave granted.

MS TUCKER: I move:

> That, recognising the need for reconciliation between Australians of Aboriginal and Torres Strait Islander descent and non-indigenous Australians, the Aboriginal and Torres Strait Islander flags be placed in the Legislative Assembly Chamber adjacent to the National and Territory Flags.

I have great pleasure in moving this motion this afternoon, because it represents a very positive commitment from this legislature to the process of reconciliation between indigenous and non-indigenous Australians. In moving this motion, I would like to acknowledge in particular the Ngunnawal people, whose presence in this region goes back at least 20,000 years. The current indigenous population in the ACT, according to the 1996 census, is nearly 3,000 people. While this includes a large number of the traditional Ngunnawal people, the majority of the Aboriginal population come from outside the ACT. The ACT, as much as any other place in Australia, must demonstrate a genuine ongoing commitment to reconciliation.

Something of which I have been particularly proud in this Assembly is the unity with which we have committed to reconciliation and the apology to Aboriginal people following the release of the *Bringing them home* report. The response from the ACT's indigenous community was a very moving and humbling experience, as I am sure all other members will agree. However, in the current political climate, this is not something we can just do once and forget about. I believe it is of the utmost importance that we continue to state and demonstrate our genuine respect for the traditional people of this country.

At the end of the twentieth century it is time we got the reconciliation process right. The prosperity and wealth of Australia today has been achieved at the expense of the ongoing suffering and dispossession of Aboriginal and Torres Strait Islander people, and for that we owe an enormous debt and apology to Aboriginal people. Embracing indigenous culture, traditions and their flag is something all Australians should be proud to do. One important gesture we can make to demonstrate our commitment here to the process of reconciliation is to fly the flag of indigenous Australians in this chamber.

Mr Speaker, as we speak, our parliamentary colleagues on the hill are debating the controversial Wik legislation - a piece of legislation which, if passed, will extinguish native title, do severe damage to the process of reconciliation and subject Australia to international condemnation. My Green colleagues have called for this legislation to be withdrawn because of insufficient consultation and negotiation with Aboriginal and Torres Strait Islander people regarding changes to the Native Title Act 1993 and the entire issue of indigenous land justice and also because of concern that the passage of this Bill in any form will further diminish Aboriginal and Torres Strait Islander native title rights and greatly impede the process of reconciliation and healing between indigenous and non-indigenous people.

It is of great shame to present and future Australians that the Federal Government is hell-bent on further dispossessing Aboriginal people. I do not understand at all how Mr Howard can possibly say that he supports the process of reconciliation when land is so central to indigenous life and culture. As the Royal Commission into Aboriginal Deaths in Custody said:

> ... it was the dispossession and removal of Aboriginal people from their land which has had the most profound impact on Aboriginal society and continues to determine the economic and cultural well-being of Aboriginal people to such a significant degree as to directly relate to the rate of arrest and detention of Aboriginal people.

The Federal Government fails to understand that there is a unique and very important spiritual relationship between Aboriginal people and the land. Rather than see this as inconvenient, I believe that this is a rich and important part of Australia's culture which we should embrace. We could learn a lot from the unique relationship indigenous people have with the land.

"Our Common Future", commissioned by the World Commission on Environment and Development, acknowledged the inability of scientists to provide direction in managing natural resources and said that we should seek to learn from more traditional societies. It said:

> These communities are the repositories of vast accumulations of traditional knowledge and experience that links humanity with its ancient origins. Their disappearance is a loss for the larger society, which could learn a great deal from their traditional skills in sustainably managing very complex ecological systems. It is a terrible irony that as formal development reaches more deeply into rainforests, deserts, and other isolated environments, it tends to destroy the only cultures that have proved able to thrive in these environments.

Science and economics alone cannot fulfil humankind's needs. I know there are some who believe that the process of reconciliation can be achieved only through practical measures such as improved health, housing and education. While I agree that it is essential to improve the physical situation of indigenous people, we cannot ignore the spiritual and symbolic commitments to the process of reconciliation.

I would like to conclude by quoting from a recent address from the Governor-General, Sir William Deane:

> Those of us - both indigenous and non-indigenous - who are now joined together in a crusade for true national reconciliation all know that we will not succeed until our nation has properly addressed and made significant progress towards resolving the current plight of the Aboriginal peoples in relation to practical things such as health, education, employment and living conditions. And how could it be otherwise in a context where the gap between the average life expectancy of an Aborigine and that of a non-Aborigine is almost 20 years and actually widening and where Aborigines are dying from particular diseases at rates up to 12 times or more those of non-Aborigines? Clearly, we will not achieve reconciliation until we reach the stage where it can be seen that we are at least approaching the position where the life expectancy and future prospects of an Aboriginal baby are in the same realm of discourse as those of a non-Aboriginal one.
>
> But, equally clearly, we have no real prospect of reaching that stage until we also effectively address the terrible problems of the spirit as well as those of the body - the present effects on the spirit and on the self-esteem of Australia's indigenous peoples of all that has happened, all that has been taken and all that has been destroyed during the 2 centuries and more that have passed since the arrival of the First Fleet in 1788.

The gesture of flying the flags of the Aboriginal and Torres Strait Islander people in this chamber on a permanent basis is a recognition that indeed we do respect and acknowledge what has happened to the spirit of the Aboriginal and Torres Strait Islander people here. By flying this flag, we are acknowledging and respecting their culture, and hopefully this will work in some way towards healing the damage that has been done and towards making a continuous visual statement of our commitment as a chamber to reconciliation.

MR CORBELL (4.28): Mr Speaker, the Labor Party will be supporting this motion moved by Ms Tucker today. We think it is an entirely appropriate course of action that in this Assembly, having been through the process this year of hearing the addresses by representatives of Canberra's indigenous community and having formally apologised through a resolution of this place, we continue to indicate this chamber's support for the process of reconciliation through the placement of the Aboriginal flag and the Torres Strait Islander flag in this chamber. Symbols are very important. They send a signal. They signal an intent on behalf of a person or an organisation. Placing the flags of Australia's indigenous peoples, the original occupants of this country, in this chamber sends a signal that this place is supportive of their cause and of their need for continuing help and continuing engagement in the process of reconciliation.

Ms Tucker referred to the debate which is occurring in the Senate on amendments to the Native Title Act. At a time in our history when the level of divisiveness and disagreement over the issue of reconciliation and native title is perhaps at its highest for many years - probably several decades - I think that all of us in this community have an obligation to demonstrate our commitment to the notion of a fair and just society. You cannot have a fair and just society without reconciliation with the original occupiers and custodians of this land. The signal we send when we place the flags of the indigenous peoples of our country in this chamber is an important message. It is a message that we reaffirm the importance of reconciliation. I am sure that all members in this place support that wholeheartedly.

Mr Speaker, there has been some debate, most notably within the Administration and Procedure Committee, about whether or not this should occur. It certainly seems to me that the most appropriate way of handling this issue is the way Ms Tucker has done it this afternoon, that is, through a motion directly from the floor, rather than through the forum of the Administration and Procedure Committee. Ultimately, the debate was going to need to occur here anyway.

The flags we are talking about placing in the chamber today are not flags of one little group in our community or one particular organisation. They are flags that represent the original custodians of our country. They are national flags. They are flags that many people, indigenous and non-indigenous alike, have a very strong affinity with. Unlike the national flag, which has elements of a different cultural past in it, or even our own ACT flag, the flags of both the Aboriginal people and the Torres Strait Islander people are uniquely Australian. I think it is very appropriate that we have that element of unique Australianness in those flags displayed here in this chamber. Mr Speaker, this is an important step. It is symbolic, but symbols are very important when it comes to the issue of reconciliation. Labor is very happy and very proud to support this motion from Ms Tucker.

MR MOORE (4.32): Mr Speaker, in rising to support Ms Tucker's motion, I have to say that at this stage we have heard only one side of the debate. I do not think it is a one-sided debate. Ms Tucker first raised this issue in 1995 in the Administration and Procedure Committee. At that time, although I did not oppose what she was saying, I was certainly very reluctant. I think that is a reasonable description. I had quite a number of discussions with Ms Tucker on the issue and raised certain concerns. My concerns were primarily about how having additional flags in the chamber would be perceived in the community, at what point we should stop, what process we would need to ensure that we had the agreement of people of Aboriginal and Torres Strait Islander descent and whether it would be offensive to Ngunnawal people, for example, to have a Torres Strait Islander flag in here.

I see in the chamber now the ACT flag with the stars and the ACT coat of arms, which strikes me as a very British sort of coat of arms. Perhaps more interestingly, when I look at the Australian flag I see incorporated in it the British flag, and incorporated within the British flag are the crosses of St Andrew, St George and St Patrick. We have a series of flags and a series of cultural backgrounds already represented in the Australian flag

and in the British flag. To say that we should have the origins of Australia and the origins of British heritage displayed in a flag in our chamber but not the origins of our indigenous society is an interesting question. I do not want to be misconstrued on this, Mr Speaker. I do not think this is a simple issue.

The thing that finally made me decide that I would support Ms Tucker and say to her, "Yes, go ahead, because as far as I am concerned you have the numbers" was the debate that is currently going on in the Federal Parliament. It is a debate about reconciliation and how far we are prepared to move and to what extent our community is prepared to recognise part of our heritage which I consider very valuable. One small step we can take to show that we value that heritage is to fly these flags in this chamber along with the Australian flag, which symbolises our British history. I think it is a small step.

Ms Tucker, in her speech, effectively called on members to take a role in reconciliation, and that was reiterated by Mr Corbell. Because of that factor I finally decided to support the motion. It is appropriate. We have an opportunity now - a small window of time, I would argue - to say that we can look after a minority in our society, that this particular group is incredibly important to Australia and that we need to go forward in partnership with them. There is not a much better way that we as an Assembly can recognise that partnership than by ensuring that this group are symbolically represented in our chamber and symbolically given a place of pride in our community.

MRS CARNELL (Chief Minister) (4.37): Mr Speaker, I will be supporting this motion. I fully agree with Mr Moore's comments that this is not a simple issue, for a number of reasons, some of which Mr Moore has spoken about already. These sorts of actions can be seen as tokenistic. I hope that that is not the case here. I know that Ms Tucker, Mr Moore and others do not see it that way at all, and nor do I; but I can understand how some people may think that that is the case. The way to show that it is not tokenistic is to continue down the path that we have already taken in the ACT and ensure that these sorts of issues do not become divisive, as is happening federally. Reconciliation means compromise from all parties to come up with a position that recognises the many different people in our community, including our indigenous people.

I hope that putting these flags up in the Assembly shows our indigenous community that this Assembly does respect their rights and their aspirations and that we are not taking the path that is being taken elsewhere, with everyone going off to their corner and taking a "punch-up at dawn" type of approach. I am happy to support the motion, but I think that we really must maintain the approach of achieving a regional agreement or a local agreement, as I think we will probably call it now, with regard to land rights, to a cultural centre for the Aboriginals and Torres Strait Islanders who live in the ACT and surrounding areas and to jobs opportunities for young indigenous people. These are the sorts of things that really matter, but I think that the flags could be seen as an indication that we really mean it when we say that indigenous people should and must have equal rights in our society, must have their culture respected by all Australians and should and must have appropriate land rights.

MR CORNWELL (4.40): Mr Temporary Deputy Speaker, as Speaker of this Assembly and as an elected representative, I feel compelled once again to vacate the chair and to speak on this motion. Let me say at the outset that, at the risk of being labelled with an assortment of derogatory tags and perhaps even the word "racist", I will be opposing Ms Tucker's motion to have the flags of the Aboriginal and Torres Strait Islander communities installed in the chamber. Indeed, it is my understanding that the Aboriginal and Torres Strait Islander communities themselves have not made such a request. I recall speaking to a number of representatives at the historic appearance of these people before the Assembly, and several of those representatives told me at the time that they were quite happy with the present arrangement of the flags in the chamber.

This idea has been the brainchild of Ms Tucker for some time. I freely admit that. It has been on the agenda of the Administration and Procedure Committee for some months. Possibly, it began as a headline to get the Greens publicity, but it has certainly been overtaken by events in the form of the Wik debate which is taking place in the Federal Parliament at the moment. I am rather appalled that there has been an attempt in this Assembly by Ms Tucker to hijack what I regard as a national issue for party benefit. I would remind members that Ms Tucker has been wearing a "Stick with Wik" armband for some time, so I believe that the evidence speaks for itself. However, I also believe that the success of this motion relies upon political correctness being used to silence potential critics. I do not intend to be silenced.

I find this motion objectionable because I believe it is divisive. This motion is really about separateness. Indeed, I think it contradicts the very notion of reconciliation - an admirable, commendable notion being advocated by most of the Federal Parliament and, I have no doubt, in the debates that are currently taking place in the Senate. Certainly, it has been promoted by indigenous people and just about every thinking, rational person in this country. But this motion does nothing to promote the concept of Australians being of a variety of backgrounds though ultimately being of one country. While we in this country welcome diversity, we do not welcome division. This motion, I believe, promotes the concept of a community divided by ethnic origin. I do not believe that is a healthy concept to promote, either domestically or overseas.

This chamber, Mr Temporary Deputy Speaker, already has two official flags - the Australian flag and the ACT flag. I, as Speaker, was responsible for having them installed in this place because I believed it was in keeping with the Westminster parliamentary tradition, dignity and protocol. These two flags, these officially recognised symbols, are representative of everyone who resides in the Australian Capital Territory irrespective of their ethnic background, their creed or their colour.

What this motion seeks to achieve would be unprecedented because there is a precedent - or perhaps it is convention; I am not sure - that has already been established in other legislatures across Australia, and that is to respect the national flag and the flag of the particular State or Territory by placing them in the respective legislative chambers. This motion seeks to go against these widely accepted protocols and long-held traditions of Australian parliaments of respecting the official symbols of both nationhood and statehood - the Australian and ACT flags.

In the event that certain members may have forgotten, I remind them that this place is a fully-fledged legislature. If we were to allow symbols of one small section of the community to be placed in here, then it would raise the question of where one should draw the line. If we allow one, then logically we must allow all. I suggest to members that other sections of the community of whatever persuasion may, perhaps even would, feel entitled to have their symbols installed in this place. In that event, how would we decide which symbols were legitimate and which were not, and what criteria would we use? It is not a question that I would like the Administration and Procedure Committee to have to address. Having made these decisions - if we could, I repeat - how would we justify our conclusions? I do not think it takes much foresight to realise that there would be potential for community angst as a by-product of our decisions if we were to go down that track.

Should this motion pass, it will be as a result of the desire of the Greens and ultimately the majority of this Assembly to jump on the Wik bandwagon. I remind members of Ms Tucker's speech, which did not talk much at all about flags but spoke a great deal about Wik, reconciliation, historical tragedies, et cetera. I repeat that if this motion is passed it will be because a majority of this Assembly desire to jump on the Wik bandwagon, along with a noisy collection of the usual suspects determined to politicise this vital national debate in the Federal Parliament.

The Prime Minister has appealed to the Senate to sort out the Wik issue sooner rather than later, so that it can be put behind us. That is not a question of taking sides one way or the other. The Prime Minister has asked that the Senate sort it out sooner rather than later. I believe that the Senate is the appropriate place to do this, without the token help of this Assembly. I fully appreciate that political correctness as well as genuine conviction will decide the issue here. Nevertheless, it is time in this country, I believe, for elected representatives to have the courage of their convictions and be prepared to stand up for what they believe in. This, in my case, is to oppose political correctness and political expediency on a sensitive and certainly potentially divisive issue.

As far as the flags themselves are concerned, there are already several flagpoles around Canberra - in fact, outside this Assembly itself - from which these flags proudly fly during appropriate times, including NAIDOC week, as we are all aware. That same courtesy, I remind members, is extended to other groups to fly their flags; but are they, too, to be invited to have flags in this Assembly?

Finally, I would suggest that it is a matter that should more appropriately be left to the Fourth Assembly rather than the fag end of the Third Assembly. I am not convinced that we should be making decisions upon our protocols for this Assembly at this point, one week short of rising. I am aware, of course, of why this is happening, and that is that in the Fourth Assembly it would be much more difficult to reverse a decision than it would be to oppose a motion such as this. Nevertheless, I believe that it would be better left until the Fourth Assembly, so that the new body can make a decision. It may be the same decision, but at least we should allow the new body to make decisions for themselves upon their own protocols - not legislation relating to the Territory, but the Assembly's own protocols. For the reasons outlined, I oppose this motion.

MR HIRD (4.49): I would like to draw members' attention to a book, *Australian Flags*, published by the Department of Administrative Services and the Australian Government Publishing Service in 1995. In speaking to the motion moved by Ms Tucker, I want to talk about the flags that fly throughout this great country and in the States and Territories. It surprises me that Mr Corbell, when he was talking about the custodians of the country and the driving force of a group of people, did not support the flying of the Eureka flag in this chamber. The birth of Labor more than 100 years ago is associated with that flag, which has been flown by trade unionists since that time.

Let us look at other people who may wish to have their flags flown within this chamber. A high proportion of residents are in the military services. The triservice flag, the Australian white ensign, the Royal Australian Air Force ensign and the civil air ensign are flags of people who live within this Territory. The Australian Aboriginal flag is flown or displayed permanently at Aboriginal centres throughout Australia. It is popularly recognised as the flag of the Aboriginal peoples of Australia. Is this Assembly an Aboriginal centre? I think not. Then there is the Torres Strait Islander flag. Ms Tucker spoke about respect for the original people of the country. I submit that the Torres Strait Islander flag represents the original people of the country. Should the flags of the external Territories of Norfolk Island and Christmas Island be flown here because they belong to the original people that Ms Tucker spoke of?

The motion reads:

> That, recognising the need for reconciliation between Australians of Aboriginal and Torres Strait Islander descent and non-indigenous Australians, the Aboriginal and Torres Strait Islander flags be placed in the Legislative Assembly ...

We need look no further than one of the flags behind you, Mr Temporary Deputy Speaker, the Australian Capital Territory flag. I understand that Mr Kaine had a fair bit to do with that when he was Chief Minister. The ACT flag was adopted by the Legislative Assembly on 25 March 1993 after a public selection process. Blue and gold are the regional colours. The black and white swans symbolise Aboriginal and European Australians. I submit that there is already an Aboriginal flag behind you, sir. That is the Australian Capital Territory flag. As the Speaker has indicated, there is one other flag, and that is the Australian flag. The Australian flag is flown superior to any other flag within this country, and so it should be.

I submit that bringing in the Aboriginal and Torres Strait Islander flags will open it up to an array of flags. The indigenous people of this Territory may wish to put their flag in this chamber as a symbol of their origins. In making a decision in the dying days of this Assembly, we have to take into consideration the decision of 1993 to adopt the ACT flag, which clearly symbolises the Aboriginal and European people of this great Territory.

MS TUCKER (4.55), in reply: I will conclude the debate. I thank those members in this place who have supported the motion today. I would like to address a couple of the issues that Mr Cornwell raised. It is one of the few debates that we have had in this house in which I have found it quite disturbing to listen to some of the statements by Mr Cornwell and Mr Hird. I do understand their connection with the flags here and what

they mean to them, but I am very disturbed at how they have missed what is happening in Australia now. Mr Cornwell said that I have jumped on the Wik bandwagon. I will leap on the Wik bandwagon, Mr Cornwell. This is a critical time in Australia for all Australians. This is not a national issue that sits out there separate from individual Australians today. This is an issue that we all must address in our consciences.

The General Assembly of the Local Government Association last month, at which 540 councils of the 730 in Australia were represented by 800 delegates, carried virtually unanimously - with just one or two or three people dissenting - a motion of support for the validity of native title, support for the whole community to seek a consensual response to native title rather than promoting litigation and legislative intervention - that is, negotiation, not legislation - and support for the principle of coexistence. Obviously, the General Assembly of the Local Government Association of Australia did think it was appropriate to look at the issue of Wik, native title and reconciliation. They also unanimously supported a statement saying that they supported reconciliation and expressed deep and sincere regret at the hurt and distress caused by policies which forcibly removed Aboriginal children from their families and homes. It recognised that a great injustice was inflicted on Aboriginal peoples in the name of assimilation and integration and so on. It was similar to the motion that we had in this place.

This is not just a national issue. This is an issue for every single Australian. I find it extremely disappointing that this is not understood by Mr Cornwell and Mr Hird. It is interesting to see that there is such agreement at the local government level. They are the people who have to live together. People who are living together and working with this on the ground want reconciliation, want coexistence and are supporting that we work in a consensual way.

One of the other points raised by Mr Cornwell that I would like to address is that the indigenous people have not asked for these flags to be placed here. Indigenous people in Australia are saying that they want desperately to see the support of all Australians for them. They feel they are once again being dispossessed of their land. I expressed in my initial speech the importance of land to the spirit, self-esteem and morale of indigenous people. Indigenous people are being threatened in a way that is incredibly significant. By putting the flags in the chamber we are saying, "Yes, we support you". I have also had individual discussions with people in the ACT who have said they would very much like to see such a symbolic gesture from this Assembly.

I find it difficult to respond to Mr Hird's comments about all the different flags. I think I have covered it. He has totally missed the point about the most critical social issue that we are facing at the moment in Australia. Fundamental to our identity as a nation is the recognition that most of us came here from other places, that this land was inhabited when we arrived and that we have treated and are treating the original inhabitants shamefully. By having the Aboriginal and Torres Strait Islander flags permanently in this chamber we as a legislature are acknowledging our indigenous people. We are acknowledging that we are on Ngunnawal land and that we are committed to reconciliation with them.

Question resolved in the affirmative.

ADJOURNMENT

MR TEMPORARY DEPUTY SPEAKER (Mr Wood): Order! It being 5.00 pm, I propose the question:

That the Assembly do now adjourn.

Mrs Carnell: I ask that the question be put forthwith without debate.

Question resolved in the negative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Outdoor Lighting

MR MOORE (5.01): I present Report No. 38 of the Standing Committee on Planning and Environment, entitled "The Provision of Quality Outdoor Lighting in the ACT", together with a copy of the extracts of the minutes of proceedings. This report was provided to the Speaker for circulation on Tuesday, 18 November 1997, pursuant to the resolution of the Assembly of 13 November 1997. I move:

That the report be noted.

Looking at the provision of quality outdoor lighting in the ACT has been a very interesting exercise for me. When I first heard Ms Tucker speaking on this issue, as I was driving back from looking at free-range chooks in Tarago in New South Wales, I thought, "That is a bit of a weirdo. I wonder what she is going on about. That seemed a bit of nonsense". Then she brought it into the chamber and, lo and behold, my committee took this issue on.

The more I had to do with it, the more interesting I found it. The more I looked at it, the more impact I believed that it would have on tourism in the ACT. Every time I go to Sydney, Adelaide, Melbourne or other cities, I cannot help noticing that they do not have the night skies that we have in Canberra. On the other hand, when I go out into the desert every couple of years, I cannot help noticing how dull the Canberra skies are compared to the skies out in the Great Victoria Desert or even the other side of Dubbo.

Mr Speaker, we have a fantastic opportunity to ensure that our children can look up at the night sky and see the stars and understand, for example, why we call the Milky Way the Milky Way. Very few children in Australia understand that and I think it is a great shame. Probably a very limited number of adults understand why we refer to the Milky Way in that way.

The really interesting part to me is that we can improve the quality of outdoor lighting without any long-term cost to the community. There will be some short-term costs, but they will be recouped within the first couple of years. It is something we should do gradually. Outdoor lighting in the ACT has been handled fairly well and we can now proceed down the path to improve on that.

The committee has come up with a series of recommendations that are not over the top. The recommendations are about ensuring an appropriate process to protect the night skies we have, to protect astronomical societies and to protect the astronomical activities that are conducted on Mount Stromlo. The committee has recommended a series of measures to ensure that our outdoor lighting has less and less impact on the night skies, so that we slowly improve our night skies. I can see our Feel the Power of Canberra advertising campaign including the power of visitors to look at a night sky, thus enhancing the importance of Mount Stromlo and other astronomical sites.

At the beginning of this year I was fortunate to do some travel in Europe, where I saw some very clear skies. On a couple of nights I was able to get a very clear view of the Hale-Bopp comet. It was absolutely spectacular. But, beyond seeing that comet, it was very difficult to get a really clear view of the night sky in Europe. The same applied when I was in the United States and Canada. Apart from in some of the desert areas and prairie areas there, you generally do not get such clear views of the night skies as you get in Australia, particularly in an area like Canberra. We have an opportunity to fill a niche by marketing Canberra as a place where people can come to enjoy something spectacular.

I want to make a couple of minor comments about the dissenting report by Mrs Littlewood. Mrs Littlewood's concern is twofold. She believes that there are higher priorities for Canberra. I think that is a matter of judgment. We all make judgments about our priorities. Before I started this investigation, I would have agreed with her wholeheartedly. I urge members to look at the committee report. I believe that we can take a long-term view of this. There will be little cost to Canberra and little cost to business but great benefit to our children and to the tourism industry.

The other point that Mrs Littlewood makes is that the long-term recommendations contained in the report should be subject to a cost-benefit analysis. I believe that we worked that into our recommendations. It is not something on which I disagree with her. They are fairly minor issues. I understand her perspective; but it seems to me that this is an opportunity for us to move ahead, and I hope it is an opportunity that will be welcomed and taken up by government.

We have a specific example of how we can apply the recommendations of this report right now. There is some controversy - we heard about it at question time today - over lights at the oval at Downer. What comes through in this report is that lights can be installed in a way that does not affect the night sky and does not throw light beyond the particular area they illuminate. If people want to see an example of how this can be done well,

I would refer them to the tennis courts in the middle of Reid, where quality outdoor lighting has been applied with full cut-off. The residents around these very well-lit tennis courts, some of them not many metres away, are hardly affected. It is a very good example of what can be done, and it can be done in Downer. I urge the Government to use this opportunity to check through the report and demonstrate that our community can benefit - in this case, parts of the community have different views - from the sorts of outcomes recommended in this report.

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

ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Inquiry into Code of Conduct for Members of the Legislative Assembly - Statement by Speaker

MR SPEAKER: Members, on behalf of the members of the Standing Committee on Administration and Procedure and pursuant to standing order 246A, I wish to make a statement relating to the committee's inquiry into a code of conduct for Assembly members. On 26 September 1996, the Assembly passed a resolution proposed by a member of the Standing Committee on Administration and Procedure which required the committee to inquire into and report on the development of a code of conduct for members of the Legislative Assembly. The Assembly asked that the committee particularly consider the issues of parliamentary and personal conduct; conflict of interest, including a member's affiliation with, or membership of, any organisation or association; gifts; the use of public office; the application of section 14 of the Australian Capital Territory (Self-Government) Act 1988 (Commonwealth); and a complaints and investigation procedure.

Having considered briefing papers, the committee considered the matter at length at its meeting on 2 July 1997 and noted that the Auditor-General, in Report No. 2 of 1996, entitled "Taxi Plates Auction", recommended that "extracts from the draft Queensland Code of Conduct be utilised as a basis for developing guidelines for Members of the ACT Legislative Assembly". The Auditor-General continued by suggesting that a complete code of conduct would need to address a wider range of issues than those addressed in the report.

Given that the Auditor-General's report was one of the catalysts in the committee considering the development of a code of conduct for members, the committee considered that the draft Queensland code was a useful place to start addressing the issues that should be included in any code of conduct for public officials. The committee also considered that any code of conduct for members of the Legislative Assembly should reflect those standards applied to the Executive members of the Assembly by the ministerial code of conduct that the Chief Minister presented to the Assembly on 2 May 1995. It suggested that the ministerial code should be married with the code that the committee was developing.

In further considering what matters or issues should be included in the code of conduct that it was developing, the committee particularly identified the work of the New South Wales Legislative Council in relation to a code of conduct for members as useful and considered that its code, together with the work conducted in other State parliaments in Australia, should be further investigated. The committee was also of the view that any code of conduct that it developed should be of a manageable size and should therefore be in principles rather than a list of prescribed or approved behaviour. It believed the detail of, for example, the United States Congress code of conduct would be difficult to implement in the Territory.

The committee also noted the work conducted by the Nolan Committee in the United Kingdom. Of particular interest was the development of an independent ethics commissioner who could be approached by members for an opinion on the ethics of a proposed course of action. In considering this option, the committee was particularly mindful that in a pluralist society different standards of behaviour are acceptable by some and yet unacceptable by others. Frequently, such behaviour falls into a grey area and a ruling from an ethics commissioner who should be acquainted with all the facts would be there to assuage public opinion on the matter, provided of course that the member abided by the commissioner's ruling. The committee did acknowledge that further consideration would need to be given to the position, although preliminary thinking was that it should be regarded as a consultant position - that is, an on-call position - and that it would have to be filled by someone who was of some standing in the community or had relevant expertise.

The committee recognises that the matter is an extremely complex issue but regards it as one that is crucial for members of the Assembly to finalise. The trend in all Australian parliaments is to have a readily identifiable set of rules of conduct, both to assist members in carrying out their duties and to indicate to the electorate at large what behaviour they can expect from their members. The committee therefore hopes that its successor in the next Assembly will pursue the inquiry and will complete the work of this Standing Committee on Administration and Procedure by developing a code of conduct for all members that the Fourth Assembly will adopt.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Committee Operations during the Third Assembly 1995-1997 - Statement by Chair

MR WHITECROSS: Pursuant to standing order 246A, I wish to inform the Assembly that the Standing Committee on Public Accounts agreed that the following statement on the committee's operations during the Third Assembly 1995-1997 be made.

Towards the close of the Second Assembly, the then chair of the Public Accounts Committee, Mr Kaine, made a statement to the Assembly which reviewed the work of the committee during the previous three years. It is appropriate that, as chair, I make a similar statement; in essence, a report on the stewardship of the committee to the current Assembly.

First, I refer to the committee's role. The resolution of the Assembly requires the committee to examine and report to the Assembly on the accounts of the receipts and expenditures of the ACT, the financial affairs of its authorities and all reports of the Auditor-General which are laid before the Assembly. The committee is also required to examine and report on any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the committee is of the opinion that the attention of the Assembly should be directed. The committee has a further responsibility to inquire into and report on the implementation of the Public Sector Management Act 1994.

The raw statistics show that the committee has been fully involved in discharging its responsibility to the Assembly. A glance at the notice paper will give an indication of the breadth and complexity of the issues which have come before and been dealt with by the committee. The committee has examined a wide range of matters which have been the subject of Auditor-General's reports. It has been the committee's practice to invite the relevant Minister or Ministers to respond to the findings of the Auditor-General. As necessary, the committee discusses audit findings with the Auditor-General, and, where appropriate, other interested or affected parties have been invited to put their views to the committee. Again, where appropriate, public hearings on audit findings have been held. From this process and other research, the committee develops a position on every audit report finding from which it has invariably made recommendations for Assembly or Government action.

The issues covered by audit reports have been of considerable significance to the governance of the Territory. Audit reports and committee inquiries have included matters such as the outcomes of financial audits across all agencies, land joint ventures, secondary colleges, the Australian International Hotel School, VMO contracts, cultural development funding and the Territory operating loss. The committee's task, in effect, has been to audit the audit and to develop courses of action to ensure that there is proper accountability for Territory expenditures reviewed by the Auditor-General and that there is prudential management of associated agency programs. The committee's recommendations have always been focused to this end and it is pleasing to note that, with the large number of often hard-hitting and searching committee recommendations over a wide range of matters, there have been very few occasions when it has not been possible to achieve unanimity within the committee.

In this regard I pay tribute to the work and contribution of my colleagues, Mrs Littlewood and Ms Horodny. The Public Accounts Committee demands an intense focus on important matters of public administration and my colleagues have been ever ready to bring an earnest philosophical and intellectual commitment to these matters. Behind the public face of the Assembly in sittings such as this one today, it is not always known by the general community that members work long, closely and cooperatively in committee and in the interests of the ACT community. This is the case in the Public Accounts Committee, and is true of other committees in the Assembly as well.

I also pay tribute to the dedicated work on the committee during the current Assembly by former members, Mr Kaine, Mr Wood and Ms Follett. All also served with distinction as chair of the committee at some time, either during this Assembly or in a previous one. It is important to record that integrity has been maintained within the committee, in that on certain occasions one of its members who had exercised ministerial authority in a previous government in relation to matters dealt with by the Auditor-General took no part in the committee's deliberations. This also serves to remind us all of both the intimacy and the vagaries of Assembly and political life.

Turning to the scope for change in approach, the range of matters dealt with by the committee will also show that there is scope for a greater degree of expertise to be brought to bear on the matters covered by reports of the Auditor-General. With the agreement of the Standing Committee on Planning and Environment, an Auditor-General's report dealing with contaminated sites was referred to that committee as it had such matters under examination. Similar cases may arise in the future. There is also scope for a more general policy of referring certain Auditor-General reports to other standing committees.

The Assembly has attempted, with some success, to marshal membership resources to ensure that those members with specific Territory interests are able to serve on those committees which most closely reflect their interests. While the Public Accounts Committee in the next Assembly will need to retain its function of auditing the accountability of agencies, it may see overall benefit for the Assembly in involving other committees, as appropriate, in reviewing the Auditor-General's reports which deal with matters falling within the direct ambit of those committees. This could ensure expert scrutiny by members in appropriate cases and keep those committees informed on contemporary developments within ACT government agencies.

I refer now to the operations of government. The committee has also taken very seriously its obligations and its right to examine the operations of government at both Executive and official levels. Hence, the committee inquired into and reported on matters such as access to Cabinet and other deliberative documents, the property of previous governments; the Public Sector Management (Amendment) Bill; the voluntary parent contribution scheme in ACT schools; purchaser-provider agreements; appointments to Territory-owned corporations; the asset management strategy; lease and leaseback arrangements; and the business incentive scheme. In the process the committee has had cause to question aspects of Government procedure and policy such as recourse to commercial-in-confidence to avoid providing the committee with details of financial transactions which the committee was not only entitled to receive but also had a responsibility to scrutinise. The Public Accounts Committee in the next Assembly will no doubt bring this matter under closer scrutiny.

I want to refer now to external relationships. The committee is a member of the Australasian Council of Public Accounts Committees, the aim of which is to facilitate the exchange of information and opinion relating to public accounts committees, to discuss matters of mutual concern and to improve the quality of their performance.

The committee has been an enthusiastic contributor to ACPAC, has learnt much from the association with peer committees, and I believe has been a significant contributor. I have to say that, on a weight-for-size basis, this committee can more than hold its own in the national arena.

The committee visited New Zealand in May 1996 to assess the regional effects on health, education and social welfare services in the light of the significant economic and financial changes which have been under way in that country since 1990. New Zealand has embraced economic and financial change involving accrual accounting concepts and has instituted purchaser-provider concepts over a wide range of services traditionally funded by government. The relevance of that visit was the move to establish the financial affairs of authorities of the ACT on an accrual accounting basis, and the committee was concerned to ensure that lessons to be learnt from the New Zealand experience were understood by the ACT.

I want to mention the relationship with the Auditor-General. The committee has had a close and cooperative relationship with the Auditor-General, a relationship which has been of benefit to the Assembly. The committee values the work of the Audit Office and gives testimony to the value to the Assembly and the ACT community of the office of Auditor-General in ensuring impartial and independent scrutiny of the transactions of the government. As members will know, the committee acquired Executive functions in relation to the Auditor-General under the Auditor-General Act 1996. The committee is tasked to consider and, if considered necessary, exercise a veto over the proposed appointment of an Auditor-General and must be consulted on the appointment of an Acting Auditor-General.

The Act also provides for the Auditor-General to make special reports to the committee which contain sensitive information omitted from other Auditor-General reports. Any such report to the committee is taken for all purposes to be referred to the committee for inquiry and such report as the committee considers appropriate. To this time no special reports have been made to the committee. The Act further provides that the committee chair advise the Treasurer of the Auditor-General's budget. That function was exercised fully this year and, as part of the process, the committee consulted with and had an influence on the development of the Auditor-General's performance audit program.

Finally, I want to refer to the committee's resources. Generally, the committee is able to access expertise and data from within the ACT government administration; but it is not always appropriate that this should be the sole source of such advice, and provision should be made for the committee to engage external consultancy services on complex technical matters. Compared with the government agencies that the committee deals with and with public accounts committees in other States and Territories, the committee is underresourced in terms of research capacity. I expect that this is a problem for other Assembly committees, and the next Assembly will need to seriously consider the level of resources allocated to committees if they are to continue to have an effective role in the functioning of the Assembly.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
John Dedman Parkway Inquiry - Statement by Chair

MR MOORE: Pursuant to standing order 246A, I wish to inform the Assembly that on 27 November 1997 the Standing Committee on Planning and Environment agreed that the following statement on the committee's inquiry into proposals for the John Dedman Parkway be made. Before I begin the statement I would like to comment, Mr Temporary Deputy Speaker, that today we are seeing very good use made of standing order 246A, which I think has been a great enhancement to the standing orders and the ability of committees to operate in this Assembly.

I make this statement on behalf of the Standing Committee on Planning and Environment. Our reason for making the statement is to put on the record our assessment of where the inquiry is up to and what should happen next. In doing so, we are conscious that the Third Assembly is about to end and that a new planning committee, however structured and whatever it is called, will be established by members of the Assembly to be elected on 21 February next year. We think it should be a high priority for those members to take up the John Dedman Parkway inquiry where we left off.

In this regard, we recommend that the full records of our committee, including written submissions and supplementary material, along with the transcript of public hearings, be made available to that committee. We note that a resolution to this effect was passed at the start of the Third Assembly and we consider it is essential to do the same at the start of the Fourth Assembly. We have so far received 57 submissions and we understand that there are many more people who wish to lodge written material. Also, we know that a great number of people wish to be heard when public hearings are resumed.

Unfortunately, the end of the Third Assembly has meant that our committee could not organise to hear all of the people affected by the John Dedman Parkway proposal. The best we could do was to hold a public hearing on Friday, 21 November 1997, to hear a representative of Maunsell Pty Ltd, which conducted the preliminary assessment, the Conservation Council, the Minister for the Environment, Land and Planning and government officials. The hearing was extremely useful. We would like to thank Maunsell Pty Ltd, the Conservation Council and the Minister for appearing before us at particularly short notice. I know that Mr Humphries had to make quite a number of rearrangements in order to facilitate that.

We carefully noted the Minister's announcement at that public hearing about two important matters. The first is that he has decided that a full EIS is not required in relation to a future route for the John Dedman Parkway at this time. The second is that he has asked officials to prepare a draft variation to the Territory Plan to do two things: Firstly, to reserve the route identified as Option 3 in the Maunsell study as a transport corridor in the Territory Plan. This is the route that runs from the Barton Highway at its intersection with the new Gungahlin Drive, rises onto O'Connor Ridge and runs to the east of the AIS - the Australian Institute of Sport - to then split into two branches, one to join Caswell Drive at Aranda and one to join Barry Drive in O'Connor. Secondly, the draft variation will provide for the deletion of the existing road reservation to the west of the AIS and, in the Minister's view, thus permit development of that area of the Bruce precinct.

The committee recognises that a draft variation to the Territory Plan has to be done and that it will eventually come before our successor committee in the new Assembly. We think that that is entirely appropriate. However, we would be very concerned if consideration of the draft variation was the only occasion for people to comment on the broad range of matters set out in this committee's current terms of reference. We remind members that those terms of reference, which were set by the Assembly, involve considering not just the Maunsell study and the Government's detailed response, but also the full range of transport studies and inquiries that have been done to date, the appropriate place for public transport, the usefulness of strategies to boost local employment in Gungahlin, and the alternative proposals, in the minds of some, for an eastern ring road from Gungahlin.

We do not think that a full airing of these issues will occur in the consideration of a draft variation to the Territory Plan to preserve the Option 3 route reservation and to delete the reservation to the west of the AIS. Therefore, we consider that our successor committee should be allowed to fully examine all these issues and report to the Fourth Assembly before it is asked to consider that draft variation. We note that there is no urgency for this matter to be decided in a hurry. After all, it is not expected that any actual construction will take place on the proposed transport reservation for another 10 years. Given this situation, it is only reasonable that a committee of this Assembly fully examine the whole raft of issues surrounding the proposal for a major new traffic artery in Canberra.

Before concluding this statement on behalf of the committee, I should point out that an early aspect of our inquiry into proposals for the John Dedman Parkway involved the issue of whether Ginninderra Drive should be extended across Southwell Park to Northbourne Avenue and the Government's proposals for traffic lights and other roadworks in the Mouat and Brigalow streets area of Lyneham. In our Report No. 33, dated September 1997, we reported to the Assembly on these issues. Our report was unanimous and, we hope, served to remove some of the uncertainty affecting that particular area.

To sum up, we recognise that it will be a big job for our successor committee to weigh up all the arguments and passions surrounding these issues and the proposed transport reservation. We can only wish the members of our successor committee well in their endeavours. We commend this statement to the Assembly.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Work of the Committee during the Third Assembly - Statement by Chair

MR MOORE: Mr Temporary Deputy Speaker, I ask for leave of the Assembly to make a statement on the work of the Standing Committee on Planning and Environment during the Third Assembly.

Leave granted.

MR MOORE: Thank you, members. I ask that copies of my speech be circulated. I would like to make a statement to the Assembly about the work of the Standing Committee on Planning and Environment over the life of this Assembly. I make the statement as chair of the committee, although not on behalf of the committee. My colleagues have sighted the statement and have discussed it, but felt it was appropriate for me to make it in a personal capacity. I consider that a statement about the work of our committee is useful because of the many and complex issues we have dealt with.

We have met formally on 111 occasions. That is an average of three meetings a month. We have produced 42 reports and made 10 formal statements. This approximates to one presentation to the Assembly each three weeks. We have reported to the Assembly on a great variety of issues. Thirteen of our reports have dealt with variations to the Territory Plan. One report was on a draft plan of management for public land. In that report the committee expressed its disappointment that the Government was able to bring forward only one such plan of management in the life of this Assembly. There is a large backlog of management plans for the Territory's public lands yet to come before this Assembly.

One report and one statement dealt with the former Starlight Drive-In Theatre site in North Watson and this report, along with the committee's consideration of a nearby draft variation involving Yowani golf course, led to the establishment of a major inquiry into the administration of the ACT's leasehold system, the Stein inquiry. One report dealt with graffiti in the Territory. Two reports and one statement dealt with the Acton-Kingston land swap. Three reports were into the Government's draft capital works programs for each of the three years of the Assembly. These reports, building on the fine work of this committee's predecessor in the Second Assembly, led to substantial improvements in the way capital works are handled in the ACT. I think we can go further yet, particularly in developing better ways to involve our local community in the selection of capital works. I hope that our successor committee in the next Assembly will take up this challenge. One report and two statements dealt with the handling of contaminated sites. We went on to produce a further report on the ACT Auditor-General's examination of the handling of contaminated sites. It is unusual for a committee other than the Public Accounts Committee to consider reports of the Auditor-General, but I believe our committee did it thoroughly and quickly and came to reasonable conclusions.

Four reports dealt with the national conferences of parliamentary public works and environmental committees. These conferences are an increasingly important way for members to learn what is happening in other States, the Northern Territory and at the Commonwealth level. There are two important points to note on this matter. The first is the very great overlap between environment issues and public works issues. It is quite instructive to realise the number and variety of environment-type issues that arise in the normal course of considering capital works. The second important point to note about these conferences is that the ACT, for the first time ever, hosted the 1996 national conferences of parliamentary public works and environment committees and we did so

here in this chamber. The event was a great success and put this Territory on the map in regard to similar sorts of events. As an aside, Mr Temporary Deputy Speaker, I hope that other committees will seek to host similar events, because I think it assists in having people recognise the role that the ACT Assembly plays.

Returning to my statement, two reports were on specific road projects, one involving Nudurr Drive in Palmerston and the other on the possibility of extending Ginninderra Drive in Lyneham across Southwell Park to meet Northbourne Avenue. Neither issue was easy to deal with and both involved on-site inspections and public hearings. One report was on the Government's retail policy measures. Finally, two reports were on the State of the Environment Report and environmental accounting. As well, the committee made statements about a strategic plan for the Territory, proposals for the Civic cultural centre, developments affecting sections in Bruce and Kingston, and a proposed church in Chisholm.

What did I learn from all this activity that might be of benefit to the members who come together in this place next March? The first thing I learnt is that it is impossible to complete this workload without some additional resources being made available to our one permanent officer. That reiterates what Mr Whitecross said a few minutes ago. Over the life of the Assembly we used seconded officers on two occasions to complete two major inquiries, and we are convinced that this is a good way to go in the future. Two seconded officers learnt a very great deal about parliamentary processes and committee deliberations, which will serve them well in their future careers in the Public Service. For our part, the quality of our reports - the increased detail and the extra time for research - is enhanced by an increase in committee support.

The second thing I learnt is that planning and environment can be successfully put together in the one committee. I know that some of my colleagues on the committee believe that a separate environment committee would enable more environmental issues to be dealt with, and perhaps in a better way, but I think we have to acknowledge that the experience of the Planning and Environment Committee in this Assembly shows that the two issues of planning and the environment can be handled by just one committee.

The third thing I learnt is that a committee with four members, which reflects the political make-up of this Assembly, is a very good basis for committee work. All but one of our reports and all but one of our statements have been unanimous. This means that the Government gets a very clear message about what we four backbenchers from four different parts of the political spectrum think about an issue. This can simplify consideration of options by the Government. A further two reports, although unanimous, contained clear statements about conflicting views held by members on one or two specific issues. These statements did not detract from the reports but, rather, served to show the Assembly that we had successfully used the committee system to narrow our differences to the bare essentials. On these matters the final decision, quite properly, belonged to the Assembly itself. It is interesting to note, Mr Speaker, that the view that I held always went to the losing position, but that will not take you by surprise.

The fourth thing I learnt is that, despite our 111 meetings and many reports, there remains a great deal of community and government activity that did not come before us. Sometimes the Government has made decisions based on inadequate consultation and, in retrospect, it might have been useful to get committee input into these decisions. Nothing illustrates this better than the way a strategic plan for the Territory was prepared.

The Planning and Environment Committee initiated a formal inquiry into a strategic plan; but, at a crucial time when we were down to considering which consultant to appoint to assist us, we allowed ourselves to be convinced by the Government saying, "Look, we have the resources and the contacts in the Federal Government to do this project better and quicker than an Assembly committee ever could". The result was *Canberra: A Capital Future*, which flopped in this place. Considering this committee's success in dealing with so many other difficult issues during the life of the Assembly, I consider that, had the Government assigned the same staffing level to this committee as it allocated to developing *Canberra: A Capital Future*, we would now have an agreed position on what a strategic plan for the Territory should look like. Of course, Mr Speaker, as an aside, I say it is easy to be wise in retrospect. I have to say that the development of a suitable strategic plan remains a vital role for an appropriate committee of the Fourth Assembly. It will involve extensive community input and will not be an easy task. I know that a great deal of that work has been done and it would be ridiculous to repeat that.

Finally, I note that the Planning and Environment Committee sometimes seems to work pretty near the area traditionally seen as belonging solely to the Executive. In part, this is because the committee has a statutory role, under the provisions of the Land Act, in relation to draft variations to the Territory Plan; but it also reflects our system of minority government. While I recognise that there is a limit to how far an Assembly committee should be involved in matters that are properly in the Executive's domain, I think it likely that our committee system will continue to push those boundaries. I hope that some of these personal observations may be useful to members of this Assembly and perhaps the next Assembly.

MENTAL HEALTH (TREATMENT AND CARE) (AMENDMENT) BILL 1997

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

That this Bill be agreed to in principle.

MS REILLY (5.38): This Bill deals with the transfer interstate and back into the ACT of people under various types of mental health orders. It appears to be a simple Bill because it will expedite the transfer of patients in a number of circumstances. Obviously, there will be times, because of the size of the ACT, when we will need to transfer people interstate for various types of treatment. The Bill also will allow us to apprehend people in the ACT for transfer interstate, and vice versa in terms of people from the ACT under mental health orders for return to the ACT for various reasons. Obviously, the basis for this legislation is related to treatment and therapy. It also has to do with community safety.

I feel some caution about this type of legislation. In relation to this Bill, I still see some of the issues that I raised when we discussed a similar type of Bill in relation to the Children's Services Act, because we are looking at transferring people from the ACT. I recognise the utility of an Act such as this because it does allow certain actions to take place; but we have to ensure that we do not end up with the ACT reneging on some of its responsibilities to its own citizens and to other people who have connections with people who are under orders, and that we do not get caught up with taking punitive action on behalf of other jurisdictions. Obviously, consideration has to be given to the types of corresponding laws within the other jurisdictions, but these may not always sit as well with the manner in which the ACT deals with people with a mental illness.

One of the other concerns that I have about this legislation is to ensure that we do not end up taking stronger and more punitive action in relation to people in the ACT who come from interstate than we would for our own citizens who are within the ACT as ACT residents. I think that is one of the concerns that we have to watch out for - that we do not end up doing the dirty business for some of the other States.

I think our legislation in the ACT is based on strong principles which recognise citizens' rights, social justice and fairness. I think some of the interstate legislation is not as well thought through, not as well developed, and that is one of the concerns I have with this Bill. This is one of the aspects that we are going to have to look at very closely. I would mention at this point as well that there is nothing in this part of the amending legislation to say whether there will be any follow-up in terms of people who are apprehended. Obviously, they would appear before the Mental Health Tribunal, but we do not seem to have any method of overseeing the apprehension of people from interstate.

We are talking about apprehending people who may be currently within the ACT boundaries but who in fact have not committed a crime. We are talking about them being picked up by police officers and various other people, but these people in fact have not committed a crime. They are, for various reasons, under orders because of concerns for their safety, their need for various types of treatment or the safety of the community. These, obviously, are important issues. There is no way in the world anybody would condone people who are a danger, to themselves or to other people within the community, being allowed to wander around. However, we have to treat this with some caution, to ensure that mistakes are not being made about the people who are being apprehended in this way. Mistakes are made, and there is no way in the world that the ACT community wants to get caught up with mistakes or difficulties from interstate.

That aside, it is important that we have this type of legislation to allow for cooperation between the ACT and the other States and Territories. We are a small area surrounded by New South Wales and we cannot operate completely on our own and in isolation from others. It is important that we address this with some caution, because we are talking about serious orders that have been made for the protection of those people and we are talking about serious action that can be taken by those who are being apprehended.

I am hoping that this legislation will be handled carefully, and that people who should not be picked up will not be picked up. In most cases we are not talking about people who have committed a crime. The thing that would have added to this legislation - it may be in the major part of the principal Act - is the review process for people from interstate who are apprehended in the ACT. That is one of the parts that I could not see within this legislation, and that is of some concern.

Obviously, the ACT people who are under orders and who may be interstate and have to be returned do come under the auspices of our Mental Health Tribunal. I am not suggesting that there are issues around some of the practices within the Mental Health Tribunal. We can talk only of what happens with people who are under orders in the ACT. We cannot make any suggestions about what happens to people from interstate and the types of orders that they may be under. There should be some review mechanism within this Act in relation to what happens with people from interstate in the ACT and what happens with the return of some people under orders from the ACT who are found to be interstate.

Apart from that, I recognise the need for this type of Bill to enable certain action to happen. I recognise the need for cooperation between us and the other States and Territories because it is beneficial for both jurisdictions. It is also a benefit for those who are under the various orders. These orders are not made lightly. They are made because people need certain types of treatment or need protection from themselves or from others. On that basis, we are not putting up any amendments and are supporting the Bill.

MS TUCKER (5.45): The Greens will be supporting this Bill. The legislation ensures that there is the potential to transfer any mentally ill patient who requires the services of a New South Wales facility, regardless of whether they are referred through the criminal justice system or the health system. It will also enable authorities in the ACT to detain persons who are the subject of warrants, orders, or other documents for apprehension issues under the mental health laws of another State or Territory. While I was not prepared to support legislation to allow juvenile offenders to be sent interstate, I do feel more comfortable with this legislation. This is a two-way arrangement. It is not just flicking people over the border.

The current situation, where the only way a mentally ill person can be transferred to a New South Wales psychiatric facility and remain subject to the jurisdiction of the ACT Mental Health Tribunal is if that person is transferred as a prisoner, is inappropriate. I note that there will be the power to seek to vary any orders made by the tribunal if a New South Wales facility proves to be inappropriate. I sincerely hope that there will not be inappropriate placements and that any transfers interstate will be only to the benefit of the mental health patient. There are facilities in New South Wales that would be of benefit to some people in the ACT. While we may not have many best practice models in place now, I hope that will change; that the ACT may develop expertise in some particular areas and we may see people coming from out of State into the ACT to take advantage of that.

This legislation has raised a number of issues for me again about the inadequacy of mental health services in the ACT. While I appreciate that this legislation is not about flicking people over the border because we do not want to deal with them here, we still have a lot of work to do to make sure high-quality mental health services are available to ACT residents. In particular, the ACT is lacking a number of critical services. I again draw members' attention to some of the recommendations of the Social Policy Committee report on the adequacy of mental health services in the ACT.

Of particular relevance to this debate is the lack of a secure facility for people with a mental illness who require involuntary accommodation, and the absence of a forensic psychiatry facility which is administered by the health portfolio. There were also recommendations that the ACT Government expand the range of community-based clinical and non-clinical services and community-based supported accommodation options. We also made specific mention of the special circumstances surrounding the provision of mental health services to the Aboriginal and Torres Strait Islander community and called for greater continuity of care. Obviously, this last point is critical to any decision to transfer mentally ill patients interstate. Mental health is an area of great importance to the community and the cost of mental illness in terms of human suffering is significant. Reform in this area is critical and urgent. While I support this Bill, it will need to be very closely monitored.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (5.49), in reply: Mr Speaker, this Bill will enable the ACT to enter into agreements with other Australian jurisdictions for the transfer, detention and treatment of mental health patients. At present mental health patients need to be classified as criminals if they are to be transferred across borders. I think we all accept that that is an unacceptable situation. The amendments are the result of public consultation processes on the Mental Health (Treatment and Care) Act and recent amendments to the New South Wales mental health legislation. This Bill mirrors the New South Wales legislation and provides for the transfer of patients across borders, recognition of interstate orders, and the apprehension and return of patients who are absent without leave. Recently the New South Wales Minister for Health, whom I have met, wrote to me requesting that negotiations commence on cross-border agreements as soon as our legislation allows.

The Bill will provide the ACT with access to New South Wales facilities. This will assist us in addressing the need for secure care for some people with mental illnesses, while the Government and the Assembly continue to explore opportunities for providing such services in the ACT, and I agree with Ms Tucker that these services are desperately needed. The Government will shortly release the full results of the community consultation process in regard to the Mental Health Act. The results will highlight definitional issues and provide the opportunity for further comment on this very important issue. Recommendations for amendments to the Act will need to be considered by the next Assembly. Mr Speaker, I thank members for their support for this important piece of legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ARTIFICIAL CONCEPTION (AMENDMENT) BILL 1996

Debate resumed from 24 September 1996, on motion by **Mrs Carnell**:

> That this Bill be agreed to in principle.

MR WOOD (5.51): Mr Speaker, Labor will oppose this Bill. I indicate that in the next Assembly we will revisit the Substitute Parent Agreements Act to see whether it should conform with the resolution of the Australian Health and Social Welfare Ministers of March 1991. We have considered this Bill most carefully. This means a close examination of surrogacy, an issue which is among the most difficult of any that parliaments have to deal with. This Bill enables the genetic parents of a child born through a surrogacy arrangement to be recognised at law as the parents without having to seek adoption. It allows the genetic parents to apply to the Supreme Court for a parentage order to make them the child's legal parents. We are not supporting that.

I should make it absolutely clear that genetic parents - and we know of the case in Canberra - can adopt the child they claim, and they can be confident that the adoption process will deliver the result they want. A birth mother, that is, a relinquishing mother, can indicate her preference for a close relative to adopt the child. That would be observed. That is the course that genetic parents in the ACT can follow, assuming that the birth mother is willing to give up the child which the law decrees is hers.

In a letter to me supporting this Bill, the Chief Minister has claimed support for it from the Community Law Reform Committee's report on it over a year ago. This Assembly asked the Community Law Reform Committee to look at the Bill and report on it, and it has done so. The Chief Minister said that the committee supported the concept and purpose of the Bill. That, however, seems to me to be an overstatement. Let me read from the report:

> The Committee notes that, despite provision for substitute parenting agreements in the Substitute Parent Agreements Act 1994 and the Artificial Conception Act 1985, there is considerable public concern about such agreements. A number of submissions to the Committee made this point forcefully. However, the Committee's terms of reference do not invite it to consider broader social concerns relating to substitute parent agreements. Accordingly, the Committee has not considered the appropriateness of substitute parenting agreements. The focus of this report relates to the parentage of children born as a result of an agreement and the consequences of parentage upon the status of the child.

My interpretation is that the committee was dealing simply with the provisions of this Bill we are considering as it was referred to the committee. No more can be made of its comments than that. In examining this Bill, however, the Opposition has necessarily reconsidered the whole question of surrogacy. As a consequence, in the next Assembly we will act to reconsider the Substitute Parent Agreements Act and see whether it should conform to the principles originally intended for it. I acknowledge that what has occurred so far - the laws currently in place - has been done with the support of the Labor Party in this Assembly. In adhering to those principles, Labor would be reversing at least one vote taken in an earlier debate.

The original intention of the Substitute Parent Agreements Act 1994 was expressed by Mr Connolly, the then Attorney-General, as follows:

> ... we made commercial surrogacy an offence; we made non-commercial surrogacy not an offence but something we discouraged ...

In fact, it was not possible under the terms of Mr Connolly's Bill. But by the time the Bill was passed that discouragement no longer existed. The then Opposition Leader, Mrs Carnell, successfully moved an amendment which allowed for medical intervention to facilitate surrogacy. Mr Connolly's discouragement had become facilitation - a most significant change, but one agreed with by the Labor Party. Now, we are not so confident about that agreement.

The principles about surrogacy still observed by States and Territories were expressed in 1991 by a resolution of the Australian Health and Social Welfare Ministers. I cite one of its key points:

> That States and Territories legislate to:
>
> ... ...
>
> . make it an offence to arrange or agree to arrange surrogacy services or contract to provide technical or professional services to facilitate the creation of the pregnancy ...

That principle does not apply in the ACT, as a result of the amending Bill.

I want now to question a comment in the report of the Community Law Reform Committee. It said:

> The combined effect of the Substitute Parent Agreements Act 1994 and the proposed Artificial Conception (Amendment) Bill is in accordance with the overall spirit of the March 1991 resolution of Australian Health and Social Welfare Ministers.

It seems to me that the result does not conform to the overall spirit, because it no longer makes the facilitation of surrogacy illegal. This is the issue we will seek to raise in the next Assembly.

Mr Speaker, I know of the circumstances of one family in the ACT. As a new grandparent for the first time, I am well reminded of the joy that a new life brings to a family, and I know of the despair of families who cannot have the children they desire. But the ramifications of the use of this technology - the difficult social, legal and moral issues, and the potential for a disastrous lack of success - require that we consider carefully whether we should exceed those principles that are well established and have been accepted by other jurisdictions. Hence, the Opposition will not support an extension of the laws on surrogacy until that further consideration.

MS TUCKER (5.59): The Bill before us today, the Artificial Conception (Amendment) Bill, provides a process for genetic parents to be recognised as the parents of a child born under the Substitute Parent Agreements Act. The Greens will be opposing this legislation. Mrs Carnell, in her letter to all members, said that this "should be seen as a simple method of registering a biological fact. It should not be used as a means of dealing with child welfare - this is best dealt with by existing laws and processes". This is a worrying approach, I believe. The Government seems to believe that biological issues can somehow be separated from ethical, psychological or emotional issues. Human beings are not that simple. This is a most complex and difficult area.

Although the Bill is not strictly making the 1994 legislation enforceable, it does have the objective of increasing the legal assurance that substitute parent agreements provide. Surrogacy is a very tricky issue and I by no means feel comfortable with the approach that the Government has taken. This Bill relates to the needs of adults - in particular, the needs of specific adults who are caught as a result of the first Bill being inadequate. Of course, a child also has been born, and Mrs Carnell tells me that others are on the way. This is very unfortunate in some ways, but I cannot see that we should be forced into producing more bad law because of that.

To quote the Community Advocate, who prepared a paper on the Artificial Conception (Amendment) Bill:

> Surrogacy is inherently about the interests and rights of adults and there is therefore a great need for the legislative protection for the interests and rights of the child. There is not sufficient emphasis on the primacy of the rights and interests of the child.

Part of the concern about surrogacy is that it is attempting to apply a model of contract law to a very complex area of human experience. Apart from concern about the welfare of children, there is also widespread concern about the welfare of the birth mother. The ALP, after supporting the amendment which allowed altruistic surrogacy agreements to be entered into in the ACT, has had a change of heart and believes the whole Substitute Parent Agreements Act should be revisited in the next Assembly, and I concur with this approach.

Many complex situations may arise in the process of a surrogacy arrangement. For example, the birth mother may change her mind; the four adults may agree in the beginning but then change their mind; and the genetic mother may decide that she does not want the baby because the baby has a disability. Then there is the term "genetic bewilderment", which is referred to in the CLRC report, that is, the situation where a child is confused about its identity. Mr Speaker, when I read the *Hansard* of 1994 I was struck by the naivety of some of the statements made then. For example, Mrs Carnell said:

> Provided that arrangements for non-commercial surrogacy are between people who know each other well, people who have a longstanding relationship - that is often sisters, cousins, et cetera - who trust each other and have a clear commitment to each other's well-being, people who have the support of their families, who are informed about the procedures and the consequences and who are willing to participate ...

Mr Humphries was more cautious. He said:

> ... it is important for us to ensure that the consequence of this sort of legislation is not beyond the intention or the foreseeing of this Assembly tonight, and that we will be vigilant to ensure that this arrangement that we put in place, this liberty to engage in these activities in certain limited circumstances, will not be abused to the detriment of the children who are the primary focus of so much of our law ... They should also be the primary focus of legislation such as that ...

Obviously, the Bill that was passed that night was not well thought through, or we would not be debating this today. This is, in my opinion, another poorly thought through piece of legislation. When the now Chief Minister originally rushed the amendments through in 1994, she believed that parentage orders could be dealt with through adoption processes. That has proved to be not permissible, because the Adoption Act prohibits privately-arranged adoptions. So, the Chief Minister prepared the Artificial Conception (Amendment) Bill. This Bill was tabled in the Assembly in 1996, when it was referred to the Community Law Reform Committee.

While the CLRC did not deal with the substantive issues surrounding surrogacy, of which there are, indeed, many, it did at least go to great pains to highlight that the rights of the child should be paramount. The committee also commented that the approach being taken represented a significant departure from the existing law and it was difficult to determine the social consequences of the departure. The Government has ignored many of the recommendations of the CLRC - in particular, the recommendations which reinforce the primacy of the interests of the child in these processes.

For example, it ignored the recommendation that provisions be inserted into the Bill enabling the court to direct at any stage of the proceedings that the parties to the proceedings attend a conference or conferences with a counsellor or welfare officer to discuss the care, welfare and development of the child and that provisions be inserted into the Bill enabling the court to direct a counsellor or welfare officer to prepare a report for the court on such matters relevant to the proceedings as the court considers appropriate.

The Government also ignored a recommendation of the CLRC that a provision in similar terms to the Family Law Act be inserted, providing that the court, in deciding whether to make a parentage order in relation to a child, must regard the best interests of the child as the paramount consideration. They also spelt out the criteria that the court could consider.

The CLRC also recommended that the Bill be amended to enable a provision to be made enabling an order for separate representation to be made by the court on its own initiative or on the application of the child, the Director of Family Services or the Community Advocate. The Government's response to these recommendations was that existing legislation already deals with the issues, for example, the Children's Services Act. However, the Children's Services Act deals with only parental obligations on the issue of parentage itself; so it is of grave concern that these issues have been largely overlooked.

A further recommendation was that there should be close monitoring and research of the legislation. Among the issues they said must be monitored were: The interests of those not yet born; the status of embryos created pursuant to IVF procedures and not implanted; the rights of parties involved relating to the responsibilities of parentage, who has care of the child and who has legal control of the child who has been involved; the birth mother, especially the rights and responsibilities of the birth mother; and the emotional, psychological and financial burdens for parties to substitute parent agreements, particularly in circumstances where the process is unsuccessful.

The Government's response to this seems to indicate that, because the ACT's IVF clinic is private, this would be hard to implement. Mr Speaker, in discussions about this legislation, one of the issues raised is: Why should the legislation apply only to a situation where both the woman and the man donate their gametes? Why should it not apply where the birth mother donates the egg? The approach the Government has taken means that the proposed parentage orders will be available only to couples involved in conception by in-vitro fertilisation. They will not be available where the birth mother provides the egg, for example. The Community Law Reform Committee therefore came to the following conclusion:

> ... the primary focus of "the Bill" should be the best interests of any child born as a result of a substitute parent agreement rather than proprietary interests of either the genetic or birth parents. The Court should be accessible to either or both of the genetic parents.

Further:

> Where an application is made by the birth mother who is also the genetic mother or where either or both of the commissioning parents are not the genetic parents this circumstance might be dealt with as part of the initial assessment ... and considered by the Court in determining an application.

The Government did not agree with that. That is another example, I believe, of the complexity of this issue and why I believe it is inappropriate to be passing this legislation today.

A further complication is the potential for inconsistency between the Family Law Act and local legislation. Many believe that the Family Law Act is the most appropriate vehicle for protecting the best interests of children in complex matters of surrogacy. Concern has been raised about the appropriateness or desirability of having local law which seems philosophically opposed to the Family Law Act, and it has not been proved beyond doubt that local legislation would not, in fact, be inconsistent with family law. As we all know, Commonwealth law overrides any inconsistent State or Territory law - and I do not need to point out that it is extremely desirable that differences between States and between States and the Family Law Act are minimised. The CLRC report points out that any conflict relating to the care and control of the child will be determined by reference to the Family Law Act, whether or not a parentage order has been made. I think this is one area of law where there really should be a nationally consistent approach and there does need to be more community debate.

A further issue that has been raised is the difficulty in distinguishing between so-called altruistic surrogacy and commercial surrogacy. Indeed, it does appear that there are significant commercial benefits to be derived by someone in surrogacy arrangements. Furthermore, the distinction itself is often false, because in reality the complexities of human nature could make it likely that a woman would act as a surrogate with both an intent of altruism and a wish not to be out of pocket - or even to improve her position - as a consequence. In the words of the Community Advocate, again:

> The concept of altruistic surrogacy is fraught. There are financial benefits to the fertility clinics who have no reason to be concerned about the interests of the child and every reason to find people suitable for their programs. There are emotional complications for all the adults involved and potential corruption of intended altruism. It is therefore problematic to think that any arrangement is without commercial elements, without financial implications and without emotional exploitation. These issues can emerge prior to conception or at any stage after the birth.

The Community Advocate also believed that a child has the right to know all the details of their conception and birth.

Mr Speaker, many of the statements that have been made in this place regarding altruistic surrogacy show a lack of understanding of the potential for financial, emotional and psychological exploitation and abuse of adults and the child. It is clear that this legislation is fraught with difficulties. While I acknowledge the rather unfortunate situation that four people now find themselves in, I do not believe that we, as legislators, should be blackmailed into making laws in an area as complex as this because the previous Assembly created a legal nightmare.

MRS LITTLEWOOD (6.11): Mr Speaker, I appreciate that this subject is one that has emotional, legal and ethical issues which are really something of a minefield. My approach to this piece of legislation is somewhat different from my usual approach to things, in that I tend to look at things on the understanding that there is a lot of grey. From where I am coming from on this issue, I see it fairly much in black and white, which, as I have mentioned, is not my usual way of looking at things.

When people choose to have children by the normal method of conception, the natural method, no-one queries their parenting abilities and no-one queries their right to have the child; it just happens. I cannot help feeling that people who wish to choose this particular path are put through a lot of hurdles that really should not be in place. What I think should be a fairly straightforward issue has been complicated dramatically.

Last week I sat in on the discussions with the Women's Consultative Council. I purposely sat in on the surrogacy discussions. There would have been approximately 14 women there representing a wide section of the community. While no decision as such was taken, because they felt people wanted a little more time, the overall feeling was that there was no disagreement whatsoever with what was happening. That included people who were representing churches, older groups, and younger groups. There was no actual disagreement. I found that quite interesting.

The family law aspects have been mentioned. It was interesting last week to hear Justice Faulks say that he did not believe that the family law aspects should be brought into this issue at all. That takes me back to my view of this issue being made rather complicated. As I stated to begin with, natural parents are not quizzed about their ability. The rights of the child are not really looked at at that stage. The welfare of the child is not looked at at that stage. Why, therefore, in artificial conception is it that those parents are required to do far more than any other parent? That is why I see it as a black-and-white issue. I do not see that parents and people involved in artificial conception should be required to do any more or any less than any other parent.

Mr Speaker, I will be supporting this Bill. As I say, it is somewhat different from my usual style, as I tend to look more at the grey than at the black and white; but for me this issue is fairly much black and white. I will be supporting it.

MRS CARNELL (Chief Minister) (6.13), in reply: Mr Speaker, I must admit that I am really disappointed that, obviously, this Bill is not going to get up today. I am disappointed, for a number of reasons. I will speak about the actual personal reasons in a minute. From an Assembly perspective, I believe that I have handled this Bill as well as I could have. It has been on the table since the middle of last year. We put it through the Community Law Reform Committee over a prolonged period of time. I circulated the approach that the Government was going to take to the Bill with an accompanying letter. Normally, what would happen under those circumstances is that people would get back to me, particularly the Greens, who like this sort of approach whereby people can actually put amendments on the table, have round table discussions and try to sort out things. Mr Speaker, not one person bothered to get back to me. I assumed that that meant that members of the Assembly supported it or, alternatively, totally opposed it; so it was a black-and-white issue.

I have just heard speeches from the Greens and the Labor Party in which they have indicated a number of problems that they have, but they have made no effort whatsoever to solve them. No view was expressed on having a round table conference or on any amendments; just, "It is too hard. We cannot handle this". I have to say that I do not think that is good enough, because people's lives will be affected by the incapacity of members of this Assembly to handle this difficult issue. We handle difficult issues all the time in this Assembly, and we should. That is our job. We have an absolute obligation to the people of Canberra to take the time to handle difficult issues, and there has been plenty of time with this Bill.

I introduced this Bill in August last year, just after the birth of Jessica, a child who was born for a couple who are the genetic parents of that child, but the birth mother was the man's sister. The couple who are called Mum and Dad by the child and who are the genetic parents of that child - the parents with whom that child has lived since birth - cannot, this Assembly is saying, adopt their own genetic child. That is what you are saying.

Mr Wood: They can.

MRS CARNELL: I am sorry; no. That is what you are saying.

Mr Wood: They have to adopt the child.

MRS CARNELL: No; I am sorry. The problem, Mr Wood - the problem that you have not looked at - is that you cannot have directed adoption, except for people who are closely related.

Mr Wood: Are they not closely related?

MRS CARNELL: I fully accept that in this particular case, but in the other cases it is not so. In the other cases you are saying to the genetic parents that they cannot adopt their own child; that is exactly what you are doing.

Mr Wood: We do not have any of those cases.

MRS CARNELL: But there are pregnancies right now. By not actually addressing your concerns, by just getting up here over a year later and opposing the Bill that has been on the table since August last year and has been through the Community Law Reform Committee and all the rest, without ever trying to sort it out, you have created a situation where babies that cannot be adopted by their genetic parents are going to be born. That is a shocking situation. What will happen with those children, I assume, is that the birth mothers will hand the children over to their genetic parents and the children will have no legal status. Great work, Assembly! Fantastic work! If this is the way you felt, why did you let it go to the Community Law Reform Committee? Why did you let it stay on the table for so long? Why did you not come up with amendments that could have sorted it out? I have to say that I think it is gross incompetence that is affecting the lives of people. There was not one indication that there was going to be a fundamental problem with this legislation. There was no effort for a round table conference. There were no amendments. There was nothing.

Then we get the Greens - Kerrie Tucker - getting up and saying that I am naive on this issue. I have been working on this issue for a very long time. I have spoken to all of the people involved and have been part of this for years and years. Yes, I might have a different view from some people in this Assembly, and I have no problems with that. I do have problems with chronic procrastination and allowing people's lives to be affected really badly by, possibly, the Labor Party's incapacity to support anything that I put on the table. I am sure that if we had a Bill to say that tomorrow is Friday they would oppose it at this stage. That is all good, clean fun when it is just about what day tomorrow is; but this is not like that. If those opposite had a problem with the initial legislation we passed, they have had three years to rescind it. Nothing awful has happened, Mr Speaker; none of the shock, horror stuff; none of the huge personal problems and none of the huge ethical problems that Ms Tucker spoke about at length. It has not happened. It has not happened, because the process that is in place makes sure it does not happen.

We have to remember that, as Mrs Littlewood said, anybody can pop down to the pub tonight, have a couple of drinks, go home with whomever they might choose, as long as it is a member of the opposite sex, and produce a baby - no problems; it happens every day. No counselling, no financial capacity, no capacity to look after the child, but a child will end up on the planet. In this situation the people involved go through counselling, they go through personality checks, and they go through huge medical procedures at quite large personal cost. They are assessed for their capacity to deal with this situation. Both the birth mother and the genetic parents go through enormous difficulties to get to the stage where a fertilised egg is implanted in the birth mother. The birth mother then, obviously, has nine months to change her mind. She has the baby and she still has the prerequisite amount of time that always exists with adoptions to change her mind; so a birth mother under this legislation still has the total right to keep the child that she gives birth to. There is never any doubt about that.

What members of this Assembly are now saying, and I still hope that they will change their mind, is that more children are going to be born in this way before those opposite get a chance to do something with this legislation that they have now decided, over three years after they passed it, they do not like. Mr Speaker, I hope that those opposite and the Greens understand what they are doing here. Children are going to be born totally legally to a birth mother for genetic parents and the genetic parents are not going to be able to adopt their own children simply because of, I think, bottom line procrastination, not being able to come to grips with a difficult situation. That is fine if you were going to oppose it; but why did you not do it last August? Then the problem would not have existed. But no, it is too hard. They send it to the Community Law Reform Committee, put it out for 12 months, so that we actually end up with some pregnancies, come back today with no indication at all that they are going to oppose it, and oppose it today with no amendments.

I have to say, Ms Tucker, that I am not the naive one here. There is a lot of naivety around here today, and the naivety is causing human distress. Again, I simply cannot understand why the Assembly is behaving in this way. If members wanted other parts of the Community Law Reform Committee's recommendations put in place, all it took was to ask for them to be drafted. I told everybody what we were putting forward.

It has never stopped other members of the Assembly putting forward amendments. That is fine; it is not a problem. But there was nothing - just leaving some human beings, some babies, some children and their parents, out in the cold for doing something that at this moment is absolutely legal. They have complied with legislation that we passed, and now those opposite and the Greens are going to say, "Sorry; maybe we should not have done that; oops". It is just not good enough; it simply is not good enough.

Mr Speaker, I hope that members reconsider this. I think they need to reconsider it. A new Assembly can relook at the legislation; that is fine. But for those babies, for baby Jessica and for the babies that potentially will be born as a result of the pregnancies that I understand are out there right now, this legislation has to go through - it is that simple - otherwise we will disenfranchise some human beings. Certainly, change it next Assembly; go for it. But give people a chance, people that have followed our own legislation. Do not throw them out in the cold and do not let some children end up in a situation where they are simply in a legal void, living with their genetic parents who are not actually their legal parents, potentially forever. Ms Tucker said to me, "They could become guardians". Possibly they could; but that is not being a legal parent. We all know the difficulties that arise in that sort of situation. This, simply, is not appropriate for this Assembly. Certainly, change your mind; people do that all the time. I think it is appropriate to change your mind. But do not go down the path of throwing out in the cold people who have complied with the law that you passed. That is what this Assembly will be doing.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

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

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

PERSONAL EXPLANATION

MR WOOD: Mr Speaker, I rise under standing order 46. In the debate the Chief Minister suggested that one of the reasons the Labor Party opposed this Bill was that it automatically opposed Government proposals. That is simply not the case. The matter was very carefully considered on its merits.

COMMUNITY REFERENDUM BILL 1996

[COGNATE BILL:

COMMUNITY REFERENDUM LAWS ENTRENCHMENT BILL 1995]

Debate resumed from 27 June 1996, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Community Referendum Laws Entrenchment Bill 1995? 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.

MR MOORE (6.33): Mr Speaker, I rise to oppose this legislation once again. In doing so, I would like to draw members' attention to the fact that my view on the issue of community-initiated referenda has changed over the years. This issue was raised in the very first days of the First Assembly. In fact, even before we originally met, Dennis Stevenson was trying to negotiate with members as to who would go into government, on the condition that they would implement community-initiated referenda. Mr Speaker, I think that, in some ways, that enthusiasm was overtaken only by Mr Stevenson's enthusiasm for ensuring that there would be no fluoride in the water.

Mr Speaker, I kept an open mind on the issue. I chaired the Select Committee on Community Initiated Referendums, and even then was still open-minded about it - although by the time I had chaired the Select Committee on Community Initiated Referendums I know that my doubts about whether this was a sensible system of government had been growing. I finally put my concerns in an article, which appeared in the *Parliamentarian* and which was reprinted in the *Canberra Times*.

To me, the issue Is the protection of democracy and democratic systems. When I say that, Mr Speaker, many people say, "What could be more democratic than allowing ordinary people to vote and having the majority view?". To them I say that the most fundamental part of democracy is ensuring that we look after the minorities. The majority part is easy. We can generally find the view of the majority. The difficult part is ensuring that we look after the minorities. The most critical part of democracy in looking after minorities is contestability. I think it is reasonable to say that, in the societies where more and more power is being concentrated in the hands of the majority and where the greatest evils have been done, those minorities have not been protected.

Just a few minutes ago, I had a discussion with Mr Humphries and explained this concern that I have had. I know that he has read the article that I wrote. We began to wonder whether it was also possible - in some ways, I am opening my mind here - in the same way as we can prevent a referendum from being held on issues of budget, for us to put into

a piece of legislation such as this legislation of Mr Humphries's something to ensure the protection of minorities. That will be an interesting challenge if this legislation is defeated, as I hope it will be. There is no doubt that, if we can find a way to assess community opinion in such a positive way and still protect the rights of minorities, we should attempt to do that.

How do we protect the rights of minorities in our system at the moment? We allow minorities to contest decisions against a reasonable set of standards. They contest decisions usually through the courts, but through the range of tribunals, courts and boards of review that we have. That is the method we use to do it. Would those courts still be available? The answer is yes. But what would be the view of the courts where they have a clear set of rules, as in the Discrimination Act, for example? The courts have been shown to maintain individual and personal rights under those circumstances. So, I think that is clear.

There is a danger, however, with that notion of majoritarianism. A certain authority, of course, goes with a referendum result that has been carried, and I use that myself. We put Hare-Clark to a referendum, and then we entrenched it. People are talking about changes to our way of governance. I think, at the National Capital Futures Conference, Mr Humphries started talking about the direct election of the Chief Minister. My immediate response was, "Gary, that is inconsistent with the result that we have already had on a referendum". In other words, I appeal immediately to a two-thirds majority view that says in that case that proportional representation is decided and that a direct election of the Chief Minister simply undermines proportional representation because it is a 50 per cent view - with 50 per cent winners and 50 per cent losers and without compromises.

It is interesting that somebody like me is dragged immediately to appeal to the importance of a majority view as expressed in a referendum. I think it is reasonable for us to say that such a process needs to be dealt with with great care. So, the first and most important thing in dealing with citizen-initiated referenda is that we ensure that our democracy is protected and that we ensure that the difficult part of our democracy is protected; that is, the ability for people to contest majority decisions in so far as they affect them individually. So, the first thing I deal with is contestability.

A series of other issues have been raised in the debate. In Mr Humphries's introduction speech, he went through the arguments that were put the first time we debated this and he put the contra-arguments. So, it is only appropriate that I point to the weaknesses in his contra-arguments. He referred to Ms Follett saying that the Bill would "put more power in the hands of pressure groups, extremists and power elites and reduce the influence of the average citizen on the legislative process". Mr Humphries said:

> On the contrary, I believe that community-initiated referenda ... would empower average citizens by giving them direct access to the legislative process that they currently do not have.

That may even be true for the majority. We may even empower the majority. But what we already know from our society and studies in society is that the majority are already empowered. The disempowered that Ms Follett talked about are almost invariably in minority groups. That is where the contestability part comes in. Mr Humphries went on to say that, under our present system, minority groups can wield enormous power if they can sway the opinions of a bare majority of Assembly members, just nine people; that, with a community-initiated referendum, minority groups must gain the approval of a majority of voters - something like 90,000 to 100,000 people - if they are to get their way.

Indeed, I have been on the receiving end of those campaigns. It was quite clear from polling that the legislation on euthanasia that I put up would be supported by the vast majority of people in the ACT - over three-quarters of them, over 75 per cent. Yet a very small, very vocal minority, primarily from the Right to Life Association, wield an enormous amount of power. We know why they wield that enormous amount of power. It is because parties, in particular, are concerned - and I recognise that parties do have a conscience vote on this - about the percentage of the vote that they will swing. If 10 per cent of people are prepared to change their vote on that issue alone, then that is a 10 per cent swing. Anybody in politics is aware that a 10 per cent swing against you is a very significant swing. So, there are issues there where Mr Humphries is right. A very minor group can have a huge influence. So, I concede that there is a point there.

Mr Speaker, at no stage have I suggested, nor would I try to suggest, that this is a very simple debate; that either you have democratic principles with CIR or you do not. There are issues on both sides which make for a very interesting understanding of the best way to make democracy work. That is why I believe that I will remain open-minded on the issue, if we can find ways to protect citizens' rights. That is before I get to protection of parliamentary systems.

Mr Humphries responded:

> Ms Follett ... stated that "an examination of the US record shows that groups such as racist anti-immigration forces and religious right anti-gay forces have all profited from referendums" and concluded that "... extreme groups can indeed benefit from referendums and have their causes legitimised".

This is a great concern, and I think this is something that was not well answered by Mr Humphries. His answer was:

> Under this Bill, with compulsory voting -

there is no doubt that compulsory voting does make a difference -

> there is no way that highly motivated but unrepresentative minority groups can impose their will on the whole community.

That is not what Ms Follett was saying. What Ms Follett was saying was that they actually find ways to legitimise the issues that they are raising; that, because we have a referendum on it, it is a legitimate way to deal with these issues. Certainly, the anti-gay forces' involvement in one of the referendums in the United States in the last year was appalling. They continued to run the notion of associating gay people with paedophilia. The two are entirely different issues; yet they were able to run that and get credibility. They pick up that credibility because there is a referendum; because they can get enough people to establish a referendum, the issue is legitimised. I think that is something that Mr Humphries underestimates. Once again, it is minority groups in the community that are most vulnerable under community-initiated referendums.

In all his answers, Mr Humphries also put a great deal of emphasis on the fact that we have compulsory voting. I think that does answer a couple of the criticisms raised, but not all of them. There were some other arguments put up. I raised the issue of the media. Mr Humphries answered that by saying:

> It is an argument that the Government does not accept. The people of Canberra are more than capable of arriving at intelligent views on issues without being unduly influenced by the media.

I have to say, Mr Humphries, that my experience over the last little while has only served to strengthen my view about the role of the media, rather than the alternative. The role of the media, combined with the role of those who have the most money and are able to influence people and pay for television advertisements, is a critical issue. I think we have to deal with it. It is true that we in Canberra are more fortunate than people in most other places. Certainly, those of us who watched the role played by the *Daily Telegraph* in influencing the Prime Minister about the heroin trial would have been appalled - not necessarily because of the newspaper's view and stance, but because of the bias it used and the misinformation it put out in order to get its view across.

I contrast that with the *Canberra* Times, which editorialises against me on euthanasia issues all the time, but still presents a fair range of views and seeks to present things accurately. I would be happy to provide members with copies of 15 or so pages of incredible bias presented by the *Daily Telegraph*. It is there; it is available. We are not necessarily always going to have a media system that works in the way the *Canberra Times* does. It takes only a change of editor for us to get the sort of approach that comes from the *Daily Telegraph*. Who knows; Mr Murdoch may buy out the *Canberra Times*, and it would not be long before we saw a change of approach. I have mentioned the issue of spending, I think.

Mr Humphries went on to say:

> This Bill is not intended to radically alter the way in which we are governed -

but, Mr Speaker, that is exactly what it does; it alters the way in which we are governed in a very substantial way -

> but it is intended to bridge the credibility gap between elected representatives and the people they represent by giving every citizen the right ... to initiate and vote on laws of their choosing.

Representative democracy - the way in which we run now under proportional representation - ensures that people's views are presented proportionally in the Assembly, rather than having the majority view override the minority view. I think that that is a critical issue.

I would like to come to one final issue, Mr Speaker, and that is to do with the second piece of legislation tabled by Mr Humphries - the entrenching Bill. Even if we believed that CIR was an important benefit for the people of the ACT, we certainly would not entrench it at this stage. We did entrench Hare-Clark after a very short time. Why was that? It was because we knew that Hare-Clark had been running for quite some time. We knew that Hare-Clark had been working in Tasmania; we had looked at it and we saw that it was working very well. We adopted Hare-Clark pretty well directly from Tasmania.

This particular proposal - and I would ask Mr Humphries to reconsider this part of the proposal anyway - the proposal to entrench this at this stage, I think, is a foolish move. What it means is that it will be very difficult to make changes. When we start on something that is new and innovative in this way - to be fair to this Liberal Government, they have not just lifted CIR from other places; they have made a huge attempt to ensure that there are checks and balances in place right throughout the legislation - we need to test those checks and balances and perhaps modify them. Eventually, such legislation, if it does get implemented, probably ought to be entrenched. It is about referenda; so, it would be logical that you put the referenda in place. But, if you are going to entrench such legislation, then, for heaven's sake, leave it for a decade or so and entrench it after a time when we have seen it working.

Mr Speaker, in summary, this legislation is anti-democratic. It does not look after the minorities in our society. It does not allow for full contestability of decisions. That is the biggest problem with this particular piece of legislation before us. It will allow a process by which minorities and the disempowered have less and less advantage and the view of the majority simply dominates. We do not need CIR to get the view of the majority. We can interpret that pretty easily. What we need to do is ensure the real test of a democracy - and the real test of a democracy is how well it handles the vulnerable.

MR OSBORNE (6.51): Mr Speaker, I feel like the Labor Party today, I have to say: I have not been able to make up my mind. I have been going from yes to no and from no to yes. If I could have weaseled my way out, I would have, like the Labor Party. Mr Speaker, when this Bill first came before the Assembly, I opposed it. I think we all opposed it - very quickly, too - from memory. My chief concern with the CIR legislation came about because I had looked at the situation in California, where, among other things, it had been used to vote down taxes and prevent tax increases.

Mr Moore: If you put it off now, we will send you to California in charge of the committee next time.

MR OSBORNE: No. Mr Speaker, if California, which has a gross State product that is higher than the GDP of most developed countries, has had problems in the wake of that referendum, it is a fair bet that the ACT would go under very quickly if a similar proposal got up here. The reality is that we have a very narrow revenue base, and we simply could not afford to have it reduced. I have been considering this Bill, and, like Mr Moore, have found it a very interesting and very hard decision to make. I should add while I am on that, Mr Speaker, that both members of my staff hate the idea.

Mr Moore: But they were kind enough to write your speech.

MR OSBORNE: I am just reading this speech, and it is quite pathetic, Mr Speaker.

This morning, I forwarded some amendments to Mr Humphries. The amendments would prohibit the introduction of any legislative proposal thrown up by CIR that would have the effect of lowering taxes or charges or limiting the ability of the Executive to raise revenue. It would also rule out proposals which are deemed to be frivolous, vexatious or trivial. Even with these amendments, Mr Speaker, I must admit that I am extremely torn about this Bill. There is a superficial attraction to this idea, because it looks as if we are allowing more people to have a say in the democratic process, and what could be wrong with that?

Mr Speaker, from what I know about the international experience of Acts like this one, they are often hijacked by vested-interest groups, and often those with the most money win the argument. I also fear that the populist arguments will win the day. I can honestly see the day, Mr Speaker, when the death penalty will raise its ugly head in a referendum. This is hardly far fetched, as opinion polls in the wake of violent murders often show overwhelming support for the death penalty. I recall my days in the police force after the horrific Anita Cobby murder. If a referendum on the death penalty had been held that year, I think it would have had close to 100 per cent approval.

I must say, too, Mr Speaker, that I find the Government's support for this legislation a little curious, given that last year, or it might have been this year, I presented to this Assembly a petition which had 42,000 signatures on it - do not look dumbfounded there, Mr Humphries - in regard to trading hours. Do you remember? Mr Speaker, this was 42 times the number needed to raise an issue under this Bill and nearly 4½ times the number of people required to get this proposal into this place under the provisions of this Bill. I cannot help but wonder why, if the will of the people is so important to the Government, it paid such scant attention to that fairly strong expression of their intent on that issue.

In any event, Mr Speaker, this is a tough one. I have decided, having listened to Mr Moore, that I will be voting against this Bill tonight. However, it is a vote that is not a strong vote, because I am very evenly balanced on it, and, should I return to the Assembly next time, certainly it is something that I hope is raised very early on, because I am a great believer in referendums - referendums that do count, unlike the referendum Mr Moore attempted to get up a few months ago.

As I said, Mr Speaker, it has been something that I have changed my mind on three or four times today. I have given a few extra grey hairs to Mr Moore a couple of times today. I have removed a couple of grey hairs from Mr Humphries, given them back to Mr Humphries and taken them from Mr Moore, and it has been quite fun. But, as I said, Mr Speaker, this is a piece of legislation which is very important, one which requires a great deal of thought and one which, perhaps, with some improvement, could be achievable. I will be cautiously voting against it.

MR WHITECROSS (6.57): Mr Osborne should reflect on the fact that you can take the grey hairs away, but you cannot give them back.

Mr Osborne: I would not know.

MR WHITECROSS: You would not know. Mr Speaker, Labor is not supporting these two Bills. The Community Referendum Bill seeks to fundamentally reshape the form and substance of democracy in the Australian Capital Territory. Representative democracy is a process of representation founded upon the philosophy that one person equals one vote. Each citizen has a fundamental right to vote for another to represent their views and interests in a forum such as this Legislative Assembly. By casting a vote for a particular representative, citizens define the parameters and the issues of importance to them and charge their chosen representative to act on their behalf.

Labor is not suggesting that the system of representative democracy results in unitary individual views. Of course, that is not the case. People form views and opinions on a wide range of issues, and no single representative can fully reflect the views of all those that voted for them. Nevertheless, the system of representative democracy provides individuals with the ability to elect and pay representatives to spend the time to work through complex issues and concerns with regard to the best interests of the community - interests which the community self-defines through Assembly elections and the like.

In this context, it is the role and duty of government and all other elected representatives to seek to encourage citizen participation within the parliamentary process, as it currently operates, rather than to promote the circumvention of the parliament through citizen-initiated referenda. Advocates of the citizen-initiated referenda concept attack their opponents by saying that any opposition to the concept shows contempt for the ability of citizens to make decisions. Arguments of this nature are simply nonsense. They are highly misleading. The ability of citizens to cast a meaningful vote is, of course, borne out in the Territory every three years at elections.

The real issue that does require scrutiny is how citizen-initiated referenda will affect our current system of government. It is Labor's view that citizen-initiated referenda will further undermine representative democracy, devolving a substantial degree of political power to sectional interest groups. In order to ensure the 1,000 signatures on the lodgment form required to establish a sponsoring committee under the Bill and then to educate and inform the public about the holding of the referendum and then the issues

associated with the referendum, a sizeable amount of money will be needed, in addition to having people with the time and financial flexibility to be in a position to run and organise such a referendum. The only organisations capable of doing so are the well-funded sectional interest groups.

As these sectional interest groups fund and resource referendums to further their own interests, people within the community will be increasingly disenfranchised. Experience in both Australia and the United States has shown that the poorest members of the community, those without high levels of education, those who are financially insecure and/or migrants are the least likely to participate in the elections. The current vote for the constitutional convention demonstrates this, because these very groups are the ones who are showing up as not having voted in the voluntary vote. In the event of these people not participating, the potential for sectional interest groups to dictate to the rest of the community increases.

There is also, of course, the issue of taxpayers' money involved. Taxpayers expect to have access to services paid for or subsidised by their taxes. Yet, under the CIR proposal, these taxpayers' funds will be diverted to funding publicly financed citizen-initiated referenda. In addition to these concerns, Mr Speaker, it is also the case that once a well-funded sectional interest group has put before the people a proposal in relation to a matter, even though that proposal may not be in the interests of the vast majority of the community, including particularly disadvantaged groups, those disadvantaged groups will somehow have to marshal the resources to mount a campaign against a citizen-initiated referendum. So, merely by the process of putting propositions on the agenda, well-organised sectional interest groups can drain the resources of the less well off in the community in fights to protect their own interests - fights which, in a democracy, they should not have to mount.

It is easy for advocates of CIR to overlook the role that an MLA and the Assembly as a whole fulfil in a representative democracy. Many of the public policy issues that the community believes are important are quite complex. They do not lend themselves to simplistic, black-and-white answers. When an issue or a proposed law is debated in the Assembly, amendments are moved, issues are fully discussed, and members put forward their different views. This process recognises that laws are rarely black and white, but rather shades of grey.

The process also allows for a greater degree of understanding, as members acquire different information and have access to a broad cross-section of opinion. Through a process of compromise and negotiation, the law that is enacted, whilst never perfect, does represent the community's views and is generally good law, due to the process of discussion and debate. For an individual in the street, the problems with CIR are twofold. First, CIR assumes that all issues can be answered with a yes or a no. It does not comprehend the intricacies and complexities of political and policy debates. It also means that individuals are put in a position where, if they broadly support an issue but are concerned about a number of subissues, they may feel that they have no choice but to support the referendum, recognising that the end result may not, in fact, be reflective of their concerns.

The second main problem for individuals with the CIR proposal is the underlying requirement for individuals to be aware of and have an informed view on the full range of issues being discussed and debated within the community. The ability of individuals to be fully informed on a wide range of political and policy interests is somewhat limited in the real world. People have families, jobs and interests and lives to lead. That is why they elect politicians to represent them in parliaments such as this. This further exacerbates the ability of sectional interest groups to hijack the political agenda. Should the CIR proposal become law, the Assembly will have to be responsive to these issues. This will result in attention, time and resources being diverted away from the normal work of the Assembly to those issues being advocated by sectional interest groups through CIRs. This, in Labor's view, will not benefit the whole community, but will instead further the interests of those within our community who can afford to maximise their political influence.

In this context, it is necessary for me to outline what I mean by sectional interest groups. Within our political system, groups of individuals and/or corporations with similar political views have tended to create coalitions in order to influence and direct public debate on issues that directly affect them. This is a natural development within a democratic society, particularly as society becomes increasingly corporatised. Many of these groups have moved on from being coalitions of people and corporations of similar views to becoming well-funded, highly resourced and sophisticated lobbying groups. We are all familiar with those. Through a variety of mechanisms, these organisations are in a position to influence and direct decisions, debates and parameters of community and political thought. Access to the media and decision-makers provides these lobbying organisations with the ability to substantially further their own interests. Examples of some of these groups that could then turn these talents to CIRs are the tobacco lobby and tobacco companies, the gun lobby and the Right-to-Lifers, amongst others.

One of the most common criticisms I hear from my constituents is that the big corporations and lobby groups control the political agenda too much. Instead of debating issues relating to jobs, health, education and community care, the Assembly spends endless time debating property development, licensing agreements, gambling licences, gun laws, rules for smoking in enclosed public places, et cetera. It is important to recognise that the sectional interest groups that are capable of directing political debate are not Aboriginal people, people with disabilities, the mentally ill or public transport users. They are the hoteliers, the tobacco companies and property developers, who have the ability to wield political influence. They can do so because they have the resources and the time and because it is in their commercial interests to undertake such activity.

So, Mr Speaker, against this background, we have to ask: Why are the Liberals pushing this agenda? For the Liberals, community- or citizen-initiated referenda represent the opportunity to play the politics of division. The Chief Minister and Mr Humphries have obviously been doing some bedtime reading of the American Republicans' campaign manual. They have decided that the best kind of politics to engage in is wedge politics - the politics of dividing the community in order to create coalitions of support that may not

necessarily naturally occur. Wedge politics was a trademark of the recent American presidential campaign run by the American Republicans. It is characteristic, too, of the politics conducted by the Californian Republicans, resulting in the endless referenda attacking minority rights. It has also in recent times become a well-known trademark of the Howard Government.

By attacking the rights of perceived minority groups such as gays, women, migrants and Aboriginals, conservative political parties are able to galvanise support for their own agendas from unlikely quarters. Such an example, Mr Speaker, which I observed at first hand when I was in the United States last year, is the way the Californian Republicans have galvanised the support of low-income Anglo-Saxon workers against the Latino population of California and have sought to blame them for the problems being experienced by low-income white workers.

Mr Speaker, that approach, with endless referenda attacking the rights of migrants within California, has been used by the Republicans as a way of dividing the community and getting voters who might otherwise be Democrat voters to shift their votes across to the Republican Party, based on the politics of division around racist issues. This is the politics of division. It is the kind of politics which is currently wreaking havoc in the Australian political environment. By creating such political tools, the conservative side of politics is splintering and ultimately undermining the concept not only of representative democracy but of democracy itself.

The Assembly has shown that it is capable of accommodating a diversity of views, as evidenced by the election to the Assembly of Mr Moore, Mr Osborne and the Greens, as well as the Labor Party and the Liberal Party. The diversity of their views ensures that decisions made in this place are, in fact, in line with community opinion, by and large. Some of the issues that the Assembly has debated are euthanasia, drug laws, heroin trials and guns.

Mr Speaker, these are the issues at the cutting edge of debate within the community, and this Assembly has shown that it is more than capable of dealing with these things. These issues are regarded by the community as controversial and fundamental to the way in which our children are brought up and the kind of society in which we live. The point is that the Assembly has debated these issues and the diverse range of community views has been represented, without the need for a citizen- or community-initiated referendum to force these issues onto the public agenda and without the need for a citizen- or community-initiated referendum to overcome any kind of obstacle within this place to these issues being debated.

Citizens already have a number of avenues in the parliamentary system through which they can express their views to members and the Assembly - and, when viewed as appropriate, they do take these opportunities: The Territory elections themselves, of course; petitions; the ability to make submissions to committees and appear before committees to provide evidence; the ability to lobby MLAs; and even the ability to make corrections in *Hansard* if they believe that their views have been misrepresented.

During the last Territory election, Labor tried to expand the ability of citizens to have impact on the debate. We promised at the last election that, in government, we would require Ministers to table responses to petitions made to the Assembly. Unfortunately, Mr Speaker, that is a proposal which has been taken up by the Government in a very lukewarm way. I think there are very few examples of the Government actually formally responding to petitions in the Assembly.

Mr Speaker, what members in this place should be focusing their minds on is making the representative democratic system that we have here in the ACT work. We ought not to be going down this adventurous path, which has more to do with the politics of division and which will hand power over to narrow sectional interest groups.

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

MS TUCKER (7.12): The Greens will not be supporting this Bill either, for the same reasons that we did not support the Bill when it was first presented to the Assembly in 1995. We have not seen since then any changes to the circumstances that led to our previous rejection of the Bill. The issue of community-initiated referendums has been around for some time, fuelled, I believe, by a growing feeling in the community of alienation towards our political institutions. Many people feel a sense of helplessness, frustration and powerlessness regarding the decisions being taken by politicians supposedly on the community's behalf. They believe that politicians have become a law unto themselves and beholden to various vested interests. The idea that people should be able to vote directly on issues of concern to them, rather than leaving it to politicians, therefore has some appeal. But it is a very simplistic response, which ignores the complexity of public policy-making.

The fact that CIR has been promoted primarily by a range of right-wing groups and individuals - including Fred Nile, who proposed CIR three years ago in the New South Wales Parliament - confirms to us that there is some doubtful reasoning behind CIR. Let me say that the Greens are totally committed to allowing citizens to participate fully in the political process. Participatory democracy is one of the four so-called pillars of Green politics. The charter of the Greens, on which our party is based, states that the Greens want to "increase opportunities for public participation in political, social and economic decision-making".

We can see a possible role for community-initiated referendums as part of a broader process of facilitating more community participation in politics; but we certainly do not see CIR as a substitute. We are, therefore, very hesitant to support such a Bill as this before the necessary checks and balances are in place that would prevent these referendums from distorting the comprehensive consideration of important policy issues or from targeting particular minority groups or interests. We also believe that greater effort needs to be put into improving the existing political process so that the public does feel more empowered to participate.

The Greens' view on CIR is that we support the extension of mechanisms for community participation in Assembly decision-making - possibly including the use of CIR - but these mechanisms have to be implemented very carefully, to ensure that the disadvantages of CIR are fully overcome. If the community feels that representative government is failing,

then we should try to fix it - not set up ways to circumvent it. We have often raised in the Assembly concerns about how decisions are made by the Executive without the full involvement of the rest of the members and about the lack of community consultation offered by this Government. Changes to the way that the Government and the Assembly operate could significantly improve negative public perceptions about politicians and, hopefully, reduce the feeling in the community that the issues of most concern to them are not being adequately addressed.

Mr Speaker, we believe that it would be preferable for the Assembly to act in a more inclusive and participatory manner, rather than for the community to have to rely on CIR to get their views heard. Citizen-initiated referendums oversimplify complex issues to a yes/no vote by the public, who may not have the expertise or information on which to consider all aspects of the issue. Obviously, at the moment, a good example would be Wik. Can members not see how easy it would be to get thousands of signatures? We would have John Laws, Mr Howard and all sorts of people saying, "People are sick of Wik. Let us fix it up. Oh, what a good idea!". So, you would just need enough signatures and you would have a yes or a no to the 10-point plan. I can just see it.

Issues of public policy are, by nature, invariably complex. It would be a betrayal of the community who elected us to put in place a CIR system that is unable to cope with this complexity. As members here would know, the translation of an idea into a piece of legislation entails much consideration of the details required to put that idea into practical effect. Conversely, trying to understand the implications of other people's Bills can also be very difficult. Expecting the community to undertake this task without the necessary background and experience, and perhaps having to do this on a number of issues on the so-called "community consultation day", is just asking for bad laws to be made. Even though an Assembly is not bound to pass a piece of legislation that has been put through a referendum, the political pressure on it to do so would be enormous.

As members are aware, we do often resolve complex issues through amendment and round table processes, which often take some time. The whole idea of having just one community consultation day is abhorrent to the Greens. Democracy does not begin and end on election day. Community consultation should be happening on every day, not just once every three years. We would not want any government to think that CIR abrogates its responsibility to undertake full public consultation on issues as they arise.

Another problem with CIR is that the initiation of referendums is likely to be undertaken by groups that already have sufficient resources to mount a major campaign to get signatures and to promote their cause. An argument that has been put forward in support of CIR is that well-resourced lobby groups already have too much say over decisions in parliaments compared with the general public. CIR is unlikely to change this. These groups will just use CIR where necessary to get what they want. Minority groups and those parts of the community who are not well organised would still be discriminated against. Other types of community consultation processes are necessary to ensure that the loudest voices do not drown out the soft ones. It is very concerning that this legislation does not contain restrictions on advertising.

A major concern to the Greens is that the ACT, or Australia as a whole, does not have formal legislation to protect the rights of minorities or to protect fundamental social and environmental objectives. The Bill does nothing to address this issue. The Chief Minister is obliged to estimate the financial costs or savings of the proposed law; but there is no obligation to assess the social or environmental impacts.

In conclusion, we are prepared to further examine the issue of CIR as part of a broader process of getting more community participation in government decision-making; but we are certainly not prepared to support legislation until a Bill of Rights is entrenched in the ACT and community right to know legislation and further improved freedom of information legislation are passed. Assembly procedures need to be changed to provide for more involvement by non-Executive members in government decision-making, and extensive community consultation processes need to be better implemented.

MR HUMPHRIES (Attorney-General) (7.20), in reply: Mr Speaker, I cannot say that I am going to win any more votes for this proposal than were won on either of the two previous occasions on which the Government put forward this idea. We are not making any progress in that sense, I must admit. I might say, of course, that we are the first and only government in Australia to have introduced such a Bill. Many oppositions have attempted to do so. Many parties have supported the principle, either presently or in the past, including the Australian Labor Party and - - -

Mr Whitecross: A long time in the past.

MR HUMPHRIES: For a long time, that view was held, too. Mr Speaker, I take comfort from the fact that I have seen in this debate somewhat more open-mindedness by members about the concepts here and more willingness to accept that this idea deserves further exploration. I hope that we will return to it and look at it again in the Fourth Assembly, because I believe that this is an idea which, in 50 years' time, electorates around the world will regard as commonplace. Why do I say that? It is because the world is becoming better educated; people are becoming more articulate and more sophisticated; and they have had access to much better sources of information, of which the Internet is only one.

The view that, in 50 years' time, people will say that they are content to let a representative body of people, chosen by an election once every three or four years, make all the decisions that affect their lives, without a continuous process of participation in that democratic system, I think, would be a view as old hat as saying that we believe that machines will ruin our lives and that cars should not travel at more than 10 miles per hour. I think in that period of time the world will have changed very dramatically, and I would simply like the Australian Capital Territory to be at the forefront of what I consider will be dramatic change in the future. So, I thank members for at least the willingness to consider this issue and the shift towards giving this idea some more airing in the future.

Many of the arguments that I have heard tonight as to why we should not have CIR have been based either on principles, which I would like to challenge in a moment, or on the operation of CIR in other countries. There are many differences between what has been proposed here in the ACT and what actually operates in other countries as far as CIR

is concerned. California was raised by Mr Osborne as a problem jurisdiction. I want to point out that we have a very high threshold for the initiation of referenda in the ACT proposal. There is a reasonable cooling-off period, which does not occur very often in other jurisdictions. Perhaps the most important distinction of all is that we have compulsory voting in the ACT proposal. Many of the distortions which result in referenda in other jurisdictions, where people get referenda results up with only 30 per cent of the electorate voting or whatever, could not, I believe, occur in a system where something like 90 per cent or more of the electors have to cast their vote because that is the law of the Territory.

Mr Speaker, I want to address a few of the arguments that have been raised here about CIR, mainly in-principle arguments. We have heard an argument from Mr Whitecross particularly - and it was echoed to some extent by Mr Moore and, I think, also by Mr Osborne, and possibly by Ms Tucker as well - that CIR gives power to sectional groups; that sectional groups have had influence, and particularly money to be able to influence the outcome of votes on particular issues. This was manifested in Mr Whitecross's argument that CIR gives power to sectional interests.

I want to quote from an article that appeared in the *Economist* a year ago, where they had a very extensive debate about the shape of the twenty-first century and where they ran a series of articles that suggested that participatory democracy is actually likely to be a feature of politics around the world in the twenty-first century. One of the things that they argued here was:

> The other reason for not letting the money issue decide the argument is that money-power almost certainly distorts the old sort of democracy -

that is, representative democracy -

> more than it does the new sort. In a direct democracy, the lobbyists have to aim their money at the whole body of voters. Since most of the money is spent on public propaganda campaigns, it is hard for them to conceal what they are up to. In a representative democracy, however, the lobbyists' chief target is much smaller - just a few hundred members of the government and the legislature - and so it is much easier for them to keep what they are doing secret.

That is very true, Mr Speaker. Who here can sit in this place and not acknowledge the role that, if you like, power and money have played in the representative democracy in which we live? Who has not been lobbied in this place by people that have come through the door with considerable influence because they purport to control a number of organisations - representative bodies - in their wake, that cause members to reconsider their position?

I can give you an example just from today. We had a vote on motor sport. I know that representatives of motor sport went and lobbied the Opposition, and they changed the Opposition's view about allowing motor sport to make a certain amount of noise. I know that the arguments they put to those people opposite were, "We have lots and lots of voters in our organisation and they are all going to vote against you if you do not

support us in having more noise created at Fairbairn Park". I know that, because I have heard those arguments. When that occurred, the Labor Party jumped. But, if this issue had gone to a referendum, it would not be just those 10,000 motor sport enthusiasts who could threaten the Labor Party in making the decision; it would be the whole of the ACT electorate. The whole of the electorate matters in those sorts of debates.

Mr Kaine: You have chased them away.

MR HUMPHRIES: I have chased them away, obviously. He has run off.

Mr Kaine: You have chased the whole Labor Party away.

MR HUMPHRIES: Yes. So much for the representative democracy where people make decisions! They are not even here to hear the decisions.

Mr Speaker, I think that money and power play a much bigger role in representative democracy than they could ever play in a direct democratic process like the one that we are talking about. Even if you were concerned about the role that people with lots of money would play in a situation like that, in a referendum setting, there is a very obvious answer to that problem. You limit the amount that they can spend in those circumstances. You put a cap on how much anyone can spend in a campaign.

Mr Moore: We could do that in proportional representation.

MR HUMPHRIES: Indeed, we could. It is perfectly possible to have that happen. I think that is quite possible. I think, Mr Speaker, that would be a viable way of dealing with the problem, if members really have a concern about that problem. But the fundamental reality is that money and power already play a big role in representative democracy.

Ms McRae: What about shopping hours? What did you do about shopping hours?

MR HUMPHRIES: That is a very good example.

MR SPEAKER: Order! Settle down, everybody. I know that it is late; but we all want to get home.

MR HUMPHRIES: Mr Speaker, I do not mind taking an interjection; but, if it is blared across the chamber, it becomes a little bit hard to deal with.

Ms McRae: That is so that you hear it. It is just so that you hear it.

MR HUMPHRIES: I will take that point by Ms McRae, if she would like to sit down and be quiet. I heard Mr Whitecross or Ms Tucker say that one of the problems is that referenda can be initiated by groups with lots of power and resources. These people are already powerful. They can get access to the resources to be able to collect the signatures that they need and they can control the agenda and put issues up, when other, poorer, people cannot.

Mr Osborne spoke about putting up a petition in this place, for which he had 42,000 signatures, opposing the Government's plans on shopping hours. First of all, as it happened, that petition did influence the result in this place and we did get a change on the shopping hours legislation. But, if you can get 42,000 signatures on a petition, why can you not get 42,000 signatures - - -

Ms McRae: It had nothing to do with voters; it had nothing to do with numbers; never! What about your polls? Tell us about your polls.

MR HUMPHRIES: Mr Speaker, I do not mind speaking, but not against a barrage that I cannot talk over.

MR SPEAKER: No, I know. It is late. They are missing their beauty sleep or something.

MR HUMPHRIES: I am answering the points that have just been raised.

Mrs Carnell: The point they are making is exactly the right one. We respond to the community.

MR HUMPHRIES: This is exactly the point. That is an example of where you respond to the electorate. If people get 42,000 signatures on a petition, they get their referendum. They get their referendum, and they get the thing decided at that opportunity.

Mr Kaine: It does not matter how much money they have.

MR HUMPHRIES: That is right. Money is not an issue. They get the result they want in that way. Mr Speaker, that is the point that is being made.

Mr Speaker, the other point I want to address is this argument by Mr Moore that we have minorities being overlooked in a situation where referenda get up, and people vote on things and they vote down the rights of minorities. I want to use an argument which I think will appeal to many of those people on the left of politics in this chamber.

Mrs Carnell: Me?

MR HUMPHRIES: Not quite, no.

Mr Whitecross: On a point of order, Mr Speaker: Mrs Carnell has just misled the chamber. She said that she was on the left of politics, and she is clearly on the right.

MR SPEAKER: I think you all have, actually, with possibly my exception.

MR HUMPHRIES: You are editorialising there, Mr Whitecross. Mr Speaker, we have been told that direct democracy has the chance to override the views and the interests of minorities. It is quite possible that we will be going to a double dissolution election in this country in the next six to nine months, based on the issues about Wik, and my prediction is - - -

Mr Whitecross: Not according to the Prime Minister.

MR HUMPHRIES: Stop talking over me, Mr Whitecross. It is very rude. Mr Speaker, if we go to that election, we will be dealing with the representative democracy having to address another black-and-white question - the 10-point plan. That is what people are going to vote on. It is going to be a 10-point-plan type of thing - a "do you support it or don't you?" kind of election.

Mr Whitecross: It is a complete misrepresentation. They will be voting on whether they want Mr Howard to be Prime Minister - - -

MR SPEAKER: Order! Mr Whitecross, you have already spoken at length on this matter. Stop interjecting.

MR HUMPHRIES: And you were heard in silence, by the way.

Mr Whitecross: I was provoked, Mr Speaker; but I will try to be quiet.

MR SPEAKER: Let us get on with this.

MR HUMPHRIES: Mr Speaker, I do not mind taking an interjection, as long as I can talk to it when it is put forward.

So, if we go to an election on Wik, where is the chance there for minority interests to be protected, if the government of the day is returned on the basis of its Wik policies? When we have the double dissolution and when we have the joint sitting of parliament, where the Wik legislation is voted through that chamber, if you people believe that that extinguishes all sorts of important minority rights, where does that end up with the representative democracy model?

Ms McRae: It will be a High Court challenge; that is where it will end.

MR HUMPHRIES: The High Court is going to save the day, is it, Ms McRae?

Ms McRae: They sure are, if that is pushed through.

MR HUMPHRIES: I think your hopes on that score are going to be dashed.

So, where do minority interests end up in representative democracy? They have the same problem as is suggested here.

Mr Speaker, I will finish my remarks by saying this: All of the criticisms of CIR revolve around one single premise, and that premise is fundamentally that people out in the electorate can be cajoled, persuaded, bribed or whatever, to make mistakes; that people will be hoodwinked; that people will be fooled; that, in the plethora of issues and arguments, people will not be able to make a decision about issues put before them in the form of a referendum.

I am not in this place because I believe that the electors of the ACT, or anywhere else in Australia for that matter, are fundamentally capable of being hoodwinked in that way. I think our electorates in this country - and particularly in the ACT - are intelligent enough, educated enough and sophisticated enough to consider these issues in a sensible way and make a rational decision. We have had elections in this country where four or more issues have been placed before the electorate at the same time in a referendum, and we have expected and we have obtained sensible, balanced decisions from the electorate in each of those cases.

Ms McRae: No, we have not.

MR HUMPHRIES: That betrays the Labor Party's view, does it not? They think that the electorate is not smart enough to make the decisions that they think it ought to be making. That is what it boils down to. The electorate is not making the decisions that they think it ought to be making, Mr Speaker. I think that is the fundamental problem we have with those people opposite - those people who oppose this issue. They do not trust the electorate to make sensible decisions. Mr Speaker, I and my colleagues on this side of the chamber do believe that. We do believe that they have enough sophistication to make those decisions. We would like to hope that in the future - not today, of course, but in the future - those electors will be given the chance to make those decisions on that basis in a direct democratic process.

Question resolved in the negative.

PERSONAL EXPLANATION

MS TUCKER: Mr Speaker, pursuant to standing order 46, I would like to make a personal explanation. In the debate on the Artificial Conception (Amendment) Bill 1996, Mrs Carnell implied that the Greens - and Labor, for that matter - have been lazy or slow to respond to this issue. I just want to point out that we received this report on the Artificial Conception (Amendment) Bill from the Community Law Reform Committee about two weeks ago. We have sought outside legal advice, and we have certainly taken a lot of trouble to have an intelligent response; but the point I am trying to make here is that it was incorrect to imply that we have had time to organise a round table and to actually work on changing this Bill. I am not satisfied with the time we have been given.

COMMUNITY REFERENDUM LAWS ENTRENCHMENT BILL 1995

Debate resumed from 14 December 1995, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the negative.

ADJOURNMENT

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

That the Assembly do now adjourn.

Member's Staff

MRS LITTLEWOOD (7.37): I rise this evening to pay tribute to Annette Wright, who regrettably leaves my staff tomorrow. I would like to place on record the high esteem in which I hold Annette. I must say I was devastated at Annette's decision to call it a day. She is a rock. I owe Annette a debt of gratitude for the way in which she has assisted me during her time as a highly regarded member of my team. Not only do I hold Annette in high regard; in her former role with the RAN as a warrant officer she was awarded the Conspicuous Service Medal in recognition of her capabilities and dedication. She is a quiet achiever, intelligent, efficient, straightshooting and, in general, a great person. She is a very steadying influence. Like me, she is a lover of animals, except that in her case she has two ginger cats which we have discussed on many occasions.

I do not believe Annette realises just how highly I regard her, or just how much she will be missed. I hold the view that, mostly, politicians are only as good as their staff. Annette has been an integral part of my team and she established a first-rate office. I will miss her tremendously, but I wish her well for the future. After 21 February, who knows? - Annette's unbelievably professional approach may grace my office again. I wish her well and I am sorry to see her go.

Fairbairn Park

MR CORBELL (7.38): I rise to speak in the adjournment debate this evening because of some comments that Mr Humphries made in the debate on CIR. I am sure he is very aware of the comments he made that have prompted me to speak this evening. My comments relate to motor sport and a debate in the Assembly and a decision of the Assembly earlier this day. Mr Humphries seemed to be suggesting that the Motorsport Council had come to the ALP and said to us, "Jump", and we had said, "How high?". I want to put on the record that that is not what occurred at all.

Contrary to the propaganda that has been put out by the Government side of this chamber, the Labor Party has entered into discussions with representatives on both sides of the fence when it comes to the noise issue at Fairbairn Park. I think the support we achieved from a majority of members in this place this evening indicates the ability of the Labor Party to resolve a problem which the Government failed to resolve, even within its own ranks.

Mr Speaker, I want to raise some issues of concern to me about the dynamics and operation of the Government in the last few weeks of this Assembly. It seems to me that Mr Humphries, the Minister for the Environment, was not particularly keen on the environmental protection that was being proposed by his Government at Fairbairn Park. Indeed, it seemed that the spokesperson when it came to environmental protection and noise at Fairbairn Park was not Mr Humphries but was the Minister for Sport, Mr Stefaniak.

Mr Humphries: He is very articulate. He is a very capable representative of the views of the Government.

MR CORBELL: He is a very capable representative on environment issues, it seems. Well, Gary, why do you not just hand the baton over to him entirely? We could have a lot more fun with him. Mr Speaker, the messages that came out of the Government when it came to noise protection at Fairbairn Park were absolutely bizarre. In one instance we had Mr Stefaniak saying, "This will be the regulation"; but messages that came from Mr Humphries's office, including from a member of Mr Humphries's staff, indicated to me that Mr Humphries wanted a completely different outcome from the one that the Government was proposing. Indeed, he wanted the outcome, it seemed to me, that the Labor Party managed to broker on the floor of this Assembly today.

I know that Mr Humphries will feign indifference on this issue and suggest that this is grossly unfair of me. It was such a bizarre situation that we had representatives of the Motorsport Council coming to us and saying, "The Government has agreed to amend its own regulation", and then, when I spoke to Mr Humphries, he said, "No, no; we are going ahead with the regulation as it is. No; we are going to amend it. No; we are going to change it". Even at the very last minute, Mr Speaker, representatives from the Motorsport Council were saying, "The Government want you to amend their regulations so that they can support it". Mr Humphries wanted us to amend their regulation so that they could support it. What a bizarre situation, Mr Speaker!

Anyone who has had their ear anywhere close to the ground over the past week knows that there has been an incredible amount of infighting in the Government on this issue. They have failed to resolve the issue of Fairbairn Park. They have confused the Motorsport Council and the Ridgeway residents completely. No-one knows where they are coming from on the issue. Is it any surprise, Mr Speaker, that, in the end, both sides of the argument turn to the Labor Party to get a sensible compromise and a sensible position on the issue? That is exactly what we delivered.

Party System

MRS CARNELL (Chief Minister) (7.42): Mr Speaker, there are two issues that I would like to speak about briefly. One follows directly from Mr Corbell's comments. I want to mention to the house tonight that today the Liberal Party had two Bills on which we did not have a party position. There were two free votes today. That is something that we will be doing more often, Mr Speaker.

Ms McRae: Ha! I wonder why.

MR SPEAKER: Order!

MRS CARNELL: Mr Speaker, I am interested that those opposite laugh. From my perspective, this shows a party that has matured a lot and whose members are working very well together. I think that shows in terms of our performance generally.

I believe really strongly, as I know Mr Humphries does, that the party solidarity approach that the two-party system has required, probably since inception, is one of the reasons why the two parties are held in such low esteem. It is the view of the Liberal Party in this Assembly that if, by chance, we are elected to the next Assembly - even if we are in opposition - our approach will be to move away from party solidarity on things that are not budget issues. An awful lot of the things that we do are not based upon our respective philosophies. There are a lot of things that people can, and should, have their own views on. Maybe noise from motor sport is one of them. I think it is good to have a party that has proper debate and has people with different views who are willing to debate those views.

Mr Moore: Especially under Hare-Clark.

MRS CARNELL: I think that is the basis of democracy and the basis of Hare-Clark. I am really proud of that. On the issue of the flags and on the issue of surrogacy, Mr Speaker, you would know that there was no requirement for any member of the party to vote in any particular way. I hope we can work on that base - we have done it before - and go from strength to strength as a result.

Mr Speaker, there is one final thing. The Chamber of Commerce and Industry today sent me a brochure and said they were confident that some members opposite might be interested in attending this particular seminar. They put a little note on it from the chamber and said, "After the release of 'Working Capital' there could be some people in the Assembly that may need to attend this". I might table that for those people.

Planning - Appeal Rights

MS McRAE (7.45): On a completely different topic, I have had several comments made to me about problems that have resulted, but not of Mr Humphries's making, as a result of the implementation of the Land Act amendment Bill, I think, in June, when differences between the explanatory memorandum and the Bill arose. The Bill talks about rights of people to appeal, while the explanatory memorandum talks about interest and related appeals. I have not been paying much attention to it since then, but it has turned out that it is causing problems. Unlike what I believe to be the convention, the explanatory memorandum is not being used to guide the decisions that are being made.

I am using this adjournment debate to think out loud. I wonder whether the Minister could use this forum or make a ministerial statement next week to clarify the situation of that Bill and the relevance of the explanatory memorandum, both for our edification and for whoever uses *Hansard* and the proceedings of the parliament. I was really quite surprised to hear that the explanatory memorandums were not being taken seriously. I always believed that they were part of the proceedings and therefore an integral part of interpreting what we intended when something was passed in the Assembly. The consequences of it are reasonably serious. The process of redefining appeal rights involved putting in "adversely and substantially affected", but once you add the rights rather than interest it does narrow down the appeal rights of people.

Since the issue has come up again publicly a couple of times recently, I take this opportunity to put on record that perhaps we could find a way to reiterate what Mr Humphries did say in the explanatory memorandum and therefore strengthen the position of that explanatory memorandum vis-a-vis the legislation, and perhaps vis-a-vis all legislation. If it turns out that these explanatory memorandums do not have the status that I believe they have, perhaps we should be viewing what we do slightly differently. These are not issues I entirely understand, but they are issues of concern, and I raise them to have them clarified or perhaps acted on.

Fairbairn Park : Total Fire Bans

MR HUMPHRIES (Attorney-General and Minister for Police and Emergency Services) (7.48), in reply: Mr Speaker, first of all I will deal with the question of motor sport. Funnily enough, I have information about what happened in the Labor Party's ranks on this subject as well. I know that Mr Corbell got rolled in the party room on his view, as expressed in the Planning and Environment Committee, on the question of what to do about the noise from motor sport. Do not take my word for it. Look at the record. Mr Corbell went to the committee, came out of it trumpeting the five decibels above background noise as the solution for Fairbairn Park, and had to back down. I know that the people with responsibilities in the area of sport or other members of the Labor front bench said, "No, Simon; no, no, no. We cannot afford to knock off all those voting motor racing enthusiasts. Hang on, mate. We know you are enthusiastic about the environment, but there are other things to happen here". Mr Speaker, we all take different views to our party rooms. We would not be human beings if we did not have different views from time to time, would we? The fact of the matter is that neither major party can claim to have had consistent views about this matter from the very beginning, can we?

The other matter I wanted to deal with was the comment today by Ms Horodny about the fire danger and the removal of the total fire bans before the start of the Rally of Canberra. I have had some advice from the Chief Fire Control Officer and I want to read it into the record. It says this:

> A total fire ban for the ACT was declared on the 26 November 97 for 24 hours from midnight Tuesday to midnight Wednesday. Due to a forecast of extreme bushfire danger for forest areas.

The total fire ban was extended to include the 27 November 97, from midnight Wednesday to midnight Thursday. Due once again to the forecast of extreme bushfire danger for forest areas.

The fire danger forecast for Friday was reduced as the fire danger rating ameliorated from extreme to very high.

Total fire bans are mainly declared for extreme fire dangers only. The fire danger indices are calculated from a variety of forecast weather conditions and grass curing factors to arrive at the broad indications of extreme, very high, high, et cetera. The specific factors which determine those broad categories do differ between weather districts and for NSW the specific forecast rating is determined by the Department of Rural Fire Services on advice from the Bureau of Meteorology. The ACT has its own weather district and the specific rating is determined by the Chief Fire Control Officer in consultation with the ACT Bureau of Meteorology.

Since the 27 November 97 the ACT has remained in the high to very high fire danger ratings -

that is less than extreme -

and total fire bans have not been necessary.

The Rally had no influence on the decisions regarding total fire bans as total fire bans are determined by weather factors and not activity based. However, on Thursday 27 November 1997 a meeting was held with Rally Organisers to review bushfire and emergency response arrangements to ensure that they complied to the bushfire readiness requirements.

Through agreement fire readiness for the Rally was increased because of the potential very high fire dangers. Fire dangers for the time of the Rally did not warrant a total fire ban for the ACT.

That is the advice of the Chief Fire Control Officer, Mr Speaker.

Question resolved in the affirmative.

Assembly adjourned at 7.51 pm until Tuesday, 9 December 1997, at 10.30 am

ANSWERS TO QUESTIONS

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 475

Schools - Class Sizes

MS TUCKER - asked the Minister for Education and Training on notice on 5 November 1997:

In relation to class sizes in ACT schools, can you provide details of average class sizes in the ACT for the past five years in (a) kindergarten, (b) other early childhood years, (c) upper primary and (d) high school.

MR STEFANIAK - the answer to Ms Tucker's question is:

Year	Kindergarten	Lower Primary	Upper Primary	High school	College
1993	24 9	27 1	28 6	24 9	20 7
1994	24 5	26 7	29 3	24 4	20 2
1995	26 7	24 1	29.1	23 9	20 5
1996	25 0	27 3	29.4	23 2	21 1
1997	24 1	26 4	29 3	24 3	21.5

Source: ACT Government Schools censuses August 1993-1997

APPENDIX 1: Incorporated in Hansard on 2 December 1997 at page 4256

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Medical Practitioners

(Amendment) Bill 1997

PRESENTATION SPEECH

Circulated by Authority of
Kate Carnell MLA
Minister for Health and Community Care

Mr Speaker,

The Medical Practitioners (Amendment) Bill 1997 seeks to amend the Medical Practitioners Act 1930 for the purposes of expanding the Medical Board of the ACT to include a community representative and a legal practitioner.

At present, all members of the Medical Board are required to be registered medical practitioners.

The inclusion of a community representative on the Medical Board will provide the public with direct involvement in Medical Board matters. This will assist in removing the perception, held by some in the community, that the Board operates in the interest of the profession rather than in the public interest. A community representative will also be able to provide input into Board deliberations from a different perspective from that of the medical practitioners on the Board.

The Medical Board is required to conduct investigations and formal Inquiries into the conduct of some medical practitioners. At present, legal assistance for these investigations and inquires is provided by the ACT Government Solicitor. This can lead to the perception of bias if the Government Solicitor also acts as prosecutor in any Inquiry.

In addition, previous outcomes of Board Inquiries have demonstrated a lack of legal knowledge in the technical aspects of conducting an Inquiry.

The inclusion of a lawyer on the Medical Board will provide the Board with the necessary legal assistance when conducting Inquiries. It will also separate the prosecution and judicial functions in an Inquiry.

This will ensure that Inquiries are conducted in accordance with natural justice principles as well as minimising the likelihood of Board decisions being overturned by Tribunals or Courts of Appeal.

APPENDIX 2: Incorporated in Hansard on 2 December 1997 at page 4257

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Health Professions Board (Procedures)

(Amendment) Bill (No.2) 1997

PRESENTATION SPEECH

Circulated by Authority of
Kate Carnell MLA
Minister for Health and Community Care

Mr Speaker,

The Health Professions Board (Procedures) (Amendment) Bill (No.2) 1997 seeks to amend the Health Professions Board (Procedures) Act 1981.

The Act provides procedures for most health profession registration boards.

The Bill proposes two amendments to the Act.

First, the Bill provides for the remuneration of members of health profession registration boards, covered by the Act, for time spent on Board Inquiries.

Second, the Bill provides for a member of a health profession registration board, who is a legal practitioner, to preside at Board Inquiries in the absence of the Chair of the relevant Board.

At present, Board members are not entitled to be paid for fulfilling their duties as Board members.

While I accept this principle for the general operation of the registration boards, I believe that remuneration should be paid for members sitting on Board Inquiries.

Inquiries into practitioners have the potential to be complex and lengthy. It can be difficult for Boards to plan and conduct inquiries where Board members are unable or unwilling to put on hold their commitments to their practice or employer.

The remuneration of Board members for sitting on Inquiries will provide some recognition of the sacrifice which Board members must make in accepting the responsibility of sitting on an Inquiry .

This approach is consistent with other similar bodies, such as the Professional Standards Tribunal of the Law Society.

Payments will be made in accordance with a determination from the Remuneration Tribunal. An Interim Determination will be made while waiting for the Tribunal to consider this issue.

The cost of the payments to Board members is not expected to exceed twenty five thousand dollars. The cost will be absorbed within the current allocations for the Health and Community Care portfolio.

The Bill also provides for a member of a Board, who is a legal practitioner, to preside over an Inquiry in the absence of the Chair. The legal practitioner would still be able to assist the Inquiry at all other times.

This will ensure that Board Inquiries are conducted in accordance with accepted legal principles and processes, and reduce the possibility of Board decisions being appealed to a higher authority.

APPENDIX 3: Incorporated in Hansard on 2 December 1997 at page 4257

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Dental Technicians and Dental Prosthetists

Registration (Amendment) Bill (No.2) 1997

PRESENTATION SPEECH

Circulated by Authority of
Kate Carnell MLA
Minister for Health and Community Care

Mr Speaker,

The Dental Technicians and Dental Prosthetists Registration (Amendment) Bill (No.2) 1997 seeks to amend the Dental Technicians and Dental Prosthetists Registration Act 1988.

The Act is a stand alone piece of health profession registration legislation.

The proposed amendments provide for the remuneration of members who participate in Board Inquiries.

The proposed amendments will ensure that the Act is consistent with the proposed amendments to the Health Professions Boards (Procedures) Act which covers all other health profession registration Boards.

Inquiries can take weeks for resolution and it is difficult to ensure members are available given their commitments to their practice or employment.

Remuneration of members of the Board who take on the responsibility of sitting of Board Inquires provides some recognition by Government of the importance and inconvenience of the task.

Since the commencement of the Act in 1988, the Dental Technicians and Dental Prosthetists Registration Board have not had to conduct a single Inquiry or investigation into the conduct of a person registered under the Act.

Despite this, it is important that the procedures governing all health profession registration boards are consistent.

This Bill ensures that consistency.

APPENDIX 4: Incorporated in Hansard on 4 December 1997 at page 4536

1997

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MAGISTRATES COURT (AMENDMENT) BILL (NO. 2) 1997

PRESENTATION SPEECH

circulated by the authority of the Attorney-General
Gary Humphries MLA

Mr Speaker, this Bill provides for significant reform of the current system of fine enforcement in the ACT. The fine is, of course, a sanction commonly used by our courts.

The ACT currently has no fine enforcement mechanisms for fines imposed by courts other than imprisonment. At present the Magistrates Court enforces fines solely through issuing a warrant for the commitment of a defaulter to prison. Such warrants are the enforcement responsibility of the Australian Federal Police. The Supreme Court, in contrast to the Magistrates Court, has no fine enforcement mechanisms and has been unable to enforce the payment of overdue fines.

The inefficiency and uncertainty of the present system encourages people to believe that they are able to avoid their obligations. Annecdotal evidence suggests that it is generally this, rather than lack of capacity to pay, which contributes to substantial non-payment.

The Auditor-General has recently conducted a performance audit of court imposed fines and has been critical of the present collection procedures. The Audit Report found the present collection practices are less than satisfactory, with 53% of fines imposed by the Magistrate’s Court not collected within the time specified and 30% of these fines remaining uncollected after 12 months.

This level of default is occurring despite the fact that the courts, before imposing a fine, must take into account the financial circumstances of an offender as far as they can be ascertained to ensure that fines are not imposed on people who cannot afford to pay and who are likely to default and end up in prison. In addition, the court may allow for time for payment and may also direct payment by instalments.

Despite these provisions, the amounts of court fines currently outstanding as at 3 June 1997 were:

Court	No. defaulters	Amount
Magistrates Court	1911	$ 911 410
Children's Court	87	$ 21 765
Supreme Court	25	$ 20 726

This Bill, in conjunction with the other bills in this package - the Motor Traffic (Amendment) Bill (No. 7) 1997, the Children's Services (Amendment) Bill (No. 2) 1997, the Remand Centres (Amendment) Bill (No. 2) and the Crimes (Amendment) Bill (No. 7) 1997 - creates a scheme for enforcing unpaid court imposed fines.

The main aim of the scheme is to ensure that the integrity of the fine as an order of the court is maintained through providing an effective sanction for noncompliance. The proposed scheme provides a range of options to avoid, as far as possible, imprisonment and to encourage payment.

The sanctions for noncompliance have been framed taking into account the need to ensure equitable application of the sanctions for non-payment, the need to reduce the number of fine defaulters in custody, and the need to ensure that the fine enforcement system is efficient and effective. There is a duty on the Registrar of the Magistrates Court, who is tasked with enforcing the scheme, to ensure that the fine enforcement procedures maximise the collection of monies due to the Territory. It is my belief that this can be achieved by improving the certainty of enforcement and the awareness of the enforcement procedures within the general community. The proposed system does not seek to rely upon imprisonment as an incentive to pay fines although imprisonment is retained as a last resort. It is intended that, by having an efficiently managed and timely enforcement procedure in place, offenders will pay their fines because they know they will not be able to avoid the enforcement measures as they can at the present.

I propose to improve the process of enforcement and to reduce the incidence of non-payment of fines by the implementation of a new fine default scheme. The scheme encourages payment of fines by offenders through increasing the expectation that defaulters who have the capacity to pay will be made to pay or will be subject to new enforcement measures. The scheme:-

- enables determination at an early stage of the capacity of an offender to pay;
- provides for driving licence suspension as an initial enforcement measure;

- provides, in addition, for civil enforcement procedures where there is a capacity to pay; and
- enables imprisonment to be imposed as a last resort.

The scheme will apply to all fines and levies imposed by ACT courts; that is, the Supreme Court, the Magistrates Court and the Children's Court. It will be administered by the Registrar of the Magistrates Court.

The new scheme for the enforcement of court imposed fines has the following features:

- the Court will make an order which will include a fine and specify a time to pay;
- a penalty notice will be sent to an offender advising the amount to be paid and possible enforcement action upon default in payment;
- a default notice to pay will be served on an offender, once the time to pay has expired and the offender is in default, notifying the enforcement action that will be taken if the fine remains unpaid;
- where a defaulter is licensed to drive and the fine remains unpaid (at the expiration of the period specified in the default notice), the Registrar shall notify the Registrar for Motor Vehicles to suspend the defaulter's driving licence or right to drive within the ACT. Where a defaulter is not licensed, the Registrar will make an order requiring the Registrar of Motor Vehicles to suspend the defaulter's vehicle registration or ability to obtain or renew a licence;
- a default notice will include a requirement that a defaulter provide to the Registrar detailed financial information concerning their property and financial circumstances to enable the Registrar to determine the capacity of the defaulter to pay;
- the Registrar will assess the written financial information and will also be able to review relevant personal information from other

government departments to distinguish those defaulters who cannot pay from those who will not pay;

- the Registrar may, where he or she believes that the defaulter has the capacity to pay, make an order for civil enforcement action against the defaulter. Where there is no capacity to pay or the defaulter refuses to pay, the Registrar will, by warrant, commit the defaulter to a period of imprisonment;
- the civil enforcement procedures include a garnishee order which directly debits the defaulter's earnings or attaches to amounts owed to the defaulter and property seizure orders (includes land or goods owned by the person);and
- offenders will be able to apply to the Registrar for extension of time to pay or instalment payments, at any stage of the process prior to a custodial order being imposed.

Under the scheme, the Bailiffs will serve a writ of execution on every fine defaulter who does not comply with a default notice. It is intended that the Bailiffs will, in all cases where it is possible, make contact by telephone with the defaulter to advise them of the impending expiration of the Penalty Notice period and the consequences of non-payment. It is anticipated that this telephone contact will reinforce to defaulters that outstanding fines will be pursued by the courts.

It is accepted that there will be occasions when some people will have difficulties in paying fines. I propose that these cases will be addressed in a number of ways. Payment of fines will be assisted by providing for the payment of the fine by credit card or periodic debit authority where payment by instalments has been arranged. Fine defaulters will be encouraged to sign bank authorisations to permit direct payment of the fine. As I have indicated, time to pay will also be available.

Mr Speaker, it may be suggested that it is not appropriate that a driving licence and motor vehicle registration suspension scheme should apply where the fine default relates to an offence which is not a traffic or parking offence. However I do not believe that there must necessarily be a nexus between the type of offence and the method of enforcing the payment of the fine. We need to be pragmatic if we hope to achieve the objective of cutting the number of fine defaulters and the number of fine defaulters who are imprisoned. The philosophy underlying the suspension proposal, which forms the basis for the ACT fine enforcement system, involves the notion that if the Government is to grant a right - that is the right to drive on the Territory's roads - then members of the public who are in default of an undertaking to the Crown (payment of a fine) can have that right removed.

The sanction of driving licence or vehicle registration suspension is an attractive cost-effective enforcement alternative to imprisonment. It has been proven to be an extremely effective measure to encourage payment of infringement notice penalties and, in other jurisdictions, has been successful in prompting payment of court imposed fines. The new NSW fine recovery scheme due to commence on 1 January 1998 also utilises this very effective enforcement mechanism.

Mr Speaker, I propose that any suspension order (for driving licence or registration), imposed for default in payment under this scheme,

will be deferred in the event of the granting by the Registrar of an extension for time to pay or an instalment payment plan being accepted. However, in the event of the first default in repayment pursuant to such an arrangement, the suspension will be reimposed and not lifted until the fine is fully paid.

The proposed scheme will apply to all existing court fines and levies. The withdrawal of existing commitment warrants for outstanding unpaid fines, and the application of the new scheme to the unpaid fines will be staged progressively, with the warrants being chronologically withdrawn from the AFP.

To assist in the smooth introduction of the new system, an amnesty will be offered for outstanding fines for a 3 month period prior to the new system being commenced. This will be preceded by a major media campaign to inform the general community of the new sytem, how it works and the need for fine defaulters to pay their fines or to make arrangements to pay off the fine prior to the new scheme coming into force.

Mr Speaker I propose that the fine enforcement scheme will be structured to eventually permit the recovery of unpaid Infringement Notice penalties, where the existing infringement notice enforcement procedures have not resulted in the payment of the penalty. Statistics provided by the Magistrates Court indicate that approximately 6028 ACT offenders are in default of payment of 12,475 Traffic Infringement Notices valued at $2,115,564 and

approximately 6394 ACT offenders are in default of payment of 10,763 Parking Infringement Notices valued at $679,491. The extension of the fine default scheme to include all infringement notices will permit a consistent approach to be adopted for the recovery of outstanding fines to the Territory. It is not proposed that the application of the scheme to unpaid Infringement Notice penalties commence until the scheme has been established in relation to court imposed fines.

Mr Speaker I commend the Bill to the Assembly so that the Territory will, at last, have in place an effective scheme for encouraging payment of fines and penalties and for taking action to collect fines where offenders refuse to pay.

APPENDIX 5: Incorporated in Hansard on 4 December 1997 at page 4563

RESPONSE BY MR W.J. CURNOW AGREED TO BY MR W. J. CURNOW AND THE STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE PURSUANT TO PARAGRAPH (7)(b) OF THE RESOLUTION OF THE ASSEMBLY OF 4 MAY 1995

Background

I seek redress for comments made by Mr Whitecross MLA concerning actions I took and statements I made on behalf of Cyclists' Rights Action Group. The comments occurred in a debate in the Assembly on 8 May 1997 on a motion by Mr Michael Moore MLA to refer the matter of compulsory wearing of bicycle helmets to the Standing Committee on Social Policy (Hansard reference pages 1114-1127). At page 1123, Mr Whitecross said that he, like other members of the Assembly, had been receiving representations in relation to the compulsory wearing of cycle helmets. He went on to make statements, some of which I quote below, for which I seek redress.

I am the person who made the representations, in my capacity as president of Cyclists' Rights Action Group. Since its formation in 1992, CRAG has been campaigning against the compulsory wearing of bicycle helmets. In the course of this campaign, I have met with and written to ministers and other MLAs, appeared on television, broadcast on radio and published letters in the press. As a result, I think I am well known as an opponent of the helmets law.

I was involved in consultations with Mr Michael Moore MLA that culminated in his, motion of 8 May 1997 - Hansard, page 1114.

COMMENTS

I first draw attention to Mr Whitecross's statement on page 1123, as follows:

> "I have maintained a consistent position with the lobbyists on this issue, which is that it has been considered, the decisions have been made, and if they want it revisited the onus is on them to produce evidence that there is a problem with the existing law; that there is some danger posed by the wearing of cycle helmets. Mr Speaker, they have consistently failed to produce that evidence."

Any MLA or other person following the debate would, I submit, identify "the Lobbyists" with CRAG, and myself in particular: Mr Whitecross named CRAG in his next paragraph, see below, and Mr Kaine had named me earlier in the debate.[1]

I had, in fact, provided to Mr Whitecross much evidence of the kind he specified:

---

[1] Hansard, page 1119. third paragraph and page 1120, first paragraph

(a) I personally left with his staff on 23 April 1996 a note, copy attached as 1, and copy of chapter 6 of the NHMRC report *Football injuries of the head and neck.*

(b) I sent to him by fax a letter and subjoined paper on 18 October 1996, copies attached as 2, and I personally delivered to his office on the same day a copy of the article by Robinson which I referred to in that letter.

(c) I sent to him by fax a letter on 15 December 1996, copy attached as 3, and I note that the offer in it: "If you have any doubts about what we have said, I can assure you that we have abundant supporting evidence, and would be happy to brief you on it at a meeting." was never taken up.

Second, continuing his statement, Mr Whitecross said:

> "The Minister touched on some of the arguments they have used and the faults with those arguments.
>
> "Mr Speaker, in the course of seeking to demonstrate this, they even resorted to falsely using the National Health and Medical Research Council report to argue that cycle helmets are dangerous. In fact, the report they cited was not about cycle helmets; it was about football helmets. That report actually says that, unlike cycle helmets, there is no evidence that football helmets improve safety."

It is untrue to say that I falsely used the NHMRC report. On the contrary, as my letter of 18 October 1996 to Mr Whitecross shows, I made it clear that the report was entitled "Football injuries of the head and neck", and I quoted from it accurately. The report credits cycle helmets with reducing soft tissue injuries[2], but its significance is in showing how the wearing of a helmet may result in increased injury to the brain - see chapter 6 of the report, copy attached as 4[3].

Though I have been diligent about providing accurate information and references to relevant research and the like to Mr Whitecross and others, and have offered to provide substantiation to him, his statements could well impugn my credibility with other people following the debate who did not know this. I conclude that my reputation and dealings or associations with others have been adversely affected and my office as president of the Cyclists' Rights Action Group has been injured. I request a citizen's right of reply as redress.

W.J. Curnow, President, Cyclists' Rights Action Group 8 September 1997

---

[2] Report, page 58, first paragraph

[3] Report, page 55, third paragraph, page 56, first paragraph, page 58, last paragraph, points (b) and (c) in particular

ELECTRONIC COPY OF THIS PAGE IS NOT AVAILABLE BUT IT IS INCLUDED IN THE PRINTED HANSARD

ATTACHMENT 2

CYCLISTS' RIGHTS ACTION GROUP

President: : W.J. (Bill) Curnow

Hon. Secretary: Janne Crump

27 Araba Street
ARANDA ACT 2614
Tel. 06-2515357
18 October 1996

Mr A. Whitecross MLA
Leader of the Opposition
ACT Legislative Assembly, Fax No: 2050135

Dear Mr Whitecross,

Your letter of 15 October 1996 advised, in reply to mine of 17 May requesting your support for an examination of the helmet wearing law for cyclists, that Labor will not support an enquiry until such time as strong evidence is produced that cycle helmets increase the risk of injury. I provide such evidence herewith.

To my knowledge, the first relevant evidence is a statistical study of 8 million casualties over 15 years in the USA by Rodgers, *Journal of product Liability*, Vol. 11, pp. 307-317, 1988. He concluded that "there is no evidence that hard shell helmets have reduced the head injury and fatality rate" and "the bicycle-related fatality rate is positively and significantly correlated with increased helmet use." This study was not brought to the attention of legislators when the helmet laws were introduced here.

New South Wales and Victoria

D.L. Robinson, a statistician at the University of New England, has adduced evidence in an article "Head injuries and bicycle helmet laws", published in *Accident Analysis and Prevention*, July 1996, copy being delivered to you today. For NSW, she found that neither the number of head injuries, nor the number of injuries to other parts of the body, declined as much as the estimated amount of cycling. For Victoria, her Table 5 suggests that, "for the same the same child cycle use as before the law, there would now be no fewer head injuries and more total injuries".

Subjoined hereto is my own analysis of data for NSW, which supports the following appraisal: "Contrary to the general trend to improved road safety, for those still cycling after the law the risk of head injury would seem to have increased by up to 25 per cent and other injury by up to 69 per cent."

ACT

For the ACT, a note left with your staff on 23 April states that cycling on cycle paths declined by 37 per cent on average - see "Bicycling in the ACT - a survey of bicycle riding and helmet wearing in 1992", Project No. 93-4, ACT Department of Urban

Services, page 5 and tables. Suggestions in it that variations in the weather may have contributed to the decline will not stand critical scrutiny. As the note of 23 April stated, admissions to hospital remained the same. The actual numbers, of cyclists admitted at ACT public hospitals, in fiscal years, 1991-92 being pre-law, areas follows: 1991-92, 89; 1992-93, 87; 1993-94, 88. The source is a letter of 26 March 1996 from Mr Garry Wallsh, Director, Intergovernmental and Information Management, ACT Department of Health and Community Care.

Brain injury

There are good theoretical reasons why helmet wearing is likely to increase the more serious brain injuries. Quoting a little from the NHMRC report "Football injuries of the head and neck' chapter 6, copy left with one of your staff on 23 April:

"The mechanism of the production of an injury to the head is complex. It involves not only the effects of a direct impact to the skull and its coverings but, more importantly, the effects of the relative motion of the brain within the skull in response to that impact. This relative motion of the brain creates the shearing and rotational forces on the individual neurones which results in axonal stretching and diffuse brain injury.

"The addition of a helmet to the head will increase both the size and mass of the head. This means that blows that would have been glancing become more solid and thus transmit increased rotational forces to the brain. Because helmets distribute the force from focal impacts across a larger area, this may result in reduced fracture/laceration injuries but may increase diffuse brain injury."

We know from FOI requests that neither the ACT Department of Urban Services nor the Federal Department of Transport got advice from the NHMRC or Departments of Health before the law was introduced.

Finally, you are proposing what amounts to a reverse onus, that it is up to us to prove that helmet wearing will increase the risk of injury. Under proper democratic practice, the onus would be on government to show that to compel cyclists to wear helmets would not increase injuries, indeed, would reward them and the community with substantial benefits. Governments in Australia and the ACT Government in particular have never been able to show that. They have misled the public into believing that helmet wearing is efficacious in mitigating head injuries without, as our FOI inquiries have shown, doing the necessary evaluations.

As there is good evidence that the helmet laws are causing harm, and the NHMRC, an eminent authority on health, has warned of a danger, I request the Labor Party's support for an enquiry. As I wish to report progress to the Chief Minister, I should be glad of your response by 28 October.

Yours sincerely,

(Sgd Bill Curnow)

W.J. Curnow
President

CYCLING AND INJURIES IN NEW SOUTH WALES

Data from matched surveys in NSW of child cyclists (under 16) in April of 1991, 1992 and 1993 are examined here. As the 1991 survey was done before the helmets law took effect for child cyclists on I July, the data indicate changes in their numbers from pre-law to post-law. There are no similar data for adults, as the helmets law took effect for them on 1 January 1991.

In April 1991, the count of child cyclists passing chosen sites was 6072, the figure used here to represent their number in 1990 and in 1990/91, the last pre-law calendar and fiscal years respectively. At the same sites in April 1992 and 1993, the counts were 3887 and 3478, declines of 36 and 43 per cent respectively.[45]

Changes in numbers of child cyclists derived from the survey data are compared below with data for deaths and serious injuries as shown in Table 1.

TABLE 1

CHILDREN AGED 0-16 KILLED AND SERIOUSLY INJURED, NSW
(and % changes from 1990)

Year	Cyclists		Pedestrians		All road users
1990	152		354		1037
1991	115		315		877
1992	97	-36%	316	-11%	836
1993	103	-32%	281	-21%	829

(Source Roads and Traffic Authority of NSW[46])

Table 1 includes 16 year-old cyclists. Though the matched surveys did not measure it, their numbers may well have declined more than for under 16s, as 16 year-olds are in the age group most averse to wearing helmets.[41,42]

With no change in the risk of casualty, a decline in the number of casualties in proportion to the number of child cyclists would be expected, from 152 in 1990 to 97 in 1992 and 87 in 1993. If helmets were reducing the risk, the decline should be greater. As the actual numbers were 97 in 1992 and 103 in 1993, there is: no evidence that helmets did reduce the risk of casualty. Indeed, the contrary is indicated, even though random breath testing and other measures made the roads generally safer, as is reflected in the decline in casualties to other child road users.

Table 2 shows head injuries and other injuries to child cyclists before and after the helmets law. The numbers in brackets show what the numbers of injuries would have been if they had declined from 1990/91 in proportion to the number of cyclists.

TABLE 2

HOSPITAL SEPARATIONS, INJURIES TO NSW BICYCLISTS UNDER 16
(source NSW Department of Health)

Fiscal year	Head injury	Incr. Risk	Other injury	Incr. Risk
1989190	453		1053	
1990/91	384		926	
----------				-law for <16 y.o
1991/92	272	(246) + 10%	815 (593)	+ 37%
1992/93	273	(219) + 25%	893 (529)	+ 69%

Contrary to the general trend to improved road safety, for those still cycling after the law the risk of head injury would seem to have increased by up to 25 per cent and other injury by up to 69 per cent. Worse, on the assessment by the NHMRC, a higher proportion of diffuse brain injury is likely.

If former cyclists travel by another mode, they still may be injured. In any case, they lose the health benefits of the exercise, which the British Medical Association has estimated "are likely to outweigh the loss of life through cycling accidents".[52] The helmet laws also distract attention from measures to prevent accidents; hence, they are likely to have increased costs of medical care, not saved on them.

References (numbers not in sequence because this is an extract from a larger paper)

41. Walker,M.B., Law compliance among cyclists in New South Wales, April 1992, A third survey, Roads and Traffic Authority of NSW, Network Efficiency Branch, Sydney, July 1992.

42. Cameron,M., Heiman, L. and Neiger,D., Evaluation of the bicycle helmet wearing law in Victoria during its first 12 months, Report No. 32, Monash university Accident Research Centre, Melbourne, July 1992.

45. Smith,N.C. and Milthorpe,F.W ., An observational survey of law compliance and helmet wearing by bicyclists in New South Wales - 1993, for the New South Wales Roads and Traffic Authority, Sydney, 1993.

52. British Medical Association, Cycling towards health & safety, Oxford University Press, Oxford, 1992, page 121.

W.J. Curnow 18 October 1996

ATTACHMENT 3

CYCLISTS' RIGHTS ACTION GROUP

President: W.J. (Bill) Curnow
Hon. Secretary: Janne Crump

27 Araba Street
ARANDA ACT 2614
Tel. 06-2515357
Fax by arrangemt.
15 December, 1996

Mr Andrew Whitecross MLA
ACT Legislative Assembly
Fax No. 2050135

Dear Mr Whitecross,

I am writing further to my request for the Labor Party's support for an inquiry into the helmets law for cyclists. I do this because I gained the impression from my conversations with Justin Mahon that you may still be reluctant to support an inquiry.

I find it hard to understand your reluctance. Surely, as responsible public officers, Labor MLAs should be concerned that the helmets law is serving a socially useful purpose, and therefore keen to investigate evidence that it is not - such as the NHMRC's evaluation and the Robinson paper. You have demanded strong evidence that helmets increase the risk of injury. We have supplied it. What is it that you're not convinced about?

I point out, too, that MLAs were not properly advised in 1992 when the helmets legislation was introduced and there has never been any strong evidence that helmet wearing protects from brain injury. Politicians have just assumed it without proper advice. The design and testing of helmets according to the Australian standard does not take account of the mechanics of brain injury. Testing is of linear forces only, it being too difficult to measure rotational forces. Theory and experiments with animals have shown, however, that the main cause of brain injury is rotational force, not linear force as is produced by a direct blow to the head. Taking account of the theory and experimental evidence, the NHMRC has judged that helmet wearing is likely to increase brain injury. What politician is competent to dismiss that view?

On another tack, what do Labor MLAs stand to lose from an inquiry? The present Chief Minister has proposed it. The Alliance Government made the original decision to legislate for compulsory helmets. The then minister, Duby, is no longer in politics. Nor are Connolly, who introduced the legislation, Lamont, the only other speaker in favour of it, and the Chief Minister at the time. The only losers would be transport administrations that did not give proper advice. Surely, if there has been poor administration, MLAs should be investigating and rectifying it. If you still oppose an inquiry, we will renew our efforts to press the case with other Labor MLAs. There is now good evidence that the helmets law is counter-productive. It must be reviewed.

If you have any doubts about what we have said, I can assure you that we have abundant supporting evidence, and would be happy to brief you on it at a meeting.

Yours sincerely,

W.J. Curnow
President

ATTACHMENT 4

FOOTBALL INJURIES OF THE HEAD AND NECK

National Health and Medical Research Council

NHMRC 1994

Terms of reference and membership

Terms of reference and membership of the NHMRC Panel on head and neck injuries in football

1. To inquire into head and neck injuries resulting from participation in the sport of football (all codes) and to suggest ways of minimising injuries.

2. To report to the Public Health Committee.

Canberra-based core panel

Dr Ray Newcombe, Neurosurgeon (Chair)
Dr Robert Reid, Sports Physician
Dr Robert Smethills OAM, Medical Officer, ACT Rugby Union
Ms Virgina Dove, Public Relations Officer, NHMRC
Ms Claire Brady (Executive Secretary, September 1993 - July 1994)
Ms Sandra Twist (Executive Secretary, July 1994 - November 1994)

Medical consultant panel

Dr John Crompton, Neuro-ophthalmologist

Dr Paul Curtin, Plastic and Reconstructive Surgeon

Dr Nathan Gibbs, Sports Physician, Medical Officer, Australian Rugby League

Dr James Harrison, Epidemiologist, National Injury Surveillance Unit, Australian Institute of Health and Welfare

Dr Siri Kannangara, Rheumatologist, Medical Officer, Australian Soccer Federation

Dr Geoffrey Klug, Paediatric Neurosurgeon

Dr Paul McCrory, Sports Physician, Medical Officer, Australian Football League

Dr Glen Merry, Neurosurgeon, Chair, Trauma Committees of Royal Australasian

6 Head and neck protection

6.1 Head protection

The role of a helmet is to absorb the forces and decelerate the blow at the point of impact, distribute the focal impact over a larger area, withstand surface abrasion and to protect the bone and soft tissue from injury (for instance, lacerations). There are a number of potential risks of inappropriate helmet use in football. An ineffective helmet may provide the wearer with a false sense of security, and hence not prevent the damage for which it is presumably worn.

Helmets thus must be sport-specific to be effective. The demands of an individual sport must be researched and then an appropriate helmet configuration, shock-absorbing material and outer surface must be constructed.

The use of helmets increases the size and mass of the head. This may result in an increase in brain injury by a number of mechanisms. Blows that would have been glancing become more solid and thus transmit increased rotational force to the brain. These forces result in shearing stresses on neurones which may result in concussion and other forms of brain injury. Poorly designed helmets may obscure peripheral vision.

6.1.1 Protective head gear in football

The use of protective head gear in sport has attracted a considerable degree of interest in the sports medicine literature. Helmets of different types and qualities have been developed for athletes engaged in sports as diverse as American football, ice hockey, baseball, boxing, alpine skiing, cycling and motor sports. Some sports, such as American football (gridiron), require helmets with face masks in order to protect the facial area and teeth. In Australia, the various codes of football make no requirement that participating athletes wear helmets. Concern has been raised, especially by parents of children participating in contact sport, of the value of introducing helmets as a vehicle for increasing safety in those sports. The paucity of evidence related to the use of helmets in the various codes of football played in this country makes analysis of the risks and benefits of helmet use difficult. Information must be extrapolated from the more general application of helmet design as it is applied to other sports.

6.1.2 Mechanisms of head inquiry

The mechanism of the production of an injury to the head is complex. It involves not only the effects of a direct impact on the skull and its coverings but, more importantly, the effects of the relative motion of the brain within the skull in response to that impact. This relative motion of the brain creates the shearing and rotational forces on the individual neurones which results in axonal stretching and diffuse brain injury (Holburn 1943; Gennerelli 1986). Shearing forces generated at impact may also directly disrupt the intracranial vascular tree resulting in haemorrhage. The direct impact to the skull vault or facial bones may result in fractures of these structures. Concussion differs from the more severe diffuse axonal injury in that it represents the mild end of the spectrum of head injury, where the symptoms are transient and the injury does not necessarily result in structural brain damage.

6.1.3 Helmet design

Helmets are designed to serve a number of functions. They absorb the force and decelerate the blow at the point of impact, resist impact-induced deformation, withstand surface abrasion and distribute the focal impact over a larger area. There is experimental evidence that cycling and ice hockey helmets achieve at least part of these aims (Ryan 1991; Mills 1990). There are additional data (Reid 1975) which suggest that United States (US) American football helmets are biomechanically efficient in laboratory testing in achieving these intended objectives.

In the US, catastrophic head and neck injuries have declined since the wearing of NOCSAE (National Operations Committee for Standards for Athletic Equipment) certified helmets in American football was made compulsory at all levels of play in the early 1970s (Torg 1982; Hodgson 1975). It is important to note, however, that other changes in the game such as rule changes (eg banning ‘spear’ tackles - an impact with the vertex of the head) occurred at the same time and may explain the observed reduction in head injury rates.

The area of head-to-head impact experienced on the field of play is impossible to monitor via technology, at this point in time. Simulated head-to-head impacts however, in a laboratory setting, with cadaver and/ or anthropomorphic test dummy technology, indicate that low-level concussion, laceration and bruising occur at about 300 G. The use of soft head protection lowers the impact of a head-to-helmet contact by 10 to 35 per cent (270-195 G), depending on the product used (Morrison & Young 1993).

In situations where both heads are outfitted with soft head protectors, the reduction in impact is now decreased by 15 to 60 per cent (255-125 G), again product dependent (Morrison & Young 1993).

A great deal more research must occur in the area of repetitive impacts and the durability of products. The soft head protectors may have an opportunity to provide protection on repeated contacts without significant reduction in safety capacity. This work is yet to be performed (Morrison & Morrison 1994).

6.1.4 Types of helmets

In general, two types of helmet exist: a rigid-shell and a soft material design. The latter is the main type proposed for football in this country.

6.1.5 Rigid-shell helmets

The hard outer shell protects the head by distributing the impact loads over a larger area including the inner liner of the helmet and the head. The shells are made o fibreglass or injection moulded plastic. The inner liner of the helmet is usually some form of polystyrene (EPS) or polypropylene, both of which are available in various densities and thicknesses. In sports such as Australian football, the rugby codes and cable and potentially injurious to the other soccer, rigid helmets are impracticable and potentially injurious to the other participants.

6.1.6 Soft head protectors and scrum caps

Soft head protector helmets are usually a one-piece moulded structure composed of polypropylene of sufficient density and resilience to attenuate the impact and reduce the force of a blow transmitted to the brain. These are unsuitable for use in soccer because the ball is 'headed'. A scrum cap or a headband without reinforcement may be worn to protect against soft tissue injury in rugby. Taping of the ears to prevent cauliflower ear injury is a common practice in rugby.

6.1.7 The effectiveness of helmets

There is no Australian standard at the present rime for soft head protectors in sports other than cycling, horse riding and motor sports.

There are a number of limitations with testing systems:

(a) Acceptance of recognised peak impact and duration of impact loads that result in injury;
(b) Different methodologies in use;
(c) Quality and reliability of testing laboratories;
(d) The use of motor vehicle injury models as a surrogate for sport-related head injury;
(e) Understanding and agreement as to what is an acceptable and safe impact load to the brain. The acceptance that a 400-600 C load may be a 'survivable' head injury does not mean that brain injury will be necessarily reduced since the helmets' impact tolerance may far exceed this;
(f) The extrapolation of laboratory results to the practical situation where other factors including weather, impact speed, surface, number of impacts, helmet fit and helmet deterioration may influence the protective capability of the helmet; and
(g) The requirement of the helmet to withstand multiple repetitive impacts.

6.1.8 Do helmets reduce injury?

The evidence that helmets reduce soft tissue injuries is shown by studies examining the effectiveness of cycling helmets (Dorsh, Woodward & Sommer 1987; Thompson, R., Rivana & Thompson, D 1989; Weiss 1987; Wasserman 1990).

In American football, the National Head and Neck Injury Registry (Torg 1982) prospectively monitors catastrophic injury. When the data are compared both before and after the introduction of NOCSAE-certified helmets, there is a 54 per cent drop in head injury rates. However, this must be interpreted with caution since there were coexistent rule changes related to preventing head injury and it appeared that the incidence of head injury was dropping prior to helmet introduction anyway.

In Australian football and rugby codes, prospective injury surveys (Seward *et al.* 1993) have found too few players wearing helmets for adequate statistical interpretation.

Following a recent death in Rugby union (1994), media reports questioned the role of helmets in football. In this instance, the player's head impacted on hard ground after a legal tackle, causing an acute subdural haematoma. It would appear that 'injuries in the 17-21 age group are more common than in younger age groups. Head protectors worn by players in the 17-21 age group, therefore, may help to reduce the number of injuries; however, this is scientifically unproved. In addition, there appears to be a general reluctance by players of this age group to wear protective equipment. Psychological acceptance of headgear, if head protectors are found to be appropriate after further studies, would be more easily obtained if it was introduced at an earlier age.

6.1.9 Potential risks of helmet use

Whilst helmets may possibly reduce the incidence of scalp lacerations and other soft tissue injury, there is the risk that helmets may actually increase both the cerebral and non-cerebral injury rates through a number of mechanisms.

(a) Sport-specific helmet design has not been established for Australian football or the rugby codes;

The need to use the correct helmet for a specific activity has been supported by research into helmet performance (Bishop 1984).

(b) The addition of a helmet to the head will increase both the size and mass of the head. This means that blows that would have been glancing become more solid and thus transmit increased rotational forces to the brain. The leverage factor means that any head protectors should be close-fitting;

(c) Because helmets distribute the force from focal impacts across a larger area, this may result in reduced fracture/ laceration injuries but may increase diffuse brain injury;

(d) Misplaced faith in an ineffective helmet may create a false sense of security and encourage players to place themselves in dangerous situations and ignore the usual precautionary tactics used in these situations, thereby increasing their injury risk;

(e) It is important to note that the helmet which is designed to protect the head does not and cannot protect the neck. A helmet must not be too heavy. A weight of 60-80 grams for all age groups has been recommended as practical for surface protection without unduly adding weight to the neck (Morrison 1994);

(f) Poorly designed headgear can obscure peripheral vision and increase the risk of collision injury;

(g) A poorly fitting helmet may not adequately dissipate the force of an impact; and

(h) In order for helmets to be effective, they need to be properly cared for and maintained. Failure to do this will reduce the effectiveness of the helmet.

6.1.10 Helmets and litigation

In the US even the addition of warning labels to helmets has not prevented the continuing large awards being made to injured players where helmets are implicated as the cause of injury or where they fail to protect the player from the injury occurring (Patterson 1983; Appenzeller 1982; Schwartz 1988).

6.1.11 Conclusion

There is no available head protection that has been scientifically demonstrated to protect players in Australian football or the rugby codes from concussion or other forms of brain injury. Further research into this area, particularly on-field testing and evaluation of helmets, should be encouraged.

6.2 Mouthguards

It has been shown that the use of correctly fitting mouthguards appears to reduce the rate of concussion, as well as of dental and mandibular injuries (NFL 1988; Hodgson 1975). While not compulsory (it is usually left to the discretion of individual dubs), the majority of Rugby league and Australian football players wear mouthguards. Mouthguards are not compulsory in soccer and few players wear them.

There is a decrease in the intracranial pressure and bone deformation from a blow to the mandible when a mouthguard is worn. This means that mouthguards provide protection of the teeth, jaws and adjacent soft tissues and also protect the brain against concussion following impacts to the mandible.

6.2.1 Rationale for use

The mouthguard should be constructed of a tough resilient plastic closely adapted to the upper teeth, gums and palate.

It aims to:
1. provide direct protection to the teeth;
2. prevent the teeth injuring the lips;

APPENDIX 6: Incorporated in Hansard on 4 December 1997 at page 4591

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
QUESTION WITHOUT NOTICE TAKEN ON NOTICE
12 November 1997

MRS CARNELL: On 12 November 1997 Ms Reilly asked me questions relating to temporary accommodation allowance and I undertook to provide her with an answer.

MY ANSWER IS: Of the 17 Executives reported to the Estimates Committee as receiving temporary accommodation allowance, 14 are still in receipt of the allowance.

The information provided to the Estimates Committee in response to questions about temporary accommodation allowance put forward by Mr Berry related to "Chief Executives and Executives". This was taken to be Chief Executives and Executives within the meaning of the Public Sector Management Act. In this context, I have been advised by Totalcare Industries that no Executive received temporary accommodation allowance in 1995/ 96 or in 1996/ 97. While ACTEW, having been corporatised on 1 July 1995, have no employees in this category.