DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

9 December 1997

Tuesday, 9 December 1997

MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

AUTHORITY TO BROADCAST PROCEEDINGS
Paper

MR SPEAKER: I present, for the information of members and pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, an authorisation to broadcast given to a number of television and radio networks in relation to proceedings of the Assembly for today, 9 December 1997, concerning the presentation of the report of the board of inquiry into contractual arrangements between ACTTAB and VITAB, and for Thursday, 11 December 1997, concerning the adjournment debate.

ACTTAB AND VITAB CONTRACTUAL ARRANGEMENTS - BOARD OF INQUIRY REPORT
Paper

MRS CARNELL (Chief Minister) (10.32): Mr Speaker, for the information of members and pursuant to section 14A of the Inquiries Act 1991, I present the Board of Inquiry Report into Matters Relating to Contractual Arrangements between ACTTAB and VITAB and Other Matters, prepared by Richard Burbidge, QC. The inquiry was established in response to the resolution of the Assembly of 26 June 1997. I move:

> That the Assembly takes note of the paper.

Mr Speaker, this report has finally revealed the true story behind what is the most serious financial and political scandal to occur in the ACT since self-government. It has identified fraud, deception, obfuscation, incompetence and maladministration flowing from an agreement that only three years ago was hailed as being "money for jam" by the then Labor Deputy Chief Minister, Wayne Berry. In light of the report I am presenting today, that business deal agreed to by Mr Berry stands discredited. The report raises serious questions about the lack of accountability that existed under the previous Government at the time that Mr Berry was Deputy Chief Minister. It reveals that just three days before the public announcement of the VITAB deal Mr Berry was warned by his counterpart in New South Wales to be wary of developments in offshore betting activities. The fact that Mr Berry ignored this and other warnings has cost the ACT at least $5m.

Before I turn to the findings of the inquiry and the action proposed to be taken by the Government, it is appropriate that I outline the circumstances that led to this report and, briefly, the background to the VITAB scandal. Members will recall that on 22 October 1993 VITAB signed a five-year contract with ACTTAB Ltd, a statutory authority which had been decorporatised by the then Labor Government in a move which it claimed would make the authority more accountable. This contract, the precise details of which were never released on the grounds of it being commercial-in-confidence, was approved by the then ACT Minister for Sport, Mr Wayne Berry, under the Betting (Totalizator Administration) Act.

The deal enabled VITAB, a Vanuatu-incorporated firm, to bet into the Victorian TAB's superpool via ACTTAB's link with that pool, in return for which ACTTAB would receive a commission based upon turnover. VITAB began operations in January 1994, but only a few days later the Victorian TAB gave ACTTAB notice that it intended to expel the agency from the superpool. Unable to establish a new link with another TAB pool or re-establish ties with Victoria while ever it was contractually attached to VITAB, ACTTAB was in desperate trouble. Faced with operating in an unlinked environment, losing punters and revenue, ACTTAB finally negotiated a $3.3m settlement payable to VITAB in mid-1994 that finally broke the contract. Many questions about the VITAB deal have remained unanswered since this time - until now.

Mr Speaker, on 18 July this year Mr Richard Burbidge, QC, was appointed as a board of inquiry following a resolution of the Legislative Assembly on 26 June 1997. That motion was, of course, moved by Mr Osborne. The original terms of reference were extended on 18 August, and as a consequence the time for the submission of the inquiry's report was extended until 30 November. At Mr Burbidge's request, a further extension was granted to enable the completion of his report. The final report, Mr Speaker, was submitted to me on Friday, 5 December, so it is appropriate that I table it in the Assembly at the first opportunity following its completion. Members will be aware of an earlier board of inquiry into the ACTTAB-VITAB contract which was conducted in mid-1994 by Professor Dennis Pearce. As Mr Burbidge has found, crucial evidence that was not available to Professor Pearce has now been uncovered and sheds extraordinary new light on this business arrangement.

By way of background, Mr Speaker, the report of this latest board of inquiry contains 144 pages and 96 pages of attachments. Evidence was heard from 22 witnesses, while 62 exhibits were entered as evidence and more than 10,000 pages of statements and other documents were considered by Mr Burbidge. The board held public hearings and sat for a total of 28 sitting days. The evidence obtained from these hearings resulted in 2,210 pages of transcript. It can be seen clearly that, within the time and resources available, the board of inquiry has performed a really mammoth task. Mr Burbidge is to be congratulated for his efforts, and the Government extends to him its gratitude for the thorough and comprehensive manner in which he performed his functions.

Mr Speaker, there are two key conclusions drawn in Mr Burbidge's report in response to the terms of reference. The first is that at least four of the promoters of VITAB Ltd were involved in fraudulent conduct both in the formulation of the contract with ACTTAB and in the receipt of the $3.3m compensation settlement that was eventually reached with

the company after ACTTAB was ejected from the Victorian TAB's superpool. Action to attempt recovery of the settlement is recommended by Mr Burbidge. The second key conclusion is that the arrangement reached by the ACT Racing Club to provide a financial incentive to two punters to utilise its betting facilities was not an illegal practice.

I turn to the detailed findings contained in the Burbidge report. Mr Speaker, I begin with the board of inquiry's findings about the operation and ownership of the company known as VITAB Ltd. Mr Burbidge has found that the principals of VITAB deliberately misrepresented the company's position. Indeed, far from being a vehicle for the channelling of Asian bets into the Australian TAB system, the report finds that VITAB was created to take advantage of the low tax regime in Vanuatu and thereby retain the bulk of the 15 per cent commission on betting turnover which in Australia is retained by TABs for government taxes and support of the local racing industry and to cover expenses.

Mr Burbidge also concluded that the great bulk of VITAB's betting turnover was, and was always intended to be, sourced from two bookmaking operations - the Numbawan Betting Shop in Port Vila, with its 2,000 Australian customers, and the so-called Zeljko-Walsh group. Mr Speaker, it should be pointed out that the Numbawan Betting Shop was run by Mr Alan Tripp, a Victorian man who relocated his illegal Australian gaming operations to Vanuatu in 1993. Mr Tripp was identified in the Costigan royal commission report as a prominent SP bookmaker. Indeed, virtually an entire chapter of that report was devoted to his activities. It was revealed by this board of inquiry that Mr Tripp has a long history of convictions for gaming offences in Victoria dating back to 1978.

Mr Speaker, Mr Burbidge makes it clear in his report that he has identified Mr Tripp as not only an active participant in the VITAB venture but also a substantial beneficiary from its operations. I quote from page 103 of the report:

> The representation by VITAB that its purpose was to attract Asian punters, and the concealment of the involvement of Alan Tripp and the Zeljko-Walsh group, was the fraud which resulted in ACTTAB entering the VITAB agreement.

Mr Speaker, the Burbidge inquiry also found that the true ownership of VITAB was concealed from ACTTAB through the execution of a shareholders agreement which was not disclosed. Under the agreement six parties were identified as the major beneficiaries, including Mr Peter Bartholomew with a 44 per cent shareholding. The inquiry reported that Mr Bartholomew had multiple convictions for gaming-related offences in Victoria dating back to 1982. He was also the brother-in-law of Mr Tripp and a close associate. A third principal of VITAB, Mr Con McMahon, was also found to have been convicted of a gaming offence in Victoria in 1988.

Together with a Mr Dan Kolomanski, these promoters of VITAB were described in the following terms by the board of inquiry:

> ... the deception as to the actual promoters in VITAB Limited was brought about by the belief that some of their number at least would not pass probity tests, and the whole arrangement might therefore be jeopardised. I find also that the purpose or purposes for which that arrangement [was] sought had nothing to do with tapping into some allegedly rich Asian betting market for the benefit of Australian coffers, and everything to do with taking advantage of the favorable tax arrangements in Vanuatu. Such an arrangement would never have been entered into by ACTTAB had it been disclosed, whether by reason of its illegality or simply as a matter of public policy. The deception continued through the period when the litigation was settled. Settlement would not have taken place had the deception been exposed. That deception continued until exposed by the present Inquiry. Both the contract and the settlement having been procured by fraud, the sum paid is recoverable from those participants guilty of that fraud, both jointly and severally.

Mr Speaker, on the basis of the evidence obtained by Mr Burbidge, the only conclusion one can draw is to say that ACTTAB, with Mr Berry's approval, entered into a business deal with a firm which was, to all intents and purposes, a front for a major SP bookmaking operation. Indeed, documents obtained by the Victorian police and cited by the board of inquiry show that two accounts for VITAB existed on the books of the Numbawan Betting Shop, which could well have been in existence in 1993 or 1994.

I turn now to some of the other key findings by Mr Burbidge about the conduct of a number of senior ACTTAB staff, the former ACTTAB board, and the previous administration generally. The inquiry finds that no probity checks were ever undertaken by ACTTAB prior to the signing of the VITAB agreement, nor was ACTTAB ever informed of the result of checks thought to have been or to be undertaken by the ACT Government. Such checking as had been done was, to quote the report, "incomplete, inadequate and unsatisfactory". On the basis of information presented to Mr Burbidge, he found that Messrs McMahon, Bartholomew and Tripp - three of the key players in the VITAB operation - would not have satisfied probity requirements had they been subjected to thorough character or police checks.

Mr Speaker, the roles played by Mr Philip Neck - the former chief executive officer of ACTTAB - and two other senior ACTTAB staff, as well as the actions of the former board, were all criticised by the board of inquiry. Among his findings were the following: Mr Neck overlooked the failure of Mr Kolomanski to provide necessary information, failed to undertake basic checks, concealed or glossed over matters unfavourable to the venture and provided Mr Kolomanski with information as to the ACT's and ACTTAB's position which ought properly to have been kept confidential. Mr Neck saw his task as protecting the agreement with VITAB at all costs. Either Mr Neck was so enthusiastic about the venture that he was prepared to disregard those steps which prudence demanded in developing the contract or he was astonishingly inept.

Mr Neck admitted in evidence that he had asked Mr Kolomanski about Mr Bartholomew's association with Mr Tripp, and his criminal record, and suggested that Mr Bartholomew be removed from VITAB and relinquish his directorship. *(Extension of time granted)* Mr Neck was party to the concealment of Mr McMahon's known gaming offence. He was aware of the reasons for the removal of Mr Charles Wright from VITAB and the apparent removal from VITAB of Mr Peter Bartholomew. In these respects, Mr Burbidge found that Mr Neck was a participant in the deception. ACTTAB was prepared to accept on numerous occasions assurances from VITAB without further investigation. VITAB repeatedly said that everything was in order, so ACTTAB accepted that it just must be so. The former board of ACTTAB was inept and the members' actions did not reflect much credit upon them. There was little sign that the board as a whole monitored that which Mr Neck was doing and apprised itself sufficiently to recognise the danger signals. This, of course, was the board that Mr Berry appointed.

An article in the *Sydney Morning Herald* on 21 February 1994 outlining the business relationship between Mr Bartholomew and a shareholder of VITAB, Mr Bob Hawke, prompted the Department of the Environment, Land and Planning to write to the chairman of the ACTTAB board and ask many questions. As Mr Burbidge said:

> Had these questions been answered directly and honestly, either then or later, I think it inevitable that investigation would have followed which would have exposed the parties actually involved and the true purpose of the venture.

Mr Speaker, these are extraordinary findings that should concern all members of this Assembly.

In relation to Mr Neck, Mr Burbidge found:

> ... it would be open to look to Mr Neck for damages for breach of his contract
> ... The action would not be easy, but nor is it an unrealistic option.

The board of inquiry also made a series of adverse findings in relation to the legal advice provided to the board of ACTTAB when it entered into the VITAB deal, and later when it dissolved its relationship with the Vanuatu-based company. Mr Burbidge stated that in his view Mr George Marques of Macphillamy Cummins and Gibson failed to observe the necessary degree of professional competence, in that he failed to advise ACTTAB of the need to identify precisely the beneficial shareholders of VITAB, failed to ensure that those persons had been cleared by probity checks and failed to include in the agreement a right of termination for ACTTAB if the Victorian TAB cancelled ACTTAB's link with the superpool during the currency of the VITAB agreement. Mr Burbidge further stated that in his view recovery of the settlement might be available from action against Macphillamy Cummins and Gibson, in the event that it could not be obtained from the VITAB promoters. On another matter, Mr Speaker, the board of inquiry was also critical of advice provided by a solicitor from Sly and Weigall in 1994 that was presented to the new ACTTAB board. However, it took the view that this had not caused any major disadvantage to ACTTAB.

It is also perhaps appropriate at this point to highlight several of the positive findings made by Mr Burbidge, in the interests of balance. In particular, he found that the actions of the new ACTTAB board, which was appointed in the wake of the Pearce inquiry, in attempting to reach a reasonable settlement with VITAB in mid-1994, were appropriate. Indeed, the report states:

> VITAB knew that ACTTAB was in dire financial trouble in consequence of its link to VITAB and had no qualms about using its superior bargaining position. ACTTAB had no choice but to settle at best ... In these circumstances Mr Glanville and his board acted with commendable dispatch ... There is no reason to suppose that any better result could have been obtained by the ACTTAB board on the facts known to them at the time.

Mr Burbidge found that the financial disaster which ACTTAB was facing at the end of July 1994 was averted and the agency's financial results had subsequently demonstrated a remarkable recovery, which he says is a tribute to the new board. I agree, but I would add that this Government's decision to take over the $3.3m debt which had been hung around ACTTAB's neck by the previous Government and to recorporatise ACTTAB also contributed to its improved performance.

Mr Speaker, the second issue examined by Mr Burbidge was the payment of incentives to punters by the ACT Racing Club to attract them to its racecourse and use its betting facilities. The board of inquiry found that the practice, while widespread around Australia, was not illegal. Members will recall that in February this year I wrote to the heads of the three racing codes in the ACT and requested that the funds paid to the racing clubs via ACTTAB's turnover should not be used for the payment of rebates to punters. The report finds that this practice by the ACT Racing Club ceased upon receipt of my letter.

I turn now to the actions proposed to be taken by the Government in response to Mr Burbidge's findings. Mr Speaker, it has clearly been a difficult task unravelling the secretive and complex story behind VITAB's relationship with ACTTAB. Mr Burbidge's report is a complex document and the future use of some of the evidence he gained may be restricted by section 19 of the Inquiries Act. It should be noted that section 19 renders inadmissible in civil and criminal proceedings against a person any statements, disclosures and documents made or produced by that person to the inquiry.

It is also relevant that the inquiry was not bound by the rules of evidence. The combination of these factors means that, despite Mr Burbidge's findings and conclusions about the behaviour of such persons as Messrs Kolomanski, McMahon, Bartholomew and Tripp, any legal action to recover ACTTAB's settlement payment to VITAB or to obtain damages will require further legal analysis and assessment of the prospects of possible litigation. Therefore, the board of ACTTAB, in cooperation with the Government, will seek to have the legal analysis undertaken and then decide whether it is feasible to commence legal action for damages or for misconduct against persons associated with VITAB, against legal advisers to ACTTAB or against any former staff of ACTTAB. *(Further extension of time granted)* I can give members an undertaking that I will advise them of the outcome of this assessment once it has been completed.

Against that background I do, however, want to signal the seriousness with which the Government views the board's findings and detail some of the specific steps that we will be taking immediately. Firstly, the finding that Mr Daniel Kolomanski, Mr Cornelius McMahon, Mr Peter Bartholomew and Mr Alan Tripp were knowingly involved in a fraud committed upon ACTTAB will be referred to the Australian Federal Police to consider whether a criminal investigation should now be undertaken.

Secondly, under the Inquiries Act the giving of false evidence to the inquiry is a serious offence for which a maximum penalty of $5,000 or imprisonment for five years may be imposed. The Government will therefore refer to the Director of Public Prosecutions Mr Burbidge's conclusions about the veracity of evidence given by Mr Daniel Kolomanski, to consider whether action should be commenced for the offence of giving false evidence.

Thirdly, I have asked the Commissioner for Public Administration to review the circumstances surrounding the employment of Mr Philip Neck, who left ACTTAB in 1994, and whether there is any scope for action to be taken either civilly or under the Public Sector Management Act. I have also asked the commissioner to consider whether disciplinary action can and should be taken against a former senior officer of ACTTAB who remains with the ACT Public Service and whose actions were criticised in the report by Mr Burbidge.

Mr Speaker, this inquiry has, to a large extent, vindicated the request by Mr Osborne that the contract between ACTTAB and VITAB be re-examined. It has also vindicated the decision by my colleagues and me when in opposition to carefully scrutinise the arrangements of VITAB and blow the whistle that ultimately led to the discovery of this scandal.

I urge all members to read this report carefully. It details how a group of businessmen, some with criminal convictions, used a former Prime Minister, a maze of corporate identities and an offshore tax haven to convince the ACT Government and its betting agency to sign a contract that has now cost Canberra taxpayers close to $5m. And it clearly establishes that, as the former Minister for Sport, Mr Berry must now accept primary responsibility for allowing the scandal to happen. As Minister, he gave the necessary approvals. As Minister, he was warned by the Opposition and the racing industry that this deal was suspicious and required far greater examination. As Minister, he was warned by the New South Wales Racing Minister to be wary of developments that were occurring in offshore betting activities. That was three days before Mr Berry announced the contract. As Minister, he ignored those warnings. He failed to act on evidence from the very outset that VITAB was not what it claimed to be. As Minister, he appointed a board to ACTTAB that was better known for its political affiliations than its expertise in racing and gambling technology. As Minister, he held the view that the VITAB deal was a good one for the ACT, that it was safe and that it was profitable, and Mr Berry was personally involved in checking it out. Those are statements from Mr Berry. Mr Speaker, the VITAB contract was a disaster. Let us hope that, aside from Mr Berry, the rest of us will never allow a mistake of this kind to happen again in Canberra.

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

AUTHORITY TO PHOTOGRAPH PROCEEDINGS

MR SPEAKER: Members may have seen a still photographer from News Ltd in the chamber. I have extended permission for photographs to be taken in accordance with the Legislative Assembly (Broadcasting of Proceedings) Act.

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

MR WOOD: Mr Speaker, I present Report No. 18 of 1997 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation and I ask for leave to make a brief statement on the report.

Leave granted.

MR WOOD: Report No. 18 of 1997 contains the committee's comments on 10 Bills, some coming up for debate in the Assembly this week. I commend the report to the Assembly.

SOCIAL POLICY - STANDING COMMITTEE
Report on Inquiry into Services for Children at Risk

MS TUCKER (11.03): I present Report No. 7 of the Standing Committee on Social Policy, entitled "Inquiry into Services for Children at Risk in the ACT", including additional comments, and together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

This has been a very important inquiry. There is a perception in many quarters that Canberra is a middle-class, well-educated city. That myth has been well and truly challenged by this report. The reality is that there is an underclass of disadvantaged families and youth in the ACT. There is also an increasing sense of alienation amongst young people. The committee's brief was broad, reflecting the complexity of the area. There are many different government agencies and community organisations providing services in the area, and the issues that impact on young people in the ACT, indeed everywhere, are many and varied.

This is an issue in which there is great interest in the community. The committee received 37 written submissions. Forty individuals or groups came to see the committee for public hearings, some more than once, and 10 for in-camera hearings. I would like to acknowledge particularly the Australian Education Union, which employed a consultant to carry out a survey of teachers, counsellors and welfare officers. Issues raised in submissions included the ACT's high youth unemployment, which is resulting in many young people feeling they are facing a bleak future. It is of grave concern that we have a significant group of young people who are experiencing mental illness and are becoming involved in the drug culture. As our report on mental health services found, there are few specialised mental health services for young people in the ACT.

It is also of grave concern that drug education is inconsistent in our community and schools and that we are losing too many of our young people to drug overdoses. Drug overdose, or drug use, is not just connected with mental illness in our society. It is part of experimentation often seen by some psychologists as normal behaviour. We cannot put our heads in the sand any longer and pretend that if we just say no to drugs our young people will therefore not use them and that if we say no strongly enough we will have solved the problem. We must address this issue as a community and we must acknowledge that harm minimisation is essential as an approach. Youth suicide is indicative of a crisis in our youth culture, and as a community we must take responsibility and work together to find ways to support our young people and help them find meaning and value in their lives. Most young people who are homeless or in substitute care have experienced abuse of some kind. We must not blame them for their distress. We must recognise that, in most instances, if antisocial behaviour is exhibited it is the result of abuse by close and trusted people and also, unfortunately, quite often abuse by the system which is supposed to support them.

We do not see well-coordinated, flexible and well-resourced services in place. We see gaps in the system, and too many young people fall through them. A lack of appropriate accommodation options for children at risk was highlighted by many submissions for children in care and out of care. I was interested to see in the recent publication on Housing Minister Stefaniak producing some more credible figures on the rate of homelessness in the ACT. I think it is of the utmost importance that we put a real effort into addressing this serious social problem. Shelter is a basic need, and without it people are extremely vulnerable.

While the ACT is praised for having high retention rates in our education system, according to the Australian Education Union submission, 4,000 students in the ACT education system are at risk - that is, they have behaviour and/or gaps in learning which seriously limit their chances of achievement and success at school and which also interfere with the education of other students. There are also 400 students who are seriously at risk. They are at risk of not finishing school, of being neglected or preyed upon, of being abused, of committing suicide or otherwise dying, of being permanently dependent on social security or of being incarcerated.

For effective early intervention and prevention, schools must be recognised as key agencies for identifying young people at risk. However, teachers are not social workers, and as support agencies are not adequately linked to schools this opportunity is often lost. Systems which ensure continuity of care and support are also not adequately in place,

and young people can all too easily disappear out of the system. Since the closure of the School Without Walls, I have been very concerned to see how little information the Minister has been able to provide to me about what has happened to some former SWOW students. SWOW was the last anchor in our community for some of those kids, and I am afraid the closure has created another crack to fall through.

There are also many issues impacting on families. Many families are experiencing increased stress due to the downsizing of the Australian and ACT public services and cuts to services in many areas. Canberra also has a high number of families who do not have extended families living nearby, reducing the support networks available to families experiencing stress.

There are recommendations in this report relating to housing, education, coordination of services, services for Aboriginal and Torres Strait Islander children, family support, sexual assault services, drug and alcohol rehabilitation, carers, refuges and substitute care arrangements, mental health services and the justice system. There are also recommendations specifically about Aboriginal and Torres Strait Islander children. I noted members' claims in the debate in this place last week on the placing of Aboriginal and Torres Strait Islander flags in the chamber. The statement was made that reconciliation was about services as much as, if not more than, it was about symbolic gestures. I look forward to seeing a positive response by all members here to the recommendations of this report.

No doubt concerns will be raised about the resource implications of some of these recommendations, but the fact is that if we do not invest in early intervention and preventive and supportive measures for these young people they are most likely in the long run to cost the community a lot more in economic and social terms. Most of the crime committed by young people in the ACT is drug related. It is very alarming when I hear the Minister for Police respond to this by suggesting stiffer sentencing. It is a frighteningly ignorant response, in my view. The facts are that if we take that path we will end up putting more and more of our young people in gaol, where the system will further add to their problems and to society's problems. When they are released back into society, it is hardly likely that they will be feeling good about themselves and looking forward to becoming contributing, positive members of our community.

Improving the juvenile justice system, of course, is very important; but this cannot be used as an excuse for allowing just a law and order response to this very important social issue. The committee did recommend the appointment of a specialised children's magistrate in the ACT. I quote from the foreword to Barbara Holborow's book *Those Cracks on my Face*:

> Some of the most passionate and emotional dramas are played out in Australia's Children's Courts - the engine room of our juvenile justice system, where the pain and trauma of childhood and early adulthood are not confined just to those who are young. At some stage, just about every social issue and conflict will be addressed in a Children's Court.

Yet the ACT is lacking a specialised magistrate to deal with these children's and youth issues. The committee also made two recommendations about the United Nations Convention on the Rights of the Child - that all ACT legislation and regulations be reviewed to ensure compliance with the United Nations Convention on the Rights of the Child and that all future legislation comply with this convention.

Due to the scope and complexity of issues facing children at risk, the committee could not go into great detail about a number of critical issues, including youth suicide, drug and alcohol addiction, juvenile justice and services for children with learning disabilities and children with specific disorders such as autism or attention deficit and hyperactivity disorder. We are asking that these issues be looked at in detail in the next Assembly. Once again, this committee has highlighted the importance of a preventive approach. The committee also believes that giving children at risk a more active role in the design of services could enhance the quality and effectiveness of the services as well as empowering young people.

I will briefly go through some of the recommendations that I believe are particularly important. A number of these recommendations have already come out of other reports of the Social Policy Committee. The report on violence in schools made strong recommendations about family support and counselling services. We are once again making recommendations on this issue. The report on the adequacy of services for people with mental illness also made a number of recommendations which are repeated in this report. We have stressed again the importance of family support and counselling. These are fundamental to a preventive and interventionist approach. In our report on mental health services we said that, as a matter of urgency, we should give greater attention to mental illness in young people and address drug education and facilities for rehabilitation of young people who have problems with drugs.

In the area of substitute care, issues of concern related to respite for carers, care for adolescents and support for young people leaving care. These are related to a number of the housing issues that we have been discussing. Young people do not necessarily have the living skills to be out on their own in the community. Giving them a bed-sit is not necessarily going to be all that they need, if they are lucky enough to get a bed-sit. A bed-sit and the way it is located obviously are often not appropriate. A bed-sit is very poor housing for this particular group of the community. They become more vulnerable than ever in bed-sit complexes because of the social mix there. The housing issue was addressed in quite a lot of detail because it is seen as a fundamental requirement. The committee was very concerned about that.

In education, we must recognise that schools are key agencies. We have made a number of recommendations which, if supported, will mean that the work of teachers is acknowledged and they will be adequately supported in their work. The need for coordination between services has come up over and over again. We hear from government that they are attempting to address this problem, but we still are not convinced that there is nearly enough communication between government agencies. That results in the gaps in services that mean many children are disappearing from our systems altogether, except that we do find them when they end up in gaol.

Mrs Littlewood made some additional comments which I will briefly address. Firstly, she asserted that because not all the facts are at hand our report should be seen only as a priority-setting document. The committee did state clearly that most of the report's recommendations relating to coordination of services and so on were made in response to crisis situations. Mrs Littlewood does not seem to understand that we cannot continue to put off the serious issues raised in this report. Her comment on the validity of the Australian Education Union's evidence is bizarre and insulting to the consultant employed to take on this work.

I would like to explain to members the quote that Mrs Littlewood finds so offensive. Talking about coordination of services, the consultant said:

> I -

that initial is used so as not to identify the person -

> is a 15-year-old male student whose case involves long-term intervention from Family Services and other sources such as social workers, counsellors, Department of Education, Housing and private and public help services over a number of years. Very little has been coordinated and most actions have been reactive, predicated almost entirely on I's behavioural disturbances at school, with first reports beginning at preschool.
>
> I and his mother are both angry and traumatised by the humiliation and stress, culminating with I being taken away from his mother and placed in foster care for a time.
>
> The family was referred to Richmond Fellowship, which took a coordinated approach. They listened to the mother and son, visited and talked with the school, followed through with a medical assessment of the boy, provided help to the mother, with counselling in the home and liaison with the school on a very regular basis with case meetings and phone calls if something untoward or unusual was happening.
>
> The results have been extremely effective. Although I is not fully stabilised he is manageable at home and at school and the Richmond Fellowship is providing genuine help and advocacy.

That quote simply shows the importance of case management and the fact that it had not occurred early in this particular young person's problems. *(Extension of time granted)* Mrs Littlewood objects because she says that it is not tested. It shows that Mrs Littlewood is ignorant of the need to guarantee the privacy of people who participate in such services. Otherwise, she is questioning the validity of the findings of the consultant who was employed to take on this work. If Mrs Littlewood wants to question the methodology or the integrity of the consultant, then I think that is a very serious affair.

In Mrs Littlewood's comments on housing, she states that young people may not require long-term rental accommodation, that the ACT provides long-term rental accommodation and that other options need to be looked at. I do not see how that is even an additional comment. That is why the committee made several recommendations regarding development of alternative housing. Mrs Littlewood said that the ACT Government is not aware that 20 young people shared a bed-sit at one point. Mrs Littlewood, that is why we have Assembly committee inquiries - to give the community, in this case a service provider, the opportunity to tell government and members - - -

Mrs Littlewood: But you did not prove it, Kerrie. You took hearsay evidence.

MS TUCKER: I hear Mrs Littlewood saying, "Prove it". I think Mrs Littlewood wants to turn our Assembly committee system into a court of law. Most people understand that the idea behind our Assembly committee system is to give the community an opportunity to tell government and members what is happening on the ground.

The background paper released this week, "Key Trends and Issues for Housing", shows that more than 30 per cent of the homeless were young people between the ages of 15 and 19. This background paper also shows that, contrary to the comments of the Minister for Housing during the Estimates Committee hearings, there are in fact not seven homeless people in the ACT. According to the supported accommodation assistance program data, at least 1,000 people accessed services for the homeless during the last six months of 1996. This demonstrates, I believe, the urgent need for action from government.

In conclusion, I would like to thank everyone who gave their time and energy to be part of this inquiry, particularly those who went to the trouble of writing submissions and visiting the committee. I would like to extend a very special thankyou to the committee's secretary, Judith Henderson, and to Fiona Clapin, the research officer, who both worked tirelessly to assist the committee in its production of this comprehensive report. Also, of course, I would like to thank Marion Reilly for her enthusiastic commitment to this work, and Mrs Littlewood.

MS REILLY (11.21): This report, as Ms Tucker has just said, is comprehensive. It has been introduced into the Assembly in the closing stages of the Third Assembly - something that we knew about when we started the inquiry and something that Assembly members were fully aware of when they agreed to the reference being given to the Social Policy Committee. This report highlights a number of issues in relation to children and young people in the ACT community. One of the underlying themes that came through in discussions and submissions is the role of children and young people in our community. This issue has come up in a number of inquiries this committee has undertaken. It was an issue in our inquiries into violence in schools, skateboards and their use, disability services and mental health services, and the School Without Walls. All related to children and young people in the ACT.

One of the quite frightening parts about the whole thing was the sort of Victorian attitude that came through at times that young people and children should be seen but they should not be heard; that in public places they should not be seen and they should not be heard. I think this makes it extremely difficult and contributes to the alienation that a number of

young people feel in our community. It comes through in some of the responses by government and it comes through in the negative publicity that is generated through our media when a young person does something wrong. The huge number of young people contributing to our community receive very little publicity. At the same time the Government has been making utterances about how important young people and children are to our community. Yet there is a very maudlin response to the role of children and young people, and no action is taken to ensure that their lives can be fulfilling and that they have opportunities to develop to their full potential.

A large number of submissions from numerous organisations, individuals and government agencies said that services for young people in the ACT are fragmented. The total lack of coordination of services leads to confusion and misunderstanding and a lack of information about what is required and what is available. This lack of information was shown in a whole range of ways. There was a lack of understanding of the role of the Family Services Branch and a failure to understand that their major role is in child protection.

There is a whole range of other services. Numerous organisations play a very important role in delivering services to children and young people in the ACT. By offering a variety of service types, they increase the opportunity for more flexible approaches. But, without proper management to ensure that there is no duplication and to ensure that people know what services are available, there cannot be good service delivery. Children's services and youth services have run into the same problems as other community services within the ACT. They are caught up in the competition for grant dollars. This has had a major effect on the coordination of services, the availability of services and the development of innovative services within the ACT.

Everybody is so busy worrying about whether their grants will continue beyond the 12 months that the need to do important evaluation work internally and externally is lost. The way in which funding is managed has not assisted to improve services for young people and children. Organisations are working in the dark. What came through time and time again and forms part of a number of recommendations of this report is the lack of data and information on the services that are available, the demand for services, the turn-away rates and the framework for the delivery of community services as a whole, particularly services for children and young people.

The failure by this Government to have any sort of social plan is appalling. It creates a number of problems, not only in this area but across a whole range of areas, in getting strong, good community services which this community deserves. How can we work towards having a full and active community if they are not getting the assistance they should be getting from the Government in the form of information and leadership on the delivery of services?

There have been various attempts to get some sort of social plan going. There was a consultant running around early last year, having various meetings. We have never heard the results of those meetings. A social plan was discussed and commenced, but it does not seem to have gone anywhere. It seems to have disappeared without a trace. I am sure that quite a number of the organisations are extremely disappointed with that result. Some regional planning and data collection exercises were started in 1995.

Numerous meetings were held and some newsletters were put out, but nothing has happened. Two years after it started, they relaunched it last week. We are still working in the dark. Because of a lack of data collection we are unable to understand the full extent of the issues in this area. This causes a lot of problems for the organisations, many of which are committed to ensuring the best possible services.

The inquiry revealed that many people within the ACT, whether they are working in the community services area or not, are concerned and are committed to ensuring that we have good, strong community services that react to the needs of young people and children, but the Government has failed to respond to these concerns. Instead, they have generally cut the money available to these services. They have failed to provide leadership and information to assist the development of services. They have failed Family Services staff in a whole range of ways. They have failed to provide sufficient support for them to allow them to do their job well. They have failed to provide sufficient resources to them so that they can do their job well.

In February I raised this matter with Mr Stefaniak. The CPSU wrote to him about the failure to provide basic administrative assistance to people in Family Services, even things such as pens and pencils, so that they can do their job well. We do not need to go into the other issues of assistance to families, such as respite in child care and access to child-care services and family holiday programs. I think it is unfortunate that these staff, who are committed to their jobs, have so much trouble in working well because the Government does not consider that they are important and does not provide sufficient resources to assist them.

One of the concerns that came up throughout the whole of the proceedings and in submissions from a number of people was about the turnover of staff in this area. It is understandable that staff find this job extremely difficult when they are not supported in ways that assist them to do their job well. Career structure and training in the community sector have not been addressed in any meaningful way. The Government was very reluctant to become involved in the development of an award in this area and had to be dragged kicking and screaming to the Industrial Relations Commission.

If we believe that young people and children are an important part of our community and if we see them as part of working towards the future, then we must ensure that the people who are working with them and assisting them when things go wrong have the necessary skills and expertise and that they are recognised through various means, particularly salary and sufficient resources to do their jobs well. The reluctance to recognise them through awards and the reluctance to ensure that there is sufficient training and support are a damning indictment of this Government. We need to support these people, whether they work in government agencies or non-government agencies, and show leadership through that support.

Another element that ran through this inquiry and has run through a number of the other inquiries is the importance of early intervention and preventive measures in dealing with young people and children. Government policy is characterised by reactive policies. There is quite a lot of concern about what happens in Quamby and what services are available in Quamby, but Quamby is the end point. If the children are in Quamby, it shows failure along the way.

The Education Union and the children at risk unit at the hospital both raised considerable concerns about services for young people or children. They suggested that in some cases intervention may be necessary when a child is as young as one or that a child may need assistance, programs and therapy from the time they start school at four or five years of age. If we fail to recognise the problems and behaviours that begin to manifest themselves at that time and to resolve them, as the Education Union submission said, the problems do not go away; they merely get bigger.

This seems to be part of the attitude that you wait until some disaster or crisis hits before you take any action. A number of recommendations in our report on violence in schools emphasised the importance of early intervention. Most of those recommendations have been ignored. No consideration is given to the needs of young children starting school and in the early years of schooling, to ensure that issues that may arise from family problems are corrected and addressed at that time. It is foolish to sit and wait until they come under the umbrella of juvenile justice before we start to look at resolving them.

A section of the report is devoted to services for the Aboriginal and Torres Strait Islander community. I recommend that all members read it and consider the issues raised. In the time I have been in the Assembly, we have had a number of discussions about reconciliation and other issues in relation to the Aboriginal and Torres Strait Islander community. But a lot of it is talk. The report on deaths in custody was a lot of words, but it is not leading to any action to change the way we deal with that community and the way we negotiate with that community to get the best services that are responsive to their cultural needs.

There has been discussion in the government service about Aboriginal identified positions in Family Services. My understanding is that they have still not been filled. They have been talked about for months and months, but there does not seem to be any will or commitment to fill them. As I have mentioned before, we have failed to recognise Aboriginal child placement principles in dealing with the fostering and adoption of Aboriginal children at risk. There are a considerable number of these children in the system at any time. I am surprised that this still has not been addressed. I realise that it will be addressed under the children's services review that is currently going on, but this is surely something that should have been given a much higher priority. It is very disappointing that we talk about reconciliation but take little action to ensure that it happens in a meaningful way.

Earlier I made some comments about the timing of this review, but it was important to have an overall review of children and young people's services in the ACT. It pulled together the various strands that have come through in the other inquiries the Social Policy Committee has undertaken. The recommendations about a lack of data need to be addressed by the next Assembly and the next government.

Mrs Littlewood, in her additional comments, suggested a review in relation to illicit drugs. For a number of young people in the ACT, illicit drugs are the least of their problems. I think other issues should be looked at well before that issue. One in particular that features strongly in the additional comments is housing. Although housing was only a small part of one of the areas we looked at, 1½ pages are devoted to it in

Mrs Littlewood's additional comments. An indication of where ACT Housing is coming from appears in the first paragraph on housing in which Mrs Littlewood suggests that the objective of public housing is to provide long-term rental accommodation, which is contrary to what the Minister published in the paper recently. *(Extension of time granted)* Mrs Littlewood went on to say:

> ... and therefore may not always be the most suitable form of housing for younger people aged 15 to 24.

What evidence do we have that long-term accommodation is not the goal of younger people? We received no evidence in relation to that. I am curious to know where Mrs Littlewood got that statement from. There was no evidence about younger people not wanting housing. In fact, some evidence put forward by various people was to the contrary.

It appears that ACT Housing is not doing any investigations or reviews in relation to housing for younger people, even though they have a long waiting list of these people. They do not appear to have given them any attention, even though these people contribute to the revenue of the ACT through the payment of rent on ACT Housing properties. Mrs Littlewood's additional comments further state:

> ... public housing is not always appropriate for meeting the immediate housing needs and mobility requirements of many young people.

There is no evidence for this statement. This is a let-off for the Government not taking responsibility for housing younger people. The Government is abrogating its responsibility to provide housing for younger people.

We received evidence about the suitability of refuge-style accommodation. We need to look at the fact that for people trying to leave refuges there are no exit points. The waiting list for one-bedroom flats in some areas is five years or more. Where do these young people go? Many of them have problems with income support which will be exacerbated with the introduction of the common youth allowance by the Federal Liberal Government. These young people continue to need support, but there is no accommodation for them where they can live in security and safety. As a representative of the Lowana young women's refuge said, if a young child had a car accident and needed hospital treatment, that treatment would be immediately available, but if a young person has problems of abuse or failure at school they are just ignored. No money is allocated to support services for these vulnerable and damaged young people and no thought is given to long-term outcomes for these people so that they have the opportunity to continue to develop in our society.

There is a lack of services all round for adolescents in the ACT. High schools are squeezed for funding and the Government has failed to provide alternative education systems in the ACT. In the mental health report we highlighted the lack of mental health services for young people. It was announced that Mrs Carnell was seeking Federal funding for residential rehabilitation for young people affected by drugs. There is no service like that in the ACT where young people under the age of 18 can go to get assistance with problems of drug abuse. I think that is extremely sad for this community.

We need to address that as soon as possible, as a matter of urgency, whether Mr Howard comes forward with the money or not. We cannot leave young people who wish to change their lifestyle alone without support. We cannot leave young people who need support for other forms of abuse alone without support services. That is what we are doing now. We throw up our hands in horror and talk about supposed crime waves, but we do not give young people the opportunity to address their problems.

This report is comprehensive. It has 39 recommendations. We need to address these, because we cannot leave our young people and children without assistance. We should not dismiss this report as other reports have been dismissed. We cannot continue to alienate young people in our community. If we do not act, these problems will grow and be with us for years to come. This Assembly would be abrogating its responsibilities if it did not address them now.

In conclusion, I would like to thank Kerrie Tucker for her excellent chairing and leading of this committee in the time that I have been on it. I thank Louise Littlewood and, before her, Harold Hird for their contribution and the experience that they have brought to the committee. I particularly thank Judith Henderson - the secretary of the committee - and Fiona Clapin for their excellent work. They had to work many long hours to finalise the report and they should be commended for turning out reports in the way they do. It is important that this report be acted upon; that we do not ignore the evidence that came before the committee in relation to services for young people and children. We must address the issues and work towards a better future.

MRS LITTLEWOOD (11.43): The Social Policy Committee has really been an experience. Mr Speaker, this is a terribly important report and the matters raised are of great note. My colleagues do not seem to accept where I was coming from. I believe that, when you are making recommendations following an inquiry which is as important as this and has such an impact on society as this, you really must have the facts. We have a number of facts and figures but we are still lacking many. Ms Reilly mentioned the lack of data and the lack of facts and figures. I fail to see how you can come up with solutions to problems if you do not have all the facts, if you just make assumptions which could be incorrect. It is not a matter of what may be; we need to know why things occur.

We need to know the root causes of some of the problems. Until we are able to identify the causes and address them, whatever else is done will basically be just a bandaid. The issue and its impact on not only those young people affected but society as a whole are somewhat underrated. We need the facts so that we can put in place the proper models that are required. That is really where I am coming from. I feel that we need to have the facts and figures. That is why I have recommended that the next Assembly look at the impact of illicit drugs. It was quite evident during the inquiry that this was a very large component of some of the problems that we saw. It impacted on criminal areas, mental health and general behavioural problems. It is a large area we need to look at fairly quickly.

Ms Tucker said that I was having a go at the unions. No, I was not having a go at the unions, I am afraid. I was having a go at the committee. I do not care what one says with regard to the evidence, but I think the committee leaves itself wide open unless it can prove what it says. In a number of cases we have not done that. That is where I am

coming from. I am saying that we need to be credible. With issues such as this which are so important, if there is any loophole at all that someone can criticise, then we are not doing our job. I believe that we have left some loopholes.

I am not asserting that people have not told us the facts as they see them, but we need to prove the facts. If someone says there is a problem, we need to know how many people it impacts on and how often it occurs, not just some vague comments on what has happened. We need to know the facts. I have found in this committee that it has been very hard to get them to come to grips with pulling in the facts. I know that Kerrie Tucker is the self-appointed high priestess of social injustice, but that is okay. I know that she feels very passionately about these issues.

This is a terribly important issue. It is a little sad that the Government will not be able to respond in time. I just hope that my colleagues have not used this report in a political way but, in fact, have done it for proper motives and not just to have a kick at the Government, which I suspect; but anyway I must not say that. Mr Speaker, that really is all that I wish to cover in the area.

I would like to thank Judith Henderson for her time and her efforts. I know that she has put in many hours doing this report. I also thank Fiona Clapin. They have done a great job and I appreciate what they have done. But I do stress that not just in this committee but in other committees we really do need to have the facts and the figures, not just run down a street without knowing exactly where we are going and where we are going to end up.

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

HEALTH PROFESSIONS BOARDS (PROCEDURES) (AMENDMENT) BILL 1997

[COGNATE BILLS:

HEALTH PROFESSIONS BOARDS (ELECTIONS) (AMENDMENT) BILL 1997
DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION (AMENDMENT) BILL 1997]

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

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 Health Professions Boards (Elections) (Amendment) Bill 1997 and the Dental Technicians and Dental Prosthetists Registration (Amendment) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 1 they may also address their remarks to orders of the day Nos 2 and 3.

MS REILLY (11.48): Labor is not opposing these Bills. They are simple administrative changes to ensure that the boards can work more effectively through certain additions to their operations. One of the amendments relates to the removal of the age discrimination. I think that is very important. It fits in with the removal of that sort of discrimination that has happened in a broad range of areas in the ACT administration over a number of years. I think it is important that we recognise the contribution that can be made by professionals after many years of experience in the area. It is important that we are recognising this and changing that part of the legislation, because we would be rather silly to continue to have age discrimination in this day and age. I think one of the positive responses at times has been the fact that we do now recognise that people contribute to the community for many years.

The other part of the legislation looks at the payment for members who are involved in inquiries. This is not for the normal business but for additional business that is required by the various boards at different times when dealing with complaints against members of the profession. This will also recognise more closely the work that is done at times by boards when issues are complex and need considerable time. It also recognises that the additional time may mean that a loss of income is experienced by some board members at that time. This is also supported.

Mrs Carnell: This now relates to orders of the day Nos 4, 5 and 6; not 1, 2 and 3.

MS REILLY: Have I got the wrong Bills?

Mrs Carnell: No; there are actually six Bills, rather than three. It is all right; it just means we will not have to debate them later. We can deal with six Bills cognately.

MS REILLY: It could be a new experience for the Assembly to do six Bills.

Mr Moore: We did four last week; we could take it up to six.

MS REILLY: If I have wandered into another area, I will stop at this time. Obviously, Labor has no objection to this Bill.

MR MOORE (11.50): Mr Speaker, these are quite sensible pieces of legislation which I am happy to support. I will make the comment, though, that there are two main issues associated with these Bills. The first one is about age, and that is in the Bills we are dealing with at the moment. They just bring this more into line with what happens in other legislation. I will get onto the other matters when we debate the other Bills. I am happy to support these.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (11.51), in reply: I thank members for their support for this Bill. I think we would all agree that just because people reach the age of 65 it does not in any way limit their capacity to input into the community or into health professions boards. I am very pleased that this legislation will go forward.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

HEALTH PROFESSIONS BOARDS (ELECTIONS) (AMENDMENT) BILL 1997

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION (AMENDMENT) BILL 1997

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

MEDICAL PRACTITIONERS (AMENDMENT) BILL 1997

[COGNATE BILLS:

HEALTH PROFESSIONS BOARDS (PROCEDURES)
(AMENDMENT) BILL (NO. 2) 1997
DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION
(AMENDMENT) BILL (NO. 2) 1997]

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

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 Health Professions Boards (Procedures) (Amendment) Bill (No. 2) 1997 and the Dental Technicians and Dental Prosthetists Registration (Amendment) Bill (No. 2) 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 4 they may also address their remarks to orders of the day Nos 5 and 6.

MS REILLY (11.53): Previously I made some remarks about payments; but, I suppose, the biggest issue in relation to the Medical Practitioners (Amendment) Bill is the number of medical practitioners to be elected and the addition of an elected legal practitioner and a community representative to the board. Obviously, this change was necessary because, previously, members of the boards had to be registered under the relevant boards so that they could be members of the board. This failed to give a breadth of expertise to the boards at times. There may have been difficulties in getting legal advice from within the government system, and the Government may be one of the parties against which a complaint is made.

The addition of a legal practitioner and a community representative will add considerable expertise to the Medical Board. I think at times this will ensure that the medical practitioners can take a much broader view of issues than only a medical response to a matter. I think the medical profession should be commended for its interest in extending its board in this way, to ensure that they can get a much broader range of experience in their deliberations. I think it is important that the medical practitioners are so willing to do this. Labor is not objecting to the amendments that are before us. I am sure we will all support them.

MR MOORE (11.55): Mr Speaker, I will be supporting the legislation, but I must say that I have some doubts when I look at these pieces of legislation. I think the most significant doubt that I would like to draw attention to is that it really identifies for us that it is time we got an appropriate review mechanism right across the whole range of health issues. When I had a briefing on this matter - and I thank the Chief Minister for making members of her bureaucracy available to brief us - it became clear to me that there was some urgency about this legislation because of matters that are likely to come before the boards in the next little while. It seems to me, however, that what we should do is review the whole way these boards operate and get a single board that reviews such matters, rather than have a series of boards in the way these ones are set up.

Because there is an urgency about it, I am comfortable about supporting the Bill as put by Mrs Carnell. On the other hand, I must say that I think it is untimely to support the amendments to be put by Ms Tucker. I will not be supporting them at this stage. I think it is appropriate for us to consider this full range of issues as to exactly who should be on such boards, rather than adding a series of options of people along the lines that Ms Tucker is suggesting.

There is the exception where the Government is likely to move a legal representative onto the board to ensure that the sorts of processes that are followed will not be easily able to be challenged in the courts. Secondly, natural justice should apply in the way that it does there. I do not disagree with the sentiment that Ms Tucker has put. It is really just a question of timing. I think the sentiment of ensuring that such boards do make sure that consumers are affected is appropriate, but I would also want to make sure that people who understand health as a broad issue would also be represented on the board, rather than those who see health as just the absence of sickness. In my mind, there is still a series of issues that are not resolved by the amendments to be put by Ms Tucker. I shall be voting against them at this time.

MS TUCKER (11.58): The Greens will be supporting these pieces of legislation. We also had a briefing from the Government, which we appreciated, and can see the reasons why a legal representative is being included on the health professions registration boards. The Government is also adding a community representative to the Medical Board, although we note that the legislation did not specify that the person will have to be a community health representative. I am moving the amendment to add a health consumer representative as well because I believe it is high time we acknowledged that the broader perspective on health is necessary on these boards and, particularly, to have a health consumer perspective. I understand Mr Moore's position on that, although I am a bit surprised by it.

For many years, consumers were excluded from decision-making at all levels of health care. Consumers do not have a say in relation to resource allocation and overall health priority setting on the ACT Health and Community Care Board; nor do consumers have formal input into priority setting for the health services in their own communities. The ACT Greens want to ensure that consumers have well-informed decision-making powers in all parts of the health system. We hear rhetoric now about placing health consumers in a central position in the health care system but not so many concrete measures to achieve it. One very important piece of legislation which, hopefully, will tilt the balance back in favour of health consumers will be debated later this week.

I believe we also have to get health consumers onto the medical boards. The Medical Board has a number of roles - registration, discipline and setting of standards. According to the briefing we had, the board hopes to become more involved in the setting of standards for the medical profession in the ACT, and that is why I think it is really important that there is a health consumer perspective in this process. Anyone - and that is probably just about all of us - knows that health services are too often focused on the convenience of the health practitioners and not the people receiving the service. I hope the amendments I will be moving will be supported, because I think they will improve this process.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (12.00), in reply: I thank all members for their support, at least in principle, for this legislation. This legislation puts two new people on the Medical Board and on other boards as well. We already know why the legal practitioner is essential - to allow the number of cases that are currently before the Medical Board to go ahead appropriately.

I really wish that Ms Tucker had brought these amendments to us earlier, because, I have to say, we probably could have got to a stage of agreement on the words. It is our intention, as a result of this legislation, to put a community representative on the boards. In fact, most of the boards have had a community representative on them for a quite long time. I remember when - I would have to say, many years ago now - I was on the Pharmacy Board and we actually brought Jan Graham onto the board in an ex-officio capacity. The legislation had not been changed to allow that. We found her presence extraordinarily useful. She filled that position, finally, after much time, when the legislation was changed. I assume it has been changed.

My disagreement on the words is based on my experience that a consumer does not necessarily have to be a representative of a consumer association or whatever. A consumer can be one of all sorts of people; it can be somebody who has actually used the system personally a lot or somebody who is a carer of somebody who has used the system a lot. I do not think we are disagreeing - I am sure Mr Moore agrees - about having consumers on health boards. There is no doubt at all about that, but it is just the way we do it. I can guarantee that a community representative will be brought onto the Medical Board as a result of this, but I think there is actually a problem with putting three new people onto the board, rather than two, because you actually even up the numbers. You can actually end up with a tied vote on the board, if there is a vote, particularly when it comes to disciplinary procedures and so on.

I think it is something that we really should look at in the new Assembly. I guarantee that a community representative will go onto the board - there is no doubt about that - but let us look at how we do put these boards together; what the people on them really look like; and whether they are really doing the job they are there for. Remember that the job that our Medical Board and associated boards are doing is quite simple. The reason that the members of the health professions registration boards are there is to protect the community. They are not there to protect the professions; they are there to make sure that the community is properly serviced by health professionals generally. That really does rely heavily on the sorts of people that are on these boards. I will not be supporting Ms Tucker's amendments today. Again, I make the point that our amendment to the Medical Board legislation was to put a community representative on it. Let us, in the new Assembly, look at the whole make-up of the boards.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MS TUCKER (12.04): I seek leave to move together the amendments circulated in my name.

Leave granted.

MS TUCKER: I move:

Page 3, line 3, clause 4, paragraph (a), omit "5", substitute "6".

Page 3, line 6, clause 4, paragraph (b), proposed new subsection 8(2), omit "2", substitute "3".

Page 3, line 11, clause 4, paragraph (b), proposed new subsection 8(2A), omit the subsection, substitute the following subsection:

"(2A) Of the 3 members referred to in subsection (2) -

(a) 1 shall be a legal practitioner; and

(b) 1 shall be a person who has experience in dealing with issues affecting consumers of health services.".

Amendments negatived.

Bill, as a whole, agreed to.

Bill agreed to.

HEALTH PROFESSIONS BOARDS (PROCEDURES) (AMENDMENT) BILL (NO. 2) 1997

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION (AMENDMENT) BILL (NO. 2) 1997

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 1997

[COGNATE BILLS:

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (CONSEQUENTIAL PROVISIONS) BILL 1997
WILLS (AMENDMENT) BILL 1997]

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

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Births, Deaths and Marriages Registration (Consequential Provisions) Bill 1997 and the Wills (Amendment) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 7 they may also address their remarks to orders of the day Nos 8 and 9.

MR WOOD (12.06): I shall do that, Mr Speaker, though my comments will be brief. The Opposition will be supporting these Bills. The principal impact of the Bills is to put into place an agreement between States and Territories for uniform laws about recording births, marriages and deaths. I think this is an important principle. We see it here, as we see it in a large number of other Bills coming to the Assembly, because of the very mobile nature of the Australian population. Indeed, the ACT population is probably more mobile than that of most parts of Australia.

One measure will be of benefit to all of us. Certainly, I could have used it on a recent occasion. That is the ability to obtain documents from interstate through the local registry, rather than to have to front up to where the documents are actually held. A welcome modernisation of limitations on providing a surname for children, which provides for greater flexibility, is also an important aspect of these Bills; as also is the ability for a little more flexibility and some restrictions about changing a name.

One feature of the Bill, of course, is that it provides a recognition where there has been sexual or gender reassignment. A person who has undergone such surgery can have their original birth certificate noted, and subsequent records obtained on the basis of that certificate will show only the new sexual assignment. That is not likely to be a much-used provision, but I know that in some circles it would be welcome. The Opposition supports this Bill.

MR MOORE (12.08): I rise to support these pieces of legislation. I think Mr Wood adequately described what the legislation does, as did the Minister in his introductory speech. I note that Mr Humphries's amendment takes into account a comment from the Scrutiny of Bills Committee for a technical change which just clarifies an issue. I think that is acceptable to me.

MR HUMPHRIES (Attorney-General) (12.09), in reply: I want to thank members for their support for the Bill. I note that this is one of those pieces of legislation which have come forward on the basis of interstate agreement. This reflects a view that there should be reform of the structure of births, deaths and marriages registration around Australia and that, therefore, there need to be some informative provisions. I note that, under the next Bill which we have to deal with - without anticipating debate - such agreements in future would have to be coordinated before being entered into by ACT governments, in most circumstances at least, so as to provide for consensus on the floor of the Assembly before legislation of this kind was agreed to. However, I see that the agreement reached some years ago, I think by the previous Government, to effect these changes has been carried through by the Assembly. I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR OSBORNE (12.11): Mr Speaker, I intend to attempt to amend this Bill to remove altogether the section which says that the birth register may be changed on application from a person who has undergone a sex-change operation. I do not think I will get a lot of support for this or be correctly interpreted in here or, if anyone is interested, in the media. I certainly expect that the transgender group lobbying the Government and the Opposition will attempt to paint me as an unfeeling barbarian. So be it. But, Mr Speaker, I will attempt to make myself plain. I have no great problem with people who seek a sex-change operation because they may feel that nature has betrayed them. I am not without understanding and believe this must make life for these people extremely difficult. However, I do not believe we should be in the business of altering public records, which we know without doubt to be true, motivated simply by a sense of misplaced sentimentality. Let there be no mistake, Mr Speaker; what we are talking about here is the falsification of government records because the record does not suit a certain group in the community.

Mr Speaker, what we are doing goes beyond that, because these records are to be falsified, with the assistance of government. I ask: What other records should we alter in an effort to appease a particular pressure group? I do not doubt that there are people within the community who would like their birth certificates changed, for some other reasons. Some people worry a great deal about getting old. Some people lie about their age. If it makes them feel better, I have no personal problem with them doing that. But I would draw the line at altering the record of their birth, simply to satisfy their desire to be considered young.

What about people who suffer a particularly unhappy marriage that ends in divorce? I know some people who wish there was no record of that particular part of their life and wish they did not have to relive the agony of dredging up a decree absolute in order to get remarried. For these people, it would be a great act of kindness to remove altogether any record of the marriage once that marriage was terminated by the Family Court. But should we do this, Mr Speaker? I say no. Notwithstanding the difficulties some people face with official records, we should not change the records simply because they would prefer that such a record did not exist.

Official records of birth are there for a purpose. One of the things a record of birth is used for is to establish without doubt the identity of a person. An important part of that identity is their sex. Why is sex important? Establishing the sex of a person is important when that person seeks to get married. I do not think it is unreasonable when a man gets married that he have some certainty as to the sex at birth of his intended wife, particularly if the man is interested in having a family. Under this law, a birth certificate could be procured as evidence that his wife was born a woman, when, in fact, that is simply not true. People may argue that people who love each other would be honest with each other, or even that the sex at birth of a person should not matter if both people are in love. I submit that this issue may make a difference to some people and that it is something someone intending to get married has an absolute right to know. I do not particularly expect to get much support for this amendment. However, I do feel that I certainly need to move it. I move:

> Page 11, line 14, **PART IV - CHANGE OF SEX**, omit the Part.

MR MOORE (12.15): Mr Speaker, when I came in here I spoke to Ms Tucker and said that I had seen Mr Osborne's amendment and that I would be reluctant to support it. However, Mr Osborne has put a good argument; and I will be very interested, in due time, to hear the response from the Minister. The argument that has been put by Mr Osborne that carries significant weight with me is the notion that we would effectively be part of falsifying a record. I have no problem with changing the record and ensuring that that record then carries through. Now that Mr Osborne has raised the issue, it is a matter the Minister must answer. I shall be listening to hear how the Minister responds. I had not picked that up on my first reading of the legislation and was inclined to support this legislation. I hope there is a sensible answer to the issues that Mr Osborne has raised. If there is not, then clearly I would have to support his position. I will be listening very carefully to what the Minister has to say on this particular part of the Bill.

MS TUCKER (12.17): I had thought that was an issue, but I thought it must have been decided - because of the difficulties that people who have changed sex experience when they are actually presenting a birth certificate which would appear to be inconsistent with who they are; it is a real logistical problem for them, say, in getting a passport or whatever - that we were going to make an exception at this point. I also thought, "Sex is a biological factor which, obviously, is not quite as clear as some of us might have thought". What is the sexuality of a person? Is it something that is clearly defined by appearance or is it sometimes not totally clear? From my work in child care and hospitals, the sex of a child physically, even at birth, is not always totally clear. Maybe it is not totally clear, especially in terms of the sexual identity. Obviously, this is an area that is open to debate, and has been. My understanding was that that, therefore, made this appropriate. In fact, it is not falsifying a record; it is correcting a record. But I will listen to the arguments as well.

MR HUMPHRIES (Attorney-General) (12.18), in reply: Mr Speaker, some issues have been raised here. I have only just seen Mr Osborne's amendment and have only just heard the arguments he has put for accepting it. I certainly would like to discuss this issue further with my department staff and perhaps invite members to discuss the issue with them as well. In light of that, I move:

> That the debate be adjourned and the resumption of the debate be made an order of the day for a later hour this day.

Question resolved in the affirmative.

ACTTAB AND VITAB CONTRACTUAL ARRANGEMENTS - BOARD OF INQUIRY REPORT
Motion

MR HUMPHRIES (Attorney-General) (12.20): Mr Speaker, I ask for leave to move a motion authorising the publication of the Board of Inquiry Report into Matters Relating to Contractual Arrangements Between ACTTAB and VITAB and Other Matters, prepared by Richard Burbidge, QC, presented earlier this day by the Chief Minister.

Leave granted.

MR HUMPHRIES: I thank members. I move:

> That the Assembly authorises the publication of the Board of Inquiry Report into matters relating to contractual arrangements between ACTTAB and VITAB and other matters prepared by Richard Burbidge, QC.

Question resolved in the affirmative.

Sitting suspended from 12.20 to 2.30 pm

QUESTIONS WITHOUT NOTICE

ACTTAB-VITAB Inquiry

MR MOORE: Mr Speaker, my question without notice is to the Chief Minister and it refers to the board of inquiry run by Mr Richard Burbidge, QC. Can you identify the approximate cost to the Territory of dealing with the issue of VITAB from the time the proposal was first put to the ACT Government through to the time of, and including the costs of, this inquiry?

Ms McRae: Were you not listening to the radio? She has already said $5m. What a waste of a question! We have heard it already.

MRS CARNELL: Thank you, Mr Moore. I am interested that those opposite do not believe that the amounts of dollars are - - -

Ms McRae: We heard you; we heard you.

MR SPEAKER: Order! There are still two days to go. I am quite capable of suspending somebody from the chamber for constant interjections.

MRS CARNELL: Mr Speaker, the cost of VITAB to the people of the ACT was considerable. In fact, VITAB, I am sure now, has turned out to be the greatest single example of maladministration and straight waste of taxpayers' money that we have seen. Mr Moore, the court settlement paid to VITAB was $3.3m. A loss of an estimated $400,000 per year was incurred following the decision of the Northern Territory TAB to link directly with the New South Wales TAB and thus bypass ACTTAB. Over three years that equals $1.2m. Obviously, the Northern Territory TAB was not going to be linked to a TAB like ACTTAB that was not linked to another larger TAB, so they severed the link.

Another $60,000 per year was incurred as a result of the increased Victorian TAB handling fees for processing of the ACTTAB bets. That happened as a result of the severing of the link. When that was finally put back in place, the Victorian TAB asked for a bigger pop. In other words, the deal that we could enter into the second time around was not as good as the first one. Over three years that was $180,000. Costs of more than $100,000 were incurred for the Pearce inquiry, made up of $60,000 for the inquiry and $40,000 for legal representation for the former Minister, Wayne Berry. Mr Berry's legal representation for the Pearce inquiry cost some $40,000. Some $600,000 went into the Burbidge inquiry. This totals more than $5.3m and does not include the losses incurred by ACTTAB in 1994 when they were not linked to the Victorian TAB.

Mr Speaker, $5.3m does not sound like money for jam, as Mr Berry called it. Maybe it was money for jam, but it certainly was not on the table in the ACT. The jam was on somebody else's table. Mr Berry indicated that he believed it was a safe deal for the ACT. I think his quote was that he took personal responsibility for this being a safe deal for the ACT. Heaven help the ACT if Mr Berry turns out to be Chief Minister and Treasurer, if he believes this was a safe deal for Canberra.

MR MOORE: I have a supplementary question.

MR SPEAKER: Order! Before I call you for the supplementary question, Mr Moore, I would like to draw the attention of members to the presence of a photographer from the *Australian* newspaper. That photographer is in the chamber on the same arrangement as the earlier one this morning.

MR MOORE: Mr Speaker, my supplementary question refers to the VITAB promoters mentioned in the report. At page 118, paragraph 314, there is mention of a firm, Macphillamy Cummins and Gibson. The author of the report says that, in his view, recovery is available either from the VITAB promoters or that law firm identified in paragraph 314. Will you indicate whether you intend to risk good money on yet another pile of lawyers, who are going to do very well out of this, in going after bad in attempting to recover the money identified in this report?

MRS CARNELL: Mr Speaker, that is a very good question from Mr Moore. I think the last thing anybody wants to do is throw good money after bad. Equally, if there is a capacity to get back the $3.3m in court settlements that were paid to VITAB as a result of the deal that Mr Berry said was safe for the Territory, or he guaranteed personally was safe for the Territory, we should get back what we can.

What I plan to do, Mr Moore, is liaise with the board of ACTTAB and legal advisers on the capacity for us to try to get the money back from the promoters of VITAB. If that is not possible, I want to look at the opportunity for legal advisers; but I have to say I will have to weigh it up with the sorts of costs involved in getting it. It could end up being prohibitive. If it is going to cost us $5m to get $3m back, I do not think that is a good deal for Canberra. I have to say, on the basis of how they work balance sheets, that those opposite probably would. From my perspective, if it is going to cost us more than we could possibly get back, it is not a goer; but we will make sure that we have proper advice and that the board of ACTTAB is involved in that decision.

MR SPEAKER: I would like to welcome to their Assembly members of the Weston Creek View Club who are in the gallery at the moment.

Chief Minister - Motor Vehicle Accident

MR WHITECROSS: My question without notice is to the Chief Minister. Chief Minister, earlier today the Leader of the Opposition, Mr Berry, wrote to you giving notice that in question time today I would be asking you to set out for the Assembly the circumstances leading up to and subsequent to your accident on the Federal Highway on Sunday. Mr Berry indicated in his letter questions he believed you should answer in relation to this incident. Mr Speaker, I seek leave to table a copy of Mr Berry's letter, for the information of members.

Leave granted.

MR WHITECROSS: Chief Minister, will you now explain the circumstances leading up to and subsequent to your accident on the Federal Highway on Sunday, in order to put an end to the confusion surrounding the contradictory reports of this incident over the past two days?

MRS CARNELL: Thank you very much; it would be with great pleasure. I understand that this question is probably out of order, Mr Speaker, on the basis that questions do have to relate, as I understand it, to ministerial duties. Equally, I am very happy to answer the question.

Mr Whitecross: Mr Speaker, was not Mrs Carnell driving a car issued to her as Chief Minister at the time?

MR SPEAKER: Order! Just a moment.

Mr Humphries: Mr Speaker, Mrs Carnell has indicated that she is prepared to take the question.

Mr Whitecross: That is right. She should not have debated it.

MR SPEAKER: The Chair is not in a position to judge whether or not the question is in order. Standing order 114 says:

> Questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.

Similarly, *House of Representatives Practice* states that Ministers are not required to answer questions that include anything of a private nature that is not related to the public duties of a Minister. The Chair is in a predicament at the moment because I really do not know what the circumstances are. However, if the Chief Minister - - -

Mr Whitecross: The Government owns the vehicles.

MRS CARNELL: That is why I am happy to answer.

MR SPEAKER: Just a moment. If the Chief Minister wishes to make a statement on this, she is at liberty to do so.

MRS CARNELL: Thank you very much, Mr Speaker. I am very happy to do this. If it helps members, I can run through again what I have already told the police and the media. Mr Speaker, on Sunday I attended an official function at Madew's winery near Lake George. It was the annual Chief Minister's XI cricket match that is run every year in aid of CAPO for the arts community in Canberra. Significant dollars are raised every year as a result of this match. I was at the match from about 9.30 am to 4.30 pm.

At about 20 minutes to five, on my way back to Canberra, my memory is that a car braked suddenly in front of me. I swerved onto the gravel. I lost control of the car. I think I hit a tree, but I have to say, in those circumstances, it is always very difficult to remember exactly what happened at that stage.

Mr Speaker, this occurred just on the New South Wales side of the border. Thankfully, Mr Speaker, I was not injured - nor was anybody else - although I think that those opposite are very sad that I was not. That certainly appears to be the case, Mr Speaker, from recent comments. There was nobody else in the car and no other vehicles were involved. An acquaintance saw the accident and stopped to give me assistance. About 10 minutes later an ACT ambulance arrived. I told the ambulance officers that I was not injured; in fact, I was not injured even slightly. They asked whether they could check for injuries, which they did. Given that I was on the way back to the office, I asked them whether they needed me to stay. They indicated that, as far as they were concerned, it was fine for me to go; so I told them I would be heading back to the office, and if the police arrived, because there were certainly no police there at that stage, the police could contact me there.

I was under the impression then, and I have to say I still am, that, when you are involved in a single-vehicle accident where there are no injuries, self-reporting rules apply, and I was fine to return to my office and notify the police from there. Indeed, advice provided to me today indicates that there is no legislative requirement in New South Wales for a driver involved in a single-vehicle accident, where there are no injuries to any person, to remain at the scene. I am happy to table the Attorney-General's advice, for the interest of members.

Mr Speaker, in all, about 20 minutes passed from the time of the accident to the time when I left the scene. When I got back to the office I rang the Queanbeyan police and reported the accident. I also offered to drive to the Queanbeyan Police Station if necessary to be interviewed. They did not indicate any great urgency to interview me. A police officer arrived at my office about an hour later and took down details of the accident. At no time did the police indicate to me any concern about me leaving the scene of the accident, or about whether I was under the influence of alcohol, as those opposite seem to want to believe. I have no doubt, Mr Speaker, on the basis of having monitored my alcohol consumption - those opposite seem to bring that up - that when I got behind the steering wheel of my car to drive home I was well below the prescribed alcohol limit.

Mr Speaker, I can fully appreciate that the Opposition today, in their desperation to take the pressure off their leader and his involvement in the disastrous VITAB scandal, will go to any lengths to try to smear my name on this matter. I fully appreciate that their questions will be framed to contain allegations in the hope of trying to attract some media attention. I think we hit a pretty great low in this Assembly if, at 2.10 pm, before question time, we can have a Leader of the Opposition present to my office 22 questions which the police would be proud of in a court case. This means that this group opposite will go to any lengths to score grubby political points, even to the extent of using a car accident.

I believe that those opposite are an absolute disgrace. If every time a member of this Assembly has a car accident - and it happens - they are required to stand up in this place, not for the police, with whom I have cooperated, and basically make this place some sort of kangaroo court, I think the people of Canberra are not being well served by those opposite. The people of Canberra require of us a capacity to legislate, to make decisions, and to create a climate where our kids can get jobs and where we can get this economy back on track. Mr Speaker, unless those opposite believe the police are unable to investigate this routine traffic accident appropriately, you have to ask what they are doing. Maybe they do believe the police are not competent to do this. Personally, I believe that the approach that the police took and that the ambulance officers took was exactly what I would expect, namely, very professional, very capable and civil. They did not treat me, and will not treat me, any differently from any other citizen of either New South Wales or the ACT.

MR WHITECROSS: I have a supplementary question, Mr Speaker. I notice that the Chief Minister did not mention leadership or set any example. Chief Minister, can you confirm that health authorities, including the ACT Government, advise women that the maximum amount that they can drink safely if they are driving is no more than one 100-millilitre glass of wine in the first hour and no more than one 100-millilitre glass of wine each hour after that?

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

MR SPEAKER: Order!

MR WHITECROSS: Chief Minister, can you assure the Assembly that you complied with this advice?

MR SPEAKER: Sit down, Mr Whitecross. A point of order is being taken.

Mr Humphries: There is no point of order about a question being grubby, and distasteful, and snide, and sneaky; so I cannot take that point of order. But I can take a point of order about the question - - -

MR WHITECROSS: Factual.

Mr Corbell: What is the point of order?

MR SPEAKER: Order! The question is also irrelevant.

Mr Humphries: Indeed. The question that has been raised is irrelevant to the first part of the question. She was asked to explain the circumstances - - -

MR SPEAKER: I uphold the point of order.

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

MR SPEAKER: Yes.

Mr Corbell: Mr Speaker, I would invite you to reconsider your ruling, in that the question was regarding health authorities and the Chief Minister is also the Minister for Health.

MR SPEAKER: It has nothing to do with that, I am afraid, Mr Corbell.

Mr Humphries: Mr Speaker, it is not relevant to the first part of the question and therefore it is not a question that could be asked as a supplementary question.

MR WHITECROSS: Mr Speaker, Mr Humphries argued that the question had nothing to do with the first part of the question. My first question related to the circumstances leading up to the accident, and my supplementary question related to whether the Chief Minister had complied with the advice given by health authorities in her conduct before the accident. So it is directly related to the first part of the question.

MR SPEAKER: No. You began your question - - -

MR WHITECROSS: I asked you a specific question in relation to whether you complied with the advice of health authorities in the period leading up to the accident, that women who are planning to drive - - -

MR SPEAKER: Order! The question is irrelevant and you will not ask it again. I have ruled it out of order.

ACTTAB

MR HIRD: We were $200m in the red in the ACT when we came into office. The International Hotel School was a $27m fiasco. Harcourt Hill was another financial fiasco. Now we learn that there was a $5.3m VITAB fiasco. When will this mismanagement from this crew across here end? Mr Speaker, my question is to the Chief Minister in her capacity as Treasurer and as a voting shareholder of ACTTAB. You may well laugh.

Mr Whitecross: Come on! Just ask the question.

MR SPEAKER: Order! Settle down. The house will come to order.

MR HIRD: Mr Speaker, during the term of this Government has ACTTAB entered into any offshore gambling arrangements?

Ms McRae: Ha, ha, ha! The answer is no. I can answer that.

MR HIRD: You may well laugh. Hang your head in shame.

MRS CARNELL: Thank you very much, Mr Hird, for the question. Mr Speaker, those opposite would think it was funny only if they could not imagine how a government could be so stupid as to enter into such an arrangement. Now, I fully agree; maybe we all should be laughing.

Mr Speaker, under this Government ACTTAB was, as members would be aware, recorporatised to place the agency on a more commercial footing. While that corporatised status has given ACTTAB and its board a greater degree of independence, its financial results since we came to government have shown clearly that the right decision was made. In answer specifically to Mr Hird's question, I can say that ACTTAB has not entered into any offshore betting deals since 1995, when we came to government. However, I was pleased to note last month that ACTTAB has entered into an agreement with South Australia to create a keno jackpot game, the first Territory-wide network to be set up in Canberra. ACTTAB Keno is now linked to South Australia's $70m a year keno system in a venture that is already returning additional revenue to ACTTAB and, through it, to the Government.

I can also confirm that no approaches have been made to ACTTAB by any offshore betting operators during our term in government, and it would not have helped if there had been. If such an approach were even considered, and I doubt that it would be, you can rest assured that, unlike the former Minister, Mr Berry, I would be ultra cautious, Mr Speaker. The world of betting and gaming in Australia has been, by its very nature, a shadowy one, and a world that governments should enter very carefully. There have been a number of royal commissions and inquiries by both the Criminal Justice Commission in Queensland and ICAC in New South Wales which have shown that the potential for fraud and deception within this industry is high. Unfortunately for the people of Canberra, Mr Berry worked this out for himself a little late. That is assuming, Mr Speaker, that he ever worked it out.

I think the issue that should concern members of this Assembly the most is the belief by Mr Berry that right up until today he has consistently maintained, namely, that the ACTTAB-VITAB contract was a good deal for Canberra. Those members who were part of this Assembly in the last Assembly would remember Mr Berry continuing to say that he was vindicated. I heard them say again today that Mr Berry was vindicated.

Mr Whitecross: Exonerated.

MRS CARNELL: I am sorry; Mr Whitecross says "exonerated". Mr Speaker, how can you be exonerated, to use Mr Whitecross's term, of a deal that cost the ACT taxpayers $5.3m and, according to the Burbidge report, would not have passed even the most basic sort of probity check? Maybe Mr Berry still believes that this was a "money for jam" deal for the ACT. He has stated over and over again, even after the Pearce inquiry - even today we heard it from those opposite - that, if it had not been for the Opposition's intervention and the decision of Victoria to expel ACTTAB from the superpool, there would have been no problems with continuing with VITAB.

Mr Speaker, that is simply unbelievable. Even today Mr Whitecross is saying that Mr Berry was exonerated. Mr Berry must be the only person on earth - possibly, with Mr Whitecross, there are two such people on earth - who thinks that deals with shonky companies which have some directors who would not meet even the most basic probity checks are good ones for governments to get involved with. Mr Speaker, this is a joke. Do you remember what he said about this deal? He said it was safe and profitable for the Territory.

Unfortunately, this again shows Mr Berry's problem with balance sheets. He cannot work out whether money going out or money coming in is what we want to happen. Mr Speaker, this is where money went out; $5.3m went straight out of the ACT coffers. He said it was money for jam. There is no such thing as easy money. Unfortunately, Mr Berry did not realise that it simply does not exist. He said that this was a good deal about which every other TAB and the Opposition were jealous. Mr Speaker, three days before he announced it Mr Berry got a letter from the New South Wales Minister saying to be careful of these sorts of offshore deals. Nobody was jealous.

I will finish my answer by reminding the Assembly of what Mr Berry said in an interview on ABC radio in March 1994. I will quote him. He said this:

> We've got out there among the action and worked to get a $750,000 deal for the Territory. The Liberals have done all they can to bring this undone and I hope they take some of the credit for it.

Mr Speaker, I do take some of the credit.

ROCKS Area - Redevelopment

MS TUCKER: My question is directed to the Chief Minister and it relates to the agreement reached between the Government and NDH Construction regarding the possible redevelopment of the ROCKS area. I am still trying to get to the bottom of how this agreement came about and the involvement of the Government in this proposal. When I have asked this question of you before you have always asked Mr Humphries to answer it, but I am really asking you today. Could you tell the Assembly who initiated the proposal to move the Ethnic Communities Council and the Migrant Resource Centre out of the Griffin Centre and onto the ROCKS site? What was the involvement of the Office of Ethnic and Multicultural Affairs in the proposal to redevelop the site?

MRS CARNELL: Mr Speaker, this is not something that I am directly responsible for; so I will have to give my understanding of what has happened, and if there is anything that is not right I will certainly correct that. As I understand it, the Migrant Resource Centre and Canberra's ethnic communities generally have been interested for some time in a new building. They do not believe that their accommodation at the moment is big enough. I understand that they got together with a builder, NDH Management, to look for a place or an area in Civic that would be appropriate for a development that could be a centre for the ethnic communities in the ACT. I understand that they had some discussions with the multicultural area of the Chief Minister's Department, which would be quite normal

because that is their link with government. There was some discussion about where might be appropriate. The ROCKS area has been subject to lots of discussion over the years. There was a precinct group established in that part of the world that was looking at the ROCKS area as being an area that would have a community focus. It obviously was not appropriate for retail or lots of other sorts of commercial development, so the view was that maybe it was worth having a look at the ROCKS area.

I understand that NDH Management then came forward with a proposal for the development of section 21 to provide facilities to accommodate associations representing Canberra's ethnic communities, all the existing residents on the site, and possibly a building for the Family Planning Association as well. The association has also indicated an interest and has been to see me, and I am sure others, about a new building, taking into account that their current one is not terribly good. The development proposal also contained residential and some commercial components to be constructed after the new community facilities were returned to the community. The idea was that the community facilities would be returned to the community and then NDH would go on and build some student accommodation and some other things.

Mr Speaker, the proposal that was put forward was, I understand, strongly supported by the ethnic communities. We believed it was appropriate for NDH to take their proposal to the residents of the ROCKS area and to other interested parties for community consultation. I think that is a good way to assess community interest in this proposal. I have to say, from what I have seen so far, Mr Speaker, that the residents at the ROCKS and lots of other people are not interested in this proposal. If that ends up being the case, obviously it will not go anywhere.

MS TUCKER: I have a supplementary question. If it does not go anywhere, Mrs Carnell, would you be prepared to open up planning processes in the ACT so that all developers could have an opportunity to put in proposals for these significant sites in the ACT city area?

MRS CARNELL: Absolutely. If this does not go ahead, I think there are a number of other approaches we can take with the ROCKS area. I think we have always accepted and supported the view that the ROCKS area should have a real community focus. It should not be a whole lot of office buildings or a whole lot of residential buildings. It needs to be quite special. It does need to have a very real community feel about it as it links the ANU with Civic.

I have heard Ms Tucker talk before about some form of competition for the site. Obviously, if this does not go ahead, we will be interested in ideas as to what is the appropriate approach, maybe in the next Assembly. When people come forward with proposals, particularly when they are supported by the community, as this one was by the ethnic communities, I think it is always appropriate to allow those people to take their proposals out to the broader community to get a feel for what people think about them.

Blood Alcohol Tests

MS McRAE: My question is to the Chief Minister. Chief Minister, earlier this year your Government and this Assembly enacted legislation which was intended to ensure that motorists could not avoid the two-hour limit for providing a sample for blood alcohol testing because they were receiving medical treatment. Chief Minister, given your Government's obvious concern to ensure that motorists involved in serious accidents had their blood level alcohol tested and that you presumed that police were on their way when you had your accident, why did you not wait at the scene of the accident so that you could provide a breath test?

Mr Humphries: I take a point of order, Mr Speaker. The connection between legislation that the Government has brought forward in respect of the ACT and an accident that took place in New South Wales, where there is no suggestion of any alcohol at all being involved, is a connection which has been disproven by the Chief Minister's statement in this place. In any case, it has no bearing on the Chief Minister's responsibilities before this house. It is not her ministerial responsibility.

MR SPEAKER: I uphold that point of order.

MS McRAE: Mr Speaker, my question goes to how people perceive our Chief Minister. She is the Minister in charge of this place and in charge of the Territory. I will proceed to offer my supplementary question because these are questions that people are putting to me, and I believe they are appropriate for a Chief Minister driving a government car. I will put my supplementary question, Mr Speaker.

MR SPEAKER: No. Just a moment, Ms McRae.

Mr Humphries: I rise to take a point of order, Mr Speaker, if she is going to do that. If the question has been struck out she cannot possibly ask a supplementary question.

MR SPEAKER: That is quite correct. The other point is that the Chief Minister is not even responsible for the area to which the question was addressed. That is a matter for the Attorney-General, I would imagine.

MS McRAE: With the greatest of respect, Mr Speaker, the Chief Minister is the Minister for Health. The legislation that applies to everybody else requires that people stay for a test. My question was: Does she really think there are two rules? That is the guts of my question, Mr Speaker, and that should have been the answer that was provided. I am not asserting this. I have been asked to ask this by members in the community who are concerned that a perception has been established that there are two rules.

MR SPEAKER: We could go on forever on this.

Mr Humphries: Mr Speaker, this amounts to a speech. The Chief Minister has answered the question in the comments she has made already. She has fully answered that question.

MR SPEAKER: Standing order 117(h) states:

> A question fully answered cannot be renewed.

I uphold the point of order.

Probity Checks

MRS LITTLEWOOD: Mr Speaker, my question is to the Attorney-General, Mr Humphries. Can the Attorney-General inform the Assembly of what steps should be undertaken, as a matter of sound commercial practice, to ensure that probity checks are undertaken on people with whom the Government enters into major commercial contracts? How do these processes compare with those undertaken as part of the VITAB contract approved by the former Minister for Sport, Mr Berry?

MR HUMPHRIES: Mr Speaker, I thank Mrs Littlewood for that very pertinent question. As far as the first part of her question is concerned, a lawyer involved in a commercial transaction is under a duty to assist his or her client to identify matters which may affect the client's interests. In this regard, the role of my department is to work with its clients to identify what is necessary to protect those interests. Any action taken depends upon the subject matter of the contract, any particular matters associated with the contract, and so on. Assessment of probity is based on information provided, information which is available or which can be ascertained, and that which is known to a person from their reputation or standing. It is usually not a question which is very difficult to ascertain, I might say.

Sound commercial practice requires that all information which can be obtained is obtained when the Government enters into major commercial contracts. However, the relevant information is not always available to government; nor is it always in the public domain. The Government does not have any special powers, save where they are clothed in a statutory authority, to gain information of a commercial or criminal nature. It is certainly the practice of this Government, Mr Speaker, where necessary, to invite those with whom it proposes to contract to give it the authority to obtain all necessary information and also make disclosure on specific matters relevant to the subject matter of the contract, where that is appropriate.

I will set the scene here by quoting what the Burbidge report had to say about the concept of probity. In paragraph 84 the report states:

> The concepts of probity in the context of gaming licences is well recognised. It embraces not merely absence of convictions, but ideas of reputation, financial stability, background and associates.

This is a concept that is understood to be an integral part of any contract to do with gaming, or it should be. It is a concept that is understood by most people in this place, but obviously not Mr Berry. Those of us who were here in the First Assembly remember all too well the probity checks that were carried out, for example, on the potential casino

operators to make sure that they were of the highest reputation. In the area of gaming generally, great care needs to be taken because it is an area where, unfortunately, unscrupulous people do move.

The Burbidge report found that these standards were not met in relation to commercial dealings with VITAB, and in relation to identifying the beneficial shareholders and directors of VITAB. As a result, the interests of ACTTAB were not adequately protected. Again I quote from the report:

> ... I can only conclude that as with other aspects of this matter, either Mr Neck was so enthusiastic about the venture that he was prepared to disregard those steps which prudence demanded, or he was astonishingly inept.

Again I quote:

> I find that Messrs Bartholomew and Tripp would not have satisfied even the most leniently applied probity checking.

And again:

> Such checking as had been done was incomplete, inadequate and unsatisfactory.

Bear in mind, Mr Speaker, what Mr Berry told the house about probity checking in these matters - the Mr Berry who claims to be exonerated, who claims to be - - -

Ms McRae: And what does it say on page 61 of the report? You are reading very selectively, Mr Humphries.

MR SPEAKER: Order!

MR HUMPHRIES: Mr Speaker, Mr Berry claims to be exonerated by this report. What did he say to the chamber about probity? He claimed that complete probity checking had taken place. Not according to Mr Burbidge, QC. Mr Speaker, any fair-minded person, after examining the Burbidge report, could only conclude that the previous Government suffered from an unbelievable incompetence that led to a serious lack of accountability.

The tragic factor in that is that the man responsible for that now wants to run this Territory. The report does not mince words when it comes to the lack of probity checks applied to some of the dubious characters involved with the VITAB scandal. There are a number of conclusions that can be drawn from the Burbidge report. Perhaps the most glaringly obvious one is that this Territory cannot afford to have Wayne Berry as its next Chief Minister. His cavalier attitude to one of the most fundamental tenets of our political system, accountability, rules him out from ever holding this important office.

Mr Speaker, only in the last few weeks we have seen a number of occasions when members opposite have come to this place - - -

Ms McRae: Tyrants who refuse to answer questions are better, are they? Is that the case?

MR SPEAKER: Order!

MR HUMPHRIES: If I can make my comments without being shouted down, members opposite in this place have come in here and pointed to members like Mr Kaine, for example, and said, "The buses have not been running. What are you going to do about it? You are responsible for the fact that the buses have not been running at a certain time"; or they have said to me, "You are responsible because publications appeared at the behest of the Canberra Hospital". They have pointed to a whole range of matters for which Ministers are responsible.

But when it comes to the wasting of almost $6m of public money - a matter directly under the responsibility of Minister for Sport, Wayne Berry - those opposite claim he was not responsible; it was nothing to do with him. He says, "I am a cleanskin. I am not responsible for what is done in my name by my department, and which I myself described on the floor of this place as a good deal and money for jam". Mr Speaker, that is the standard of person who has been offered by the Labor Party to be Chief Minister come 21 February next year.

Mr Hird: And Treasurer.

MR HUMPHRIES: And Treasurer.

Chief Minister - Motor Vehicle Accident

MR CORBELL: My question is to the Chief Minister. I refer the Chief Minister to her accident last Sunday in a government vehicle which was issued to her both as an MLA and as Chief Minister. Chief Minister, I also refer to your leaving of the scene of the accident before police arrived. Is it not the case that the reason you left the scene of the accident was precisely to avoid having to provide a breath test because you knew you were over the limit? Is it not the case that you calculated that it was better to be charged with leaving the scene of an accident than with drink-driving?

Mr Humphries: Mr Speaker, I rise on a point of order. The Chief Minister has fully answered this question, and it is not a matter within her ministerial responsibilities.

MR CORBELL: No, she has not. She has not answered that question at all.

MR SPEAKER: The Chief Minister gave a most comprehensive answer to Mr Whitecross, who asked the first question.

MR CORBELL: She certainly did not.

MR SPEAKER: I refer members to standing order 117(h).

MR CORBELL: If that is the only standing order you can use, it is pathetic.

MR SPEAKER: "A question fully answered cannot be renewed." It may be the only standing order I can use, but it is a most comprehensive standing order in this particular case.

Milk Industry

MR OSBORNE: Mr Speaker, I know you are a little bit nervous. One side is asking questions about alcohol and the other side is asking questions about gambling. My question is not about sex. It is about milk.

Mr Whitecross: I hear you are the expert on that.

MR OSBORNE: I have four children, Andrew. My question is to the Minister for Urban Services, Mr Kaine. Minister, I understand that the Government is currently considering deregulating the milk industry in the ACT. Would you inform the Assembly whether the Government or the bureaucracy is in the process of discussing the issue with local industry representatives or any interstate suppliers?

MR KAINE: Mr Speaker, the question is based on a wrong premise. The Government is not considering deregulating the industry, and I do not think there is anything further to be said on the issue.

Mental Health Services - Telephone Records

MS REILLY: My question is to the Chief Minister in her capacity as Minister for Health. Last week a call was made to Mental Health following an invitation in the government-funded advertising supplement in the *Chronicle*. The supplement invited members of the public to ring for further information about changes occurring in Mental Health. The Minister subsequently came into the Assembly and claimed knowledge of who had made the call. How did the Chief Minister know who had made the call? Is it normal for the Chief Minister to check the records of government phones? Under what authority did the Chief Minister gain this information? How often and what other phones have been monitored in this way? Considering that Mental Health often deals with people in crisis and with confidential information, will the Chief Minister give an undertaking that she and her staff will cease this practice?

MRS CARNELL: The reason that we went back to Mental Health is that Ms Reilly had asked a question in this place and had been singularly uncomplimentary about the service that was being offered. She mentioned the insert and I think she quoted the piece from the insert, suggesting that when the phone number that was in here was rung for further information the person on the other end did not know anything about it. I think Ms Reilly also asked, from memory, was it not true that nobody in Mental Health knew anything about the changes that had been put in place. As the Minister for Health, I was concerned about that. I thought, "Heavens, this is very unusual. As our employees in Mental Health have been part of the whole working up of the changes and so on, how could it be that there was somebody, or, as Ms Reilly said, there were lots of people, who did not understand the changes that were in place?".

So, what did we do, Mr Speaker? We went back to Mental Health and said, "What is the story here?". I did not monitor the phone calls, Mr Speaker. Mental Health then went and had a talk to all the people who had been on the phone that day. They log their calls, as you would expect them to do in somewhere like Mental Health. They went through the calls that they had received and came up with the one that it must have been because none of the others had asked for information. That occurred at lunchtime when an ASO2 was relieving on the phone. The anonymous person who rang the ASO2 relieving on the phone at lunchtime was told that the ASO2 was more than happy to get somebody to ring that person back with more information after lunch. That person then hung up and did not leave a name.

My understanding is that the ASO2 is very pleased that people stood up for that person in this Assembly. The person is a very dedicated member of staff and was very embarrassed that that particular situation had been brought up on the floor of the house. Mr Speaker, we do not monitor phone calls, but our people in Mental Health are very diligent and they care a lot about getting the right information out to the public. They were very concerned about the comment that was made. I am pleased now that that has been sorted out, because we have very dedicated staff.

MS REILLY: I have a supplementary question. Minister, you went through ways in which you checked back on the call. You said you knew who had made the call. How do you know it was a member of my staff who made the call?

MRS CARNELL: Mr Speaker, in questions during this question time, those opposite have spoken a lot about perception. This is not about perception. My Mental Health people went through every call that had been logged that day. If somebody who does not want to give their name rings up and asks a question like, "Can you please tell me all of the changes that are going to happen in Mental Health over the next 12 months?", that is not a very common question to get. They ring up at lunchtime and then, when somebody suggests, "How about I get someone to ring you back when they get back from lunch?", they hang up without leaving a name. It does not take a genius to work out that this is a set-up, particularly when, in question time an hour or two later, Ms Reilly says, "We rang, or somebody rang this number, and they did not know anything about it". I have to ask, "Who is stupid around here?". It is not someone on this side of the house.

Greenhouse Gas Reduction Target

MS HORODNY: Mr Speaker, my question is directed to the Minister for the Environment, Mr Humphries, and it relates to the Minister's announcement of a greenhouse gas reduction target for the ACT. In measures you have announced to achieve the target you have included an initiative that motorists can voluntarily pay $25 or $50 at the time of car registration for the planting of seven or 14 tree seedlings respectively. How does this initiative reconcile with your support for the John Dedman Parkway through Bruce and O'Connor Ridge, which will encourage greater car use and require the cutting down of hundreds of trees? Why not just stop existing mature and ecologically important trees being cut down?

MR HUMPHRIES: First of all, Mr Speaker, I expected, given the way questions were bouncing around the chamber, that Ms Horodny would be asking me a question about rock and rolls, frankly, but no such luck; it is something much less interesting than that. Mr Speaker, the Government is very proud of its Greenfleet proposal. Mr Kaine outlined it, I think, a few weeks ago. It is one which we believe will give ACT residents the chance to be able to do something positive and direct in relation to their own emission of greenhouse gases by virtue of their use of their motor vehicle. I would hope that nothing Ms Horodny has said has cast any aspersions on the integrity of that scheme, or would suggest that it is not a good scheme to be using. It is already under way in Victoria and I understand it has been a great success there.

The suggestion that if you support a scheme like Greenfleet you could not possibly support the building of any new roads is a very long bow to draw. First of all, I personally, as I have made perfectly clear many times, do not intend to build any road down the corridor reserved for the John Dedman Parkway. I have made it perfectly clear that my decision has been to move to take steps to reserve the route for the road, not to build the road, and that is a perfectly rational decision to make. So far I have yet to hear any sensible reason why that should not occur. Having made that decision, I do not think it is inconsistent, then, to say that the Territory ought to provide, in some way, for the possible construction of future roads. Not even the most radical opponent of the car would say that some future road building might not be necessary.

On the face of it, there is a very serious need to be able to move residents of Gungahlin out of their present homes into other parts of the city to accommodate their needs to work, or to shop, or to do other things in other parts of Canberra. In my view there is a prima facie case, at least, for the construction of that road. However, as I have said, I do not propose to build the road. The decision has to be made at some point down the track when the need arises, based on population growth and so on. The need to have adequate roads is an issue which has to be examined hand in hand with the capacity of public transport and other measures to take the pressure off the use of cars in the city. If Ms Horodny thinks there is a contradiction between those things, I think she would have to go back and look at every other society which has successfully tackled this problem and realise that even in the best planned societies you simply have to be able to deal with both issues at the one time.

MS HORODNY: I have a supplementary question. Can you explain why you have made this initiative voluntary, given that it is clear that every car on the road is contributing to the greenhouse effect and there is significant public interest in reducing greenhouse gas emissions? Why are you not treating this voluntary initiative consistently with the compulsory road rescue levy on car registrations which you introduced in 1996?

MR HUMPHRIES: Mr Speaker, I think Ms Horodny obviously would like to push the measures that the Government has announced further in such a way that they might achieve, from her point of view at least, a more dramatic effect on greenhouse emissions in the ACT. Fair enough. She is a Green member of this place. Her whole credo here is about pushing issues concerning the environment very hard. That is fair enough. In pushing it to that extent, I believe that the community would find that intolerable and very much an imposition in a way which would be likely to detract from the measures we have announced already, and likely to lose support from the general population for the measures the Government has announced.

The one thing I want to make very clear to this place is that we want to keep the community coming along with us as we tackle problems to do with the greenhouse effect. We want to have them as partners in this process, not as victims of Government policy. If we announce that we are going to impose a fee on them to plant trees in order to replace the emissions of their cars, then we are imposing on them in a way which will make them hostile to the measures that we have announced. We do not want to do that. We are not such zealots that we will impose on the community an agenda which the community obviously, as a whole, resists. I would say to Ms Horodny that if her party is in the position of implementing policies of this kind - obviously, she will not be after February - it is essential to carry the community along with you. Measures which are simply designed to alienate individuals are not successful in building up a consensus that the community needs to address these problems.

Canberra Hospital - Intensive Care Beds

MR WOOD: Mr Speaker, my question is to the Minister for Health and it relates to the intensive care unit at Canberra Hospital. Last month I understand that a patient suffering from a ruptured aortic aneurism was admitted to and operated on in the Canberra Hospital. The patient was then transferred to Sydney for intensive care. The transfer, I am told, occurred because there were not enough funded intensive care beds at the Canberra Hospital. How can you, Minister, allow the situation where there are insufficient intensive care beds in the ACT? The unit can accommodate 24 beds but it is funded for only 10 beds. Will you allow more beds to be opened to cope with the needs of the ACT's trauma centre?

MRS CARNELL: Mr Speaker, I understand that, regularly, there are 12 beds open in intensive care, and more beds are regularly opened on an "as needed" basis. Yes, there is a capacity to expand intensive care beds, but beds are not the problem, Mr Wood; it is actually trained staff. That really becomes the issue. At times when we have an abnormally high requirement for intensive care beds, it would not be a problem at all to open another bed, but we occasionally have problems getting trained intensive care nurses

and staff to be able to staff those beds. I know there have been a couple of situations over the last couple of months when there was a will to open more beds, but when we checked casual nursing services and our own nursing services there simply was not the trained staff.

I am sure Mr Wood would agree that, rather than open intensive care beds with staff who might not have the necessary level of expertise in intensive care nursing, in those very irregular circumstances it is better to make sure that those patients go to an intensive care bed in Sydney. I have to say that the opposite happens as well. When intensive care beds are full in other hospitals we end up with intensive care patients coming into the ACT. There is a general approach in the region that that occurs, and, I think, very appropriately.

Intensive care beds are extraordinarily expensive beds to keep open, but they are essential for any critical care hospital system. I understand that an intensive care bed, a staffed bed, costs, from memory, between $1,000 and $1,500 a day. Mr Wood would be aware that you would not have intensive care beds not being used at that sort of a cost. You have to make sure you fund up to the level of regular use. If we go above that, we try to staff. If we cannot, or cannot get the proper staff, we send to Sydney, and they do the same as well, as do other hospitals in the region. That is about good management. Possibly Mr Wood is saying that we should have a lot of beds open that are not needed most of the time, just in case.

MR WOOD: I have a supplementary question. Mr Speaker, I am not sure whether the Chief Minister is saying there is a cost problem or there is a training problem. She started on one tack and finished on another. Chief Minister, to get back to your first point, what is deficient in the training regimes so that you do not have sufficient people to work in this unit? Can you assure Canberrans that the same problem will not occur when the cardio-thoracic unit is opened next year?

MRS CARNELL: Mr Speaker, if Mr Wood had listened he would know that I did not say there was insufficient staff. I said that on very rare occasions there ends up being a situation where nurses are sick, on holidays or whatever, and we have a particularly high call on intensive care beds. There may end up being a situation, irregularly, where we simply cannot get the staff to look after an extended number of beds - more beds than we normally have in our system. Under those circumstances we will send a patient to the best care available outside the ACT, which would normally be Sydney.

With regard to cardio-thoracic surgery, we have had nurses in training for cardio-thoracic surgery since probably August, I think, but certainly over the last couple of months. I think we sent our first group of nurses down to St Vincent's for on-the-job training at about that time. I understand that other nurses have been trained subsequently. There are, as I understand it, sufficient well-trained nurses in the area.

Mr Speaker, in any hospital system there will always be times when staff get sick, when there is an abnormally high level of absenteeism and when there is an abnormally high level of patients. That goes without saying. Under the previous Government we regularly saw the air ambulance out at the airport taking patients out of the ACT.

That has become less regular with better bed management, with budgets in Health that are on track, and with a reduction of some 25 per cent in waiting lists. There will be times when we take intensive care patients from other parts of the region, and there will be times - hopefully, very irregular times - when our patients need to go to another hospital. That is just good management and it ensures that our patients will always get the best possible care.

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

Chief Minister - Motor Vehicle Accident

Mr Humphries: Mr Speaker, I raise a point of order. During question time Mr Corbell was trying to ask a question which was later ruled out of order. I understand that he made a comment to the effect that the Chief Minister deliberately avoided a breath test knowing she was over the limit, or words to that effect.

Mr Whitecross: No, he did not say that. He asked a question.

Mr Humphries: That is my advice. That is what I have been told. If Mr Corbell will rise in this place and assure me that he did not make any inference of that kind or like that, I will be satisfied; but if he did make an inference like that it is clearly highly improper. The fact that it is couched as a question does not make it any less of an inference or an imputation. I would ask Mr Corbell, if he did make such an imputation, to withdraw it.

Mr Corbell: Mr Speaker, I made no such accusation. It was a question.

Mr Humphries: Mr Speaker, on that matter, standing order 117 says in paragraph (b) that questions shall not contain imputations. The clear explanation of the word "imputations" within a question is that a matter does not become any less an imputation because it is asked in the form of a question, as in, "When did you stop beating your wife?". That is still an imputation, Mr Speaker. It is still improper and it still should be withdrawn.

Mr Corbell: Mr Speaker, I am very happy to withdraw the accusation, if one was made, although I do not believe that one was. I would be even more happy if the Chief Minister was willing to answer it in the first place. She has consistently failed to do so, and the Government has attempted to cover her up on this issue.

MR SPEAKER: You have withdrawn. If you continue to debate it, I will deal with you.

Mr Corbell: Unlike Mr Humphries and Mr Berry earlier today, Mr Speaker.

PERSONAL EXPLANATION

MR MOORE: Mr Speaker, I seek your leave to make a statement under standing order 46.

MR SPEAKER: Yes, leave is granted.

MR MOORE: Mr Speaker, I understand that Mr Berry told members of the media last week that one of the reasons why he was ejected from this chamber was that we did not want him debating the issue of gambling, and today that it was because we did not want him to be able to debate the issue of the board of inquiry report. My comment, Mr Speaker, is about the board of inquiry report. When Mr Berry was ejected from this chamber, and my vote was part of his removal, it had nothing to do with the report of the inquiry.

Indeed, I feel very relaxed about telling members of this chamber, and anybody else, that I did not know that the report of the board of inquiry was due to come down this week. I suppose, in hindsight, I should have thought it must come down some time before the end of the sitting. It had not even entered my mind at the time that Mr Berry was ejected. I object to Mr Berry putting that kind of imputation on me. I think it is appalling for him to reflect on the Assembly in that way.

Mr Corbell: Is this a personal explanation? He is debating the issue.

MR MOORE: My decision was made purely on the grounds - - -

MR SPEAKER: Enough. The explanation has been provided, Mr Moore.

MR MOORE: My decision was made purely on the ground that he had been named - - -

Mr Corbell: Sit him down, Mr Speaker.

Mr Whitecross: Are you going to warn him, Mr Speaker?

MR SPEAKER: Order! Mr Moore, the explanation has been provided.

MR MOORE: I just need to complete my explanation, Mr Speaker.

Mr Corbell: I take a point of order, Mr Speaker. You have instructed Mr Moore to sit down. If a member of the Opposition was doing this you would be getting extremely short-tempered with us and warning us. You have failed to do so with Mr Moore. I would ask you to do so or at least maintain some semblance of equality in the chamber.

MR SPEAKER: Mr Moore has given his explanation.

MR MOORE: On the point of order - - -

MR SPEAKER: Come on, now! Everybody, wake up to yourselves.

MR MOORE: Mr Speaker, I need a couple of moments to complete my explanation. I think it is appropriate - - -

MR SPEAKER: You have already completed an explanation, Mr Moore, as far as I am concerned.

MR MOORE: Mr Speaker, under standing 46, I seek your leave to make a personal explanation.

MR SPEAKER: A personal explanation.

MR MOORE: Thank you, Mr Speaker. My personal explanation is this: When I voted to remove Mr Berry from the chamber it was only on the ground that he had been named by you and that his behaviour warranted my support for his being ejected.

ESTIMATES 1997-98 - SELECT COMMITTEE
Report on the Annual and Financial Reports for the Financial Year 1996-97 - Government Response

MRS CARNELL (Chief Minister and Treasurer) (3.34): Mr Speaker, for the information of members, I present the Government's response to the Select Committee on Estimates 1997-98 report, entitled "Annual and Financial Reports for the Financial Year 1996-97", which was presented to the Assembly on 2 December 1997. I move:

> That the Assembly takes note of the paper.

I would like to thank the committee for its examination of agencies' annual reports and financial statements for 1996-97. The Government supports, either in full or in principle, all but one of the recommendations. Mr Speaker, in this tabling statement, I will not respond to all of the recommendations, as the responses are outlined in the document. I would, however, like to take the opportunity to comment on the report in general.

The Government appreciates the time, effort and diligence that the committee has employed in its consideration of the first year-end outcome under the recent financial reforms. This effort is reflected in the committee's report. Although, as stated by the chair of the committee, much of the report is commentary, it raises some important issues for the Fourth Assembly to address in the ongoing review and improvement of governance, particularly financial governance in the Territory.

The main themes of the report appear to reflect the thoughtful approach to the additional information now available to the committee as a result of the recent financial reforms. The Government sees the committee's consideration of its role in light of this additional information as an important step in the implementation of the reforms. The Government supports the committee's consideration of its changing role in light of the recent financial reforms and the need for a review of the current estimates process.

In reviewing the estimates process, I would urge the next Assembly to seriously address the issue of balancing the appropriate use of agencies' resources in providing services to the ACT community with satisfying the occasionally onerous and extraordinarily detailed information requirements of the Estimates Committee process. Members should be aware that information provided in response to questions on notice comes at a cost and, where significant, such costs draw resources away from service delivery to the Canberra community.

I would like to congratulate the committee for its commitment and effort in examining the 1996-97 annual and financial reports. Mr Speaker, I commend to the Assembly the Government's response to the Estimates Committee report on the annual and financial reports for the financial year 1996-97.

MS McRAE (3.37): It is very pleasing to hear the Government actually respond. Of course, the job will be for the Assembly to make sure that this response is put into some thorough action by whichever government it is - and I will bring this to the attention of my Treasurer next year. The detail is a bit disappointing when you have a look through it. Some of the things might just need a little more thought. In particular, what comes up every time - and I would like to make a point of it - is the nature of responses that governments give to the questions that are put by the Estimates Committee and the ongoing tussle that one has there. I note that some mention is made of this in the Government's response.

I think, perhaps, I had better take time to put on record one approach that both the committee and the Government might take to this next year. It occurred to me very late in the proceedings that that is perhaps what I should have been doing as chair. Maybe I will recommend this to the next chair. What we need at the end of each day of the Estimates Committee hearings, I think, is a quick round table to see whether we all have the same record of which questions were asked, what was the nature of the questions and what was the expectation of the timeframe for the answer. I realise that this sounds quite trite; but it is something that we have overlooked in the past and then we have come to a reinterpretation all round of just what was supposed to be answered, by when, and what was the intent of the question.

Several times during Estimates Committee hearings, I would stop and say, "Have you got that question? We want you to take it on notice and get an answer back in three days". But, of course, I was not able to do that all the way through. The same applies to questions that are put on notice before the Estimates Committee actually begins. The Government has pointed out several times that the depth and variety of the questions that are asked often mean that the responses require enormous amounts of resources and time.

So, perhaps, next year, the committee that reviews the Estimates Committee should have a bit of a look at this and determine whether the questions are too detailed or require extra time to be responded to. I think that would mean that both sides could work more openly on what their objectives really are, instead of all of us second-guessing. Many a time, for members, the perception is that the Government is deliberately avoiding answering things and, many a time, for the Government, the perception is that the questions are just being put down to be a nuisance rather than to be any helpful venture.

So, I think that that lends itself to some quite thoughtful further scrutiny by members on both sides and the crossbenchers, of course, next year. What may appear as a trawling exercise, as is noted by the Government, is perhaps something of extreme use; but perhaps it is time that the committee itself paid a bit more attention to it. I know that, over the three years, I have vacillated between very carefully looking at every question that was put forward and putting it to the whole of the committee, and simply allowing any member to put forward any question that they wanted to put forward.

I am grateful that the Government has looked in detail at not only the actual recommendations but also some of the paragraphs. With this report, as in the past, in the body of the text there have been suggestions and ideas rather than straight recommendations - all of which are, of course, intended to improve the workings of government and to improve the workings of the Assembly in total. As I say, next year, I guess that we will look at all the reports that have been put together over these three years and, when we come to the Estimates Committee again, we will try to make sure that both sides take that on board.

Finally, may I reiterate the importance of the review of the nature of the Estimates Committee review, the importance of it and the importance of the Administration and Procedure Committee taking it on as a matter of urgency early in the life of the new Assembly. With the advent of accrual accounting, the nature of financial information presentation, the nature of annual reports and the nature of information available to members have changed radically from when we had cash accounting procedures. Perhaps it is time that the nature of the Estimates Committee scrutiny changed in accordance with those requirements. I look forward to reading the responses in more detail and being better informed when I am back here next year, perhaps in a different capacity.

MS HORODNY (3.42): Mr Speaker, I would like to make a quick comment about Mrs Carnell's response to this report. I am very disappointed that Mrs Carnell has said that the Government does not support the recommendation to ban from sale certain invasive weeds in the ACT and that the Government believes that the weeds officer, who is currently employed by the Conservation Council under a government grant, will actually be able to solve the problems purely by working with voluntary compliance.

I believe that this is a very important issue. It is about environmental degradation. It is obviously also about rural properties in the ACT and the huge cost to those communities of dealing with invasive weeds. I do believe that working purely on a voluntary basis to liaise with nurseries and ask nurseries to not sell certain plants or certain trees which are invasive is simply one part of the solution. I believe that another really important part of the solution to this very important and very costly problem - it is a very expensive problem that we are dealing with here - is to ban certain invasive weeds from sale here in the ACT.

We already have a huge problem in our waterways with certain willows, which have completely disrupted the ecology of our waterways. Landcare groups are at present working very hard - and at great cost to themselves, in terms of their time, their own finances and their own energy, as well as with funding that they are receiving from

governments at both Territory and Commonwealth level - to improve our natural areas and our waterways and to eliminate those sorts of invasive plants. On the other hand, some nurseries continue to sell - I know that they do, because I have monitored what nurseries around Canberra are selling at the moment - those very invasive weeds, including willows, box elders, cotoneaster and various species like those, which continue to be a hazard to Canberra's nature parks. So, on the one hand, groups are working to get rid of those plants and, on the other hand, other people are actually putting them into their gardens and contributing to this very major problem.

Once again, I believe that it is important with an issue like this that we do have carrots and sticks - that we do have voluntary work going on and liaison and discussion with nurseries about the benefits of not selling those plants, but that we have in place some legislation that actually prevents certain of the worst of the invasive plants from being sold.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.45): Mr Speaker, I would like to respond briefly to a couple of things in this debate. I want to emphasise to Ms Horodny that the Government is not saying that it is not prepared to move to ban the sale of invasive plant weeds from ACT nurseries. It is simply saying that, at the moment, the tactic for dealing with this problem is to work with the weeds officer of the Conservation Council to develop a community education program and to see how effective this is in restricting people's use of those weeds.

Again, I come back to what I was saying in question time about bringing the community along with us. If we start to ban the sale of certain plants which some in the community view as desirable, people will simply go across the border and buy them there. To make a ban effective, we are going to have to somehow regulate people's rights to plant plants in their gardens. It is just not going to be a successful strategy overall. We much prefer an education approach. That is what the weeds officer is partly employed to do. We look forward to working with that officer to try to achieve our goals about invasive plant weeds in that way. I do not rule out the possibility of some stronger action in the future; but I hope that Ms Horodny can see that it is important to try another tactic first, before we go to the fairly drastic step of trying to regulate who may buy what in what nursery.

On the cost of asking questions of government, in the Estimates Committee, a very large series of questions was asked of a large number of areas of government. Reference was made to it in recommendation 5, I think, or before that point, implying that questions should have been answered more promptly than they were. I want to emphasise what appears in the Government response in that respect. The cost of answering that series of questions alone - that is, gathering the information and providing it to the Estimates Committee -was in the vicinity of $100,000. Members should be aware that, when they ask a question, they are calling on the public purse to meet the cost of that, and that cost can sometimes be extremely great. It cost $100,000 for one set of questions in the Estimates Committee. If we add all the questions that are asked by the Estimates Committee - indeed, all the questions that are asked in this place, either on notice or without notice - the cost is very great.

Mr Speaker, I have never been an opponent of asking questions; but I have been an opponent of asking questions if they are simply no more than a trawling exercise. Mr Speaker, I note that the answers provided to that series of questions that cost $100,000 did not appear in the report of the Estimates Committee.

Ms McRae: But we read them.

MR HUMPHRIES: I am sure that you did; but $100,000 was spent which could have been spent on programs in this community, and apparently whatever the person concerned was looking for they did not find. So, $100,000 later, the community is without that money and the question has not produced any obvious benefit. I would say to members that, of course, the right to ask questions should be untrammelled. I am not suggesting that anybody should not have the right to ask a question, even if it is a very expensive question to answer, within certain limits. But I will say that members themselves should exercise some self-restraint about how appropriate questions are and how much money it would cost to obtain the answers to those questions versus the benefit to be gained by asking them.

Question resolved in the affirmative.

SOCIAL POLICY - STANDING COMMITTEE
Report on Inquiry into Services for Children at Risk

MS TUCKER: Mr Speaker, I seek leave to make a statement to correct something I quoted in my statement on the report on children at risk.

Leave granted.

MS TUCKER: Basically, in my speech I read out a quote which Mrs Littlewood had referred to in her additional comments. I realised afterwards that I had actually read out the wrong quote. The quote that Mrs Littlewood was referring to was, in fact, from paragraph 4.100, not 4.9, which is what I read out. So, just to correct that, I would like to put on the record that the quote Mrs Littlewood was referring to was the one which said:

> During the four years that the staff member (at a school) had contact with E -

the letter E is used to protect the identity -

> he had at least 7 caseworkers. At one stage a worker who had been with the department for only 3 months reported that she was the longest serving member of the team at their office.

That is the end of the quote.

ACTTAB AND VITAB CONTRACTUAL ARRANGEMENTS - BOARD OF INQUIRY REPORT
Paper

Debate resumed.

MR OSBORNE (3.51): Mr Speaker, I rise to make a short statement on the Burbidge report into the VITAB-ACTTAB relationship. I must say that I am pleased with the work of Mr Burbidge and his staff in producing this report. I believe that it has vindicated my decision to push for an inquiry into this matter, as it finally answers some very important questions. It also raises some extremely serious issues, some of which, I believe, are now best answered by the police.

So, Mr Speaker, what did Mr Burbidge find? He found a criminal conspiracy to defraud ACTTAB and, by extension, the people of the ACT. There was never any intention to encourage big Asian punters to bet on Australian races. The operation was set up to pocket money that should have been paid in Australian taxes. Let me put that another way, Mr Speaker. Mr Burbidge found that VITAB was a front for an illegal SP betting operation. It was a scam, a fraud, a con, from day one.

Mr Moore: And we got stung.

MR OSBORNE: And we got stung, as Mr Moore interjects. Mr Burbidge found that the fraud was continued when the VITAB promoters pursued, and won, $3.3m in compensation from ACTTAB for ending the deal. Mr Speaker, he recommends that the ACT seek to recover that money from the crooks who stole it. He found that the fraud lay in concealing the true identity of the actual promoters of VITAB. They did that, quite simply, because the real promoters had criminal records - some of whom, he noted, would not meet "the most leniently applied probity checking". Among those promoters, Mr Speaker, was a Mr Alan Tripp - and I will quote again - "whose record in relation to gambling offences spans two decades and several Australian States". Another was Mr Tripp's brother-in-law, Peter Bartholomew, who has multiple convictions for gaming-related offences dating back to 1982.

He found that Mr Tripp's illegal betting shop, the Numbawan Betting Shop - surprise, surprise! - shared the same address in Vanuatu as VITAB. He found that the former chief executive of ACTTAB, Mr Neck, had, in effect, acted as a promoter of VITAB, disregarding his duty of care to the organisation which employed him, and thus to the people of the ACT. He found that Mr Neck had an "extraordinary" relationship with the promoters of VITAB, in effect, conspiring with the promoters to ensure that the venture went ahead at all costs. Mr Burbidge says that Mr Neck was either blinded by his enthusiasm for the project or "astonishingly inept".

Mr Burbidge also found that no probity check of the VITAB promoters was ever undertaken by ACTTAB prior to the signing of the agreement. He also found that the lawyers retained to review the draft heads of agreement, Macphillamy Cummins and Gibson, acted incompetently. Failing getting our money back from the VITAB people, Mr Burbidge recommends that we have a go at getting it back from the legal people who were hired to protect our interests. I believe this point to be quite important, Mr Speaker.

It is not good enough for lawyers to throw their hands up in the air and say that they did the best they could at the time and that it is not their fault if something goes wrong. Most people with jobs are accountable for their actions, Mr Speaker. The greater the responsibility, the greater the fee. I think there should be a third string to that bow - the greater the accountability.

If the ACT Government is going to continue paying out thousands of dollars to get private legal advice, then there should be a standard performance agreement included in all contracts. That agreement should include penalty clauses for failing to give decent advice. You can sue a plumber or a builder for shoddy work. Let us apply the same standards to the lawyers.

Quite disturbingly, Mr Speaker, Mr Burbidge also found that warning bells about VITAB were sounded all along the way - bells which should have given the government of the day, and particularly the racing Minister, pause for thought. The loudest bell was sounded three days before the ACTTAB-VITAB link was announced. On 5 November 1993, the Minister was warned about "recent developments, particularly in relation to offshore activities" which "had the potential to cause long-term damage to Government revenue and to the viability of the Racing Industry". This warning came in the form of a letter from the New South Wales Minister for Sport, Recreation and Racing. That disturbs me greatly, Mr Speaker, because that person - Mr Berry - now has his hand up to lead this Territory. I hope, at the very least, that, if he does score the job, he pays a little more attention to his mail in the future. Or maybe it is just a continuation of his policy not to meet with anyone from the New South Wales Government.

I now turn briefly to the role of one Robert James Lee Hawke, a former Prime Minister of this nation. I note that Mr Burbidge finds that Mr Hawke was a promoter of VITAB, but adds that he was unaware of the deception involved in the venture. I think that, at the very least, Mr Hawke keeps interesting company. Beyond that, I believe that Mr Hawke's role in the venture was central, as it added enormous credibility. The fact that a former Prime Minister was involved must have added to the sense that this scam was above board. I have no doubt that this is the chief reason why his name was included among the promoters of VITAB in the first place.

Mr Speaker, I was pleased with the Government's response to this report - more particularly, that they intend to see whether the players in this scam can be pursued to the full extent of the law. When this inquiry was set up, there was a chorus of people opposed to it, based solely on the complaint that it would cost too much money. I trust that this report puts paid to that pathetic argument. If it does not, then this is my reply: You can hammer me all you like about the costs of this exercise; but what it has done has shone a light on the truth. There can be no more important task for a member of this Assembly than that they do everything in their power to get at the truth of how the Government operates and, more especially, how public money is spent, and not be distracted from that task by people whose main purpose is to hide it.

Mr Speaker, I said that I would be brief, and I think I have been. I will quickly refer to the second half of the inquiry. I have not yet had time to go through it thoroughly; but I will make a couple of observations. I will say that I was a little bit disappointed that the second half of the inquiry ran out of time. However, Mr Burbidge did find that two punters were paid incentives in excess of $200,000 and that both the former chief executive of the Racing Club, Mr Ray Alexander, and, more importantly, the chief executive of ACTTAB, Mr Roger Smeed, knew of the incentives.

Mr Burbidge says that he did not think it appropriate, nor did he have sufficient time, to address the question of whether the practice of offering incentives was illegal. Without having time to go back and look at what I said in the Assembly on the night of the debate, Mr Speaker, I do not know whether I argued that the practice was illegal. What I did argue was whether it was proper or not, given the risk to ACTTAB with the link with Victoria. Mr Speaker, it is unfortunate that Mr Burbidge did not perhaps have the time to go into this second part, because I believe that the questions that were asked were certainly worth answering to a greater degree. I will be giving a great deal of thought to how I respond to this section.

I will quickly quote from paragraph 369, on the role of Mr Smeed in this issue. Mr Burbidge says:

> It is clear that Mr Smeed at the instruction of the punters co-operated in the payment of rebates by the Club. That co-operation was facilitative. At the request of the punters turnover figures were supplied to the club to enable the rebate payable to be calculated.

So, Mr Speaker, just on that paragraph alone I feel vindicated, in that ACTTAB did know about the operation and was involved. However, as Mr Burbidge says, when the Chief Minister did write to the Racing Club earlier this year, the system was put to an end. How very pleasing that is, Mr Speaker, because what we did was save the Racing Club $200,000, and I believe that turnover has not changed. Mr Speaker, finally I believe that, on the whole, this is an important report. I trust that all members of the Assembly will read it carefully and take heed. Let us hope that it does not happen again.

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

BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 1997
Detail Stage

Bill as a whole

Debate resumed.

MR SPEAKER: The question is: That Mr Osborne's amendment to omit Part IV, which includes clauses 23 to 29, be agreed to.

MR MOORE (4.01): Mr Speaker, I rise again to speak to Mr Osborne's amendment. Since the debate was adjourned I, along with Ms Tucker, have had the benefit of being briefed by Mr Humphries's department about the concern raised by Mr Osborne. Whilst I still consider that the issue raised by Mr Osborne is an important one, my understanding now is that it can be clarified in this way. There is no change at all to the register. So, provided that there is an appropriate person who is clearly identified in the legislation as being approved, they can go back and look at the register and follow the history through the register.

In terms of the birth certificate, Ms Tucker and I were informed that the birth certificate itself is changed quite commonly. It is my understanding that, if somebody changes their name by deed poll, that will be registered on the birth certificate, although that history will not be lost by the Registrar of Births, Deaths and Marriages. Mr Speaker, this clarifies for me the issue that Mr Osborne had raised. Then, in going back through the legislation, I recognised that this is the normal practice. There is no sense in which a record is falsified. The record remains exactly as it was on the register, and that history can be traced on the register by people who are approved to trace it, protecting appropriate privacy where it is necessary. So, Mr Speaker, in this case I shall be voting against the amendment.

I thank Mr Humphries once again for making his officers available to us, and I particularly thank those officers for being very forthright in their explanation and dealing with us, as they always are. It is probably the last opportunity I will get to thank Ministers for this service. That does not apply just to this Liberal Government; it was the same under the Labor Government. Mr Wood is the only member of the previous Cabinet who is in the chamber at the moment. On many occasions, he made available to me the same sorts of briefings.

It is a matter that has become part and parcel of this Assembly and that is always dealt with very carefully. Bureaucrats have easily been able to understand the difference between policy and matters of fact, and have provided advice accordingly. I think that it is one of the most positive elements of this parliament, in contrast with other parliaments. In fact, I am aware of a senior public servant who has gone to another State and who has been warned very clearly by the person's Minister that there is to be no discussion whatsoever with members of the opposition or other members in either the upper house or the lower house of that particular State. I think that we are very fortunate to be able to get to understand legislation better so that we can make more informed decisions when we vote on legislation such as this.

MS TUCKER (4.05): I rise to speak to this again as well. I would like to second what Mr Moore just said. I am very appreciative of the fact that we do get the opportunity to discuss the details of legislation generally with agents of the Government. I think, otherwise, the decisions would not be as well informed. On this particular one, my understanding initially was that it was not falsifying a record. That has been clarified for me. It is, as I had initially thought, correcting a changed situation. The register will contain the history of changes that are made to the birth certificate. So, it is not as if what has actually happened is being lost forever. I am quite happy with it as it is, and I will not be supporting Mr Osborne's amendment.

MR HUMPHRIES (Attorney-General) (4.06): Mr Speaker, I want to indicate the Government's view about the amendment. What Mr Osborne suggests about the potential for someone to mislead with the documentation, particularly with a birth certificate, is true. It is possible that a person who may have had a change of sex recorded in an amended birth certificate could use that information to the point of creating a serious deception. Obviously, we would be reluctant to let that kind of thing happen. If there were a simple way of preventing it from being possible, then we would certainly consider doing so. But I think we need to balance the other side of the ledger here.

Clearly, with these matters, people concerned who have undertaken this process of altering the gender with which they were born are in a position of making a very serious decision about the direction of their lives. They are people who often feel that they have been, in a sense, ambiguously assigned a gender at birth. Sometimes they are people who, in fact, are not clearly of one gender or another anyway at birth. They are either wholly or partly hermaphrodite. Whatever the position of those people at the point when they are born, they make a decision later on either to clarify the issue of their gender or to completely reject the gender with which they were born and to adopt the other one.

Mr Speaker, that is a decision which is never taken lightly. It is a decision which, I understand, almost invariably entails considerable cosmetic and other surgery; it entails hormone therapy; it entails a very serious commitment by the person concerned to make themselves a person of a different gender from the one which is recorded on their birth certificate. To then say to those people in that position, "You have made that step. You have decided to live as a person of the other gender. You have identified yourself in that way. You have alerted all your friends, perhaps. You have changed every aspect of your life that touches on this question. But you still are not entitled to an indication to those who doubt this matter, in unambiguous terms, that you have made that transition and it has been completed, and that, in a sense, is an indication of its completion", I think, is probably unreasonable.

On balance, Mr Speaker - and this is a very difficult matter - I think that the provisions put forward in Part IV ought to stand and that we ought to have in the ACT provisions which reflect those of New South Wales, South Australia and the Northern Territory. I understand that other jurisdictions are considering adopting provisions of this kind as well. It is a difficult matter. Certainly, we would have to say that our view about these provisions might be altered if we found cases of people perpetrating serious fraud on the basis of a birth certificate. But, as Mr Moore points out, there are already amendments made to documentation of this kind which arise out of a process of amendment in the registry, and those documents are also capable of being used to deceive people; but we do not draw back from engaging in amendment merely because of that.

So, that is the view the Government takes. I hope that this does lead to a system where people do not exploit it for nefarious purposes, but do use it to identify themselves in a way which is consistent with their wholehearted commitment to a new lifestyle.

Question put:

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

A vote having been called for and the bells being rung -

MR SPEAKER: Mr Osborne, I would remind you of standing order 155: A member calling for a vote shall remain seated until after the Assembly is called. Do not leave the chamber.

The Assembly voted -

AYES, 1	*NOES, 15*	
Mr Osborne	Mrs Carnell	Ms McRae
	Mr Corbell	Mr Moore
	Mr Cornwell	Ms Reilly
	Mr Hird	Mr Stefaniak
	Ms Horodny	Ms Tucker
	Mr Humphries	Mr Whitecross
	Mr Kaine	Mr Wood
	Mrs Littlewood	

Question so resolved in the negative.

MR HUMPHRIES (Attorney-General) (4.14): Mr Speaker, I move:

Page 20, line 9, subclause 43(3), after "(d)", insert "and".

This picks up a comment by the Scrutiny of Bills Committee, and I commend it to the house.

Amendment agreed to.

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

Bill, as amended, agreed to.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION (CONSEQUENTIAL PROVISIONS) BILL 1997

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

WILLS (AMENDMENT) BILL 1997

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

> That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PRIVATE MEMBERS BUSINESS - PRECEDENCE
Suspension of Standing Orders

Motion (by **Mr Humphries**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing orders be suspended as would prevent orders of the day Nos 13, 3 and 2, private Members' business, relating to the Administration (Interstate Agreements) Bill 1997, the Land (Planning and Environment) (Amendment) Bill 1997 and the Crimes (Amendment) Bill (No. 3) 1997, from being called on in sequential order and forthwith.

ADMINISTRATION (INTERSTATE AGREEMENTS) BILL 1997

Debate resumed from 5 November 1997, on motion by **Mr Moore**:

> That this Bill be agreed to in principle.

MRS CARNELL (Chief Minister) (4.16): The Government has considered this Bill, which was introduced by Mr Moore on 5 November 1997, and we will be supporting it, although we have not had a lot of time to look at the amendments. The Bill requires the Executive to inform and consult with the Assembly on any negotiations which it intends to undertake on interstate agreements that will require legislation to be developed.

It is a public statement of the willingness of the ACT Executive to work with the legislature and is just another example of this Government's commitment to open and accountable government. Mr Speaker, I would be interested in the views of the alternative government over there. Would they be willing to commit to this legislation? They certainly were not the last time they were in power.

This legislation complements the Government's initiative to establish jointly with the Commonwealth Government a working party to undertake a review of the governance of the Territory. We need to have open ideas to improve the governance arrangements in the ACT. In supporting Mr Moore's Bill, I believe that the Government has demonstrated its commitment to involve Assembly members during the early stages of the development of legislation that ultimately we will have to debate and pass. However, I would like to add that I believe that the Government's record in this regard has been very good without a legislative framework. As usual, the Government has just gone on with it.

As I outlined to members last week, we have the runs on the board. To take national competition policy as an example, there was full involvement of the Assembly in that process. There have been numerous offers of briefings to members of the Assembly on the broad range of issues and legislation associated, in particular, with COAG agreements. For example, this Government has briefed several members of the Assembly on competition policy legislation which is currently before the Assembly.

During his presentation speech, Mr Moore stated that this legislation is about changing a culture of secrecy, because in this area the Assembly has had anything but open government. Mr Moore added that this was a culture not just of this Executive but also of the former Executive - one that has been established by Executives right across Australia. Mr Speaker, I would refute the claim that this Government has been secretive in its negotiations at the national level. The negotiations on specific reforms are not some sort of conspiracy to harm the residents of the ACT. In fact, that is far from the truth.

We, as a government, have always pursued specific reforms and negotiations at the national level in order to bring potential benefits to the residents of the ACT. However, I am sure that all members of the Assembly would appreciate that a small number of negotiations which have been undertaken at a national level do require some sort of confidentiality at the outset. I certainly believe that Mr Moore would appreciate that. Clause 10 of the Bill provides a mechanism for some protection of the Territory's interests.

This Government has kept both the community and members of the Assembly informed on all negotiations. The Government, in view of its record, is ready to sign up to this legislation. Mr Speaker, I think this is a good example from Mr Moore of the sorts of changes that we can make in this Assembly to improve the governance of the Territory and improve the way we operate here. I am very pleased to be able to support this legislation. I do have an amendment to move later, but it is fairly minor.

Mr Speaker, those opposite have totally rejected the claim that there is any capacity to improve the way we operate in the Assembly. I think this shows categorically that we can make incremental change, that we can come up with different ways of operating that mean the Assembly operates more as a whole than as an Executive and the rest of the Assembly. Mr Speaker, we have been complying with the spirit of this legislation for some time, but we are very happy to support this means of formalising the current agreements.

MR WHITECROSS (4.21): Labor will be supporting this Bill. The Bill that Mr Moore has put before the Assembly seeks to effect a cultural change in the way the Executive treats the legislature by imposing an obligation on the Executive to inform members of the legislature of negotiations taking place between the ACT and the States. The Bill seeks to ensure open, accountable and transparent government. Similar to the Statutory Appointments Act, the Administration (Interstate Agreements) Bill seeks to impose a requirement on Ministers to consult with the appropriate Assembly committee over the negotiations.

It is important to note, Mr Speaker, that the Minister is never to be hamstrung by the committee. Whilst there is a requirement to receive advice back from the committee before interstate agreements may be signed, if the committee fails to advise the Minister of its views within seven days, the Minister is able to do whatever he or she deems appropriate. Importantly, if the Minister judges that it is in the public interest that a particular issue remain confidential or it is urgent, the Minister does not have to comply with all the requirements of the Act. There is a schedule of specific exemptions in relation to the National Crime Authority and the Loan Council. I would also suggest that there may be many other occasions on which some level of urgency may apply, as I think the Government has, too.

I think the point that Mr Moore is making with this Bill is an important one: Members of the Assembly should be informed as far as possible that negotiations are being undertaken over certain issues. Members also should be informed of the outcome of negotiations. By setting out these requirements, the legislature is ensuring that it is never surprised by the Executive - perhaps not quite that, Mr Speaker, but not ambushed by the Executive - in relation to interstate agreements.

The doctrine of the separation of powers does recognise that the Executive manages government, the legislature operates as a check and balance on the Executive, and the judiciary acts as the keeper of the rule of law. While some may argue that Mr Moore's Bill seeks to override the doctrine of the separation of powers, it is Labor's view that what the Bill seeks to do is to ensure as far as possible a system of transparency and accountability, providing another check and balance on the Executive. I think this is important, especially as the ACT Legislative Assembly has a long history of minority government. From that point of view, it is essential for the opposition and minor parties who have influence over decisions in the Assembly to be informed as far as possible about issues that the government of the day is seeking to address. For those reasons, Mr Speaker, we will be supporting the legislation.

As I said at the beginning, Mr Moore, in bringing forward this Bill, is seeking to effect a cultural change in the way the Executive operates. I reject the suggestion by the Government and by the Chief Minister that the law is, effectively, redundant because the Chief Minister always consults with us on all these matters anyway. That is simply not the case. Certainly, if the Chief Minister had consulted with the Opposition before she went to the recent Premiers Conference, we could have set her straight on whether a GST was a progressive tax or a regressive tax. Unfortunately, because the Chief Minister did not consult us, she went off and signed an agreement in relation to tax reform in the mistaken belief that a GST is a progressive tax. So, there are clear benefits in some consultation, because the Chief Minister would avoid embarrassing herself by making mistakes like that in the future.

It is simply not the case that the Government always consults with other members of the Assembly before entering into negotiations or agreements. Mr Moore's Bill, I think, does seek to raise an important issue about changing the culture of the way the Executive treats the legislature. Of course, I think any Executive now or in the future would be well advised to heed the message Mr Moore is sending in this Bill about the importance of ensuring that the legislature knows what the Executive is doing before it does it.

MRS CARNELL (Chief Minister): I seek leave to make a brief personal explanation.

Leave granted.

MRS CARNELL: I will be very brief, Mr Speaker. Mr Whitecross indicated that at COAG I had signed an agreement with regard to tax reform. He is wrong again, Mr Speaker; no agreement with regard to tax reform was signed at the last COAG meeting. It is unfortunate that Mr Whitecross does not worry about the facts.

MS TUCKER (4.26): The Greens will be supporting this Bill and the amendments that have been put forward. We believe that this Bill addresses the very important issue of how this Assembly deals with actions arising in the ACT from decisions made jointly by Commonwealth, State and Territory governments. We recognise that interstate agreements need to be made for a range of reasons, such as to ensure consistency in laws across Australia. The historical development of the separate State governments in Australia created a range of problems in trying to get consistency across governments in how business and individuals were treated, in the development of government infrastructure and in the setting of various government standards.

The situation of sometimes having different laws dealing with the same issue across each State government has been slowly corrected over the years, and we recognise that this process will continue. Problems arise, however, in that the development of national approaches can sometimes conflict with the democratic right of persons in a particular State or Territory to decide for themselves how they want to deal with a particular issue.

We have come across this problem in the Assembly a number of times. Our own efforts to stop battery hen farming in the ACT have come up against national agreements on animal welfare codes of practice and food standards. Our desire to label genetically engineered food has come up against national food labelling standards. Our concerns about the impacts of the operations of the national electricity market, or of competition policy in general, have been pushed aside by agreements already made by Commonwealth and State governments at COAG.

Often the Assembly is not even aware that negotiations are taking place between States and Territories and the Commonwealth on a particular issue, nor of the negotiating position that the Government is taking at these meetings. Mr Moore's Bill goes a long way towards ensuring that Assembly members have the opportunity to influence at an early stage the agreements that are entered into by the ACT Government with other Australian governments. This will be a big improvement on the current situation, where the Assembly is often presented with a Bill which implements a national agreement over which members have had no influence. These Bills are presented as a fait accompli which the Assembly can amend only at the risk of incurring the wrath of the Commonwealth Government. This is very disempowering and goes against our desire to make the operations of this Assembly more participative and inclusive.

This Bill provides a better balance between the interests of non-Government Assembly members in having a say over what happens in the ACT and the interests of the ACT Government in negotiating interstate agreements. We look forward to seeing how this Bill operates in practice, and urge whichever party is in power in the next Assembly to cooperate fully in its implementation.

MR HUMPHRIES (Attorney-General) (4.29): Mr Speaker, just briefly on this Bill, I have indicated publicly before, as has the Chief Minister, that we consider that it is a reasonable position to be in to have a requirement like this placed on government. The reality, of course, is that governments that enter into agreements at national fora need to be able to come back and carry the agreements through to completion by - often, anyway - enacting legislation, and that means winning the support of members of this place in the ACT's instance. I see this as a logical extension of the reality of minority government within the ACT. It is another transition, if you like, towards a rather different form of government in the ACT to the kind that exists in other places; but it is a transition which is appropriate and which, I think, does reflect the nature of the political system in the ACT.

I do take some exception to being lectured by the members of the Opposition, particularly given that when they were in this position they never discussed matters of the kind discussed at interstate fora. We, in fact, have done so - not on all occasions, I concede; but we have done so in a number of cases. Since Mr Whitecross's jaw looks as though it is dragging along the floor, let me give him a couple of examples - in respect of the Government's policy on X-rated videos and in respect of the matters to do with legal aid. On both of those matters the Government briefed - - -

Ms McRae: They were so public that you could not avoid it.

MR HUMPHRIES: That may be, but I took the trouble to write to members or speak to them personally about the position that the Government was taking, to explain where we stood and to give them information about the approach we were taking in those interstate fora. I must say that, generally, I had strong support from members on both of those matters, and they are not isolated examples. We will continue to apply that policy; but now, obviously, there will be a framework in which to do it, as is the case, for example, with the Statutory Appointments Act.

We have complied, I hope, with the terms of that Act as it applies in this place. We supported the Act when it came before this house. Those opposite, of course, did not support it when it first came before us. We have complied with that, and in many cases we have gone beyond that. We have consulted on appointments which are not subject to the Act but which we feel members ought to be aware of or on which we want members' views before we make an appointment. That, again, reflects the understanding on this side of the house that change is very much a part of the political system in the ACT.

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

MR SPEAKER: Leave is granted.

MR WHITECROSS: Mrs Carnell, in her personal explanation, said that I had accused her of signing an interstate agreement on tax, and indicated that that was not the case. I certainly said that she had signed up to an agreement in relation to tax reform. In fact, in her own statement to the house on 4 November, she said, "The Leaders Forum agreed to a number of key principles of taxation reform". That, in fact, seems to me to fall very squarely within the definition of "interstate agreement" in Mr Moore's Bill. Perhaps Mr Moore, in his right of reply, would like to explain whether he thinks it does.

Mr Humphries: Mr Speaker, there is a distinction between making an agreement and agreeing with someone's point of view. If I agree with Ms McRae when she says something in this place, it does not mean that I am entering into an agreement with her.

MR SPEAKER: Order! I do not know who gets the elephant stamp today, but it is a pretty close run.

MRS CARNELL (Chief Minister): Mr Speaker, I do object. What I said very clearly in the house was that State leaders, and that includes, by the way, Mr Carr - - -

Ms McRae: Mr Speaker, why is Mrs Carnell addressing us? Is she taking a point of order or giving a standing order 46 explanation?

MRS CARNELL: I am making a personal explanation.

MR SPEAKER: Yes; it is a personal explanation under standing order 46.

MRS CARNELL: Mr Speaker, I made it very clear that no interstate agreement with regard to taxation reform had been signed. In fact, the principles that were agreed to, Mr Speaker, were agreed by all States, from memory, including New South Wales; so, they had very little to do with a GST.

MR MOORE (4.34), in reply: Mr Speaker, it is interesting that this sort of debate should occur at this stage, because I think Mr Humphries put his finger on the nub of what I am trying to achieve when he said that the Statutory Appointments Act, to which I do enjoy comparing this, has actually led to a series of changes. What has happened is that on a number of occasions Mr Humphries, in particular, and other Ministers have gone beyond what is required in the Act and have consulted on certain appointments. One of the most notable recent ones of those was the appointment of a judge to the Supreme Court. There are other examples of Mr Humphries, in particular, going beyond the requirements of the Act, because he consults broadly with members rather than just, as the Act requires, consulting with the appropriate standing committee of the Assembly.

It seems to me, Mr Speaker, that the reason that that goes to the nub of it is that what you are seeing is a cultural change in the way people operate and the way they do things. It is fair to say that some Ministers of this Assembly have consulted with other members. Mr Humphries gave a couple of examples. I can think of other examples of how I have been consulted and given quite detailed briefings on what is likely to happen at ministerial conferences where I have some interests. There is no doubt that that has been going on.

What I want to do by this legislation is to ensure that the culture is established. I am delighted to hear such widespread support from the Assembly. All that will happen under this legislation is that there will be four requirements for a Minister to meet: First, to write to all members; secondly, to consult with the appropriate committee of the Assembly; thirdly, to take into account any committee recommendations; and, fourthly, to report back in writing to all MLAs following the meeting. I imagine that on many occasions that will be done by tabling reports in the Assembly as well.

Mr Speaker, there are exemptions in the Bill that deal with urgency or public interest and there are specific exemptions in the Schedule. In this instance, the Schedule lists the National Crime Authority and, if my amendment is passed, the Loan Council of the Premiers Conference. It seems to me that this is landmark legislation that will be part of that evolutionary process of change that is going on, to ensure that this particular chamber is the most advanced chamber in Australia in the way we deal with our legislation and the way we deal with our agreements. I must say that it compares favourably with almost any local council that I am aware of as well. We are becoming more consultative, more open and more inclined to work together.

I see this sort of change as being important in ensuring that this Assembly does remain at the forefront of democratic processes. It is something that I think each and every one of us can be proud of, because we have all played a part in it in some way at different times. I think we can continue down this path. It is not appropriate for any member of this Assembly to say, as indeed I heard one saying last night on television, that this Assembly does not work very well. It works extremely well compared with other parliaments

and councils in Australia. It is by no means perfect. There will be things that we can do to improve it. I hope that each and every one of us will continue to work on those. While this is major in the sense that it has not been done before in Australia, it is minor in the sense that it is a minor evolutionary change. I appreciate the contribution members have made.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

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

Clause 3

MR MOORE (4.30): Mr Speaker, I move:

> Page 2, lines 9 and 10, omit "matters being", substitute "interstate agreements".

I should say that I have circulated an explanatory memorandum for my amendments so that members can understand what I am trying to achieve. Amendment No. 1 is simply to clarify the meaning of the provision.

MRS CARNELL (Chief Minister) (4.39): Mr Speaker, the Government has considered Mr Moore's amendments to the Bill and will be supporting them. The amendments ensure the workability of the legislation by putting in some sensible boundaries. While we are keen to keep members informed, there are a lot of intergovernmental relationships and discussions that would be of very little interest to us or them, I can promise. First, I believe it is important to rule out from this legislation communications between officials which do not involve a Minister, given the large amount of dialogue that goes on between officials in developing proposals for ministerial consideration. The amendment to subclause 11(2) will reduce the administrative burden placed on not only departments but also members and committees. I would like to thank Mr Moore and his officers for the cooperative approach that they adopted in discussing these amendments with the Government. I believe that this legislation strikes the right balance between information and workload.

MR WHITECROSS (4.40): Mr Speaker, the Opposition will be supporting Mr Moore's amendments.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 4

MR MOORE (4.41): I move:

> Page 2, line 22, definition of "negotiation", omit "meeting attended", substitute "process undertaken".

Mr Speaker, as members have indicated that they will be supporting the amendments, I do not see any point in going through each one in detail.

Amendment agreed to.

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

> Page 2, line 24, definition of "negotiation", after "telecommunications", insert "but does not include communications between officials which do not involve a Minister".

Clause, as amended, agreed to.

Clause 5

MRS CARNELL (Chief Minister) (4.41): I move:

> Page 2, line 26, omit the clause, substitute the following clause:
>
> **"Application**
>
> **5. (1)** Part 2 of this Act does not apply in relation to -
>
> (a) negotiations for agreements of the kind specified in the Schedule; and
>
> (b) negotiations of a kind specified by instrument by the Minister.
>
> **(2)** An instrument under paragraph (1)(b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

Mr Speaker, this amendment, hopefully, will be seen as a sensible one. It avoids the need for an overly-prescriptive approach to the Schedule, rather than attempting to look into a crystal ball and foresee all circumstances in which it would be appropriate to exempt agreements from the operation of this Bill. This straightforward amendment provides a mechanism to deal with these issues as they arise. This amendment is not an attempt by the Government to circumvent the operation of the legislation. As members can see, any instrument prepared by a Minister will be subject to scrutiny by the Assembly. The amendment strikes a balance in putting in place a mechanism to deal with the unforeseen.

We could all spend our time today guessing what needs to go into the Schedule to deal with the complexities of intergovernmental negotiations that have not even been thought of yet. All of us know that situations may arise that warrant exemption. All we can do is agree to the amendment to clause 5. Mr Speaker, this provision may not be used often. Who knows how often? I certainly do not. But, as legislators, it would be remiss of us if we did not provide a standard legislative mechanism to deal with this issue of exemptions. Of course, this instrument has to come before the Assembly for scrutiny. It is my understanding that it will be disallowable.

MR MOORE (4.43): Mr Speaker, I will be opposing this amendment. I must say that it is not something over which I would die with my legs in the air, because there is no doubt that it would still be a disallowable instrument and, therefore, the Assembly would have the final say. It seems to me, though, that, in cases where this action is required to add something to the Schedule, there really ought to be a proactive measure coming before the Assembly to the effect that this is a long-term exemption and, therefore, the Assembly ought to be able to consider it. That would require an amendment to the Act. It is just a slightly different approach. I understand what Mrs Carnell is trying to achieve, but I think it is better that this amendment be opposed and that there be a proactive stance in bringing legislation to the Assembly in order to change the Schedule.

MR WHITECROSS (4.44): Mr Speaker, the Opposition will be opposing Mrs Carnell's amendment. It seeks to provide an opportunity for blanket exemptions from the provisions of the Act. It seems to me that there are already provisions there which deal with things that come up urgently. If things do not come up urgently, then it is possible for the legislature to deal with them in another way. Really, the proposition underlying the amendment is entirely hypothetical - that something might come up which we want to exempt from the provisions of the legislation. The Government have not presented any sort of persuasive argument as to what those things might be.

Amendment negatived.

Clause agreed to.

Clause 6

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

> Page 3, line 5, after "shall", insert ", subject to section 10".
>
> Page 3, line 5, after "7 days", insert "(or, if that is not possible, as many days as is possible)".

Clause, as amended, agreed to.

Clause 7

Amendments (by **Mr Moore**) agreed to:

Page 3, lines 15 and 16, omit "intends to participate in negotiations for an interstate agreement, he or she shall", substitute "commences negotiations for an interstate agreement, he or she shall, subject to section 10,".

Page 3, line 18, paragraph (ii), before "Committee" insert "and Subordinate Legislation".

Clause, as amended, agreed to.

Clause 8

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

Page 3, line 23, subclause (1), insert at the beginning of the subclause "Subject to section 10,".

Page 3, line 27, paragraph (1)(b), omit "took place", substitute "was undertaken in accordance with section 7.".

Clause, as amended, agreed to.

Clause 9 agreed to.

Clause 10

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

Page 4, line 13, paragraph (b), after "affect the" insert "public interest or the".

Clause, as amended, agreed to.

Clause 11

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

Page 4, lines 17 to 26, omit the clause, substitute the following clause:

"**Discharge of requirements**

11. (1) Where -

(a) a Minister is required by this Act to consult with a committee, or to provide information to Members, regarding negotiations for an interstate agreement, and

(b) two or more Ministers are jointly engaged in the negotiations in question,

a requirement of this Act may be fulfilled by one of those Ministers consulting, or providing information, on behalf of all the relevant Ministers.

(2) In relation to negotiations for a particular agreement, a Minister is required to fulfil a requirement in sections 6, 7, 8 and 9 once only, and those requirements do not apply on a second or further occasion where, in the course of ongoing negotiations, the circumstances which would otherwise give rise to a requirement arise again.".

Clause, as amended, agreed to.

Schedule

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

Page 5, line 7, add "of the Premiers Conference".

Schedule, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1997

Debate resumed from 3 December 1997, on motion by **Ms Horodny**:

That this Bill be agreed to in principle.

MS McRAE (4.49): It is with a level of frustration that I participate in the debate on this Bill. Today we are trying to do several complicated things. I am very disappointed that the issues that we are dealing with are being dealt with via this private members Bill. Even to agree to it in principle is something that I would prefer not to do, because I was severely advised a few months back that many of the matters that are being dealt with in the Bill are not appropriate to be dealt with in this Bill.

As I alluded to in an adjournment debate last week, I have been approached by quite a few people who are concerned about an error that occurred in an amendment to the Land (Planning and Environment) Act, the primary Act, late last year. As I pointed out in the adjournment debate, the problem was that the Minister had said in his explanatory

memorandum that "interests" was the word that should have appeared in paragraph 276(1)(b); but, in fact, "rights" was the word that appeared. Subsequently, on 24 June, an amendment was actually put through and the word "interests" was substituted for "rights"; but, in many an instance now, people are confused. I gather that they are dealing, not with the explanatory memorandum or the revised Bill in June, but with the primary Act, which has "rights" rather than "interests".

We are going to agree to this Bill in principle - not because the issues that are raised in it are all ones that we are comfortable with agreeing to, but because by way of amendment we are going to get back to at least fixing up a problem that began just about a year ago. Of course, that does not help anyone that has been caught up in the mess in the last year. So, it is with a level of frustration that I rise to deal with this issue, because it actually should have been dealt with at several points along the way in the last year. I am not really pointing the finger at anyone - it is as much my fault as anyone else's - but it is a great pity that it should come to this, right at the end of an Assembly term, and we are back on a Land (Planning and Environment) Bill. I do not think it is an unfamiliar place for us to be in at the end of a year, particularly, at the end of an Assembly term.

The issue of substance that the Greens' Bill is trying to deal with is the reinstatement of some rights for people to appear before the Supreme Court. Initially, it was dealt with by way of consequential amendments to the AD(JR) Act and by the Land Act itself. It was a quite complex process of rejigging that happened late last year. I would like to say that we are not opposed in principle to what the Greens are attempting to do; but we just do not think that this is the time or the place to do it, despite the fact that I know Ms Horodny is going to move some further amendments later to deal, perhaps, with some of the difficulties that I have elucidated.

The matters with which we are dealing are extremely complex. The matters with which we are dealing are actually in tune with what Stein did want, contrary to some of the claims that are now being made about what happened with the Liberal and Labor alliance - shock, horror! - last year. Stein, in fact, did believe that it was the adjoining residents that had the greatest level of rights to complain, and then there was a further level of complaint that should be allowed in terms of being adversely and substantially affected. We have a great deal of sympathy with the notion that, perhaps, there are some other people who are feeling aggrieved and feel that they have been cut out of the process, although I do not think that the Yarralumla case is a very good example of what is going on in terms of how the Land Act is actually applying. I do not want to get into that debate now, but I think it raises a range of other complexities which, again, I do not think that the Bill before us today offers the right solution to.

Since the Bill was first introduced and the debate was adjourned last week, I have become aware of the fact that the Minister will be putting in further amendments. May I say at this point that they are of a nature that we were much more interested in than the amendments to do with the standing before the Supreme Court. The problem for residents has been: At what point can they register their dissent? At what point can they have their voices heard and at what point will they be reheard? The old rules implied a series of connections between people who registered a complaint and people who then had standing. The new rules under the Land Act amendments that were put through last year have made that a little more difficult. Some of the Minister's definitions -

he will explain them; so I will not go into detail now - do come to deal with some of the real problems that have emerged through experience. I think that offers the first step of clarifying for some people the difficulties that they have encountered with the new legislation following the changes to the Land (Planning and Environment) Act.

The further issue of who should have rights to take what to the Supreme Court is probably one that does warrant further exploration. So, what I would like to do today is not simply to oppose point-blank what the Greens are suggesting, but to suggest that, because we are at the end of an Assembly term and because the changes are being rushed on us in an inappropriate Bill at an inappropriate time, we simply note those issues, put them on the table, put out the challenge to everyone involved, and say that this will be an issue that we - those of us who are here - will pick up again next year and treat with some seriousness. By then we will have had a year or more to look at the impact of the Land (Planning and Environment) Bill changes, we will have had a year to look at some of the case studies for what has appeared before the AAT, and we will have had more time to look at the types of complaints that we are hearing, to see whether, in fact, my assertion about Yarralumla is correct - perhaps I am wrong - and to look at the level of concern there is about the rights of individuals to participate in decisions and to complain, and we can then come back to it more cool-headedly.

The last thing I want to do today or the Labor side wants to do today is, by a series of amendments to the Land Act for other areas of appeal, to create new complications and difficulties because we have not had enough time to think through the consequences of the changes. I repeat that in opposing most of this Bill we are not opposing the idea of what is driving it, nor opposing the idea that the rights of people to appeal against decisions, to complain about decisions, to be involved in land decisions are not perfect at the moment. We are saying that, in fact, they should be reviewed. But this Bill does not offer the right mechanism.

So, whilst we will agree to it in principle, it is primarily to fix up one of the simplest of problems, really, but has ended up being a quite complicated problem as we trek through rights and interests to wherever we are at the moment. It seems that we are at rights at the moment and should be at interests. I hope that that is where we will end up at the end of today's debate. But I am not holding my breath, because we have managed to trip ourselves up quite thoroughly three times before. So, in the interests of getting that together, we will agree to the Bill in principle. We will listen with interest as the Minister explains the amendments that he has circulated, because we think that they will add further clarification and comfort to the people who are concerned about the implications of the current processes for appeal.

MS HORODNY (4.57), in reply: I am pleased to hear that Ms McRae is interested in continuing this discussion in the next Assembly, depending on who is left after the election. I hope that the Labor Party will take on Ms McRae's commitment, whether Ms McRae is here or not. I am disappointed, nonetheless, that there is resistance from the majority of members in this place to supporting this part of the Bill. I do not believe that it is as complicated as Ms McRae makes out. I believe that it is about establishing

open standing in the Supreme Court for people who want to challenge actions by the Minister or his officers under the Land Act. I believe that the resistance is wrongly conceived, because all I am doing is correcting an amendment to the Land Act that the Government introduced into the Assembly last year.

In the Land (Planning and Environment) (Amendment) Bill (No. 4), which was debated last December, the Government introduced a raft of amendments to the Land Act to implement its response to the Stein inquiry. Members will recall that the Bill was passed by the Labor and Liberal parties and that the Greens and Mr Moore objected vigorously to most of those changes. One of those amendments - clause 87 of the Bill - removed the open standing of persons under the AD(JR) Act to challenge the lawfulness of a decision made under the Land Act. Ms McRae claimed that the Stein report argued for the sorts of changes that Labor and Liberal voted for; but the Stein report, at page 316, on the issue of standing, says:

> An open standing provision in the Land Act would remove any doubt as to the ability of a member of the public to seek to enforce breaches of leasehold/planning laws and thereby uphold the law. Such a provision would enable any person, irrespective of interest, to approach the Supreme Court for a remedy to restrain a breach of the Act. Open standing provisions, operative in every planning and environment statute in NSW (some for as long as 15 years), have the demonstrated capacity to ensure that decisions are made in accordance with the law and not contrary to it. They have not been abused and, contrary to the dire predictions of some, no 'floodgates' have opened.
>
> In addition, there has been no experience of intermeddlers or busybodies.

Debate interrupted.

ADJOURNMENT

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! It being 5 o'clock, I propose the question:

> That the Assembly do now adjourn.

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

Question resolved in the negative.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1997

Debate resumed.

MS HORODNY: The Stein report continues:

> The courts' power to prevent abuse of its processes and to exclude vexatious litigants has ensured that only meritorious cases are pursued. Other States have followed suit -

that is, followed New South Wales. South Australia, Queensland and Tasmania all have open standing in planning legislation. The report continues:

> Open standing provisions are not to be feared but should be welcomed as an aid to enforcement. They have the capacity to ensure that administrators carry out their duties.

I would also like to read out some advice given on this issue by the Environmental Defender's Office. This is information that was sent to all members of the Assembly in January of this year.

Ms McRae: It is wrong.

Mr Humphries: It is wrong, yes. The advice is bad advice. It is not right.

Ms McRae: We all got it. You do not have to read it. It is wrong.

MS HORODNY: Nonetheless, I would like to put on the record what Mr Mossop of the EDO had to say on this issue. He said:

> Prior to the amendments to the ADJR Act by Amendment Act No 4 any person who believed a decision under the ... Land (Planning and Environment) Act 1991 ... or the Heritage Objects Act 1991 to be contrary to law was entitled to bring an application for judicial review under the ADJR Act. That put applicants in relation to such decisions in a special position because the generally applicable test was that the person must be a "person aggrieved" by a decision in order to be able to seek judicial review. This recognises the fact that most decisions under the ... Land Act and the Heritage Objects Act involve significant public interests and the traditional tests for standing, which were developed in a private law context, were not appropriate in such situations.
>
> Section 87 of the Amendment Act No 4 removed this liberalised test for standing under the ADJR Act. Therefore any person or organisation will now have to satisfy the requirement that they be a "person aggrieved" in order to challenge the lawfulness of a decision under the Land Act or Heritage Objects Act.

> The Explanatory Memorandum that accompanied the Bill ... was misleading as to the effect of the proposed changes. The significance of the changes was not apparent on the face of the Bill. The relevant clause simply referred to "omitting subparagraph 4(a)(iii)". The Explanatory Memorandum said:
>
> > **Clause 87 - Interpretation** - amends section 3 of the Administrative Decisions (Judicial Review) Act 1989. The amendment removes the right of a person to seek a statement of reasons under section 13 of the Act where the person considers that a decision made under the Principal Act is contrary to law. The amendment does not apply to applications made to the Supreme Court and not finally dealt with before this clause commences.
>
> Whilst the amendment does remove the liberalised right to apply for a statement of reasons this right is subsidiary to the principle right to then apply to the Supreme Court for judicial review. The Explanatory Memorandum is therefore misleading because it fails to refer to the most significant effect of the proposed amendment.

If Mr Humphries has a comment to make about this, he can certainly seek leave, after I have finished, to explain further what he believes to be the truth of this matter. Mr Mossop continues:

> It may be that the misleading nature of the Explanatory Memorandum was the reason that the provisions of cl 87 were not referred to in the debate on the Bill in the Assembly ... I should point out that it is a rare event for such a liberalised test of standing to be removed from legislation once it has been inserted. Indeed I know of no other jurisdiction in which this has occurred. It is particularly unusual that this occurred with the support of the Australian Labor Party, a party whose record of support for open standing and civil enforcement provisions has, until now, been excellent.

Ms McRae: What is the relevance of this?

MS HORODNY: Again, Ms McRae can make an explanation of this if she chooses.

My Bill attempts to broaden the rights of persons to go to the Supreme Court to restrain or remedy breaches of the Land Act. I accept that it goes beyond the original intent of the relevant section of the AD(JR) Act. However, it is not inconsistent with laws regarding open standing in other States. Neither Mr Humphries nor Ms McRae has addressed that issue. Mr Humphries made a number of criticisms of the detail of my Bill. I should point out, however, that the wording of this Bill was taken almost word for word from equivalent sections 122 to 124 of the New South Wales Environmental Planning and Assessment Act. If the New South Wales Parliament had no difficulty in passing these sections, then I do not understand why this Assembly has such difficulty.

I am also aware that the Land Act already confers some powers on the Supreme Court in section 261, but these are very limited and inadequate powers. Section 261 applies only where the Minister or another person wants to restrain a person from breaching an order made by the Minister. However, there is a whole range of areas in the Act where there is currently no recourse to the Supreme Court. For example, a person cannot use the Supreme Court to get some remedy if the Minister has refused to take out an order. The recent case of the Brown Street building highlighted that the community has no ability to question the actions of PALM in using the minor amendment provision in the Land Act to make changes to development applications. There is also the situation where the community has no power under the Land Act to challenge the Minister's decisions over the adequacy of environmental assessments of particular development proposals.

I, therefore, still believe that this Bill has merit and is needed to improve accountability in the ACT's planning system. I am very surprised, again, that the Labor Party has not supported this Bill.

Ms McRae: Insulting us does not help, Ms Horodny.

MS HORODNY: I am not insulting anyone, Ms McRae. I am simply pointing out the inconsistency here. To quote again from Mr Mossop's letter, he said:

> ... the liberalised standing provision -

in the AD(JR) Act -

> was inserted when the Labor Party was in government in 1991. The then Attorney-General, Mr Connolly, when introducing the Administrative Decisions (Judicial Review) (Amendment) Bill said:
>
> > "This Bill gives effect to concerns that there should be wide standing to seek review of administrative matters in respect of planning and land use matters".
>
> Since its introduction there has been no evidence that the section has been abused. Indeed I do not think there has been one application made under the provision, let alone a number that could be a cause for concern. Therefore the change appears to be without any empirical policy justification.
>
> ... the Labor Party in other jurisdictions has been instrumental in liberalising the standing requirements in environmental legislation ... in New South Wales, the ALP was instrumental in introducing open standing and civil enforcement provision into every significant piece of environmental legislation ... Even when in opposition the ALP -

in New South Wales -

> fought hard to make sure that the broadest standing provisions were introduced.

I have already covered the recommendations in the Stein report in what I said earlier; so I will not go into that. But Ms McRae was incorrect in what she said about the Stein recommendations in relation to this issue, because Stein very much recommended:

> "any person" should be entitled to approach the AAT or Supreme Court to civilly enforce breaches of the Land Act without being required to establish common law standing.

I was pleased to hear Ms McRae say that her party is willing to look at this issue in the next Assembly, but I am very disappointed that we cannot actually deal with open standing here and now, once and for all. I do not understand why the Labor and Liberal parties have such a fear of open standing. Is it because they believe that the letter of the law currently is not being adhered to? This is about the issue of accountability and I do not understand why there is such a reluctance to allow members of the public to call on the Government to adhere to the letter of the law.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (5.11): Mr Speaker, I seek leave to move together the three amendments which have been circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

> Page 1, line 12, insert the following new clauses in Part II:
>
> "**Interpretation**
>
> **3A.** Section 222 of the Principal Act is amended -
>
> **(a)** by omitting '175(3)(b)' from subparagraph (e)(i) of the definition of 'development' in subsection (1) and substituting '175(3)(a)'; and

(b) by omitting '229A(1)' from paragraph (a) of the definition of 'relevant authority' in subsection (1) and substituting '229A(3) or (4)'.

Objections - general

3B. Section 237 of the Principal Act is amended by adding at the end the following subsection:

'(4) In this section -

"person" includes an unincorporated association.'.".

Page 1, line 12, clause 4, omit the clause, substitute the following clause:

"**Review - objectors, third parties**

4. Section 276 of the Principal Act is amended -

(a) by omitting from paragraph (1)(b) 'rights' and substituting 'interests'; and

(b) by adding at the end the following subsections:

'(8) In this section -

"person" includes an unincorporated association.

'(9) For the purposes of this section, an organisation or association of persons, whether incorporated or not, shall be taken to have interests that are substantially and adversely affected by a decision if the decision relates to a matter included in the objects or purposes of the organisation or association.'.".

Mr Speaker, I table the supplementary explanatory memorandum for those amendments. I have also circulated a tabling statement in relation to them. I will read briefly from it so that it is on the record. The Government amendments include an amendment to subparagraph 222(1)(e)(i) to correct a typographical error in the definition of "development". Subsection 175(3) of the Land Act provides for the regulations which prescribe permitted uses on land apart from those purposes permitted by the lease. To include a development of a type prescribed by the regulations in the definition of "development", the reference to paragraph 175(3)(b) in subparagraph 222(1)(e)(i) will be omitted and replaced by "175(3)(a)".

Section 222 provides definitions for Part VI - Approvals and Orders - of the Act. Section 222 currently defines "relevant authority" in such a way that the Commissioner for Land and Planning is excluded where an application has been referred "voluntarily" by the Minister's delegate under subsection 229A(4). The definition of "relevant authority" is being amended to recognise that an application can be referred to the commissioner under both subsections 229A(3) and 229A(4).

Turning to proposed new clause 3B, section 237 of the Act provides that any person affected by the approval of a decision may object to the grant of an approval. This section is to be amended to include a definition of "person". This will provide for organisations such as residents associations to be included in the definition of "person", and seeks to clarify an organisation's standing if a decision is appealed to the AAT.

Mr Speaker, I have already commented on clause 4 of the Bill and the support that the Government will give it. I also commented at length, on the last occasion, on the other dangers and weaknesses we see in the proposal put forward by Ms Horodny. The speaking notes I have circulated contain some references to those issues. I draw them to the attention of members, but I will not read them into the record today.

Mr Speaker, I will take up Ms Horodny's invitation to respond to the comments of Mr Mossop. I have advice on that subject, which is not with me at the moment; but I will attempt to table it, if not before the end of today, by tomorrow, so that members can see what arguments are being put in response to Mr Mossop, who, I understand is no longer with the Environmental Defender's Office. I commend the amendments to the Assembly.

MR MOORE (5.15): Mr Speaker, I missed my opportunity to speak in the in-principle stage and I would like to use this opportunity, since we are debating the Bill as a whole, to make the point that I fully support the legislation put up by Ms Horodny and I support the notion, primarily, of expanding standing to ensure that it is as wide as possible. I think Ms Horodny has put a positive approach to this Assembly. It is interesting, Mr Speaker, how regularly I am getting approaches at the moment from people who feel the frustration of not being able to appeal against a decision that has been made with reference to a development. Often it is a situation where the developer would have been able to appeal but the person directly affected is not able to appeal.

This attempt by Ms Horodny is just one part of the correction that I believe needs to be made. I understand that, when it comes to open standing, it appears not to be the will of the Assembly that we proceed on that, but rather that we get a modified view through the amendments put. It seems to me that the legislation, in its original form, is entirely appropriate. At least, with the amendments we will still get some progress in what we need to achieve.

MS McRAE (5.17): Mr Speaker, we will be supporting the Government's amendments. I would just like to put on record why we are not supporting Ms Horodny's Bill. I will read from the Government's advice, because this is what I am working from as well. It reads:

> Ms Horodny's Bill does not address the existing provisions in the Land Act relating to the Supreme Court. Section 261 provides that any person can apply to the Supreme Court for an injunction restraining the breach of an order made by the Minister under section 256.
>
> Any person may bring proceedings in the Supreme Court for an order to remedy or restrain a breach of the Act, whether or not any right of that person has been or may be infringed by, or as a consequence of that breach.
>
> A review of the granting of a lease, license or approval would be subject to the standing provisions of the Administrative Decisions (Judicial Review) Act 1989 or the Administrative Appeals Tribunal Act 1989 but not the Land Act.
>
> Ms Horodny claims to implement the recommendation of the Stein Inquiry that there be a civil enforcement provision with open standing in the Act. This is misleading as it appears that this Bill is a reaction to the amendment to the ADJR Act that was a consequence of the major amendments to the Land Act in response to the Stein Inquiry. The ADJR Act was amended to remove the requirement that a person did not have to establish that he/she was an aggrieved person in seeking to have a statement of reasons provided under section 13 of the ADJR Act. This amendment maintains the equity in that the Land Act does not have a less onerous test for standing than other ACT legislation.

I do not believe we are doing anybody any harm. It continues:

> Ms Horodny's Bill does not address the changes to the ADJR Act. It now extends to the Land Act powers of the Supreme Court in making orders in respect of any breach of the Act, a lease, a license or an approval with no requirement to establish standing.
>
> The Bill appears to provide not only for the court to consider the legality of certain actions, but also to review the merits of administrative decisions. Is this not the role of the AAT?

They are just some of the complexities of what is before us which were addressed at the round table conference earlier in the year and which I left believing that the Greens would go back and amend. All we have had is the same doled up to us. I do not think that the issues that have been raised by the Minister have been dealt with. However, the Minister's amendments do significantly amend the standing of people and take away some of the immediate problems that have arisen in interpretation as to who a person is that has

interests in the matter at hand. With the amendments that the Minister is now putting forward, any person who can establish an interest is able to go to the AAT. That clarifies the situation of incorporated and unincorporated residents associations. It clarifies the situation for just about any group that wishes to appear.

I believe that this is the first step to deal with some of the problems that have come out, but I do not think that Ms Horodny has taken seriously the complaints and the difficulties that were raised at a round table conference, an open hearing, where we were sitting down together trying to work out the problems. All I have subsequently heard is more of the insults that were doled out six months ago. No attempt has been made to take up the very serious issues that were raised at the round table conference. I am pleased to be able to support the Minister's amendments; but, again, I do not say that the debate is closed.

Amendments agreed to.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (5.21): Mr Speaker, because the Bill has been taken as a whole, I realise that I have to move an amendment to omit clause 5 of the Bill. Given what I have already said in the chamber about this, clearly the Government does not support clause 5, which is the substance of the Bill, other than the substitution of "interests" for "rights". That amendment has been handed to the Clerk and is being circulated now. I move:

> Page 1, line 15, to page 3, line 9, clause 5, omit the clause.

I will speak briefly to it, Mr Speaker. The matters which I have put before the house already make it clear that the substance of the Bill is not supported. I say to Ms Horodny that there has been a debate about these things. It has gone through the chamber before. I appreciate that there are views that the decisions were wrong or that mistakes have been made.

I do express some sympathy with what Ms McRae said about dealing with this issue at this late stage of the Assembly's life. I also take up and confirm the view that no-one - not on this side of the chamber or anywhere else, I imagine - pretends that we regard the legislation as being perfect, having reached its final apotheosis, and being capable of no further improvement. It is very far from that. We look forward to being able to work with others in the next Assembly to improve the Land Act. It has been suggested, in fact, that the Land Act ought to be comprehensively overhauled anyway to pick up a number of issues. I do not relish that idea for one instant, but it may be necessary to do that because it is now more than six years since it was debated and passed by the Assembly and it may be a good time to come back and clear up a number of matters.

But the issues put before the chamber by Ms Horodny are not complete and do not fit in with an overview of what we should be doing with the legislation, in my view. For that reason, I would urge members not to agree to this piecemeal approach at this time, but rather to come back and consider it properly in a better context, obviously, in the next Assembly, not this one.

Question put:

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

The Assembly voted -

AYES, 12	*NOES, 4*
Mrs Carnell	Ms Horodny
Mr Corbell	Mr Moore
Mr Cornwell	Mr Osborne
Mr Hird	Ms Tucker
Mr Humphries	
Mr Kaine	
Mrs Littlewood	
Ms McRae	
Ms Reilly	
Mr Stefaniak	
Mr Whitecross	
Mr Wood	

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

CRIMES (AMENDMENT) BILL (NO. 3) 1997
Detail Stage

Clause 1

Debate resumed from 3 December 1997.

Clause agreed to.

Clauses 2 and 3, by leave, taken together, and agreed to.

Proposed new clause 3A

MR HUMPHRIES (Attorney-General) (5.30): Mr Speaker, I move:

Page 1, line 10, insert the following new clause:

"**Matters to which court to have regard**

3A. Section 429A of the Principal Act is amended by adding at the end of subsection (1) the following paragraph:

'(x) whether the person has paid the prescribed penalty in accordance with an offence notice served, under section 575, on him or her for an offence.'.".

I present the supplementary explanatory memorandum. Generally, these amendments pick up a number of issues which I indicated to the Assembly last week the Government had concerns about with this legislation, and it is the intention of the Government that the concept proposed in Mr Moore's legislation should be trialled; that a more limited number of offences should be subject to the purview of the legislation than was suggested by Mr Moore in the original Bill; but that, with the modifications suggested in these amendments, it be possible to ensure that possible problems with the operation of the legislation be put to one side. Among the things that the Government proposes in these amendments are that those under 18 years of age would not be subject to on-the-spot fines; that information on offence notices should be recorded and possibly mentioned in future court proceedings in certain circumstances; that a warrant issue automatically for the arrest of a person who has not paid a fine under these provisions; and that the Commissioner of Police have the power to extend the period in which a person is able to pay a fine.

Mr Speaker, I hope that members will support the slightly more cautious approach which the Government has taken in respect of the Bill. We believe it needs to have a more limited application than was suggested in the original Bill. But the concept, if sound and proven to be sound through its trialling by the police, I think, has the potential to be widened in the future as the occasion arises. I hope the amendments will, therefore, meet with the approval of members.

MR MOORE (5.31): Mr Speaker, I think I will just stand once and address the general amendments, for the time being anyway. I am very keen to see this innovative method of ensuring that we can keep police on the beat introduced, because I think their very presence on the beat creates an environment where people tend to obey the law. That is why I am keen to see this trialled. I have been in quite a number of discussions with the Government and others, and I am content to accept the amendments proposed by Mr Humphries. But it is a matter that I will be continuing to monitor and see how they work. Here we are not only attempting to keep officers on the beat but also providing an opportunity to ensure that there are alternative proposals to that put so often by this Government about move-on powers. But move-on powers are not the only solution to problems in terms of the way we deal with people. In fact, I would still argue that the biggest problem with the move-on powers, compared to this legislation, is that there are no appeal rights in move-on powers; therefore, they transfer an inordinate amount of power into the hands of the police. In this case, decisions of the police officer can still be contested. To me, that is the critical factor.

MS TUCKER (5.33): I will speak generally as well to the amendments that will be put and briefly address the only amendment I am putting. I will not speak at length again about the rationale behind the Bill, although one of the recommendations of the CLRC report I would like to raise and that I did not mention last week is that the on-the-spot fine should not be introduced for revenue-raising purposes. I do have concerns about this. I note that there are a limited number of offences now - not seven, but only two - that this would apply to. I am reassured to hear Mr Humphries say he sees it only as a trial. That is the spirit in which I would be supporting this legislation and the Government's amendments, except for one proposal of the Government's that I will not be supporting; namely, to require the magistrate to automatically issue a warrant of arrest in the event of an unpaid fine.

I believe this approach is inappropriate and inconsistent with the approach in the Magistrates Court Act. There is already a process for dealing with the failure to pay a penalty as prescribed by Mr Moore's legislation in Part IV of the Magistrates Court Act. Magistrates have a discretion, where an information is laid before them, to issue a summons or a warrant. I am concerned about the compulsory nature of the Government's amendment. Basically, though, other than that, we will support it.

I want to state again that I do not want to see this become, in a way, a default move-on powers mechanism. I understand that the rationale behind it is far from that; that is not the intention. As I said, I want to see very clearly that it has not been abused in any way. It may well be necessary to have some kind of formal evaluation of it in the next Assembly after a period of time - maybe six months or a year.

MR WOOD (5.35): The sudden suggestion by Mr Humphries that this should be regarded as a trial confirms the Opposition's view that we would not support this Bill or these amendments. The fact that Mr Humphries now says this is a trial suggests very strongly that he does not have full confidence that his amendments will do the job claimed for them. Unless I missed something, nowhere in any recent debate on this has the word "trial" ever been raised. The Minister can tell me if I am wrong on that. I agree with the view, as Mr Moore did, that we want to keep police on the beat as much as possible. I am not yet convinced that this will do that. I am not yet convinced that the aftermath of a host of unpaid fines is not going to provide more work than what might be saved in that first instance.

I acknowledge that the report of the Community Law Reform Committee, in its section on on-the-spot fines and on three defences, leaves it open for the amendments proposed by the Government. I acknowledge that, because they very carefully exclude the other areas that Mr Moore originally indicated and leave those two open. But that committee also raises a number of issues which need consideration, and the Opposition believes that they need consideration at the same time. There are quite important issues there that I do not think can be put aside while we deal with just these. Over and above that, there remains the significant issue that we are reluctant to bring change to a recognised procedure for proceeding with charges where offences occur. We have here what I suppose we could call incremental creep. Bit by bit, the list of on-the-spot fines is growing, and that raises some concerns for the Opposition.

In respect of these two items that are left on the list, it could be that the reasonable belief of a police officer as to whether an offence has been committed is open to abuse. It could be that the police will proceed with enthusiasm where the DPP may not. There is the potential for a large number of notices to be given out. This is particularly the case in respect of the drinking in public places offences. It could be that notices would be given out fairly freely. I have confidence in the police that that would not happen, but we do like to put into our laws provisions that state quite clearly what can and cannot happen. So, that adds to our reserve about this legislation and the amendments. We will not agree to them.

Amendment agreed to.

Remainder of Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General) (5.39): I ask for leave to move together amendments Nos 2 and 3 circulated in my name.

Leave granted.

MR HUMPHRIES: I thank members. I move:

> Page 2, line 2, clause 4, proposed new subsection 575(1), omit all words after "police", substitute "officer —
>
> (a) is satisfied as to the identity of a person who has attained the age of 18 years; and
>
> (b) reasonably believes that the person has committed a prescribed offence;
>
> he or she may serve an offence notice on the person".
>
> Page 2, line 5, clause 4, proposed new subsection 575(2), omit the subsection.

I have already spoken to the thrust of these amendments.

Amendments agreed to.

MR HUMPHRIES (Attorney-General) (5.40): Mr Speaker, I move:

> Page 2, line 25, clause 4, proposed new subsection 575(7), omit the subsection, substitute the following subsections:
>
> " '(7) Notwithstanding paragraphs (4)(b) and (c), where -
>
> (a) a person pays the prescribed penalty in accordance with an offence notice; and
>
> (b) a conviction for the relevant prescribed offence would constitute a breach of conditions of -
>
> (i) bail;
>
> (ii) a recognisance to be of good behaviour; or
>
> (iii) parole;
>
> the person shall be dealt with as if he or she had breached the relevant conditions.

'(8) The Commissioner of Police may extend, by such period as the Commissioner thinks fit, the period of 60 days referred to in paragraph (3)(c) upon receipt, before the end of that period, of a written request to do so from a person who has been served with an offence notice.

'(9) Where a person who has been served with an offence notice fails to pay the prescribed penalty -

(a) within 60 days after the date of service of the notice; or

(b) if an extension of time has been granted under subsection (8), within that period;

the Commissioner of Police shall cause an information, in writing and on oath, to be laid before a Magistrate commencing proceedings against the person in respect of the offence to which the offence notice relates.

'(10) Where an information is laid before a Magistrate in accordance with subsection (9), the Magistrate shall issue his or her warrant in the first instance for the arrest of the person in accordance with subsection 42(1) of the *Magistrates Court Act 1930*.

'(11) In this section -

"prescribed offence" means an offence against section 546C of this Act or subsection 84(1) of the *Liquor Act 1975;*

"prescribed penalty" means 1 penalty unit.'.".

I have also spoken to that, Mr Speaker.

MS TUCKER (5.40): I move:

Proposed new subsections 575(9) and (10), omit the proposed new subsections.

I have spoken to this.

MR HUMPHRIES (Attorney-General) (5.40): Can I very briefly explain to the Assembly why we do not support the amendment Ms Tucker has moved. The effect, as I understand it and as members can see, is to delete proposed new subsections (9) and (10). That would have the effect of not subjecting a person to the issuing of a warrant on the failure to pay the fine.

Ms Tucker: It is up to the magistrate to decide.

MR HUMPHRIES: Yes.

Ms Tucker: The person could be issued with a warrant.

MR HUMPHRIES: They could be; but the process is such that it then goes back before a magistrate, and the automatic issuing of the warrant does not occur. The point of the amendments moved by Mr Moore is very simple, from my point of view at least. The ultimate objective that I see in this legislation is to free police resources to deal with other matters out on the streets of Canberra, to get away from the need for police to be tied up in processes dealing with particular actions that are, if you like, of an administrative kind. The issuing of notices is an administrative act; but it is the single act that, in most cases, will be performed by a police officer to achieve a resolution of the particular offence which is alleged to have been committed in respect of a particular matter.

If someone is seen drinking in a public place and they decline to pour the contents of their bottle down the gutter, an infringement notice is written out and delivered to that person. In most cases, that is the end of the matter. The person has the option of going to court and contesting the notice - that is fine - in which case, the police will come and give evidence in the court. If the person does not pay the fine, then, clearly, a process of enforcement needs to begin.

Members of this place are well aware that there are very large amounts of public money outstanding at the moment, relating to a range of fines and court-imposed costs and penalties, which the Government is attempting to retrieve and in respect of which it has announced already some measures to attempt to wind them back. We do not assist the process of addressing those outstanding fines if we complicate the process and make it, in a sense, more laborious when it comes to dealing with the consequences of a failure to pay a fine. A person who is subject to a fine is, if you like, in the privileged position of not being subject to a charge. The alternative is that they are charged or fined under this infringement notice system. If they are charged, then they are into the court system straightaway. If they are fined, then they are, if you like, exempted from that process, providing they pay their fine. If they have not paid their fine, then it is appropriate that they go back into the system which they were exempted from by the original issuing of the infringement notice.

Ms Tucker's amendment has the effect of extending that process - if you like, that civil process - resulting in the magistrate having to make a decision about what to do. It is a more complicated process. Presumably, there has to be evidence sworn before the magistrate by the police officers concerned. It entails more taking of police off the beat and putting them in the court setting. That is not the objective behind this legislation. I would strongly urge members, if they believe this is an appropriate step to take, not to undermine its effectiveness by deleting proposed new subsections (9) and (10) of the proposed new section 575.

Amendment (**Ms Tucker's**) negatived.

Amendment (**Mr Humphries's**) agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Chief Minister - Motor Vehicle Accident

MRS LITTLEWOOD (5.45): I rise this evening to mention something which I find somewhat disquieting and which I feel quite strongly about. I appreciate that I have been in this place for only a short period of time and may not be fully conversant with some of the finer points. I have heard and seen a number of things that have occurred in that time, but I must say that question time today, I think, reached an all-time low. I found the attack on the Chief Minister as a result of the car accident absolutely appalling, to be quite frank. None of us choose to have accidents; they happen. The kilometres travelled by people in this place would probably place us in a fairly high risk category, in any case. I know that I have travelled over 7,000 kilometres in about eight weeks.

I am sorry to bore you, Mr Speaker; but, to me, it is important. I think the questions today really were a bit below the belt. I was appalled, quite frankly, by question time today and by the way in which the Opposition behaved themselves and the inferences that were drawn about the accident. I am sure the whole thing has shaken the Chief Minister up. I think anybody who has ever been in a car accident is aware that rolling a car is not a particularly pleasant experience. Then to have people like those opposite try to infer something that most probably was not even the case is rather off.

We have had the Opposition try to lay the blame for the hospital implosion on Mrs Carnell. That has not worked. Now we have the car accident. As Mr Moore said only a few weeks ago, if Mrs Carnell were to walk across water, Mr Berry and those opposite would say, "See, we told you that she could not swim". Unfortunately, I think that happens to be the case. I think the Opposition should be condemned for the comments they made at question time today.

ACTTAB-VITAB Inquiry

MR OSBORNE (5.47): I spoke earlier today about the Burbidge report. There is one thing that I would just like to add before we leave. I spoke about the role of the former Prime Minister, Mr Hawke. I would just like to say a little on that involvement and remind Mr Hawke that he participated in a venture which Mr Burbidge found was founded on fraud. I assume Mr Hawke received money from the government payout. However, I might add that Mr Burbidge did say that Mr Hawke was not knowingly involved. I think it is in his best interests to consider how this money was received from the ratepayers of the ACT. Given that Mr Burbidge has found that it was received by way of a fraud, he should return it. That is a matter for his conscience.

Chief Minister - Motor Vehicle Accident

MR WHITECROSS (5.48): Earlier in the adjournment debate Mrs Littlewood criticised me and other members from this side for asking questions at question time. No doubt, Mrs Littlewood would be happy if the Opposition never asked questions at question time; particularly, difficult questions of Government Ministers. Mrs Littlewood needs to understand that is the Opposition's job, and we will continue to ask difficult questions which we believe are in the public interest, because we believe it is our responsibility, as elected members of this place, to keep the Government accountable.

It is interesting that Mrs Littlewood, in her comments today, said that we asked questions about things which most probably were not even the case - "most probably", according to Mrs Littlewood. Even Mrs Littlewood has an element of doubt in her own mind about the circumstances. Given the contradictory reports we have seen in the media over the last couple of days about Mrs Carnell's motor vehicle accident, it is hardly surprising that members on this side of the house, on a matter of clear public interest, should seek to ask some questions to clarify the circumstances leading up to and subsequent to the accident that occurred.

Mr Humphries: You are sitting in the mud pool and hurling mud; that is all you are doing, Mr Whitecross. You are just hurling mud because you have no substance to back it up.

MR SPEAKER: Order!

MR WHITECROSS: Mr Humphries interjects, Mr Speaker.

MR SPEAKER: Order! Mr Whitecross has the floor.

MR WHITECROSS: Mr Humphries interjects; and I am not surprised that he interjects because he knows that he is on an embarrassingly thin thread in trying to defend his conduct today. Mr Humphries has been arguing today that this is a matter of no public interest and has nothing to do with Mrs Carnell's responsibility as a Minister. Again and again, Mr Humphries got up in question time and argued that.

What are we talking about here? Mrs Carnell was attending a function called the Chief Minister's XI cricket match. It was named in honour of the Chief Minister. It was promoted by way of a press release from the Chief Minister's office. The media release nominated one of Mrs Carnell's private staff, paid for by the taxpayers, as the contact officer for the media release. She drove a taxpayer-funded car to the event and from the event. She crashed the government-funded car after attending this event, namely, the Chief Minister's XI match.

Yet somehow or other Mr Humphries can construct out of this sequence of events the proposition that this has nothing to do with her public duties; this has nothing to do with her responsibilities to the people of the Territory; and she should not have to answer any questions in relation to the matter in this place. Mr Humphries might have felt that in order to fight the good fight on behalf of the Liberal Party he had to get up in this place and argue that point of view, but Mr Humphries knows perfectly well that that was a perilously thin thread on which to hang the argument that this has nothing to do with the people of the ACT and that the people of the ACT have no right to be interested in the matter.

Mrs Carnell does herself and public life in the ACT no service at all by seeking to avoid scrutiny in relation to this matter. Mr Humphries, whatever his obligations to the Liberal Party room, should, after the sitting finishes today, go away and say to Mrs Carnell, "I do not think that was a very good strategy. Tomorrow I suggest you answer some questions because it would be much better if you answered some questions than continued to hide behind this paper-thin argument that this has nothing to do with the public interest". The Chief Minister's XI cricket match was promoted out of the ministerial office, with a ministerial adviser as the contact officer. She travelled to there in a government car and travelled part of the way from there in that government car.

Mr Corbell: In her capacity as Chief Minister.

MR WHITECROSS: That is right; she attended in her capacity as Chief Minister. It was a government car that she crashed. There is a clear public interest, and I do not think Mr Humphries can continue to run that argument. I am not surprised that the Government are scrabbling so hard to create diversions in relation to this matter. I am not surprised that they are throwing the mud at us about this; but we have a job to do, which is to defend the public interest. We will do that without fear or favour. We have a job to do, and we will continue to do it.

Chief Minister - Motor Vehicle Accident

MS McRAE (5.53): If this is the worst that Mrs Littlewood has heard, then perhaps she ought to sit in different chairs every now and again and contemplate what her own colleagues say and do and listen a little more carefully to what is going on. Personal attack has never been simply focused on the Chief Minister - well do I know - and I never once heard Mrs Littlewood point out that perhaps a headline in a newspaper was a little different to the substance of the debate which I was involved in here. I did not hear Mrs Littlewood remind anyone of that. It is very easy to say, "Nasty, nasty, nasty".

However, the questions we asked today were very carefully formulated. The Chief Minister was given ample warning. They are matters of public importance. Any one of us knows people who have lost their jobs, lost their futures, lost any number of important things because they have crashed their car.

Mr Humphries: Crashed their car? What rubbish!

MS McRAE: Yes; because of the very laws that we have constructed, which include being at the scene of an accident. I have given you, of all people, Mr Speaker, perhaps the most tedious of lectures of all about how to do your job, to which you listened very patiently. I must commend you for your handling of the no-confidence motion.

Part of my theme, then, is part of the theme that we were trying to get the Chief Minister to accept today. It is as much what you are seen to be doing as what you actually do. The issue that the Chief Minister refused to answer today, refused to deal with today, refused to engage in today, was the issue of how her behaviour is perceived, how her behaviour is understood, how her behaviour impacts on the rest of the ACT. She had every opportunity to answer the questions, which she does with great talent at most times, and she refused. We were all ruled out of order. During question time, Mr Speaker, you have often not pulled people into line for relevance or pulled people into line to answer in any different way. The Chief Minister could have chosen to answer in any way at all. She refused to confront the serious issues that are a consequence of unpleasant accidents.

No-one ever wants to be involved in an accident. We have full sympathy for what Mrs Carnell was involved in. However, the stories were running, the inconsistencies were running, the apparent discrepancies in stories were running; and all Mrs Carnell had to do - - -

Mr Humphries: And you were pushing them along, were you not? You were pushing them along and making them happen.

MS McRAE: You were pushing them along, Mr Humphries, and you have pushed them along.

Mr Humphries: They were being given a big help along by Mr Berry in particular.

MS McRAE: If Mr Humphries maintains his interjections because he wants me to pay a bit of attention, all right. He is pushing them along because he is refusing in an open forum to allow the proper story to be told. Any story at all could have been told. It was not told. The substance of the questions was not listened to. The question that I asked was carefully framed and was not listened to.

Mr Humphries: She told the full story today, and you heard it.

Mr Whitecross: She did not, Gary, and you know it.

Mr Humphries: She did.

Mr Corbell: She has not.

Mr Humphries: Every last detail.

Mr Whitecross: Gary, you are not even blushing.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! Ms McRae has the floor.

MS McRAE: The matter is unpleasant. There is no question of that. Interpretations of our actions are very often chosen by all manner of individuals for all manner of ends. As I said to Mrs Littlewood, if she thinks this is the worst in her time, she ain't seen nothing. Some of us have lived through a couple more Assemblies than she has and some of us have lived through some far nastier unpleasantnesses than this.

Mrs Carnell was not ambushed. She was given warning. She knew what was coming. She has nothing to hide. She was the Chief Minister in a government car. She was given the floor to tell her story, and Mr Humphries went out of his way to ensure that the story was not told. That is the overwhelming impression that has been left for the people of Canberra. It is very easy for a government to start saying, "Oppositions cannot ask questions". There is many an opposition around Australia that has been bullied and pushed not to ask questions, and we have seen all manner of inquiries and unpleasantness when the lid has finally been pushed off.

I am in no way suggesting that I do not believe there is a problem here, but the problem has been created because the Chief Minister refused to answer and her loyal deputy intervened and prevented her from answering. This is a forum where any answer at all could have been given. The attack was made, and we had to wear the consequences of that attack. We knew what we were getting into. The Chief Minister used the forum, with the first question, to make sure that her point of view was heard. From there on in, the second question was stopped.

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

ACTTAB-VITAB Inquiry

MR MOORE (5.58): I shall be brief. In fact, my comment relates to that made by Mr Osborne in his suggestion that the Hon. R.J. Hawke would do well to repay to the people of the ACT the money that the people are out of pocket. It is an interesting suggestion because I believe that today is actually Mr Hawke's birthday; so, like the big department stores which, on their birthday, sometimes like to give people discounts and look after them, it might be appropriate that our former Prime Minister, on his birthday, extend his goodwill to the people of the ACT in so far as the people of the ACT are out of pocket to his benefit.

Chief Minister - Motor Vehicle Accident

MR HUMPHRIES (Attorney-General) (5.59), in reply: I have heard some very bizarre comments and bizarre arguments put today. One of the most bizarre was that the Chief Minister's accident is a matter of public importance because the Chief Minister was driving away from a government function. That the origin of your journey has any bearing at all on the question of personal conduct is an argument that I think is bizarre in the extreme. Let me also place on the public record once again, for those who had any illusions about this matter, that there is no requirement in the law of the ACT or of New South Wales that a person should remain at the scene of an accident when that person is involved in an accident in which no person is injured. It is perfectly clear, and the muckraking which has gone on from those opposite on this matter is nothing more or less than that.

Mr Temporary Deputy Speaker, this is the second time in this place that the conduct of a member with respect to drinking and driving has been raised. The first, of course, was a matter relating to a certain Minister in a former government who, unfortunately, appeared before a court and had his licence suspended. That was much raked over by those opposite when they were in opposition. This is the second such occasion where this has been raised. I want to bring to the attention of members that this is, in fact, not the second but the third occasion on which a member of this place has been apprehended by police for drinking and driving. Members opposite are well aware and, indeed, members on this side of the chamber were also, at the time, well aware that a certain member of the then Labor Government was apprehended by police one night for drinking and driving.

Mr Wood: It is news to me.

MR HUMPHRIES: I will give you some information about it afterwards, Mr Wood. You would be very happy to hear about it. That member faced the consequences of that member's action. Members on this side of the chamber were well aware that it had taken place, respected that member's privacy and did not raise that matter in this place or publicly, anywhere.

Mr Moore: And continue not to do so.

MR HUMPHRIES: And continue not to do so. Contrast the probity and restraint exercised by this party on this side of the chamber with the opportunistic approach taken by the Labor Opposition and see what a craven and unprincipled bunch of people it is that purports to be the alternative government of this place. I am sure that they were aware of the circumstances. If they were not aware, they are aware now, courtesy of Mr Moore.

I only ask members to reflect on the kinds of standards maintained by people on this side of the chamber. Every comment made by Mr Berry this morning on the radio was about how people in public office, figures on the landscape, people who hold public office, ought to be showing a high degree of probity and deserve to be questioned on these matters. Every one of those comments could have been made by the Liberal Opposition of that particular member on this side of the chamber three years ago. They were not, because - to not put too fine a point on it - we are a different class of person to those opposite.

Question resolved in the affirmative.

Assembly adjourned at 6.03 pm