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DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

24 June 1998

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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.

AGENTS (AMENDMENT) BILL 1998

MR BERRY (10.32): Mr Speaker, I present the Agents (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MR BERRY: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill sets out to amend the Agents Act 1968 to apply a scheme of agent regulation to employment agents. Let me draw members' attention for a moment to the Agents Act 1968. The Agents Act regulates the business of real estate agents, stock and station agents, business agents and travel agents. What my Bill sets out to do is to include employment agents amongst the agents which are regulated under the current Act.

Mr Speaker, since John Howard was elected, we have seen a lot of changes on the employment front. In the Australian Capital Territory, we saw 9,000 jobs cut by the Howard Government, according to the Government's budget papers. We saw something like 3,000 jobs cut out of the ACT work force by the Carnell Government - a far bigger percentage of employees than was cut by John Howard. So, we have had a serious situation imposed upon us by uncaring governments. Of course, we have ended up with a situation where there are significant numbers of employees who have been looking for work in the Australian Capital Territory. Some of these job cuts have hit Canberra harder than the rest of Australia. Those massive public sector job cuts to which I have referred are the most prominent example of it. Others, of course, have hit working Australians as a whole. In that category are the draconian elements of the Workplace Relations Act and the dismantling of the CES. Do you remember the promise, "No worker will be worse off."? That was a particularly callous promise. The fact is that most are worse off, not only in respect of the Howard Government, but also in respect of the Carnell Government.

An area I became aware of in April is the burgeoning area of employment agents - the system where the unemployed now have to go to a range of employment agents rather than simply registering with the CES. One of the fastest growing areas of the ACT economy under Kate Carnell and her ideological soul mate John Howard is

employment agencies. This is where our young unemployed and the thousands of former ACT and Federal public servants go to seek a new career. The system was described by Howard's ultra-dry Employment Minister as a "radical experiment". Here they are, experimenting on the workers of Australia and the ACT.

By 2 May the *Canberra Times* was able to inform us that there were about 310 firms around the country - and there are a dozen in the ACT - which will be providing these services. The *Canberra Times* also reminded us of Khadar Roude. Who will forget this part of the radical experiment? He had no office, no staff, but a million dollar contract from the Howard Government. Kemp himself told us that Roude was not alone: About 30 of the private agencies had, by 2 May, subcontracted all or part of their work. So, here we had a situation where obviously the contracts were available to people and, in fact, it was ripe for the growth of shysters in the employment agency market. To quote the *Canberra Times*:

> Is this a joke? The process is fundamentally flawed if 10 per cent of the successful bidders can just flip the work to subcontractors and make money for doing practically nothing.

Another issue is that there is no regulation in place in the ACT to ensure that the unemployed are not exploited. This is an area ripe for exploitation. It is an area where people at their weakest point can be exploited by unscrupulous operators. That is not to say that that brand should be applied to all employment agents. Employment agents, on the whole, will be good operators who care about their clients - both newer employees and businesses who seek to employ the unemployed. But, if this area is not regulated, there will be an opportunity for exploitation of the unemployed.

Let us take the thousands of people in the ACT whose unemployment has been created by the Carnell and Howard governments and let us see the rather weak position they are in in relation to jobs. Of course, if they were pressed, they would pay for a job. What we have to do is ensure that that case cannot apply here in the ACT. We have to prohibit it. And that is what my legislation sets out to do. On May Day this year, I announced that I would move to introduce legislation to regulate employment agents and that, in particular, I would move to make it illegal for an employment agent to charge an unemployed person to find them a job. What I set out to do there was to rule out the possibility of exploitation of the unemployed. New South Wales already has such legislation in place, as do Queensland and Western Australia. So, it is not necessarily new; but governments have not been focused on these issues, because they have always been able to rely on the quality service that was provided in the past by the Commonwealth Employment Service.

It is not surprising that the Carnell Government did not even notice the gap in the legislation in the ACT, because of their so-called commitment to the marketplace. The dry economics exhibited by the Chief Minister very clearly focuses on the marketplace. Ordinary people, in particular, and unemployed people have no particular place in the philosophy of the Liberal members opposite. In fact, what has happened

as a result of these moves by the Federal Government is that, in effect, the victims of our economic system - the unemployed - are being blamed for the problem. Mr Speaker, my Labor colleague in South Australia has introduced similar legislation to that which I have introduced today, and my Labor colleagues in other States will be moving in the same direction.

I would just like to focus on the sort of people who might be affected by this legislation. Aged blue-collar workers trying to live off retrenchment moneys but barred from social security benefits and access to free job services often still have relatively young families to support and are the hardest to find jobs for. So, they would be more desperate, and shysters would be able to prey on people like that, absent proper regulation. Women seeking to re-enter the work force after an absence of some years to raise children, if their partner is still in employment, cannot be guaranteed a free job service or appropriate training or reskilling. We need to protect those people. They are an important part of our community.

Part-time workers looking for a full-time job are an important group, when you consider that most of the jobs being created are part-time jobs. In fact, the employment growth rate in the ACT consists mostly of part-time jobs. Students are affected by the legislation, as are newly arrived migrants, barred from social security benefits for two years. They are just right for exploitation. Those are the sorts of areas of exploitation that must be prevented in a humane society. A person waiting for six weeks before they are declared eligible for unemployment benefits would be desperate for a job, too. These are the sorts of people who are most desperate to get a job. They are the most vulnerable and they are also the least likely to have the money to pay an employment agent to find them a job. They are the sorts of people whom John Howard's system makes it unattractive for employment agents to take on; but they could still be exploited if there were not proper regulation of the operation of employment agents in the Australian Capital Territory.

We have already seen the situation where the ACT Government charges some people a $25 fee to go on the Education Department's employment waiting list. So, it is obvious that the Government would not concern itself about the private sector imposing these sorts of fees. The Labor Party is concerned about the possibility of this sort of exploitation. That is why we have raised the matter in the past and that is why we have persisted with it. Some people in this chamber have not been as concerned about the exploitation of the unemployed as Labor and others in this chamber have been, and that is to their discredit. But we now have the opportunity to ensure that the unemployed do not face further disadvantage and exploitation.

In having this Bill drafted, I used the Employment Agents Acts of New South Wales as a guide, using its provisions to amend the Agents Act. While the Bill I am introducing appears complex, its principles are less so. This Bill sets out to include a new class of agent - employment agent - in the scheme of business regulation provided under the Agents Act. It will require the licensing of agents in much the same way as travel agents are licensed and, specifically in clause 11, makes it an offence for an employment agent to charge someone seeking employment.

Mr Speaker, in social justice terms, this is a straightforward piece of legislation. It is legislation that sets out to protect those in our community who are most easily exploited. And that is what governments are supposed to do. Governments and legislatures are supposed to protect the weak in society and not strictly rely on the market forces which exist out there in the community. It is our role to protect the weak in society from those who might prey upon them. This legislation is about providing the protection that the unemployed in our community should get in the new regime of employment agents which has been set up by the uncaring John Howard Government.

It is a matter of some disappointment to me that no action has been taken on this issue by the Government; nor has any interest in it been shown, notwithstanding the glaring absence of any protection for unemployed people in the ACT. But, then, that is not surprising, because this Government has added greatly to the numbers of unemployed in our community. It has not been concerned about those issues in the past. It has always been the bottom line; it has never been the people. This legislation sets out to protect the people most affected by the Government's actions and to protect those people in the community who are unemployed. I commend the legislation to the house.

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

GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1998

MS TUCKER (10.46): I present the Gaming Machine (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

MS TUCKER: I move:

> That this Bill be agreed to in principle.

Mr Speaker, it is with pleasure that I table the Gaming Machine (Amendment) Bill (No. 2) and accompanying explanatory memorandum. This legislation was foreshadowed yesterday by Mr Kaine in his presentation of an interim report on a poker machine cap. The legislation before us gives force to the committee's deliberations. Having heard all the available evidence, the committee believed that an appropriate and fair cap was 5,200.

These machines must be allocated by the commissioner to licensed premises that have, on or before today's date, lodged an application for a licence or for a licence variation to increase the number of machines in their premises. The legislation also provides the commissioner with some criteria to be considered in determining how machines are to be allocated within the cap. The issues which the commissioner is to take into consideration include the ratio of the membership to numbers and types of machines in clubs; the advantages and disadvantages to the community of granting or varying a licence to specify a number of gaming machines less than the number sought by the applicant; and the extent to which the club is likely to contribute to, support and be beneficial to the community.

The commissioner can also consider other matters that may be relevant. One example of a very important factor that I believe should also be taken into consideration is the processes that have been used by clubs to attract members. Of course, the commissioner will also have to be satisfied that the applicants for a new licence or variation to a licence have satisfied all the existing criteria in the legislation - that the club is an eligible club, as defined by the legislation, and that the application complies with other necessary requirements.

Mr Speaker, this legislation also contains a mechanism that will empower the commissioner with the discretion to allocate machines above the cap to new community-based clubs; that is, clubs that do not hold a gaming machine licence at today's date - 24 June 1998. Mr Kaine outlined yesterday the rationale for allowing the commissioner this discretion. As members are aware, there are a few clubs that are at an advanced stage of building new facilities, and the committee wanted to provide a mechanism for these clubs to access licences, within a strict set of criteria. The legislation requires the commissioner to be satisfied that the club has already made significant investment in facilities and has a demonstrable commitment to providing services to the community. The club must also be able to demonstrate that it will make an important contribution to the community. The committee was also concerned to ensure that the commissioner is satisfied that an application is not from an existing club that is seeking to access additional machines by establishing a new associated club. Once again, other matters may be considered. I believe that the procedures that have been used for attracting members are another relevant factor.

The restrictions on gaming machines that this legislation is establishing will be in force for 12 months. It is my hope, Mr Speaker, that during this time the committee will be able to recommend changes to the administration of gaming machine licensing in the ACT to ensure that a much more rigorous set of criteria is in place. As Mr Kaine said yesterday, without the legislation before us today, the commissioner has no discretion at all to refuse applications for new licences or variations to increase the number of licences if the application satisfies existing criteria.

To conclude, Mr Speaker, I believe that this cap is necessary and important, and I think the approach we have taken is sensible and fair. Let me say, for the interest of members, that the ACT is not alone in setting a numerical cap. Victoria has set a cap of 27,500 machines that will remain in place until the year 2000. South Australia also has a moratorium on the expansion of machines into retail facilities. The flurry of activity that occurred after the last debate in this place about a poker machine cap just reinforced my conviction that a cap is indeed necessary. It is not good enough to wait until the select committee has reported. We must close the floodgates at some point while we look at the social and economic impacts of gambling in the ACT.

As I have said before, the ACT has a very high per capita expenditure on poker machines, if not the highest in Australia, and the number of machines has expanded very rapidly in recent years. While many people think of Victoria as "the capital of gambling", members may be interested to hear that in Victoria there is one machine to 130 adults. With a cap of 5,200 in place, this would compare with a ratio in the ACT of about one machine to 40 adults. If another 300 machines are allowed by the commissioner, this will translate

into one machine to 38 adults. I understand that the ratio in New South Wales is one machine to 55 adults. Mr Speaker, the fact that we have far more machines, on a per capita basis, than either Victoria or New South Wales is further justification of the need for a cap in the ACT. I commend the legislation to the Assembly.

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

PRESCHOOL EDUCATION

MR BERRY (10.51): I move:

> That this Assembly:
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> (1) accepts unequivocally that the Territory's preschool system is a fundamental part of the ACT education system;
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> (2) endorses the Standing Committee on Education's decision to conduct an inquiry into the future provision of preschool education; and
>
> (3) requires the Government to take no action on closures or any restructure until the Assembly has considered the report of the Committee.

Mr Speaker, this issue arose as a result of the Auditor-General's Report No. 1 of 1998 in relation to preschools. The motion calls on the Assembly to accept unequivocally that the Territory's preschool system is a fundamental part of the ACT education system. That seems to be one issue that the Minister is not able to accept. I do not know how he can possibly argue that, or how he stood up in front of a crowd of defenders of the preschool system and argued that. The motion also calls on the Assembly to endorse the decision of the Standing Committee on Education to conduct an inquiry into the future provision of preschool education and to require the Government to take no action on closures or any restructure until the Assembly has considered the report of the committee.

Mr Speaker, as one would expect, reports from the Auditor-General are tabled and referred for consideration by an Assembly committee. As one would also expect, the community found out, as a result of the report, that there was a range of preschools that could be under threat. The community then had to work very hard to try to find out what really was the Government's agenda. There is an element of deja vu about this. I recall some years ago - I think it was in about 1990 - that the Government decided that it needed to do something about underutilised schools, and there was a move to close, I think, 25 schools in the first place. This gradually shrank, until another number was decided upon - 15, I think. There was a massive community uproar about the Government's approach to school closures. I remember hearing the then Minister, Mr Humphries, trying to argue the economic rationalist line for the closure of schools being based on the underutilisation of the schools.

I must say that seeing Minister Stefaniak in front of a crowd brought back some of the memories that I had of Mr Humphries's pathetic response. Mr Speaker, Minister Stefaniak, in front of a group of people in the community, I think, gave a pathetic performance on the issue of his knowledge about preschools. The Minister refused to confirm or deny anything; but, significantly, he refused to rule out closures. After all those election promises and all that rhetoric about community consultation, once again the community got to see what these Liberal promises and statements were all about. We were also reminded of the Government's action on schools in relation to Charnwood High School, where the Government said that it would not close schools against the wishes of the community. The community said no; and the Government reduced the funding for the school, forcing the board into a corner in relation to the issue.

Mr Hird: We did not close it.

MR BERRY: Mr Hird interjects, "We did not close it". The holders of the moneybags did not close it; the purse strings closed it.

Mr Hird: What about the schools you closed?

MR BERRY: Well, the community closed it.

Mr Hird: Yes, forget them.

MR SPEAKER: Order! I would remind members - - -

MR BERRY: Mr Hird, why were you not at the meeting at Hawker preschool to defend the preschool?

Mr Hird: Because I was interstate.

MR SPEAKER: Mr Hird, come to order.

MR BERRY: I would remain quiet.

MR SPEAKER: Mr Berry, I would remind you to be relevant to the motion before the house. It is preschools we are discussing.

MR BERRY: Mr Speaker, I would not be so distracted if you kept some of your party members in order.

MR SPEAKER: I am endeavouring to do that.

MR BERRY: You will have a lot of trouble. Mr Speaker, the *Canberra Times* told us that the champion of education, Mr Moore, had decided that preschools were not an education issue; in particular, the one that he had defended in the past was really a planning matter and not an education issue. I found that quite surprising coming from somebody so committed to the education system. Then the Minister announced to the public meeting at the Hawker preschool that preschools were not part of the education system; they were something else; they should be treated differently.

It seems that the Government can change its formula at any time it needs to, to justify leaving open to it an action which would result in fewer facilities being available to the community. That is the reason for the first part of the motion, that we make the statement very clearly that the Assembly accepts unequivocally that the Territory's preschool system is a fundamental part of the ACT education system. Preschools are a part of our education system that we can be proud of. They are a part valued by many in our community. They are a part staunchly defended by many in the community, as can be seen by the community outrage at the Government's behaviour on this issue. They have a long history. We want to see them protected. We do not want to see them subjected to some spurious economic grounds which come from the economic rationalist Government opposite.

I was quite proud to sit with the people supporting the Hawker preschool, to hear them eloquently challenge the Auditor-General's findings and to see them show the Minister's ignorance of the role, costs and value to the community of our preschools. A great thing about representing the people of Canberra is that they often have a deeper knowledge and understanding of the tricks of government than we give them credit for. The rhetoric used to justify the Government's decisions and the counterarguments that Ministers may not have seen or have not sought are often put by these eloquent members of the community when they rise to defend important parts of community infrastructure.

The Assembly's Education Committee has a review under way; but that, of course, seems to be of no import to the Government. This matter is my first foray into the education debate in this Assembly, and I am quite proud to be in a position to make it. Education is the future of our society. Education and better education are the basic building blocks of a quality society. If you take away any part of it, you damage the system.

Mr Speaker, the Government seems to want to press on with its plans without consultation with the community. It seems to want to press on with its plans without reference to our strong committee system. My colleague Mr Corbell and the chair of the committee, Ms Tucker, have been committed to this review from the outset. But it will be an example of the Government's arrogance if it refuses to accept that this committee should have an open and public inquiry into the benefits and other relevant matters related to our preschool system. It will underestimate the strength and commitment of the community if it ignores the facility open to us through the committee system. I think I have the whole community behind me on this.

A truly cavalier government would press on with ill-considered policies which disadvantage children at the starting point of their formal education. What sort of government is it which measures the value of education in real estate terms? It seems to me that that is the trend which is emerging from those opposite, where the value of the school is judged on its real estate value - the fire sale trick. Mr Speaker, governments are supposed to manage the community's assets in the interests of the community and to preserve their value, not to sell them to the highest bidder.

The Auditor-General makes the point that the preschool system is a quality system. I must say that it appears to me from the Auditor-General's report and anything that I have had to do with the preschool system that one of its most important features is accessibility; that is, the geographic location of preschools throughout the ACT enhances their accessibility, particularly for those people on low incomes. That is an important feature that we should preserve at all costs, because it is that accessibility which guarantees the quality of education for our children and it is that accessibility which guarantees, in effect, our future.

As the community has tried to tell the Education Ministers, there are many aspects to our preschools which are not in the Auditor-General's report; there are many important aspects which cannot be measured in simplistic dollar terms; preschools play an important community role; and they are meeting and gathering places. The Government sees these facilities as valuable real estate rather than as an important part of our future. We all own it; we have a responsibility to guarantee our future so far as education is concerned.

The message from the community was, "Lay off our preschools. We value our preschools. We do not want an economic rationalist approach taken to them". People want to respond to the Auditor-General's report. They want to talk to the Education Committee. They are reasonable people. They do not expect the earth; but they want a chance to have their say. They have not had that chance to this point. In effect, they are being led up the garden path by the Government in relation to this matter; but it is very clear now that the community have dug their heels in and they are going to fight on the issue of this quality part of our education system. We on this side want to hear what they have to say. We want to hear their ideas. That is the reason for the third clause in my motion. Any changes to our preschools could lead to irreversible decisions being made. There is no rush. If there had been, the Chief Minister would have told us about it during the election campaign, one would have thought. But this may have been a hidden agenda as well.

Mr Speaker, I urge all members to allow the committee's report to be completed, to allow the report to be tabled and to allow members to consider the report before we take any precipitate action in relation to preschools. To do otherwise would betray the trust which has just recently been given to us as elected members. We have an important role in this Assembly, and that is to protect our future. The education of our children is a dominant feature of our future, which must be protected at all costs. I urge members to support the motion.

MR OSBORNE (11.05): Mr Speaker, I move the following amendment:

> Paragraph (3), omit the paragraph, substitute the following paragraph:
>
> "(3) requires the Committee to report on that inquiry by 1 September 1998 and that the Government take no action until the Committee has reported.".

Mr Speaker, I rise to support the motion. I do believe that the Territory's preschools are a vital community resource and that they should be funded to a level which ensures a decent service. But I also recognise that demographics change over time and, where preschools are not viable, there is little point in keeping them open. It is hardly appropriate to have facilities that are not used or preschools where the enrolments are so low that children do not get the benefits of socialisation that are so important in their early years.

That said, I think it only fair that any changes made by the Government in an area which affects so many people in the community are properly considered and that the stakeholders - the parents, especially - get a chance to have a say. So, I support the inquiry by the Standing Committee on Education and believe that the Government should hold off on any changes until that committee reports. However, Mr Speaker, there should not be an open cheque on the time the committee takes to consider the issue. I understand that preschool enrolments begin in late August, and it would be appropriate if the committee reported by 1 September. I have discussed this issue with the Canberra Pre-School Society, and they also are keen to see the report handed down in early September. I have had a short discussion with Ms Tucker. She is a little bit concerned about that date, Mr Speaker. There may be some more discussion on that during this debate. But, 1 September strikes me quite clearly as a fair compromise.

I turn now to a related issue. Mr Speaker, through you, I would like to say that in future, if the member who put up this motion wishes either me or Mr Rugendyke to support something, he might like to come and talk to us about it before he tells the media that he hopes that we will back it. It is a little hard to do when we have no idea what the motion is, especially when it is written by our most noted bomb thrower. Of course, that is based on the assumption that Mr Berry wants to actually achieve something. He need not bother if he just wants to continue in his role as the chief Assembly anarchist. As I said, Mr Speaker, we will be supporting this motion with the amendment. Both Mr Rugendyke and I certainly believe that the community should have some input into something as delicate as this. I look forward to members supporting my amendment.

MR MOORE (Minister for Health and Community Care) (11.08): Mr Speaker, once again I take the opportunity to rise in the Assembly to lend my support to preschools, as I have been doing for the past nine years or so since I was first elected to this Assembly. But I am surprised at two things in particular. The first is the adoption of this matter by the Education Committee when, in fact, the notice paper shows that the Chief Minister's Portfolio Committee is looking into the issue already. The Auditor-General's Report No. 1 of 1998 is a matter that is being considered by Mr Quinlan's committee. The title of that report is "Management of Preschool Education", which is the very issue that we are talking about now.

One cannot help wondering why Mr Quinlan did not speak to Mr Berry and say, "Actually, we are looking into this already and, of course, we have the wherewithal to do it. Let us make it public that we are already looking into preschools and that we can deal with this very issue". In fact, it was this report that raised the concern of the Pre-School Association. When the members of that association came to see me, it was primarily to talk about the report and what were we doing about the report, to ensure that the budget would see no cuts to preschool education.

Mr Stefaniak will probably reannounce to people here, in case they did not hear it, whether or not we did see a major cut to preschool education. Although it is his portfolio, it is my recollection that, in fact, there was no cut to preschool education. Of course, that was a major concern. For that, Minister, I offer my congratulations on an excellent decision. It makes me proud to be part of a team that is there to protect preschool education. That is the important thing. Now, let us get back to the inefficiency of that side of the house.

MR SPEAKER: Please do.

Mr Corbell: What a true-blue Independent you have over there!

MR MOORE: I am not Independent on the budget, and you know that, Mr Corbell. We already have an inquiry into preschool education. It is being done by a committee of the Assembly. Then we get another committee of the Assembly that says, "This looks like an interesting issue. Maybe we ought to do a report on it as well". Are they doing it as well, or did they just not know that it was happening? I am inclined to think that they just did not know that it was happening, because either they had not read the report or they did not realise that for some reason the report went to the Chief Minister's Portfolio Committee instead of to the logical spot for it to go to. The logical spot for it to go to is the Education Committee. That would have resolved the problem in the first place, because it would have been in what, to me, is the logical spot.

I cannot understand why this report went in that direction. Was it because people think they are still in the past? Do they think that it is still the public accounts committee and that every Auditor-General's report should go to the public accounts committee? I say to you that that is the sort of change we should have seen, because that is the sort of confusion that this has generated and these are the sorts of problems we are creating. I am sure that Mr Quinlan would do an excellent inquiry into this report if it were his responsibility. I have no doubt about that. But I also know that Mr Quinlan is one of those people who would see no point in doubling up on the same issue. That is what it is.

Mr Berry then comes up with this motion, which calls on the Assembly to accept unequivocally that the Territory's preschool system is a fundamental part of the ACT education system. I have no problem with that. It is an excellent point. It is terrific.

Mr Corbell: You had better tell Bill Stefaniak that. He does not think they are part of the education system.

MR MOORE: He can answer that question for himself. I am saying that that is how I see it. The motion also calls on the Assembly to endorse the Standing Committee on Education's decision to conduct an inquiry into the future provision of preschool education. Why did we not endorse the inquiry into preschool education by the public accounts committee, or why did the mover of the motion instead not have a chat to Mr Quinlan and say, "We are going to move this motion. We are going to give it to the Education Committee. Why do we not pass on the Auditor-General's report so that we do not have a doubling up."? Maybe the committee is already well under way in looking at this Auditor-General's report. I would have thought that it would be. In that case,

what we should be doing is endorsing the Standing Committee on the Chief Minister's Portfolio doing the extra parts of the inquiry that he wants. But why the heck are we doubling up? When you take into account the time limit that Mr Osborne has suggested for the report, it seems to me to be a very sensible thing for Assembly committees to be involved in. There is no cut to the preschool budget.

Let us have a look at the future of preschools. We know that towards the end of last year there was a widely accepted rearrangement of preschool enrolment procedures. It went through a very long process. It involved the whole preschool community. It came up with a much more effective way of doing preschool enrolments and ensuring that they work within the preschool sector. It was a broad, community-based process. The future of preschools, in regard to preschools remaining open and how enrolments are set, has been dealt with. Wayne, at the time, you were busy doing other things. You were looking at health. But, of course, this process has been completed in a very broad consultative way with the community, with very positive outcomes.

Mr Berry: What?

MR MOORE: Mr Berry did not hear me. This is about the process that occurred over the last year to ensure that enrolment procedures were in line with community expectations. It was widely accepted by the preschool sector and by all the observers. It went through a very long and very good process, which came out with very good outcomes. Many of those things are tested by the Auditor-General's report - and this is what brought it about. I guess that the challenge we really have is to say, "How are we going to proceed now?", because we have two inquiries into the same thing running in parallel, and will we not all look like dills if they come out with two entirely different conclusions?

Mr Corbell: You supported the inquiry by the Education Committee, actually, Mr Moore.

Mr Hird: He certainly did; but, compliments of Wayne, we have two situations, Mr Corbell.

MR SPEAKER: Order! Mr Moore has the floor.

MR MOORE: What we need to do is to resolve this issue. I think the two committee chairs ought to sit down and say, "Who is going to do the inquiry?". If the inquiry is already well under way in the Chief Minister's Portfolio Committee, either they can pass over to the Education Committee the information that they have already, or the Education Committee, which has not really started on this report to any great extent, can say, "Okay, we will let the Chief Minister's Portfolio Committee look into it".

It seems to me, Mr Speaker, that Mr Berry is quite right to draw attention to the fact that the preschool sector is an absolutely critical sector in ACT education. There is a huge amount of evidence that the outcome for society as a whole from preschool education is incredibly positive, and that is why this Government did not cut the preschool

education sector. We see it as incredibly important. To involve other members of the Assembly in looking at the future of preschools is an incredibly positive way to deal with controversial issues that have been raised by the Auditor-General. But let us at least get our act together and do it in a sensible way.

MR STEFANIAK (Minister for Education) (11.17): Mr Speaker, I might say at the outset that the Government will be supporting Mr Osborne's amendment. Accordingly, we will also be supporting the first two parts of Mr Berry's motion. Firstly, let me counter a couple of points Mr Berry made. Mr Berry, I think I am well aware of the value of preschools, as I have a child in one at present and one going next year.

I think it is very important not to completely disregard the Auditor-General's report. It does highlight a number of things. It highlights the value and effectiveness of preschool education. It has reported that preschool education services are very effective, which is something the Government is very pleased with and very proud of. It did, however, find that preschool education was inefficient and uneconomic due to the underutilisation of teachers and the poor utilisation of buildings. It indicated that approximately a third of individual teachers' services are being utilised below 85 per cent, with some being as low as 44 per cent. It raised some serious issues for the people of the ACT and, indeed, for the whole of the ACT Assembly - not just the Government - in terms of the number of places. There were 7,000 places available for 4,000 youngsters and a significant underutilisation of staff.

I would like to make a number of points here, Mr Speaker. I have made the point already on a number of occasions that the Auditor-General's list is not a target list for closures. That is the Auditor-General's list; it is not the Government's list. The Government makes an unequivocal commitment that the real estate value will not be used as a criterion for any adjustments. Consideration of any changes must include a very wide set of factors; for example, past enrolment patterns, location and accessibility of preschools, special needs of parents and minimum group size to ensure a viable group.

Mr Speaker, preschool enrolments are subject to considerable variation. Enrolments fall in older suburbs and rise in newer suburbs. This is a pattern that I think we are all very familiar with. There have been a large number of adjustments to the numbers of places at different preschools in the last few years. We have seen the opening of three new preschools in Gungahlin since 1995. However, overall enrolments have declined significantly in the last few years. This year, the budget documentation recognises this. As Mr Moore has pointed out, this year expenditure per preschool enrolment has been maintained; but the overall budget has declined because of the decline in numbers of preschoolers in Canberra - not an unreasonable proposition, I would have thought. The issue is not new, Mr Speaker. Every year, there are adjustments to the preschool provision.

Now I come to Mr Berry's points. The first part of his motion is that preschools are part of the education system. Mr Berry, the point I was making was that preschools are in Children's, Youth and Family Services. That is where they sit in Education and Community Services. Of course, preschool education is a fundamental part of a child's learning. Preschools are incredibly important. They are part of the mainstream continuum of education. They lay the foundations for learning. They provide quality

education programs in eight key learning areas supporting children's emotional, social, cognitive and language development. They consolidate and extend learning experiences of nearly all four-year-olds in the ACT, focusing on literacy, numeracy and socialisation. They support children in the development of their independence and their confidence. They assist in identifying individual development needs. They use play as a basis for the curriculum. Children's existing skills, abilities and interests are used as the starting point for their educational development.

They have always been treated differently from mainstream primary and secondary education, although part of the continuum with primary education. They are treated differently because the Government builds preschools, provides staff and has responsibility for ongoing maintenance and upgrading. Parents have responsibility for the provision of equipment, cleaning, maintenance and insurance. This has been the case since preschools were first established here. Also, the staffing is different from the staffing of primary and secondary schools. In primary and secondary schools, staff levels are adjusted each year to match student numbers. Classes are arranged so that, where educationally appropriate, the numbers are about the same. When student numbers go up or down, staffing levels are adjusted accordingly.

Because the preschool system consists of separate units - single and double units - different methods need to be adopted to match the number of teachers to the number of students. I think members are well aware that, as well as adjusting the number of teachers in a unit, it is necessary to make sure that the numbers of places are as close as possible to a multiple of 25. The number of places at some units is reduced while at others the number of places is increased. This has occurred every year, including during the time of the previous Labor Government. In the last year alone, for example, four preschools were increased and 10 were decreased.

Members will have noted that our budget maintains the funding in real terms. Obviously, it is expected that declining enrolments will lead to some reduction in overall expenditure. However, after taking into account the impact of that reduction, the budget has still been increased by 3 per cent. I think that, when you compare us with our interstate counterparts, that is considerably better. I might leave it to some of my colleagues to mention just what happens interstate. So, basically, we have absolutely no problem with the first part of your motion, Mr Berry.

The second part of the motion is that the Assembly endorses the Education Committee's inquiry. I think that Assembly committee reports are an important part of Assembly operations. We look forward to receiving the Education Committee's report. We are confident that the committee is mindful of the concern in the community and the need for an early report. That is why Mr Osborne's amendment suggesting that date, I think, is realistic and sensible. It is important, because parent decisions are influenced by the preschool adjustment process made each year. If the process drags on - and the Government will certainly not be supporting Ms Tucker's proposed amendment - it puts us a further year behind.

In fact, following extensive consultation last year, Mr Speaker, we changed the system to enable parents to register at the preschool of their choice. Other changes in the process allow parents and carers to be advised of the preschool placements for their children in December - not in the week school begins, which was the system before. I think that was a significant achievement. It was one that was welcomed by the community for the certainty that it provided. I think, in this debate, too, we need an open and rigorous debate. We need to have the committee, obviously, and it will have lots of consultation; but we do need to make any changes as a result of consideration of that committee report with minimal dislocation to the preschool community.

There is a timeframe in Mr Osborne's amendment. That timeframe is tight, but it is manageable. We are keen to have the benefit of the committee's findings. I would hope, Mr Speaker, that the committee is as mindful as I am of the timing question and that it will produce its report by that suggested timeframe of 1 September so that we can consider its recommendations in time for the start of the school year and make the necessary adjustments in terms of staffing, causing minimal dislocation to parents and giving parents a chance to make any adjustments they need to make.

The third part of Mr Berry's motion, obviously, the Government is not supporting. We are supporting Mr Osborne's amendment there. We do not support the motion or Ms Tucker's proposed amendment. If changes are to be made to the preschool system for 1999, decisions are required earlier than provided by Ms Tucker's amendment. They are required, really, by about 10 September. We support Mr Osborne's amendment, although the timing is tight, because that does enable the Government to conduct its decision-making in the preschool area for the 1999 school year. As I said, the preschool enrolment policy established last year was used very effectively. It was used to ensure that the system was adjusted to meet the needs of families. I think that system needs to be maintained this year to keep faith with all those who are regularly involved in the process each year.

MR QUINLAN (11.26): Mr Speaker, I wish to clarify the points made by Mr Moore. He talked about duplication. I suggest that he talk to his conservative colleague Mr Stefaniak. My committee received this report and my committee incorporates the public accounts committee. It looked at the report. The report has two clear dimensions. It talks about the educative dimensions of preschools and it talks about physical resources. We are aware that the Education Committee wishes to look at preschools from an education perspective and we believe that that should be the case. We have written to Mr Stefaniak to explain that the Chief Minister's Portfolio Committee does not want a report from him or a response from him in relation to the educative dimensions of preschools. What we do want is a report, as we must do as a PAC, on the physical resources. We accept that the report would go to the Education Committee because people on this side of the house, at least, put education ahead of the dry economics of the Government opposite. The fact that there are two committees involved is a function of the committee system that was imposed upon this Assembly by that side of the house and some of the crossbenchers. We are doing our level best to make it work anyway.

MR CORBELL (11.28): Mr Speaker, I think the Government chose the wrong person to be Minister for Education. I think the Government should have chosen Mr Moore to be Minister for Education. At least he would have injected a bit of passion into the debate. At least he would have advocated in an articulate manner and in a relevant manner on the issues facing preschools in Canberra. Let us face it; what we hear from the current Minister for Education is nothing more than a bumbling recitation of a brief written for him by a public servant in his department. There is no commitment to the principles of education. There is no passionate defence of the need for a strong education sector and a strong preschool sector in our society. Instead, we hear this bumbling recitation of some dry language about economics and about how the Government is doing everything okay and, really, what are we all worried about. Mr Speaker, it is a pity that Mr Moore is not the Minister for Education because at least he would have injected some life into this debate from the Government side of the Assembly.

Mr Speaker, Mr Berry's motion today is a very important motion. It is important because what it says, first of all, is that this Assembly should recognise that the preschool sector is a part of the education system. What we have heard from the Minister for Education, Mr Stefaniak, is that the preschool sector has nothing to do with the education system. When the Auditor-General's report came out we had the extraordinary spectacle of the Minister for Education suggesting that preschools did not belong in the education system; that they were part of some other element in the provision of government services. Mr Speaker, all I can say to that is this: What an absolute insult to those teachers who work in the preschool sector! What an absolute insult to those professionals who train as teachers to teach children in the preschool sector! That, Mr Speaker, is what came from the Minister for Education. That is a damning indictment, Mr Speaker, of this Minister's failure to understand the important principles that the Education Committee of this place has had the good sense to want to investigate and report on in a comprehensive manner.

Mr Speaker, it is important that we recognise that the Territory's preschool system is part of our education system, and it is a fundamental part. It is a building block of our education system. The very important work that preschool teachers do in preschools simply seems to have been ignored by the Minister when he said that they were not part of the education system.

Mr Speaker, the second element of Mr Berry's motion is equally important because we saw from the beginning of the Education Committee's attempts to investigate the issues to do with the provision of preschool services an attempt, a weak attempt, by the Minister for Education to suggest that our inquiry had nothing to do with the Auditor-General's report; that our inquiry had nothing to do with the future of preschools in the Territory and the Government could continue to plough ahead, as it has said it was always going to do, in dealing with the issue of preschools in the Territory. That is why it is important that this Assembly endorse the Standing Committee on Education's decision to undertake this inquiry.

Clearly, this Government is not particularly interested in hearing what that inquiry has to say. It is not interested in it. Indeed, at the beginning of the initiation of the inquiry, the Minister put out a statement saying that he did not believe the inquiry had anything to do with his Government's attempts to reform or to restructure the preschool system.

That, Mr Speaker, is not acceptable. That is why it is important that this Assembly today recognises the importance of the inquiry and says to the Government that this is an issue which they cannot afford to ignore; that this is an inquiry that they cannot afford to ignore.

The final issue that I want to address in this debate today has to do with the Government not taking any action on closures, not taking any action to restructure, until the Assembly has considered the committee's report, because again and again we have seen this Minister prepared basically to suggest that the Assembly committee's report is not relevant to decisions that his Government will make.

Mr Speaker, Mr Osborne has circulated an amendment to the motion which suggests that the committee should report to the Assembly by 1 September. Now I see that Ms Tucker has circulated a further amendment, which I am sure she will move shortly, to change that report date to 22 September. That seems to be an entirely sensible approach. I think it is unfortunate that we have had Mr Osborne come in here and talk about how he was not consulted about Mr Berry's motion, and then Mr Osborne does exactly the same thing and says, "This is your report date, committee", and does not even talk to the chair of the committee about it. What an absurd approach by Mr Osborne! What hypocrisy it is for Mr Osborne to suggest that he should be consulted, but he should not consult the committee about the report date!

Why is that important, Mr Speaker? That is important because the committee has already worked out its timetable for the inquiry. It has worked out when submissions need to come in; it has worked out when it will need to hold public hearings; and it has worked out the time it will need to structure the report to this Assembly. I would have thought, Mr Speaker, that if the Government had a problem with the report date of the Assembly committee it would have got its representative on the committee to say something. It would have got Mr Hird to come along and say, "Look, I am sorry; the Government has a bit of a problem here. I have spoken to my colleague Mr Stefaniak and we think that the report date should be X". But, did Mr Hird do that?

Mr Hird: No.

MR CORBELL: No, Mr Hird did not do that. It comes out of his own mouth. Mr Hird, what a silly position you are in! Here we have the Government saying that the report date must be by a certain time and you as a member of the committee did not even suggest that when the committee was structuring its timetable for this inquiry. It just shows, Mr Speaker, how bumbling the Government's efforts have been on this matter and why it has been important for this motion to be moved in the Assembly today reinforcing the importance of an inquiry.

Mr Speaker, fundamentally and finally, the issue that this Assembly must address is that we are talking about people and their young children who use preschool services. We are not talking about real estate; we are not talking about how much money can be gained by selling a building; we are talking about the provision of a service to the community. We are not just talking about the provision of a service to the community for people who use the preschool service proper. We are also talking about other community organisations that use preschool buildings for other reasons, such as day care groups,

play groups - a whole range of people. I understand that even scouting groups and cub scout groups use these buildings. When we look at the utilisation of preschools we need to be looking at those issues as much as we look at the formal use of those buildings by preschool classes.

Mr Speaker, this is an important motion. It deserves the support of this Assembly. I hope that Ms Tucker's proposed amendment to Mr Osborne's proposed amendment is accepted, because then, and only then, will we have a reasonable report date for what will be a very important inquiry.

MR STANHOPE (Leader of the Opposition) (11.36): Mr Speaker, there are a number of things I would like to say in relation to this motion. I think it is an incredibly important motion. It is a very important issue. I am disappointed that the Government and Mr Moore, if I can include Mr Moore in the Government, really do not take the issue seriously and do not address the substance of the motion.

I was one of those members of the Assembly who did attend the meeting called by the preschools of the ACT at the Hawker preschool two Sundays ago. It is very significant - I draw this to the attention of the members of the Government who chose not to attend - that whilst the meeting was at 4 o'clock on a Sunday afternoon, a time that one would imagine was almost guaranteed to determine a very poor roll-up at the Hawker preschool, with the football on and all those other things that distract families on a Sunday, there was standing room only. There were 250 to 300 concerned parents of preschool children and citizens prepared to turn up at that time of day to express their distress at concerns they felt about this Government's attitude to the education of their preschool-age children. There is a message in that for the Government. That is the extent of the feeling within the community about their distrust or their attitude to this Government in relation to the education of their preschool-age children. I think the Government really should take that on board.

I would like to respond to Mr Hird's explanation of why he was not in attendance at that meeting. I think it is significant that the meeting at the Hawker preschool was on the day after the meeting at the Latham shops about the prospect of the Latham shops being closed and the appalling photographs in the paper the next day of Mr Hird being jeered at by everybody attending that meeting. I think the reason why Mr Hird did not attend the preschool meeting was that he was directed by the Chief Minister not to; that the Government could not afford Mr Hird appearing in public two days in a row.

This is a very serious matter. This is about the education of our children. This is the most fundamental issue that affects parents - the education of their children. It affects the rest of their lives. It is an issue that affects our community. Education is fundamental. It is a matter of great regret that the Government and its members taking part in this debate cannot stand up in this place and address the fundamental importance of this issue without being distracted by whether or not it has been referred to the appropriate committee and whether or not the report date is appropriate.

It would have been better if the Government could have stood up and allayed some of the concerns that it has generated by its handling of this matter. It is not prepared to say that it will consult with the people of Canberra about the very important issue of whether or not preschools in Canberra will close. It would have allayed some of the concerns of the parents of Canberra if some members of the Government could have stood up and articulated their concern for education with a little bit more interest and a little bit more meaning and sincerity than we have seen to date from the other side.

A simple matter is being proposed; namely, that this Government promise that it will do nothing until a committee of this place conducts an inquiry into preschools. That is a very simple undertaking to make and it is something the Government should embrace without the equivocation and obfuscation that we have seen. Just give the simple undertaking to support this motion and not pre-empt the committee's inquiry. Actually express some positive support for the committees of this place; say that it is only appropriate that the Education Committee conduct an inquiry into a viable part of our education system. Express some support for the committee system that has been so severely curtailed, I think, by the restructuring because we do not have a public accounts committee anymore. We do not have a clearly defined committee to which to refer reports of the Auditor-General.

I think this community has very real reason to be concerned about this Government's commitment to consultation. I think that underlies some of the concern that the parents of Canberra have. I noticed that recently we had a new consultation protocol, but I do not think the residents of Belconnen, in particular, can have any faith in this Government's commitment to consultation in relation to the fiasco that we have seen over the Belconnen pool. The fact is that this Government breached its major spending promise to the people of Belconnen without any consultation with the people of Belconnen. It went through a charade of an inquiry, without - - -

Mr Smyth: It has not been breached. There is money in the budget for the next step.

MR STANHOPE: There is money in the budget for the pool? That is a ridiculous thing to say. Where is the $15m that was promised for the pool? Is that in the budget? A $200,000 diversion for putting it off is all we have in the budget on the pool.

MR SPEAKER: Order! Relevance, Mr Stanhope.

MR STANHOPE: This is relevant to the question of consultation. That is why we must support committees such as this - because of the opportunity that it provides for genuine consultation. We are talking about consultation. We are talking about this Government's lack of commitment to consultation with the people of Canberra. That can be starkly illustrated through its complete disinclination to consult on the Belconnen pool. It would trash a major election promise without reference to anybody.

Mr Hird: We have not trashed it.

MR STANHOPE: You have trashed it, Mr Hird, and you should hang your head in shame over the Belconnen pool.

Mr Hird: We have not trashed it. That is only your idea.

Mr Smyth: You ought to be ashamed for defending a party political stunt that is debasing the debate.

MR SPEAKER: The house will come to order! Mr Stanhope has the floor.

MR STANHOPE: There is little more for me to add, Mr Speaker, other than to say that this motion stands quite clearly on its own. There are three very distinct parts to it. There is absolutely no reason why we should question or quibble over any part of it. The Assembly is being asked to accept unequivocally that the preschool system is a fundamental part of the ACT education system. I know that the Government has shown some disinclination to show any passion in its support for that view, but it certainly would not have the nerve to oppose it. One would wish that it could show some genuine commitment to the sentiment.

We are asking this Assembly to endorse an inquiry by the Education Committee into a review of preschool systems. This Assembly, particularly the other side, does need to show that it genuinely supports the committee system of this place, because by its actions it seems to me that it does not. This motion asks the Government to take no action on the closure or restructure of any preschools until that committee has reported, and that is an undertaking that this Government should have made. It is one that they should have articulated. It is one that they should have made willingly, without the need for it to be forced on them through a motion in this place.

MR RUGENDYKE (11.44): Mr Speaker, I also support the motion because I feel very strongly about the role that preschools play in our community. It goes without saying that preschool is an important period in educating our children. It prepares our youngsters for primary school, and it is a beneficial stepping stone in preparing them to adjust from being at home with mum before venturing into the world. Preschools are more than a place of learning. They are part of the social fabric of our suburbs. They bring our communities together. It is the families who are putting their hands in their pockets to ensure that the essential resources are provided for teachers to stimulate their children on an upward learning curve. It is the community spirit which is keeping the preschools alive. It is evident from the reaction of parents and teachers alike to the recent Auditor-General's report that the community spirit generated by preschools is alive and well. They know how important preschools are to the development of their children, and they know that, if the Auditor-General's recommendations are implemented, this source of community spirit and cooperation could be taken away from them.

Preschools are a focal point in our suburbs and they should not be hastily cut. By the same token, I have a rational approach to the issue of cuts. If there are preschools with only a handful of children enrolled, perhaps they should not be kept open for the sake of it; but I would have to be convinced that this is happening, and I do not believe that the Auditor-General's report proves that. It is only commonsense to hold an inquiry and to make any decisions on the future of preschools based on the committee's findings.

As I said, Mr Speaker, I will support the motion; but I would like to put on the record that I do not support the manner in which Mr Berry raised it. A week ago Mr Berry said in the media that he would be disappointed if Mr Osborne and I did not support his motion. We did not see his motion. Mr Berry could not find the time to come and show me his motion until a couple of minutes before sitting time yesterday. Yet a week ago, Mr Speaker, Mr Berry was able to find his way to Ms Tucker's office to show her the motion. Did he bother to darken my doorstep? No. Did he darken Mr Osborne's doorstep? No.

This begs the question, Mr Speaker: Does he honestly want me to support the motion? Did Mr Berry genuinely want to muster the numbers to help the preschool community, or was it just another way of getting his name in the paper? If he wanted my support on this motion, why did he not come and see me and discuss the issue? My door is always open. I am always open to consider serious proposals which will benefit the community. If Mr Berry wants my support, the best way to get it is not by raising it in the media before he raises it with me personally. I have been on the record as saying that if the Labor Party ever sought my support for a change of government they would have to prove they are worthy of it. If Mr Berry's delivery of the preschool motion is any indication of the Labor Party's worthiness, I will tell you now that they have Mount Everest to climb before they reach the mark. Nonetheless, Mr Speaker, I do support this motion.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.48): Mr Speaker, I rise to put a little bit of historical context into this debate. If you were a person sitting in the gallery who had not much knowledge of the history of the ACT and had not followed the course of education funding and support in this Territory over the last 10 years or so since self-government, you could be forgiven for swallowing the line which Mr Berry and others placed before this chamber and the community about how deeply the Labor Party in this place cares about education. "When you take away the building blocks of education and you threaten the fundamentals of our system of education, you threaten the future of our community", I think Mr Berry said. Mr Corbell intoned similarly sonorous hand-on-heart comments about how deeply the Labor Party felt we needed to support education in this city.

I find it very convenient to keep clippings from what was said in the past. I went back to the very first Labor Government of 1989 and had a look at some of the things that were going on then. Mr Speaker, the first thing I came across virtually when I opened the book was a picture of a rally outside the old Assembly. That was over at the ACTAC building and there was a huge crowd of people. There is a poster above one of the people in this crowd outside the Assembly saying, "Kids Will be Failin' Because of Whalan". Here is a demonstration organised by the ACT Teachers Federation to protest against proposals by the Follett Labor Government to cut education services in the ACT. It says, "A level of cuts somewhere between $6m and $7m in the public education system per year have to be found, according to the Government of the day".

Mr Speaker, we have heard from Mr Berry today, of course, that preschool education is very important and that they consider it to be a vital part of the education system of this Territory. Well, what was proposed for preschool education back in 1989?

Mr Smyth: What was proposed, Minister?

MR HUMPHRIES: What was proposed? What was proposed, Mr Speaker, was a cut - wait for it - of $900,000 in preschool education in the ACT, almost $1m in education spending in the ACT. The Teachers Federation at the time said:

> This is the first Labor ACT Government. What is going to happen to the ACT education system if they make these cuts in their very first budget?

The spokesperson went on to talk about the way in which "the proposed cuts were devastating to the delivery of education from preschool to TAFE".

Mr Speaker, I also found some comments on a debate which was held in the Assembly a few weeks later. This comes from an article in the *Canberra Times* on 2 November. I can see why those opposite are pretty nervous at this point in time, but they really have to sit down and listen to this. The heading of the article is "Preschool closures : no guarantees, says Whalan". I will read out the first two paragraphs of the article. It says:

> A preschool - - -

Mr Stanhope: Who is this Whalan?

Mr Berry: Who is this guy? Who is Whalan?

MR SPEAKER: Order!

MR HUMPHRIES: Indeed, you may ask, Mr Stanhope; indeed you may ask. I quote from the article:

> A preschool with less than 17 enrolments would be closed, but one with more than 17 would not automatically stay open, the ACT's Education Minister, Paul Whalan, told the Legislative Assembly yesterday.

Mr Hird: Labor?

MR HUMPHRIES: The Labor Education Minister for the Territory.

Mr Smyth: That is old Labor.

MR HUMPHRIES: Oh, this is new Labor. Right. I am sorry. It continues:

> Speaking during a lengthy debate on the Government's proposal to close five part-time preschools, Mr Whalan said the Government had not reneged on its pre-election promise that no school would be closed or amalgamated unless the school community agreed.

Here is the clincher. Mr Whalan was saying:

> The distinction between schools and preschools had been clearly made.

Well, well, well! There is a difference between schools and preschools.

Mr Berry: We learnt our lesson. You have not.

MR HUMPHRIES: Mr Speaker, Mr Berry and his ilk would like to pretend that that was an isolated break-out and that otherwise, apart from that small glitch in 1989, the Labor Government then and subsequently was actually very dedicated to education. Unfortunately, Mr Speaker, the record does not show that either. Mr Berry, you are dedicated to education only when you are in opposition. When you are in opposition you do not have to worry about dealing with any budget problems. When you are in government it is another matter altogether. The Labor Party promised that it would defend education. Public education, hand-on-heart, was very important to the Labor Party of this Territory.

What happened when it came to office in 1991? Of course, it moved to slash the education budget. We all recall the attempt in 1993 to take 90 jobs out of the education budget and maintain in the same breath that - - -

Mr Corbell: I take a point of order, Mr Speaker. If Mr Humphries is going to be relevant in this debate he should mention the 25 schools he was going to close when he was Minister for Education.

MR SPEAKER: There is no point of order. Because we have had quite a lot of irrelevancy in this debate, I would remind members to be relevant on preschool issues.

MR HUMPHRIES: In 1993 the Labor Government proposed to slash 90 jobs out of education - 90 teachers' jobs were to go - and that was to be at the expense of schoolteaching. The Education Minister at the time, Mr Wood, even maintained that they could take 90 jobs out without affecting the student-teacher ratio. He was rather hard-pressed in the course of the estimates committee process to explain how you can take 90 teachers out and not affect the student-teacher ratio.

Mr Speaker, the only period since self-government when education has faced a sustained period of sustained funding, when levels have been maintained in real terms, has been during the term of this Government.

Mr Berry: Mr Speaker, I wonder whether you could cause Mr Humphries to mention the motion he is actually debating.

MR SPEAKER: Yes. I have reminded members repeatedly about relevance.

MR HUMPHRIES: Mr Speaker, I am responding to remarks by Mr Berry about the past on education questions as well.

MR SPEAKER: I want you to source it back to preschools.

MR HUMPHRIES: Mr Speaker, we are the only government that has delivered consistency in support for education. We have done that over the three years that this Government has been in office. During that period there has been maintenance of funding for education in real terms. Indeed, even today that is the prospect for preschool education, but we need to consider how best we can deal with the use of resources in the preschool sector to ensure that those dollars that are being spent are being used in the best possible way and in the best possible place.

The Labor Government closed preschools when it needed to, because it wanted to make sure that resources were going into the right areas. Mr Speaker, we need to consider that question as well. We need to make sure that we are putting resources into the right places. If preschool enrolments are very small, there is a case for considering how best they should continue to operate, Mr Speaker.

Mr Berry: Mention the motion. Mr Speaker, can you get him to mention the motion? He is still not sticking to the motion.

MR SPEAKER: He is relevant.

MR HUMPHRIES: That is exactly what the motion is talking about. The motion talks about the structure of preschools in the ACT. It is what the motion is all about. Mr Speaker, if Mr Berry wants to rise in this place and reek with hypocrisy about how deeply the ALP feels about education, and about preschool education in particular, then let him do so; but let not the rest of us think that Mr Berry - - -

Mr Berry: Wayne Berry; not Paul Whalan. He has whiskers on him now.

MR HUMPHRIES: Mr Speaker, I have had constant interjections from Mr Berry during these remarks and I ask for - - -

MR SPEAKER: Yes, I must uphold the complaint. You have spoken, Mr Berry. If you wish to seek leave to speak again, it is up to the Assembly whether they will allow you to.

Mr Berry: I will be speaking again later.

MR SPEAKER: In the meantime, please remain quiet.

MR HUMPHRIES: Mr Speaker, I can only commend to the house the comments made not by someone on my side of the chamber but by a person who is apparently working at the moment as a consultant to the ACT Labor Party on economic matters. The remarks were reported in the *Canberra Times* of last Saturday. I quote these comments by the associate director of the Australian Centre for Regional and Local Government Studies at the University of Canberra, David Hughes.

Ms Carnell: The economic adviser to Mr Quinlan.

MR HUMPHRIES: The economic adviser to Mr Quinlan. He wrote this:

> If the Budget does attempt to reduce expenditure in some programs, the many critics who will step forward to voice their disapproval should have the decency to tell us how they would deal with the operating loss.

That, Mr Speaker, is the clear injunction on those opposite. If they think we can get away without reconsidering how we provide preschool services without restructure, without review, then let them tell us what their alternatives would be. Of course, they do not have any alternatives.

MR HARGREAVES (11.58): I do thank Mr Humphries for the history lesson. It is quite clear to me that he had the benefit of a good preschool education. I would like to pick up on something Mr Humphries did say. He was congratulating the Government on consistency, and I think we should do that also because they have been consistent. I refer to the closure of 25 schools and the introduction of school-based management so that somebody else will cop the blame.

Mr Humphries: Mr Speaker, I rise on a point of order. First of all, the Opposition took a point of order a minute ago about the past. If they are going to be consistent they should stick to the subject matter. Secondly, Mr Speaker, in the last decade more schools in this Territory have been closed by Labor than by anybody on this side of the chamber.

MR SPEAKER: There is no point of order; but we are debating preschools and I am becoming very tired of hearing the word "twenty-five" mentioned in relation, obviously, to primary schools.

MR HARGREAVES: I will not refer to the number "25". I might refer, however, to twice 12½, if I may. In fact, the consistency is remarkable because, as I understand it, the - - -

Ms Carnell: Mr Speaker, a point of order: Once and for all, I would like Mr Hargreaves to withdraw a statement that is simply not true, and that is that 25 schools closed.

MR SPEAKER: Twenty-five schools did not close.

MR HARGREAVES: Mr Speaker, I am very happy to withdraw; the Government did not succeed in closing 25 schools. My point, Mr Speaker, is not really about that at all. I meant to see those opposite rattled by that little element of guilt. However, I am actually talking about the current plans not to do away with schools per se but to make sure that they trade themselves out of business under their school-based management system. This, to me, points up a culture, an ethic. Mr Speaker, I am appalled at the Government's intention to put real estate profits before the education of our kids.

Mr Stefaniak: We are not. We have said that consistently.

MR HARGREAVES: I figure I am allowed to say "12 preschools". Perhaps part or all of those things will have Elders "For sale" signs on them, perhaps at auction. I am sure we could take advice from our colleague up the back. The fact is, Mr Speaker, that when you close these schools they are gone. They cannot be put back, so you might as well stick a "For sale" sign on them.

Mr Speaker, it is about time people understood that preschools are not baby-minding services. Mr Humphries was good enough to give us a history lesson. Perhaps I can oblige with a little one myself. In 1970-71 I was privileged to be the president of the Haig Park Preschool Parents Association because my littlie went there. I joined that association because the preschool taught my daughter. At that time the school had a program of integration with disabled children, Down's syndrome children and ordinary children, if that phrase is correct, and they taught my daughter not to take a blind bit of notice of these disabilities. They taught the disabled kids how to get along with other people. They taught basic numeracy and literacy, and they taught community and peer relationships. Mr Speaker, the preschool at Haig Park taught my daughter, and I am very grateful for what they did.

As my colleague Mr Corbell said, preschools provide a sound base on which we build educational building blocks. The ACT has an excellent level of educational achievement which is recognised around the country, and we have an excellent retention rate. That is because we give the kids a good start. The preschool system is an integral part of our community. It not only teaches the kids; it also teaches parents how to teach their kids. The Education Standing Committee is concerned. It sees and hears glib statements in the media which say that preschool education is not part of the Education Department or not part of the education system. It is concerned enough about that to commission an inquiry, or to kick one off.

I am surprised that we have the filibustering from Mr Moore, who is worrying about whether it is this committee or that committee. Quite frankly, Mr Speaker, who cares? Actually, Mr Speaker, I care about it because I think it is indicative. Mr Moore was saying, "Let us have the Chief Minister's Portfolio Standing Committee have a look into it. They got it first. They got the ball first".

Mr Hird: They did get it.

MR HARGREAVES: Mr Moore and Mr Hird ought to go together and talk in a phone box and get it right at least, because I certainly heard it that way.

Mr Hird: The Government sent it to the committee.

MR SPEAKER: Mr Hird, order! You will have the chance to speak later if you wish.

MR HARGREAVES: This issue is: What are these two committees there for? What is the whole driving philosophy behind these committees? The Chief Minister's Portfolio Standing Committee, essentially with its PAC role, is to look at the dollar-driven agenda.

The Education Standing Committee is to look at education issues. It is perfectly correct for the Education Committee to run such an inquiry. The spectre of 12 preschools closing is sufficient cause to have an inquiry in its own right. What is more important - education or real estate profit? I put it to you that these people opposite have more of an agenda to pick up some real estate profits and could not care less about continuing preschool education.

The Chief Minister yesterday made much of us being the clever, caring capital. Well, it is very clever to suggest that we can close 12 preschools. It is very clever, and I congratulate them; it is very clever indeed. They really care about the kids.

Mr Smyth: Did you go to a preschool, John? You must not have been to a preschool.

MR HARGREAVES: I was here, Mr Smyth, and I was not in the phone box. I urge this Assembly to support the motion in the strongest possible terms, and to support a reasonably short timeframe.

MR KAINE: (12.05): Mr Speaker, I must say that I have not been too impressed by the debate on this matter this morning, frankly, from either side of the house. I am going to support this motion, but I am not going to support it because of the argument put up by the Labor Party or because of the opposition put forward by the Government. What happened seven or eight years ago is totally irrelevant. We have had a bit of toing-and-froing about what the Government did and what the Labor Party thought. That is irrelevant. The relevant point is that today there are decisions to be made about our preschools.

I do not know that I have all the information that I need. I am not even sure that the Government has all the information that it needs on which to make a decision. We are being asked by Mr Berry to wait while an inquiry is conducted. That inquiry is to report in September - three months from now. Surely that report can put forward some useful information that even the Government would find useful. It is not going to affect the Government's priorities. Whatever comes out of that inquiry can still be put into effect by the Government during this coming financial year, so it is not going to affect the Government's objectives or expected outcomes for the year.

I am going to support the motion simply because it is a practical thing to do, and I am not interested in all of the rhetoric that has been thrown backwards and forwards across the floor this morning. All I can suggest is this: Let us vote on the issue; let us get the committee of inquiry started. I think the Education Committee is a quite appropriate committee to do that. The public accounts committee can look at the financial aspects, but the Education Committee should look at the education aspects. Let us get the thing started, let us get the report in September, and then we can all be better informed.

MR HIRD (12.08): Mr Speaker, let us have a little bit of silence and get the facts on the record. I hold up the Auditor-General's report which was sent to this place and presented in this place by you. It was decided in this place that it would go to the Chief Minister's Portfolio Standing Committee. This Government was concerned. This Government - - -

Mr Berry: Tell us why you did not go to the meeting.

MR HIRD: The fact is that Mr Berry is misleading this house by saying this Government was not in a consultative frame of mind.

Mr Kaine: Mr Speaker, I take a point of order. Mr Berry is quite capable of defending himself, but I do not think he has in any way misled this place. Nor do I believe that he intended to.

MR SPEAKER: Withdraw, Mr Hird.

MR HIRD: I withdraw.

MR SPEAKER: Thank you.

MR HIRD: Mr Berry is pulling one of his usual political stunts at the expense of one of the greatest resources that we have, and that is our youth, our young people. Mr Berry is well aware of a cut-off time. I was not. I have made myself informed of a cut-off time. You might well congratulate him, Mr Kaine. I noticed that in the chamber. That cut-off time, which is of concern to parents, is August. Mr Osborne's amendment identifies that concern, and I commend him for it. I will be supporting Mr Osborne's amendment.

I am a member of the Standing Committee on Education. That committee and I have given support to this inquiry. I have given my support to this inquiry. Those opposite seem to think that there is some secrecy about this Government undertaking something they do on an annual basis, and that is to assess preschools and to see the needs of the community.

Mr Kaine: What is the decision, so far?

MR HIRD: I am surprised to hear Mr Kaine say, "What is the decision?". It would appear, despite his accounting background, that he has not gone through or read the Auditor-General's report. I find that interesting in itself.

The current situation, I believe, is that the standing committee has agreed to undertake this inquiry. There are some requests for considerations, and they are of concern not only to this side of the house but to all members. Once again Mr Berry plays politics and stirs up the idea that we are going to close preschools. The fact is that we will make the same assessment that we have made in past years, on an annual basis, and take into consideration the needs of the students and the parents at preschools. At the end of the day it is up to us, the committee, to come back with a recommendation. Let me also say to those opposite that the committee will be seeking, as has been indicated, public input. The Government is looking forward to that standing committee's report. As Mr Kaine said, we have three months. Mr Kaine is again going to the Opposition side to get advice. I am concerned about Mr Kaine.

The fact is, Mr Speaker, that at no time did this Government ever think of not having a consultative arrangement on preschools, because they have done it in the past. I think, Mr Speaker, that the Minister and his department are to be commended for the work that they have done on this problem, and the way they have grappled with it in the past. I look forward, as a member of that committee, to input not just from Belconnen, from the electorate of Ginninderra, but from right across the Canberra community.

MS TUCKER (12.12): I will speak to the motion and to Mr Osborne's amendment, and I have circulated an amendment in my name as well, which I move now. You need to note that two amendments in my name have been circulated and one is revised. I move the following amendment to Mr Osborne's proposed amendment:

> Omit the words "1 September 1998", substitute the words "14 September 1998".

This motion basically is about affirming the role of the Education Committee in the Assembly, and the importance of the committees in this place being able to work with the community, and hopefully with the Government, to find solutions to problems. In the debate today there have been a lot of accusations about whether or not preschools are going to be closed, as the Government said they would be. Certainly, there were preschools named in the Auditor-General's report, and that was what sent alarm bells ringing through the community. Obviously, that was the reason why the committee thought to look at these issues. If there are inefficiencies, as was suggested by the Auditor-General's report, the Education Committee is interested in looking at that in an objective way and seeing whether those inefficiencies can be dealt with without sacrificing quality.

Mr Moore probably strayed off the topic a bit because he is uncomfortable with the whole debate. He did try to make rather a lot of the public accounts committee, which is not relevant; but he was not pulled up by the Speaker, so I assume I have the right to respond to that. We have, as a committee, made a decision to accept the reference from the Chief Minister's Portfolio Committee, which is also the public accounts committee, for the sake of efficient use of the human resources in this place - that is, the members. As we know, we have a lot of pressure on all members here as a result of the number of committees and the restructuring of the committee system.

It was entirely sensible in this case that the Education Committee would take on the responsibility of looking at this Auditor-General's report. But the committee was quite clear, and it is minuted, that in fact this is an exception and that the public accounts committee would normally be the place where these Auditor-General reports are looked at, unless the committee, for specific reasons, chose to. So there really is not an issue there at all. I was intending to make a statement tomorrow, and I will still do so, to clarify why we have taken on that particular job.

The first part of Mr Berry's motion states clearly that preschool education is part of education. Obviously the community thinks so. The Government has tried to play games with words, and basically has failed. I think what it looks like to most people in the community is a broken election promise, because we did go to the polls hearing the

Liberals say that there would be no cuts to preschools, and I believe that there is a cut in this budget. They said that real funding would be maintained, and I do not believe that that has actually happened.

Ms Carnell: It is; it has.

MS TUCKER: Ms Carnell interjects that there have been no cuts.

Ms Carnell: No; it has. Real terms is there - a 3 per cent increase.

MS TUCKER: All right; we will look at that. We are still looking at the detail of the budget; but basically the community at the moment feel there has been a cut, so we will clarify that.

Mr Smyth: That is because of political stunts.

MS TUCKER: Mr Smyth says it is about political stunts. I am sorry, Mr Smyth. If you understood how differently this budget is framed from the last budget you would understand that people have a problem reading it, in the community as well as in the Assembly.

Mr Smyth: I will address that in a minute.

MS TUCKER: We now see insurance, superannuation and so on in amounts of money, so you have to understand that people, even those with experience, have to have time to address the real funding implications of your budget. The second part of the motion basically supports the role of the Education Committee in looking at this. Of course, I believe that is important, as the committee does and as the community does.

The third part of the motion requires that no action be taken until the committee has reported. There has been debate about the time that we report. Mr Osborne's amendment was 1 September. There are a number of reasons why we feel that the middle of September is much more appropriate and that, basically, is because of the estimates committee process. There is a space between when the written submissions come in to the inquiry and when we can have the verbal submissions. If it was 1 September we would have only a few days to look at a substantial amount of evidence. Now, 14 September at least gives us a little bit more time. There have been arguments put up that this does not fit in with the cut-off dates for enrolments. Basically, the committee has always understood that information on enrolment projections for 1999 is useful for the committee, and in fact is something the committee would want to consider.

The other objection that has been raised is that there is a cut-off date for transfers into the primary school system. People I have spoken to in the lobby, the officials, are very concerned because of that cut-off date. I have spoken to the Australian Education Union about this and they make it clear that there have been several incidents in the past, or precedents, where there have been additional transfer rounds set up to accommodate late decisions. All I can say, really, is that even if there were no precedents, for heaven's sake, we are talking about two weeks. If you cannot change your administrative directions for two weeks - we are not talking about the last term of this year; we are

talking 1999 - it is just getting ridiculous. This is a really important issue for the community. The Education Committee's work needs to be respected. We need to have reasonable time. I have compromised and I have accepted 14 September. There is an amendment, as I said, circulated in my name to that effect, and I look forward to getting support from members of the Assembly.

MR SMYTH (Minister for Urban Services) (12.19): Mr Speaker, I will be quite brief. Ms Tucker, the point I was making about political stunts was simply that the Auditor-General's report, which is independent, has been turned into Government intention and in that regard it gets people thinking that that is what the Government is going to do. The Government, I understand, is yet to respond to that report. I appreciate what you say about the budget coming down yesterday in terms of digesting that box of goodies that we all received yesterday. It is a big effort and people do deserve time. But, in regard to this whole issue, what the Auditor-General said is not what the Government has said.

I am sure everybody in this place - all 17 of us - supports preschools. I have no doubt about that. I think all 17 of us here understand that preschools provide a foundation that sets our children up for the rest of their lives. I am not sure how many of us here went to a preschool. I did not. I grew up in Sydney at the preschool age. But my kids, when they were an appropriate age, went to preschool. They did not go to our local preschool because it was full. Farrer was full. There were cut-off lists and all that and we were moved across to Mawson. I would say now to the staff at Mawson at that time, thank you very much for the wonderful things you did for my kids, simply because it does set a great foundation. I do not believe anybody here doubts the value of preschools.

This is where the issue of this being turned into a stunt comes in. Wayne - as Mr Osborne said, the anarchist of the Assembly - has had a good run for a couple of hours with this issue. This Government is not cutting funding to preschools, as the Chief Minister has said. The budget papers show a 3 per cent increase. The per capita funding per child is there. The fact that the student numbers are down will force us to look at the number of units that we have, and we will do that because there are other issues. It is not a question of keeping them open just for the sake of it. It is making sure that the children who attend preschools get the quality of education that they deserve.

Mr Hargreaves made the point that it is all about real estate. Well, it is not about real estate. He says that once you close one it is gone forever. If I remember rightly, and the then Minister for Education might correct me if I am wrong, Curtin, as a large suburb, had two primary schools, North Curtin and South Curtin. Initially, I believe that South Curtin school was closed because of declining student numbers and they were all moved to North Curtin school so that we could continue that quality of education. When it became apparent that the numbers would make it more acceptable to have all the students in South Curtin school, South Curtin school was reopened and the students from North were moved to South, and so the process goes on. It is a bit of a furphy to suggest that just because a school is closed, it is gone; that you cannot rebuild and you cannot reopen. What it is about is providing a preschool system that looks after our preschoolers in the best possible way. I have no doubt that everybody here today - all 17 of us - agrees that it is appropriate.

We should try to get through these amendments before 12.30 pm if we can. I think Trevor is correct when he says that, hopefully, in the search for more data and for more knowledge through this inquiry, we all make better decisions. I have no problems with that. The thing that I look forward to the most in that process is that the ALP, in their submission to this inquiry, will follow the advice of the economics adviser to the shadow Treasurer, Mr David Hughes, and tell us how they would fund it. If preschools do not have to go, how would they keep them open and how would they fund them? If the budget does attempt to reduce expenditure in some programs, the mini critics who step forward to voice their disapproval should have the decency to tell us how they would deal with the operating loss. It will be interesting, Mr Speaker, when the report is tabled in this place, whether we see a submission from the Labor Party spokesperson on education matters and whether they address how they would fund it. If they want to extend services they should be telling us how they will fund them.

MR STEFANIAK (Minister for Education) (12.24): I am speaking to Ms Tucker's amendment and I will be brief, Mr Speaker. Ms Tucker has had discussions with a number of people, including me. I would simply point out that our biggest concern is with the reporting date of 14 September. The problem is that that may very well lead to compulsory staff transfers, and any dislocation that would occur certainly causes the Government considerable concern. I think members need to be aware of that. Therefore, we think Mr Osborne's initial suggestion of 1 September is better.

Mr Speaker, Mr Berry kept mentioning cuts. I would remind him that, in fact, there is a 3 per cent increase per student.

Mr Berry: There is a bit of creative accounting there, I think.

MR STEFANIAK: "Creative accounting", he says. It is enrolment based. There is a drop in enrolments, Mr Berry, of about 300. If you read your budget papers again you will see a 3 per cent increase per student.

MR BERRY (12.24): Mr Speaker, it seems as though I have trodden on a few frogs with this motion, because all I can hear is the squawks. I will deal firstly with Mr Moore. Mr Moore apparently has fallen, in a very relaxed way, into the Government's position on almost anything, and I find his rationalisation of issues quite intriguing. As reported in the *Canberra Times* not so long ago, Mr Moore was twisting and squirming about preschools. He said that preschools were a part of the education budget and then said, "But I have never interfered in a government moving money around within education. It is the only community facility in the suburb - that is the Reid preschool - and the same argument applies to any other suburb".

Mr Moore did say it was a planning issue, not an education issue. I am glad that the Government today has decided to support this motion; otherwise I fear Mr Moore might not have supported it either. Had this motion been moved on 13 June, I think Mr Moore may have opposed it, because he seemed to be travelling in close company with the Government. But it is a government of economic dries, of rationalists, and Mr Moore is comfortable with them. They are an extremely dry and conservative government.

Mr Speaker, I also draw attention to some issues that Mr Stefaniak mentioned. He kept referring to a capacity of 7,000, and the enrolments being much lower than that. Therefore, we still go back to this utilisation argument, which brings me to a point that I raised earlier in the debate; that this is deja vu. Exactly the same logic drives this Government as drove it in 1990-91 when it moved to close 25 schools. That was the plan in the first place. I think it shrank to six or seven. One was reopened by Labor later on. The same rationale driving it now drove it then. That is very clear from the approach that the Minister has taken in public forums, and, indeed, in his utterances here today.

Mr Osborne seemed to agree with my motion, but did not like me very much.

Mr Osborne: I never like you very much.

MR BERRY: I did not come here to be loved. I came here to look after community infrastructure, and I am committed to that cause. I am pleased that he is going to support the motion, but I think it was disingenuous of him to say that he was not offered this motion. This motion was offered to Mr Osborne in the corridor on the first floor and he did not even want to look at it. I heard Mr Rugendyke say that we have to consult with him at the earliest moment. Well, if Mr Rugendyke wants to play by the same rules, we might consider it. If he had consulted us about the circus issue, I would have said to him, "Dave, do not do this; you will get burnt". Then he may not have done it. In any event, we make our own decisions about how we deal with these issues.

I think somebody mentioned that we gave the motion to Ms Tucker at a different time from that at which we gave it to the Independent members. Well, I do not think that is quite true. Ms Tucker was advised of what we were doing, but the motion was not printed until the day it was given to all of you at about the same time and on the same trip, so do not let us get carried away with distortions of history.

Mr Osborne, we probably will not agree on very many things, and we certainly will not be asking you whether we can do things or not. Perhaps that is an arrangement you have with the Chief Minister; but it is not something that will occur with Labor, because we disagree on so many things. We will decide when we will announce our own particular policies in respect of a whole range of matters. Sometimes you will disagree with us. It would have been refreshing if, in this debate, you had stuck with issues of principle rather than personal likes and dislikes of personalities around the place; but that is life.

Mr Speaker, I heard Mr Humphries raising some historic events, going back to 1989. They were not of much interest in the context of this debate. The motion is quite clear. The issues that he raised pale into insignificance when compared with his own performance in relation to education. It was appalling, and it is no less the case currently. The contemporary performance of the Government is not much different from what it has always been in relation to these matters. It is a very dry, conservative and economic rationalist government which is using the same old formulas that it has used in the past.

I heard Mr Moore say in relation to the budget that there had been no cuts to the preschool budget. Well, it is reported today that there has been a cut from $11.57m to $10.93m this year. Somebody over there made the point that enrolments would fall, but the fact of the matter is that there has been a cut in the preschool budget.

It will impact on preschools. All that the Government can come up with - and Mr Moore, I might add - is that there has been no cut. There has been a cut. It is all right to rationalise the truth in such a way, but it still will not help the preschools much when they have the reduced funding put in place. Mr Speaker, that is all I have to say. I welcome the support of members for this motion. I particularly welcome the contribution to the debate of those members who did not talk about me but rather talked to the motion. I urge members to support the motion.

I am a little concerned about the amendment. My motion specifically referred to consideration of the report by this Assembly, but the amendments talk about a timeframe at a point where the committee has reported. I would rather have had a position where the Government should respond and the committee might consider the Government's response before any action was taken; but I can see that people have largely agreed. In particular, the chair of the Education Committee has agreed to a compromise date, so we will be quite relaxed about that.

Mr Speaker, some of the contribution to the debate from the benches opposite, I think, is worth referring to. Somebody muttered something about politics and seemed to complain that there might be politics played in a political chamber. Well, that is surprising. Were we not all surprised? Some of the issues which are raised in debate never cease to amaze me, but that is a good one. Complaining about politics in the ACT Legislative Assembly, or any other parliament for that matter, takes the cake in many ways.

I note that the Government's member on the Education Committee endorsed the committee's perusal of this issue. I think the Government therefore was locked into it from the outset. I have to say that it seems to me that the Government has been dragged kicking and screaming all the way to supporting this motion. It is a motion that nobody could oppose. It is a sensible motion about making sure that the community is able to make a contribution to the political process in this place which will, in the end, determine the future of our preschools and our education system. Economic rationalists might have a different view about the way preschools operate, how they should be funded, how they should be treated, and how the community, which after all owns the preschools and the education system, should be treated in the lead-up to decisions about our education system. This is a sensible motion and I welcome members' support for it. I am sure that it will bring a productive outcome to the debate.

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

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

Motion, as amended, agreed to.

Sitting suspended from 12.35 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Economic Growth

MR STANHOPE: Mr Speaker, the ACT budget forecasts a gross state product rise of 3.2 per cent in 1998-99 and an average annual growth of 3.6 per cent over the following three years.

Mr Humphries: Whom is the question to?

MR STANHOPE: To the Chief Minister. Given that the Federal budget forecasts a national growth rate of 3 per cent - a figure Westpac economists believe is more likely to come in at around 2.25 per cent - that the OECD predicts an average 2.5 per cent growth, that the United States and Germany forecast that theirs will be 2.75 per cent and that the forecast for the world is 3 per cent, does the Chief Minister agree that the budget forecast that the ACT will outperform Australia, the OECD, the United States, Germany and the world is heroic?

MS CARNELL: No; because it is the reality. In the six months to March this year, in terms of private sector growth, guess what. The ACT outperformed Australia, at 6.2 per cent growth in the private sector. The basis of the growth figure is that the ACT is coming off a very low base. The ACT has had significantly lower growth than has been the case in Australia, in the national budget, and certainly in other States over the last couple of years. As we come off a lower base, then the projection, I believe, for 3.2 per cent growth over the next 12 months and in the future is very realistic.

I think it is very important to remember - and obviously those opposite would not have a clue - that the ACT's economy is basically a service-based economy that will not be so affected by things like the Asian crisis as the other States and the Federal budget will. That is their view as well as ours. Economies that are not so commodity based but more service based will not be so affected. Again, we are coming off a lower base. Our private sector growth is significantly outstripping national private sector growth or private sector growth in other States. Commonwealth cutbacks have significantly slowed. Take all of those things together and the projection of 3.2 per cent for the ACT's growth is quite achievable.

Budget Expenditure

MR HIRD: There must be two Mr Quinlans in this place. I say that because I heard on radio a couple of weeks ago Mr Quinlan urging the Chief Minister to use the budget to stimulate economic activity in the ACT, but yesterday I understand that this same Mr Quinlan, or Quinlan 2, was suggesting that you should cut another $100m out of spending. Can the Chief Minister inform the parliament what the impact of such a savage cut would be on the ACT?

MS CARNELL: I thank Mr Hird for this question because I am sure that all of us have been saying, "What on earth does Mr Quinlan mean? Is it too much? Is it too little? Is it halfway between the two?". It is a good question because it exposes again the inconsistencies of some of those members opposite, particularly Mr Quinlan, who really should know better. Supposedly, Mr Quinlan is an accountant and therefore should understand these things. We never really expected Mr Berry to. It is indeed true, Mr Hird, that on 9 June Mr Quinlan was on ABC radio here in Canberra calling for a major economic stimulus in the budget. He said that there needed to be a concerted effort to increase spending. He said:

> The ACT Government should be looking at whatever it can do to stimulate economic activity.

I will say it again - "whatever it can do to stimulate economic activity". Yesterday we brought down a budget with a balance of spending restraint and increased revenue. Funding for employment, business and marketing programs increased, reflecting our commitment to job creation. You would have thought that that was just what Mr Quinlan had ordered. It appears not. Remember that he wanted a concerted effort to increase spending. But what was Mr Quinlan's response yesterday? He wasted no time in getting out to the media and arguing that the Government should not have gone ahead with the sale of the streetlights to ACTEW - a decision actually announced last year. Let us be very clear about what Mr Quinlan was demanding.

Mr Stanhope: Did ACTEW demand it?

MS CARNELL: Yes. I will address that. Mr Quinlan, and it appears Mr Stanhope as well, were demanding a $100m cut to spending. Could anybody believe that? Here is a man who a fortnight ago was calling for a concerted effort to increase spending now suggesting a $100m cut in spending. A man who was demanding that the Government look to whatever it could do to stimulate economic activity is suggesting a $100m reduction in economic activity. Mr Speaker, compared to the sensible spending restraint the Government displayed in the budget, Mr Quinlan's $100m cut would have dramatic consequences. In jobs, $100m translates to 2,000 jobs. That would be 2,000 jobs out of the ACT Public Service if we did what Mr Quinlan yesterday suggested, it appears, we do.

It gets even worse. The $100m Mr Quinlan now advocates cutting from the budget was factored into Labor's own financial forecast. It was right there. What was it? It was "Working Capital". That is the one, the discredited "Working Capital" manifesto. It is there, Mr Speaker. It is not just in "Working Capital", though. It is also in the revised costings produced by the Labor Party just before the election. What did they include? They included the ACTEW streetlight sale. It was part of the Labor Party's policy, had they been elected, to do exactly what Mr Quinlan said yesterday that we should not have done. Not only do we have a complete about-face - - -

Mr Stanhope: Tell us about the Belconnen pool. Where is the $15m?

MR SPEAKER: That was not the question.

Mr Berry: We want to hear about it. What about the promised Belconnen pool?

MR SPEAKER: You can ask a question in due course. The Chief Minister is answering Mr Hird's question at the moment.

Mr Berry: Ask Mr Hird how he can explain that to his constituents.

MR SPEAKER: I ask for silence from everybody in the house while the Chief Minister answers the question.

MS CARNELL: There was not only an about-face by Mr Quinlan on economic policies in the space of a fortnight but also a recasting of Labor's own budget strategy. Here it is - "Working Capital". What do we see here? Mr Speaker, we see that the Labor Party put together their own policy direction, based on the sale of the streetlights. Certainly, they got their accounting wrong, but what a joke!

MR HIRD: I ask a supplementary question. Another fine mess you have got us into, Wayne. Chief Minister, is there a further inconsistency between Mr Quinlan saying that we should cut $100m out of the budget and Mr Quinlan then in the next breath calling for a greater economic stimulus?

MS CARNELL: Mr Speaker, that is exactly right. I am really glad that Mr Hird has drawn this to the Assembly's attention. You do not have to be an "accountant" to work out what happens if you carve $100m or 2,000 jobs out of the budget. Guess what happens. You reduce economic activity. That was the opposite of economic stimulus last time I checked. Yet Mr Quinlan, who does apparently have accounting qualifications, is now calling for a $100m cut to the budget and at the same time economic stimulus. You cannot have it both ways. It is that simple. You cannot have a massive cut to the budget and at the same time achieve the sort of economic stimulus that Mr Quinlan was trying to pretend we needed. I think he was right that we need it. It shows again that those opposite simply do not know what they are talking about. What we have seen, Mr Speaker, is a Keynes-to-Kennett conversion in the space of a fortnight, driven purely by political expediency. It is hardly worthy of a former accountant of the year.

Streetlights - Sale to ACTEW

MR QUINLAN: Find "cuts" anywhere in my press releases, Chief Minister. My question is to the Chief Minister. Is the much publicised forced sale of streetlights to ACTEW for $100m no more and no less than government borrowing? Yes or no?

Mr Humphries: But you were going to do it.

MR QUINLAN: I will have an explanation later.

Ms Carnell: You have not asked a question yet.

MR QUINLAN: Yes, I did. You were too busy talking. Is this or is this not nothing more or nothing less than government borrowing?

MS CARNELL: No, it is not. It has nothing to do with what Mr Quinlan is saying. In fact, I think it is appropriate to quote John Mackay, the chief executive of ACTEW. Mr Mackay said that the corporation would be delighted to buy the 67,000 streetlights - a logical move, given that ACTEW - - -

Mr Berry: Would they mind building the Belconnen pool?

MR SPEAKER: Order! Mr Berry, you can ask about the Belconnen pool at some later time. Continue, Chief Minister.

MS CARNELL: The chief executive of ACTEW, John Mackay, said that it was a logical move, given that ACTEW already owned the power poles and maintained the lights for the Government. The sale of the streetlights was first raised last year, as everybody would know. The 1998-99 budget has the streetlight sale identified in both the - - -

Members interjected.

MR SPEAKER: Order! I do not want the Chief Minister having to shout over interjections. You will have the opportunity to ask questions. I suggest that you use it.

MS CARNELL: Thank you, Mr Speaker. It is a bit hard to be heard. The sale of the streetlights has been identified in both the DUS and ACTEW accounts. The sale, as members would be aware, is yet to be negotiated in terms of its final position. Those opposite do not seem to understand that the board of ACTEW must be clearly satisfied that they are entering into an arrangement that will benefit ACTEW. I have to say, Mr Speaker, that they are convinced of that. The basis of that is that many electricity companies do own the streetlights, because they provide the electricity to the streetlights and the maintenance of the streetlights and obviously get a return on their capital. It is a straight business transaction. They get an income stream while they are providing the services to those streetlights. They already have all the equipment. Because they own the power poles, they have all of the equipment to maintain the streetlights - a very sensible approach and a very good way to maximise the potential of the services that they are providing.

Mr Berry: You do not believe that yourself.

MS CARNELL: Mr Speaker, if those opposite do not believe me - and I fully accept that they do not - - -

Mr Berry: You do not even believe that yourself.

MR SPEAKER: I warn you, Mr Berry.

MS CARNELL: John Mackay, the chief executive of ACTEW, said that buying the 67,000 streetlights in Canberra was a logical move, given that ACTEW already owned the power poles and maintained the lights for the Government. It is a straight business transaction, one that will be conducted on business grounds.

MR QUINLAN: I ask a supplementary question. Chief Minister, within the operating area of the budget there is an appropriation for the maintenance and for the energy supplied to city streetlighting by ACTEW. That particular figure is business as usual. As you have been claiming to know something about accounting, what sort of accounting would allow ACTEW to pay $100m for an asset to receive from owning that asset a reduced income stream?

MS CARNELL: As I said earlier, the final negotiations have not been put in place. Because this arrangement - - -

Mr Quinlan: Hang on! Do you know this much about accounting?

MS CARNELL: Mr Speaker, the final arrangements have not been entered into. As I said earlier in my answer, the final figures, obviously, will have to be determined on a business basis between the board of ACTEW and, of course, the ACT Government. One thing I can be confident of in terms of my accounting expertise and one thing I know is that you do not add the streetlight sales onto the operating loss. If we are really looking at dumb accounting, operating loss equals $239m for Mr Quinlan. If Mr Quinlan does not yet know that moving an asset from one part of government to another does not actually affect the operating loss, he had better go back to accounting school.

Mr Quinlan: This is not moving assets; it is borrowing.

MS CARNELL: Borrowing is already in the operating loss.

Motor Vehicle Registration Fees

MR RUGENDYKE: My question is to Mr Smyth, the Urban Services Minister. Minister, under the revised vehicle registration fee structure announced in yesterday's budget, owners of vehicles weighing more than 1,505 kilograms will pay as much as $114 a year extra. This is a rise of more than 50 per cent. Did the Government take into consideration the fact that in a great number of cases people have to have larger cars because they have to transport a large family? Did the Government consider that in many instances they are penalising large families, who are finding it difficult to make ends meet anyway, before having this registration hike placed upon them?

MR SMYTH: I thank the member for his question. Yes, we considered many things when putting this budget together. I guess the baseline for this budget, or the bottom line, is that to improve living standards for all of us we have to address the operating debt. In an overall context this is a budget that will improve the lifestyle and the value that we all gain from living in Canberra. Through increased jobs, through better jobs, through higher-paying jobs, what we get is a better lifestyle for our families. Part of that comes

back to rego. Rego is a difficult issue at the best of times, because we all drive different vehicles and we use them for different purposes. The purpose of the changes to rego was simply to bring us into line with New South Wales so that, in the first instance, we do not have this case where some people who live in New South Wales register here because it is cheaper and some people who live in Canberra register elsewhere. We are getting - - -

Mr Kaine: That is spurious reasoning, Minister.

MR SMYTH: No, it is not. We are bringing it into line so that the conditions are the same on both sides of the border. There are other issues here. The weight-based issue is very important, for a couple of reasons. The first of these is the impact that larger vehicles have on our roads. The heavier the vehicle, the more damage and the more wear and tear you cause on our roads, so we think it is appropriate that people should pay in that regard. The other thing is that the larger vehicles, in most cases, put out more emissions. Later on this year the Government will release its response to the greenhouse strategy. Clearly, 30 per cent of our emissions of greenhouse gas comes from our vehicles. There are things there that we will have to do.

This is not an attempt to punish families, especially large families. Indeed, many families and some of the worst-off families and the most disadvantaged families now receive a 100 per cent rebate on their registration. Age pensioners now get the 100 per cent rebate - free rego. Sole parents and those with disabilities now gain free registration. Many families come off better. Unfortunately, in all actions that governments take there will be anomalies and there are those who are affected. It was certainly not aimed at disadvantaging families with large cars, but it is about an all-up approach to better management of the roads and better management of the environment. I think the changes are good.

ACTION Bus Services

MR HARGREAVES: Mr Speaker, my question is to the Minister for Urban Services. The recent budget announcement revealed an instruction to ACTION to prune back yet another $10.37m. ACTION management appears to be tackling this by further casualisation of the work force. It will do this by having yet another review - having just finished the trunk route review - just prior to, or in tandem with, reviewing the school bus system. Minister, how can you assure this Assembly that any proper review can be conducted with the threat of massive job losses that a reduction of $10m will inevitably cause? How can the public have any confidence in a review, the answer for which is declared before it starts?

MR SMYTH: Mr Speaker, the question of ACTION is a question that governments on both sides have had to deal with. The bottom line for ACTION is that ACTION, at worst, should break even; ACTION, at best, should make a profit and return something to the people who own it, the people of the ACT. The ACT Government currently spends about $1m a week and gets no return. In fact, we get about $8m worth of inefficiencies. We actually pay ACTION an inefficiency dividend.

Your privatisation guidelines, which were kindly tabled by Mr Corbell, said that public bodies that lose money should be sold. As I think we pointed out on the day, you would sell ACTION under your guidelines. We are not about that. We want a bus service that will serve the people of Canberra. The only way to do that is to run an efficient and effective bus service. To pay them a continued $8m inefficiency dividend every year is a blatant waste of public moneys. If you read the Graham report, the curious thing is that for the CSOs we pay for we could employ a private bus company to run a free service. That is how efficient we are. But I have faith in Guy Thurston and the management of ACTION. In fact, I have a great deal of faith in the attitude that is coming out of the ACTION staff, who are very keen to provide the people of the ACT with a really good service.

As to reviews, you have to set the guidelines. The guideline is that unless ACTION can make up the $10.25m we will have to look at what we do with ACTION, simply because we cannot continue to pay ACTION an $8m inefficiency dividend every year. That is $8m that could be used, for instance, to reduce rego. It could be $8m better spent on the environment.

Mr Moore: And health.

MR SMYTH: Particularly health, particularly mental health strategy. Very well done! If you have a government that is endeavouring to live within its means and to reduce the operating loss - clearly, that is what we are elected to do and that is why the people of Canberra have faith in this Government - you need to look at those areas that are most inefficient. Unfortunately, against national benchmarks, ACTION is inefficient, but ACTION staff - and I congratulate the staff - and management are working hard together to build a better bus service. What we will see later in the year, with the introduction of the new fee structure and the new bus routes, is a much better service for the people of Canberra.

MR HARGREAVES: Mr Speaker, my supplementary question is: If the process of the review intended to find $10m on top of the already $30m deal that was done with the Transport Workers Union to make a better service has not been completed, how can the Government say that they are conducting a fair and open review on these sorts of things if the answer is already there? How is it that this magic figure of $10.37m - not a broad figure of $10m but an exact figure of $10.37m - can appear in the budget papers?

MR SMYTH: Mr Speaker, as I have already said, when you have a review you have to set the guidelines and the parameters within which you do a review. If you know that that is what you need to make ACTION viable, at least to break even and to provide the service, then that is what you should review - - -

Ms Carnell: Minister, did they not get rid of $10m out of ACTION when they were in government?

MR SMYTH: They what? They got rid of $10m? There you go. Is that not astounding? Unless you know what you are aiming for, you are just featherbedding and it is not worth the effort. This is a serious effort to make ACTION the country's best bus service, and we have that potential. Currently, 5 per cent of Canberrans use the buses.

We have almost as many people using bikes to get to work as we have people using the buses. That is appalling.

Mr Stanhope: You ran it down by 20 per cent in the last term, Mr Smyth.

MR SMYTH: We did not. We have got it closer to break even than any other government since self-government. ACTION is a very important part of the public transport system. ACTION will be very important when we deal with issues like greenhouse gases. We need to make ACTION efficient, we need to make ACTION at least break even and we need to build a better bus company; and we will do that.

Motor Vehicle Registration Plates

MR KAINE: My question is to the Minister for Urban Services. I must say that I am very pleased to see the course of action set in train by the previous Minister in connection with ACTION now taking effect. Mr Speaker, my question, however, comes back to another subject that I have asked the Minister about before. It has to do with the use of that offensive slogan on numberplates on cars. I am sure that the Minister is familiar with the article on the front page of the last issue of the *City News* talking, I will admit, in general terms about the use of the slogan, not specifically in connection with motor vehicles. It says that the result of their poll is that 13 per cent of people were in favour of using the slogan and 87 per cent of people were opposed to the use of the slogan. Then on a second question, "Does the slogan give people a positive impression of Canberra?", the yeses were 16 per cent and the noes were 84 per cent. Minister, translating those percentages to the use of motor vehicle numberplates, would you not agree that the number of people actively seeking to put on their cars numberplates with the slogan on them more closely approximates those percentages than the ones that you have previously given me in answer to earlier questions?

MR SMYTH: I must apologise for not acknowledging the work of the former Minister for Urban Services in starting the implementation of the Graham review. I think it is important that Trevor be acknowledged for the work that he did. He certainly understands the budget bottom line.

It is a very interesting survey. If you get hold of a copy and read the rest of the survey, you will see that it reveals some further interesting facts that somehow seem to have slipped off the editor's sheet when he put that one to bed. The survey apparently goes on to say that the majority of Canberrans did think that people outside Canberra would see it as an inducement to visit. When we look at the use of a slogan, the Government came up with something that would induce people to visit Canberra and bolster our tourist trade. Obviously, there is local tourism, but in the main we all know about the good things that are here and we know where to go to find out. The answers to questions in that survey clearly indicated that the majority of people thought that, as an inducement for visitors, both national and international, to come to Canberra, the slogan would be effective outside Canberra. That was the whole purpose of that program - that it be effective outside Canberra. As I think Disraeli first said and Mark Twain paraphrased, there are lies, damned lies and statistics. It was a survey apparently of about 187 - a quite small sample.

As to numberplates, I always give you a timeframe when I give numbers, so the figures that I give you are accurate at that time. I think 35 per cent now are taking "Feel the Power of Canberra" plates since the introduction of the plates and 65 per cent are choosing not to. Being the government of choice, we are proud that 35 per cent take the plates and would encourage more to take them and take that message interstate, because it really is a beaut message.

MR KAINE: I ask a supplementary question, Mr Speaker. Those numbers are interesting, and I foreshadow that I will keep asking you that question to keep tabs on the numbers. How much has it cost the Department of Urban Services so far for the use of that slogan? I mean the whole of the Department of Urban Services. As a subset, how much has it cost to use that slogan on car numberplates up until now?

MR SMYTH: Mr Speaker, I do not have those figures to hand, but I am happy to inquire. I understand that the firm that came up with the slogan waived the fee for the use on the numberplates. I will make some inquiries.

ACTTAB

MR CORBELL: My question is to the Chief Minister. Chief Minister, the budget papers contain the statement that ACTTAB is projected to make a profit of $800,000 and provide a dividend to the Territory of $450,000. By the way, that is almost as much money as you are spending on "Feel the Power of Canberra" this year. Does this not put paid to your bleating in recent times that ACTTAB was in dire financial straits and would actually make a loss this financial year?

MS CARNELL: The figures that we have at this stage, the last ones I had from ACTTAB, indicate that they would make a loss this year. We did indicate that ACTTAB would go into a small profit this coming financial year and the years after that - a very small profit. The reason that we are at the moment scoping ACTTAB is not necessarily its financial situation - that is part of it - but how ACTTAB is going to manage in the future in a situation where those nasty Labor Party people in New South Wales have privatised their TAB. It is just shocking that our TAB is being placed in such a dreadful situation by those nasty Labor Party people over the border. What we are doing, along with just about every other TAB in Australia - - -

Mr Corbell: Here come the reinforcements.

Mr Quinlan: Here comes the answer.

Mr Hargreaves: Is that print-out off the laptop?

MR SPEAKER: Order! Honestly, members in this place have an attention span something less than that of a week-old baby. I have told you before: Be quiet while the Chief Minister is answering questions.

MS CARNELL: Do you have Budget Paper No. 4? You must have, because you are quoting from it.

Mr Corbell: No, I do not have the budget paper.

MS CARNELL: Shall we go to page 324 of Budget Paper No. 4? It looks to me that we are not planning to make a profit at all from ACTTAB. The 1997-98 estimated outcome is an operating result of minus $999,000. The last time I checked that out, that was not a profit.

MR CORBELL: I ask a supplementary question. Will the Chief Minister accept that ACTTAB is projected to continue to make a profit and a contribution to ACT coffers, despite this scary world of privatisation and the Chief Minister's best attempts to talk the asset down? Will the Chief Minister give a guarantee that ACTTAB will not be sold? If not, on what basis would she consider selling ACTTAB now it is clear that it is still profitable in an otherwise privatised market?

MS CARNELL: The operating loss projected for this year, as shown on page 324 of Budget Paper No. 4, is $999,000. That is a reduction of 180 per cent. The last time I checked, no matter how you look at it, that is a loss. But that is not the basis of our scoping ACTTAB. The reason that we are scoping the future of ACTTAB is to determine what future ACTTAB has in a market where already Victoria and New South Wales have privatised their TABs. Why would the Labor Government in New South Wales have done that? Why would a Labor government have privatised the TAB? Could it have been that they could see that in the current market the way to maximise the value of that asset and to ensure that their TAB has a future was to put it onto the market? That is not necessarily the case for the ACT, but for those opposite to suggest that they would never sell or float an asset regardless of what the market looks like is absolute rubbish. In fact, it is something that Mr Corbell is obviously totally at odds with Mr Quinlan on. Mr Quinlan has said on radio that there are times when assets need to be privatised.

Social and Community Services Award

MR WOOD: My question is to the Chief Minister. She might punch up on the laptop, or what passes for it, the words "SACS award". Chief Minister, despite some bureaucratic reassurances, I do not see in the budget papers that funding will be provided to community organisations to cover the increased costs imposed by the SACS award. In fact, Budget Paper No. 3, at page 68, states:

> The Government will have to remain within its existing budget despite the implications of the SACS Award.

Chief Minister, is there additional money - that is, new money or more money, not reprioritised money - in the budget, both in health and community care and in education, to cover this award and, if there is additional money, how much?

MS CARNELL: Mr Speaker, I am fascinated that those opposite still think that there is somehow new money somewhere. If those opposite could tell us where there is money that is not reprioritised in this budget, I would like to know. The reality is that we have an operating loss. We are not in a position to be going down the path of increased expenditure. In fact, as members will have seen, expenditure is flat over the next couple of years, or the next year.

Mr Speaker, there is no new money. Yes, departments that fund organisations that are subject to the SACS award have understood that on a case-by-case basis, depending on the situation, they may have to provide some extra money for the SACS award; but it has to come from within the budget. There is no new money. We are reducing our operating loss. It shows that those opposite still do not understand how you reduce an operating loss. Maybe it is the Pauline Hanson "let us print some money" trick. They used to have in their policy a State bank. Maybe we will see a people's bank. It would be about as rational.

MR WOOD: I ask a supplementary question, Mr Speaker. I am disappointed with the response. Does the Chief Minister realise, has she come to understand, that the workers under this award - - -

Mr Humphries: Mr Speaker, we have been through this thing about a preamble many times before. I am sure that Mr Wood would have heard or understood by now that he has to ask a question, not make a statement.

MR WOOD: Sit down and shut up.

MR SPEAKER: Order! I was just thinking - - -

MR WOOD: Can I ask my question, Mr Speaker?

MR SPEAKER: You may; without preamble, Mr Wood.

MR WOOD: What a pompous interjection! Does the Chief Minister understand - Mr Humphries does not - that the workers in this area are working in the most difficult circumstances you will find in Canberra and they are working with the people who are among the most needy in this community? If there is no additional money, if there is no help for them, is the Chief Minister then requiring that there be fewer services delivered or that these people work even harder to cover those services?

MS CARNELL: Again I have a huge amount of trouble in making those opposite understand. We said that we will deal with these organisations on a one-by-one basis. Yes, some of those organisations will get extra money for the SACS award. It may mean, though, that we will not be able to purchase as much of some services. It may mean that there need to be savings elsewhere in the Government. There is no new money. If we spend more in a particular area, which we are not for a moment saying we will not, then it has to come from somewhere. That is the bottom line. It is very easy to understand.

With regard to the SACS award, we are dealing with organisations on a one-by-one basis. Where necessary and where appropriate, obviously money will be made available. If organisations have to pay the SACS award, then they will pay the award that is required. At the end of the day, what we have to do as a government is make the money that we have stretch as far as possible. That may mean that there need to be efficiencies elsewhere. Purchasing decisions may need to be changed. I understand that at this stage there are proceedings in the AIRC. The Confederation of ACT Industry has lodged a log of claims for a new award.

Mr Corbell: You just do not care about those organisations.

MS CARNELL: Obviously, at this stage it is very hard to determine what the final result will be.

Mr Corbell: Business did all right.

MS CARNELL: As it is currently in the commission, I think it is appropriate - - -

Mr Corbell: Not old people or disabled people.

MR SPEAKER: Order, Mr Corbell! The Chief Minister is trying to answer Mr Wood's question.

Mr Hird: I raise a point of order, Mr Speaker. I would like your ruling on standing orders 39, 61 and 202 with reference to Mr Corbell's constant interjecting.

MR SPEAKER: I uphold the point of order, Mr Hird. Continue, Chief Minister.

MS CARNELL: Mr Speaker, may I state the situation again? The ACT Government is negotiating purchase agreements with non-government organisations to establish a fair service price, taking into account such things as the SACS award, how we best enhance efficiencies and how we do that without resorting to arbitrary cuts. That is a sensible approach from any government. It seems that those opposite would not worry about that. It certainly showed when they were in government last that they did not care about getting the best value for the taxpayer dollar. We do.

ACTION Bus Fares

MR OSBORNE: I hope Ms Tucker is listening, because this is my green question for this Assembly, for the next three years anyway. My question is to the Minister for Urban Services, Mr Smyth. Yesterday's budget announced a series of changes to ACTION's fee structure. I note that formerly adult passengers could buy a weekly ticket for $29 and that ticket covered unlimited travel. Under the new arrangements the weekly unlimited travel tickets have been abolished and the only weekly option for all zones would give 10 fares for $34. Minister, how will this change encourage people to use public transport and reduce greenhouse gases?

MR SMYTH: A fine question, Mr Osborne. The way that it will encourage people to use ACTION is that you have to take it in the context of the new three zones. I have some copies of a brochure here if people want them. In fact, I will table the brochure. The point is that the current system means that if you travel a long distance you pay the same amount as you do if you travel a short distance. What we need to do is encourage people to make more trips. The system is revenue neutral. It is not a money grab. There is no extra money in this. It is based on the work started by the former Minister with the Graham report and carried on by this Government. Graham suggested that a zone system would be more equitable and would encourage a higher usage of the ACTION bus network.

I live at Chisholm. I catch a 126 down to Tuggeranong and then, if I want to go to Kambah, that is two buses. Under the new system, if you make that transfer within the hour, it is one fare. In fact, if you make the trip there and back within one hour, you could have four rides for the single fare. There are many advantages in this, in that we believe that it will encourage more people to use ACTION more regularly, which will go to making ACTION a more viable bus service. If we can get people out of their cars and onto the buses, it will have great effects in helping with greenhouse gases. If members would like a further briefing or a fuller briefing on the new fare structure that will come in in mid-August or late August, I would be happy to oblige.

ACTION Bus Fares

MR BERRY: Mr Speaker, my question is to the Chief Minister in her capacity as Treasurer. Chief Minister, noting the 1995 election lie of free school buses and the Government's oft-stated commitment to choice, particularly in education, how can the Chief Minister and Treasurer justify the savage increase in bus fares for parents sending their children through two zones to non-government schools such as those in the Catholic education system?

MR SMYTH: Mr Speaker, I will answer that. I am the Minister for ACTION. I think the answer to that is that we parents who have our children in the Catholic system often choose to send them further afield. My kids are in a Catholic school and they use the bus to get home. I try to drop them off in the morning. It is fair and equitable, because currently there are 31,000 students who use buses every day. Of those, 14,000 have designated school routes.

Take the example of a student who lives in Curtin and chooses to go to Melrose High. Students living in Curtin would reasonably go to Alfred Deakin High in Deakin. Both are fine schools; but in this day and age we have specialisation inside our schools, so parents and students make reasonable choices to travel further afield. Right next door to Melrose High is Marist College. There are designated Marist-only bus routes, although they now share runs.

Mr Berry: What about from Charnwood to Merici?

MR SMYTH: Let me finish. I will answer your question if you have a supplementary question. The 14,000 students who catch the designated school bus get that ride for one fare. There are 17,000 school students, in the main going to government schools, who would have to make two rides and pay two fares every day, and they pay those fares now. A student in Chisholm, going to Erindale College and paying one fare there and one fare back, is better off than a student who might like to go to Stirling College rather than Phillip College, who has to pay two fares.

Mr Berry: What about from Charnwood to Merici?

MR SMYTH: Those who choose to travel should pay a reasonable fare - and the fares are still reasonable - to complete their trips. Where people make a choice to move further afield, it is reasonable that they pay those fares.

MR BERRY: I have a supplementary question. Minister, you think a jump from $68 to $90 for a term ticket - a $22 or 32 per cent hike - is consistent with your commitment to choice and is fair enough for people who want to use the Catholic education system. How can you possibly think that that is fair - a $22 or 32 per cent hike in the cost of a term ticket for somebody who wants to travel from, say, Charnwood to Daramalan?

MR SMYTH: Mr Speaker, the member's question is a good question. How does it work? The whole system is revenue neutral. There are no increases. If this was done as a cynical money grab by the Government, you could stand up and say that reasonably; but that is not so. If people choose to travel further across the zone system, it is fair and reasonable that they pay the extra fare. I think you will find that the system will be welcomed by many Canberrans who do not use the bus service now because they see it as an impediment.

Mr Berry: The Catholic education system will not be too impressed.

MR SMYTH: The Catholic Education Office is more than willing to talk. We had the Transport Advisory Group meeting yesterday and only one person turned up, but we will be holding further discussions with the whole system.

Mr Berry: They are probably disgusted with you.

MR SMYTH: No, they are not disgusted with it. They understand. Catholic parents make choices and make a lot of sacrifices to send their children to the schools of their choice. The system will ensure that those who travel on the buses pay the same rate. What you are saying is that kids who use two route buses to travel to a government school and currently pay two fares should be disadvantaged to the profit of a child going to a Catholic school. I am not sure that there is logic in what you are saying. What you have now is equity, and we will get a better bus service out of it.

Alternative Energy Sources - Research and Development

MS TUCKER: My question is also to the Minister for Urban Services. It relates to the Energy Research and Development Trust, which is being abolished as part of the gas reform legislative package. I wrote to the Minister about this issue last week. I am sure you will agree that all the projects funded by this trust fund, including natural gas vehicle trials, co-generation studies, energy efficiency projects and so on, have been extremely valuable. Without access to the funds from the Energy Research and Development Trust, these projects would not have been possible. While I acknowledge that the Government has no choice but to remove the levy on gas sales following the 1997 High Court ruling that prevents the ACT from raising revenue from a quantum of sales, I would like to know what plans the ACT Government has to establish another fund to ensure research and development of alternative fuel and other alternative energy sources, as well as energy efficiency projects for the ACT, so that these sorts of projects can continue.

MR SMYTH: I thank the member for her question. The research that goes into alternative energy sources and promoting the environment is very important. Currently, for instance, in recycling we are looking at mulching, sewage sullage and the use of waste paper. I would have to give my support to those. I believe that they are very important. However, I have a limited budget in which to operate. I have to prioritise the things that I need to do inside the budget that I have. We will have to live with that in the context of this year's budget. I still intend to discuss with industry and any other group that is interested in these research projects ways to find additional money to put into research for projects that benefit the environment.

Ms Carnell: Mr Speaker, I ask that all further questions be placed on the notice paper.

Economic Growth

MS CARNELL: Mr Speaker, I think in answer to the first question today I indicated that the growth in private sector consumption spending was 6.3 per cent in the six months of this year. It is actually in the 12 months to the end of the March quarter, so that is even better.

PERSONAL EXPLANATION

MR QUINLAN: I seek leave to make a statement under standing order 46.

MR SPEAKER: Proceed.

MR QUINLAN: As part of Mr Harold Hird's dorothy dixer, I was quoted. I do not blame you, Harold. You are just doing your job. At no time did a press release of mine or a statement of mine talk about cutting $100m out of revenue. The purpose of my press release was to let the world know that the Government was borrowing a further $100m, which it is. Personally, I do not have an objection to borrowing absolutely per se. There are times when it is appropriate.

Ms Carnell: So you would do it, too? So you agree with us?

MR QUINLAN: I would do it. However, the question was asked, and it was stated that I had recommended or stated that there should be a cut of $100m. That is simply not true. I have been misrepresented. It is misinformation on what I have said, just as it is misinformation contained in the budget for $100m of borrowing. That misinformation is confirmed by the fact that you are so clumsy that the operating budget - - -

MR SPEAKER: Order! You are not to debate. You may explain matters of a personal nature, but do not debate the issue, Mr Quinlan.

MR QUINLAN: This is very personal. I am just trying to clarify the statements that I have made and that have been grossly misrepresented in this place. The budget figures for the operation of the streetlighting system of the ACT confirm that this is nothing more than borrowing on the part of the Government and that if ACTEW were delighted to take over the streetlighting system they would have to have rocks in their heads. They are the ones that ought to be looking at accounting.

BUDGET EXPENDITURE
Paper

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, I think that, for the interest of the Assembly, it would be very - - -

Mr Berry: Mr Speaker, does the Chief Minister have leave to speak?

MR SPEAKER: No; she is - - -

MS CARNELL: I can make a statement. I am a Minister. I was last time I checked.

Mr Berry: No; you have to seek leave.

MR SPEAKER: Very well. Is leave granted?

Mr Berry: No. She can seek leave under standing order 46, like everybody else, for a personal explanation.

MS CARNELL: But it is not a personal explanation.

Mr Berry: If it is not a personal explanation, you will not be getting leave.

MS CARNELL: It is further information.

MR SPEAKER: She is seeking leave to speak.

Mr Berry: You can table the paper.

MS CARNELL: Mr Speaker, I think it would be useful - - -

MR SPEAKER: If you want to table a paper, you can table a paper, Chief Minister.

MS CARNELL: That is what I was trying to do, Mr Speaker.

MR SPEAKER: That is what I thought you were trying to do.

MS CARNELL: Mr Speaker, for the interest of - - -

Mr Corbell: No preamble.

MR SPEAKER: Order! I will make those decisions.

MS CARNELL: You can have a preamble when tabling. Mr Speaker, for the interest of members - - -

Mr Berry: Mr Speaker, she has leave to table the piece of paper.

MR SPEAKER: She does not need leave. She is the Chief Minister.

Mr Berry: Just table it - or do you not want to?

MR SPEAKER: Can we get on with this? We have a lot to do.

Mr Berry: She needs leave to speak, though.

MS CARNELL: Mr Speaker, for the interest of members - - -

MR SPEAKER: Just table it.

Mr Berry: Mr Speaker, she needs leave to speak. She can table it.

Mr Moore: It is the same format we use to table anything.

MR SPEAKER: Exactly.

MS CARNELL: Mr Speaker, for the interest of members I table the press release that we spoke about in that question. Nobody could suggest that Mr Quinlan - - -

Mr Berry: Mr Speaker, the Chief Minister does not have leave to speak. She can table the document, but she does not have leave to speak.

MR SPEAKER: She is tabling a document.

MS CARNELL: Mr Speaker, I can understand why they are embarrassed by the document. On that basis I am happy to table it. I am very pleased that now Mr Quinlan agrees with the Government on the approach that we have taken.

AUTHORITY TO BROADCAST PROCEEDINGS
Paper

MR SPEAKER: Pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, I present an authorisation to broadcast given to a number of television and radio networks in relation to proceedings of the Assembly today, 24 June 1998, concerning a debate on the motion relating to preschool education in the ACT.

ECONOMIC DEVELOPMENT AND TOURISM - STANDING COMMITTEE (THIRD ASSEMBLY)
Report on Inquiry into Very High Speed Train - Government Response

MS CARNELL (Chief Minister and Treasurer) (3.27): Mr Speaker, for the information of members, I present the Government's response to Report No. 4 of the Standing Committee on Economic Development and Tourism of the Third Assembly, entitled "Inquiry into the Economic Impact of the Construction of a Very High Speed Train", which was presented to the Assembly on 2 December 1997. I move:

> That the Assembly takes note of the paper.

It gives me great satisfaction to table my Government's response to Report No. 4 of the Standing Committee on Economic Development and Tourism on the inquiry into the economic impact of the construction of the very fast train project. It has been a fascinating project to be associated with and it is interesting that the project's life started around the same time as ACT self-government. Like self-government, there have been a number of times when there have been dire predictions of the project's future. Yet it is still moving forward and, in fact, is closer to implementation than at any time during the past 10 years. The proposal to link Canberra to Sydney with a high speed service, as I said, has been around for a long time and is about to come to fruition.

There are a wide range of opinions about the project. There have been doubters at all levels of government; many who have believed that the project would not happen. They said that the private sector was just not interested. There were even members of the community who felt it would not go ahead. Many thought that the link between Australia's largest city and the national capital was a great idea and simply asked, "When is it going to happen?". In fact, I think many of us on this side of the chamber felt that way. Since 1996, the ACT Government has cajoled, harried and used every means available to excite interest and to change the minds of those against the project. This task has not always been easy.

The three-stage competitive process which started in 1997 has shown that the private sector is keen to offer a viable high speed rail service between Canberra and Sydney. The first stage, Mr Speaker, was the registration of interest which commenced in March 1997. The original 16 private sector submissions were short-listed to six. Stage 2 of the development commenced in October 1997 with the release of the project brief and invitation for detailed proposals. Four proponents demonstrated their seriousness to proceed by paying a $100,000 registration fee in December 1997.

Detailed submissions were received from these four proponents on 14 April 1998. Governments are currently evaluating these submissions and are aiming to make the decision regarding the preferred proponent in July 1998. In fact, the announcement will be made within the next month. Stage 3, Mr Speaker, will involve further negotiations with the successful proponent. They will be required to undertake detailed economic and social impact studies as part of the environmental impact assessment and to satisfy planning legislation prior to any construction. This process will require extensive public consultation and will provide the public with the opportunity to comment on the proposal. It is anticipated that this stage of the process will take approximately 18 months.

Over the last 12 months it has become obvious that those who have previously been sceptical of the project are starting to see that the private sector is serious about working with governments to make this project work. As the committee points out, for the project to be successful, governments and the private sector will have to work together and be flexible to actually facilitate its implementation.

Mr Speaker, I would like to thank Harold Hird, MLA, chair of the standing committee, and its members, Simon Corbell and Paul Osborne, for the time and effort they put into producing this analysis of the VHST project. There are a couple of things that Mr Hird pointed out in his preface to the report that I would like to highlight. Firstly:

> The majority of submitters were very supportive of the project with few, if any, reservations. They detailed how the private and public sectors will need to work together for the A.C.T. to be positioned to maximise benefits.

Secondly, he stated that the activities of the committee are seeking to ensure two outcomes:

> Firstly, that the VHST project ... is given all the support required to ensure its development. Secondly, that the costs and benefits associated with the project are highlighted and that the A.C.T. community is given the opportunity to work together to maximise benefits for Canberra and the region.

It is clear that the project has the broad support of the community, all of whom want the best outcomes for Canberra. This consensus means that the actions required of government are relatively straightforward, although their implementation may be complicated by the need to work closely with the New South Wales and Commonwealth governments. Many of these actions are outlined in the recommendations made by the standing committee.

The Government's response agrees, or agrees in principle, to all 15 recommendations made by the committee. These recommendations can be grouped as follows: Firstly, employment, social and economic impact studies; secondly, the attraction of major facilities associated with the project; thirdly, the provision of briefings to, and opportunities for, local industry involvement; and, fourthly, the creation of a regional transport hub. While the detail of the ACT's response is in the tabled documents, I would like to comment briefly on each one of these issues.

Firstly, Mr Speaker, as to employment, social and economic impact studies: These studies provide the basis of government decision-making. The Government's involvement with the New South Wales Government and the Commonwealth Government in a number of studies, including the detailed evaluation of options and their impacts undertaken in 1996, has enabled the Government to develop an extensive knowledge base for decision-making. This includes an understanding of the likely employment, social and economic impacts of the various options. This knowledge, along with that provided by earlier studies, has formed the basis for the Government's strategy to maximise the benefits. The Government will continue to monitor the project, not only to ensure the maximisation of benefits and minimisation of costs, but also to determine whether any additional studies are required.

Secondly, as to the attraction of major facilities associated with the project: The provision of the service in itself will provide a significant boost to local economic development by improving the region's market access and confirming Canberra's status as the national capital. Additional and enduring employment impacts can be gained if we are able to capture some of the service's major facilities such as headquarters, communication and maintenance facilities. The Government has held discussions and formed good relationships with each of the consortia. They were given presentations on the strategic reasons for the Government's preference for the station being at Canberra Airport.

Thirdly, Mr Speaker, as to the creation of a regional transport hub: There is a generally held belief that Canberra requires a transport hub and that it should be located in the precinct around the airport. The Government is already undertaking the actions outlined in the committee's recommendations regarding the transport hub and the necessary associated links. The proponents have been advised that the preferred option is for the Canberra terminal to be at the airport and the Government is currently undertaking a number of studies that will highlight any constraints to having a regional hub in that area. We have a new airport owner with strong local ties who supports this concept and is keen to see the regional hub concept implemented. And most people would know of our efforts to obtain international status for Canberra Airport which would, again, complement this concept. Mr Speaker, I am sure that we all agree that a regional transport hub is essential for the ACT. It certainly appears to be happening.

The last issue is the provision of briefings to and opportunities for local industry involvement. Throughout the entire process the Government has provided information and encouraged participation by industry and community organisations in the development of the project. The standing committee shares our view that the role of these organisations is crucial in the implementation of the project and in the capturing of the anticipated benefits.

In conclusion, we are getting to the serious end of the decision-making cycle and this means that the Canberra community, its politicians, business people and residents need to pull together to maximise the benefits that can flow to the region from this project. We, in the ACT, are the smaller team and are against some big players in the competition for the benefits that will flow from the project. However, I am sure that our desire as a community to see the project implemented will see us successful in our aims.

I note the Opposition Leader's belated interest in the project and his attempt to score some political points in the media last week. We welcome the bipartisan support for the VHST because it has not always been forthcoming from those opposite.

Mr Berry: Labor started it.

MS CARNELL: Absolutely true, Mr Speaker. I would also be happy to organise a briefing for Mr Stanhope - and Mr Quinlan too, if he is interested - on all that has gone on till now in getting this project to where it is today, so that he can avoid repeating some of the ridiculous things he said last week. Again, I thank the members of the standing committee for their efforts, along with all the community groups and individuals who took the time to make a contribution to the committee's deliberations.

MR BERRY (3.38): As Labor's tourism spokesperson, I can say that this project puts a significant benefit on the horizon for the Territory. Labor started the debate over the very high speed train back in the days when Rosemary Follett was Chief Minister. I recall attending meetings between her and the then project development group under a different name. Of course, it has developed since then. There has been a great deal of hyperbole about the issue. Mr Moore and I have both sampled very high speed train services elsewhere. I have also been involved in the examination of some high speed train services and have taken a keen interest in the issue because of the importance of it to the Canberra region.

I am pleased to see that the Government has responded positively to the committee's report, but one thing which has caused me some concern in more recent times is the budget speech by the Chief Minister. Not once, as far as I could see, throughout the speech did the Chief Minister mention the very high speed train. She mentioned the high speed train, but there is quite a lot of difference. I wondered, when I read the speech, whether there was some inside knowledge about the future of the program or whether or not the Chief Minister had lost a little bit of enthusiasm for it, for some unknown reason. It did trouble me to read right through that speech and see reference to only the high speed train. In all previous references to a new rail link or high speed vehicle link, whatever you want to call it, between here and Sydney, the emphasis has been on the very high speed end of this sort of transport, either the French TGV which is capable of speeds up to 350 kilometres an hour - but 300 is around about right - or the German project which is capable of speeds up to 500 kilometres an hour but certainly over 400. I must say that, having travelled at over 400 kilometres an hour on a train, that is my favourite. But there are some economic and practical issues that have to be considered, and I am pleased to see that the examination of those issues is occurring.

I rise to speak today merely as a consequence of the references in the Chief Minister's speech - she may be able to explain why - to only high speed trains. High speed trains are much faster than most Australian trains, by a long shot. I had the good fortune to be able to travel in a very ordinary train in Germany, which I thought was rather swift, and I travelled in a fast train in Spain, across the plain, which was travelling at about 200 kilometres an hour. I thought that was pretty swift too. It is important that we remain focused on the very high speed end of the market because that is the one that would bring the most benefits to us, if it would stack up in the end. I would like to hear the Chief Minister explain why she did not refer to the very high speed train in her budget speech.

MR CORBELL (3.42): Mr Speaker, I respond briefly to the Government's response to the committee report. I, of course, was the member in the last Assembly who initiated this inquiry and I was grateful to receive the support of the Assembly which wanted to take it. I am very pleased to see that the Government has chosen to agree, or agree in principle, to all of the recommendations that the committee, and my colleagues Mr Hird and Mr Osborne, made in that report. Why that is encouraging from my perspective, Mr Speaker, is that what this committee inquiry demonstrated was the need to take a positive, proactive and thoughtful approach to the issues surrounding the development of very high speed rail transport in the Canberra region. The whole purpose of the inquiry was to look, in broad terms, at the sorts of issues that we as a city need to address if we are to gain the full benefits of the development of this sort of technology in our region.

I am glad to see that those recommendations have been agreed to, but ultimately, Mr Speaker, the test will come when a decision is made on the successful proponent, how the project will be built and where it will be built. If this Government is not proactive and does not take a positive approach to dealing with the issues of high speed rail technology, there is a real risk that Canberra will not gain the benefits that it deserves from this project. For that reason, Mr Speaker, I hope that a lot of the recommendations in this report, which the Government has agreed to in principle and has indicated that it intends to implement when that stage in the development of the project is reached, will be implemented in a comprehensive manner. If that is not the case, it will be a cause for concern as the Territory will not be getting the full benefit of this project. In principle, Mr Speaker, as the Government itself has said, this is a positive project. Labor recognises it as a positive project, which means jobs and development in our region; but we need to maintain a thoughtful and strategic approach to get the best benefit from it.

MR HIRD (3.44): Mr Speaker, as chairman of the committee in the last parliament, I thank the Chief Minister for her response. I compliment the Chief Minister and colleagues for initiating and implementing already some of the recommendations. I think it goes well. I would like to thank both Mr Osborne and Mr Corbell for the professional way they went about this inquiry inasmuch as the inquiry was apolitical. It just shows what can happen if you do have the will. As the Standing Committee on Economic Development and Tourism said, this project provides an opportunity to develop hundreds of jobs not only for the Canberra area but also for the south-east region of New South Wales and it must be plus, plus, plus.

I was interested to hear the Chief Minister, on 2CC radio the other morning, indicating that within the next four to six weeks she envisaged there would be a decision by the three governments involved - the Federal Government, the New South Wales Government and the ACT Government. I know personally the driving force that she has been in knocking down doors and barriers so that this project would come to fruition. I compliment her on that because she could see the benefits, as did my committee, that would come to the ACT and the people in the south-east region. I also note that in the Government's response to the 15 recommendations the committee put forward, there was not one dissent from any of the recommendations. I compliment the Government. The Government is to be congratulated on the fact that it is already implementing some of those recommendations.

MR MOORE (Minister for Health and Community Care) (3.47): I rise to support the motion and to make a comment as somebody who, like Mr Berry, took the opportunity while overseas to travel on a range of very high speed trains. We recognise that what we have is a basically united view from this Assembly that we ought to be in there supporting this project. It is a project about which I know this Government has shown enthusiasm. The previous Government showed enthusiasm as well. Each of us, whenever we are dealing with our colleagues in other States, and particularly in New South Wales, ought to continue to raise the matter. Certainly, I have personally raised it with a number of members of parliament from New South Wales, including a member from Wollongong. That member from Wollongong was, of course, very keen on a particular train - that is, the magnetic levitation train. As Wayne Berry says, it is his favourite.

Some of you will have noticed recently that it is hard to find Wayne and me agreeing on some issues, but we have both been on the train and there is no doubt that the magnetic levitation train is just head and shoulders above the others to ride on. People from Wollongong, of course, will be particularly enthusiastic about it because they will get a fast train going through their area, which I think will actually address many of the economic problems. But that is not up to us to assess; that is being done through the appropriate processes. What we have to do is ensure that, whatever the outcome, we are in a position to gain the best possible advantages for our community, because it is not just about people who are in Canberra now; it is also about future generations within Canberra and the advantages that such a project will bring to those generations. It is great to hear of people working together and trying to get excellent outcomes.

MR STANHOPE (Leader of the Opposition) (3.49): I will speak very briefly, as I do not wish to take more time than is necessary. The Labor Party is, of course, committed to doing everything possible to progress the reality of the train proposals. We are intent on doing that and we are seeking to play a constructive role. I have been making the point that this is an issue that transcends politics. It is an issue on which there should be bipartisan support. It is an issue on which we in this place should seek to bring the entire community together and behind us. The Labor Party stands ready to do that, and seeks to do that. In that respect the Chief Minister's throwaway, insulting words at the end of her prepared speech - the ad-libbed insult - were completely unnecessary and not conducive to our working in a bipartisan way to forward this process. It is a pity, on a day when we can actually applaud the progress that is being achieved in relation to this, that the Chief Minister politicised it by being divisive and adversarial.

MS CARNELL (Chief Minister and Treasurer) (3.50), in reply: Mr Speaker, firstly, concerning Mr Berry's comments, add to the budget speech the word "very" - that is, "very fast train" or "very high speed train". It is a tiny bit pedantic, but there was nothing intended by saying "high speed train" rather than "very high speed train". Secondly, regarding Mr Stanhope's comments, I was responding to Mr Stanhope's indicating that he was going to organise a meeting of all interested parties, all the mayors and shire presidents in the area, and that he was going to take a bipartisan approach which was something the Government should have done earlier. Mr Speaker, the point I was making is that that is all done. We have had any number of meetings of all the shires and councils and the interested parties in the area. Mr Stanhope was on radio indicating that the Government literally had not done its homework in that area. Had he checked and been properly informed, which I am very happy to organise for him, he would not have made a fool of himself.

Question resolved in the affirmative.

FINANCIAL MANAGEMENT ACT - INSTRUMENTS
Papers and Ministerial Statement

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present, pursuant to section 16 of the Financial Management Act 1996, an instrument relating to the transfer of funds resulting from the transfer of functions between departments. I also present the statement of reasons. Pursuant to section 17 of the Financial Management Act 1996, I present two instruments varying appropriation related to Commonwealth funding. I also present a statement of reasons. Mr Speaker, I seek leave to make a short statement.

Leave granted.

MS CARNELL: Mr Speaker, as required under the Financial Management Act 1996, I table: First, an instrument issued under section 16 of that Act and a statement of reasons for the transfer, which allows for the transfer of appropriation from one department to another in cases where responsibility for a service or function transfers from one department to another; secondly, two instruments issued under section 17 of that Act and statements of reasons for the transfers, which allows for an appropriation to be increased for any increases in existing Commonwealth specific purpose payments - that is, SPPs - by direction of the Treasurer. These instruments were signed recently and are tabled in the Assembly within three sitting days as required by the Act.

Transfers under the Financial Management Act 1996 enable changes to appropriations throughout the year to be accommodated within the total appropriation limit passed by the Assembly. The section 16 instrument is required to complete the transfer of government business enterprises - GBE - monitoring responsibilities from the Department of Urban Services to the Chief Minister's Department in line with the Administrative Arrangements Orders of 31 March 1998. One section 17 instrument relates to the Department of Justice and Community Safety. The department's appropriation relating to the Commonwealth grant for weapons compensation has been increased to allow for

finalisation of outstanding claims for the weapons compensation scheme. The other section 17 instrument relates to the business, employment, tourism, the arts, regulatory reform and industrial relations part of the former BASAT. The variations sought by the department are an increase to the Commonwealth grant relating to the provision of support to business through the AusIndustry program and an increase to the Commonwealth grants relating to the Regional Arts Fund. Mr Speaker, I commend the papers to the Assembly.

RACING LEGISLATION
Exposure Draft and Draft Explanatory Memorandum

MS CARNELL (Chief Minister and Treasurer) (3.55): Mr Speaker, for the information of members, I present the exposure draft of the racing legislation, which includes a draft explanatory memorandum. I move:

> That the Assembly takes note of the papers.

Mr Speaker, the development of legislation to control and administer racing in the Territory represents a significant milestone in the history of the racing industry in the ACT. Since racing first began in the ACT region, it has been under the control of New South Wales authorities. ACT racing clubs in all three codes - that is, thoroughbred, harness and greyhound - have been subject to New South Wales control in administration and conduct of racing in the Territory. For some time the Government has been developing a legislative framework for the control and administration of racing in the Territory. The proposed legislation will set the framework for the day-to-day control and administration of racing in the Territory and lay the legal platform for ACT racing clubs to become members of their peak national bodies, thereby giving the ACT racing industry an independent voice in the future direction of racing in Australia.

The provisions of the draft Bill are based on the policy directions which were endorsed by the racing industry in mid-1997. We have now reached the stage where further industry input into the legislative process is required. As part of that input, the provisions of the national competition policy agreements also require all new legislation which may contain restraints on competition to be subject to a public interest test prior to enactment. The Allen Consulting Group has been employed to undertake the public interest test. As the racing industry stakeholders will be particularly interested in contributing to the public interest process, I have decided to release an exposure draft of the Racing Bill 1998 to facilitate this. The proper conduct of the public interest test will ensure that any issues associated with the Bill are drawn out and will allow the industry stakeholders to contribute to the process by completing the legislative package. A copy of the exposure draft and explanatory memorandum has been provided to each member of the Assembly. The early release of the draft Bill was designed to assist and expedite the public interest test process and ensure that all members were aware of the Government's progress in this matter.

Mr Speaker, in developing the framework of the draft Bill, the existing structures and current management arrangements within the racing industry were thoroughly examined. The legislation will establish a controlling body structure for the three racing codes that will deliver a comprehensive and cost-effective administrative and regulatory regime for the local racing industry. In broad terms, the draft Bill establishes the boundaries for lawful racing and betting; empowers the Minister to approve the annual racing calendar; establishes each individual racing club as the controlling body for that particular code of racing; sets out the powers and the functions of each controlling body; empowers each controlling body to make and administer the rules of racing; empowers the Minister to appoint an administrator to control the code, if such action is warranted; empowers the Minister to issue directions to a controlling body; establishes the ACT Racing Tribunal and sets its roles, powers and functions and operating arrangements; and repeals the existing Racecourses Act 1935.

In addition to these provisions, which are consistent with legislation applying in other Australian jurisdictions, the draft Bill has fully embraced the provisions of national competition policy agreements or arrangements. In particular, the draft Bill provides for a controlling body to apply to the Minister to conduct a race meeting on behalf of another person or body, and for any other person or body to apply to the Minister to conduct a race meeting. The Minister is empowered to make inquiries to determine whether such approvals are in the public interest and place terms and conditions on such approvals.

Mr Speaker, as I stated earlier, the draft Bill is to undergo a public interest test. Therefore, it is feasible that some provisions of the Bill may be reviewed and amended once the recommendations of the consultant and the input from the racing industries and other parties are considered. The end result will be a legislative framework that achieves its objectives, allows for the proper conduct of racing in the ACT and provides broad benefits to the ACT community.

Question resolved in the affirmative.

PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACT
Paper

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copy of contract made with Vlad Aleksandric - a long-term contract. Mr Speaker, I ask the Assembly to take into account the usual privacy requirements.

PAPERS

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, for the information of members, I present information bulletins relating to patient activity data for the Calvary Public Hospital and the Canberra Hospital for April 1998. I also present the Department of Health and Community Care activity report for the September, December and March quarters 1997-98.

AUSTRALASIAN POLICE MINISTERS COUNCIL MEETING
Ministerial Statement

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): I seek leave of the Assembly to make a ministerial statement on the outcome of the June 1998 meeting of the Australasian Police Ministers Council.

Leave granted.

MR HUMPHRIES: I thank members. Mr Speaker, the Australasian Police Ministers Council met for the first time this year in Wellington, New Zealand, on 10 June. Several issues arose at that meeting which will be of interest to members. Before starting to outline some of those issues, I wish to make a brief statement about the application of the Administration (Interstate Agreements) Act 1997 to that meeting. As members will be aware, that Act requires Ministers to consult with members of the Assembly before entering into undertakings at ministerial councils which will involve the ACT having to make legislation on any matters. Several proposals were contained in the final agenda for the meeting which would have required the ACT to undertake legislation if approved, but the final agenda for the meeting was actually communicated to governments less than a week prior to the meeting.

Practically, it was therefore impossible to enable a process of consultation on matters for the meeting with Assembly members which would have allowed them an opportunity to consider the issues, seek advice on them and respond. Instead, Mr Speaker, I pointed out to the meeting that the ACT Government was constrained in entering into agreements which involved legislation without having considerable time to consider the implications of such proposals and consult as required under the Act. Several other jurisdictions which are in the same position of being minority governments also made the same point about their inability to commit without first undertaking a process of consultation.

In the spirit of the Administration (Interstate Agreements) Act 1997, in all cases where resolutions were proposed which committed to legislation, I sought, on behalf of the ACT, to amend resolutions to note the possible need for legislation or to agree in principle to a concept, with a reservation that legislation would need to be the subject of appropriate levels of consultation. In future, I am hopeful that resolutions of the Australasian Police Ministers Council which seek undertakings to commit to legislation will be communicated to jurisdictions much earlier, to enable that process to occur.

Mr Speaker, I now turn to the substantive issues which were raised at the meeting. Firstly, and I think of paramount concern to members of this Assembly, will be the issue of the national firearms controls agreement. Following recent public concern at changes to the firearms laws in Victoria, Queensland and Western Australia, in particular, the Commonwealth Government sought a reaffirmation from all States and Territories of the national firearms controls agreement. That reaffirmation was given; but I expressed,

on behalf of the ACT Government, the strongest objection to this issue having to be raised simply because some States were being recalcitrant. Had Victoria not sought to water down their laws to such an extent that they were clearly in breach of the agreement reached following the horrific events in Port Arthur in 1996, the issue would not have had to be raised at all.

The key concerns were in relation to two fundamental points of the agreement. First, the agreement requires a mandatory 28 days "cooling off" before the issuing of a permit to acquire a firearm, including a second or subsequent firearm. This is to allow a number of prerequisite checks to be undertaken on the genuine need for a person to own a firearm, or to own more than one firearm, and the applicant's suitability to use a firearm. Victoria sought to remove that requirement for a permit to acquire a second or subsequent gun, preserving the cooling-off period for only the first gun. In doing so, however, they will require a number of checks to be completed first.

The meeting resolved, without support from New South Wales or Queensland - which was bound by caretaker conventions, of course - to ask officials to develop a minimum requirement for checks to be undertaken prior to the issuing of a permit. The theory is that, if those checks are completed inside 28 days, a permit could be issued, but only once the checks are completed. I indicated that the ACT's position would be to support that work going on, because it will actually serve to strengthen the agreement on gun laws by imposing uniform requirements for preacquisition checks. But, in doing so, I indicated that I did not see it as a replacement for the 28-day cooling-off period; rather, as an addition to it. I see the opportunity to provide for those checks to be undertaken within the 28 days, as they are already done in the ACT, but that the cooling-off period will remain in our legislation, no matter whether mandatory uniform checks are added or not. I look forward to recommendations from officers for the development of those checks, which I will provide to members in advance of the next meeting, assuming we get them in time to do so.

The second issue was the application of category C permits to people outside the approved list of people entitled to access them. On that issue, four jurisdictions have widened access to category C firearms for people who do not meet the minimum standard as agreed by Police Ministers in 1996. I reiterated the ACT Government's position that category C licences would be issued only in exceptional circumstances, in accordance with the legislation, and that the legislation meets the requirements of the APMC agreements of 10 May and 17 July 1996. Regrettably, Mr Speaker, I left the meeting with the view that those jurisdictions presently allowing wider access to category C firearms were not prepared to restrict the access in accordance with the earlier agreement. I note and strongly support the Prime Minister's decision to ban the importation of category C firearms for purposes outside the national firearms controls agreement.

The ACT Government, Mr Speaker, will continue to vigilantly guard the national firearms controls agreement from subtle reductions in standards as time goes by, but that is not to say that there is no room to change the agreement if elements are not working as they should. But I have indicated publicly before, Mr Speaker, that changes to the agreement should be made only when agreed by all States, Territories and the Commonwealth,

and after an extensive public debate. I do not support using the APMC as a vehicle to support changes already undertaken within individual States or Territories or to allow for reductions in gun control standards without a public debate. The vast majority of Australians support the national firearms controls agreement, Mr Speaker. Although individual State and Territory governments may have their own political pressures from some elements within the gun lobby - elements that I describe as vicious and opportunistic - the national interest requires a high level of vigilance to guard the significant steps we took in 1996.

Mr Speaker, I now turn to the other issues which came before the council. The New South Wales Police Commissioner briefed the meeting on proposed arrangements for security in the lead-up to, and during, the Sydney 2000 Olympics. In doing so, the council agreed that the New South Wales Government would initiate discussions with all States and Territories and the Commonwealth about support levels to the New South Wales Police for Olympics-related security measures. I expect this will be an issue which will confront the ACT in the lead-up to Olympic events here, as well as the forthcoming meeting of the Commonwealth Heads of Government in 2001. A proposal to recognise firearms permits issued to international visitors was deferred for further work, following concerns that permits issued may be issued under laws which do not apply in the visited jurisdiction.

The Ministers agreed to the development of a strategic plan for information technology as it applies to the national exchange of police information - NEPI. The current national fingerprint database is in need of upgrading to support new technology, and information exchange between police services will be more crucial than ever in coming years as the technology changes considerably. It is possible that this item may have budget implications for the ACT in future years.

The meeting also considered a report and presentation from the working party into the establishment of a national criminal investigation DNA database and supported the need for the establishment of a DNA database governed by appropriate uniform legislation. I expect the provisions of that legislation to be the subject of consultation with members in the near future, with an aim of establishing a database link during 1999. The meeting heard of experiences with the establishment of a national DNA database in New Zealand and England, where serious crimes had been solved and, in one New Zealand case, a convicted rapist freed after a DNA sample cast serious doubt on his conviction. Part of the presentation drew on experiences of national DNA databases as they exist in New Zealand and England.

In England, figures show that 70 per cent of crime is committed by just 8 per cent of the population, and offenders in most serious crimes have prior convictions for less serious offences. Indeed, 90 per cent of sex offenders and 50 per cent of murderers could have been easily identified had DNA samples been available from their convictions for previously committed minor offences. DNA samples had also doubled the clear-up rate for burglaries in England. At present, there are 25,000 DNA samples from crime scenes in Australia awaiting identification of offenders. With the establishment of a national database, as people come to the attention of police for criminal behaviour,

effective crossmatching of those samples will lead to a much higher rate of solving serious crimes. While DNA sampling offers law enforcement agencies a technological solution to their problems, it will work only when combined with other enforcement methods, such as good policing, fingerprints and intelligence. It is not a replacement for any of these. The system of creating a DNA database is, in my view, no different to the creation of a national fingerprint index. It is using technological developments to help solve serious crimes which may otherwise go unsolved.

The meeting also discussed the national heroin supply reduction strategy, but at this point the ACT Government is not yet in a position to endorse the strategy while more work is undertaken between my agencies and Mr Moore's department.

The council resolved to monitor closely work being undertaken by the Austroads road safety panel on drugs and driving, noting that there is police involvement in those deliberations. It is clear that more work needs to be done on a scientific basis for driving under the influence of drugs to be defined. For example, it is established that a driver's level of impairment, at an alcohol content of 0.05, is sufficient to be regarded as driving under the influence of alcohol. But some illicit and prescription drugs can also seriously impair driving.

Mr Berry: Gary, they are going to stay here whether you try to bore the pants off them or not.

MR HUMPHRIES: This is important, Mr Berry. Whether you think so or not, these are very important issues.

Mr Berry: They are important issues, yes.

MR HUMPHRIES: The problem is that, for example, we know that cannabis remains detectable in the bloodstream for a considerable time, but its effects and at what levels to determine "influence" are much harder to identify. Someone who smoked cannabis one month ago may still show traces in the bloodstream, but would no longer be under the influence. In addition, those levels will differ for other types of drugs. And to complicate matters further, the process used to identify the presence of drugs is often highly invasive, such as a blood test, and cannot be the subject of random roadside checks, like random breath testing.

Mr Speaker, Ministers expressed their desire to see information-sharing constraints between Commonwealth law enforcement agencies and overseas agencies reduced in an effort to ensure that the Department of Immigration and Multicultural Affairs has access to all relevant information before granting a visa to a person to enter Australia. The concern was raised by the New South Wales Government after a recent incident where an overseas visitor with a serious criminal history was admitted to Australia with a visa and proceeded allegedly to commit a serious criminal offence for which he is in custody awaiting trial. While I understand this concern, the issue is a difficult one because it is possible for some foreign nationals to easily and cheaply obtain forged papers to indicate they have no criminal records. These papers are often not readily verifiable,

which makes the difficulty of screening all visitors all the more extreme. But, in the lead-up to the Sydney Olympics, all Ministers supported advice from the Commonwealth that the Department of Immigration and Multicultural Affairs is refining its information access and sharing facilities and developing closer working relationships with Australian law enforcement agencies.

The council resolved, with some exceptions, to support the inclusion of capsicum spray as a prohibited import, along with other self-protecting disabling substances, except for official police use, and to support the prohibition of the manufacture, distribution, sale, purchase, possession, carriage or use of capsicum spray or other instruments designed to emit offensive, noxious or toxic substances aimed at disabling or causing harm to another person. I am pleased, Mr Speaker, to advise the Assembly that all such substances are banned in the ACT under the Prohibited Weapons Act 1996, but that new substances which emerge can easily be banned by regulation under that Act. The meeting also discussed a proposal from the New South Wales Government to develop a coordinated response to antisocial behaviour at major sporting events. The meeting undertook to assess the feasibility of proposals brought forward by New South Wales within our own jurisdictions and report back to the next meeting in November. I will be writing to the chair of the Standing Committee on Justice and Community Safety in the near future seeking some consideration of this issue.

Finally, Mr Speaker, the council considered the issue of training standards for police in the use of firearms. The National Police Research Unit has developed a draft paper for police services on the development of national minimum guidelines for incident management, conflict resolution and the use of force. The council endorsed the direction of that paper and its recommendations and asked police commissioners to report back to future meetings of the Australasian Police Ministers Council on a process to monitor the implementation and success of the recommendations, as well as further developments toward best practice in incident management, conflict resolution and the use of force. Mr Speaker, this is a very important issue of significant concern to the Australian community. In recent times, police have been forced to use firearms in a large number of instances and the training standards of police in alternative methods of incident resolution have been called into question. At a political level, it would be highly inappropriate to comment on, or speculate as to the reasons for, the use of force in individual cases. But we have a responsibility to ensure that police are equipped, not just physically, but also mentally, to resolve incidents without the use of lethal force whenever that is possible. In training police how to use guns, it is just as important to train them in how not to use a gun. The development of national best practice training standards for all police, based on experiences here and overseas, is of critical importance.

I was pleased to receive strong support on this proposal from the Commonwealth, although it was disappointing that some States saw their own standards as best practice already, even though clearly a problem exists based on the high number of incidents. The protection of the community from lethal force whenever an alternative is available is a paramount objective of this resolution and I am pleased that it will receive the necessary level of support to enable the issue to be viewed seriously by all governments. Even last night, Mr Speaker, Canberra's police officers were faced with a dangerous siege which was resolved without the lethal use of force by deploying the specialist teams which the AFP train extensively to manage conflict and incidents of this nature. Once again,

Canberra police, faced with an incident in which their safety was seriously threatened, demonstrated their outstanding skills in incident management. The handling of last night's incident was a credit to their profession and gives every Canberran, and every Australian, a reason to be very proud of their skills even in the face of serious threats to their personal safety.

This month's meeting of the Australasian Police Ministers Council was one which considered a range of serious issues and one where agreement was not easily forthcoming on all of them. But law enforcement faces many challenges at the moment, in areas such as new technology, firearms, use of force, organised criminal activity and the like. The APMC helps coordinate national and international responses to those challenges. I present the following paper:

Australasian Police Ministers Council - ministerial statement, 24 June 1998.

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 1 of 1997

MR QUINLAN (4.18): I present Public Accounts Committee Report No. 1 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 1, 1997 - Contracting Pool and Leisure Centres", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

In the interests of brevity, Mr Temporary Deputy Speaker, I will not deliver a speech on this.

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

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 10 of 1997

MR QUINLAN (4.19): I present Public Accounts Committee Report No. 2 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 10, 1997 - Public Interest Disclosures - Corrective Services", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

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

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 5 of 1997

MR QUINLAN (4.20): I present Public Accounts Committee Report No. 3 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 5, 1997 - Management of Leave Liabilities", together with a copy of the extracts of the minutes of proceedings. I move:

> That the report be noted.

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

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 4 of 1998 and Statement

MR OSBORNE: I present Scrutiny Report No. 4 of 1998 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 4 of 1998 contains the committee's comments on the Gaming Machine (Amendment) Bill (No. 2) 1998. The scrutiny of Bills committee identified a number of issues in Ms Tucker's Bill. They are only minor issues. They are things that I think we can quickly cover. I believe that Ms Tucker will look at those issues, and we will get to her piece of legislation at the end of the program tonight. I commend the report to the Assembly.

NATIONAL COMPETITION POLICY AGREEMENT - INDEPENDENT COUNCIL

MR OSBORNE (4.22): I move:

> That this Assembly, noting the likely impact of deregulation of the Canberra milk industry and the impact of the National Competition Policy Agreement on other industries:
>
> (1) strongly endorses any move to establish an independent council to monitor, review and make recommendations to the Assembly on all aspects of the implementation of National Competition Policy; and

(2) calls on the Government to support the establishment of such a council and to consult with and consider the views of the Standing Committee for the Chief Minister's Portfolio in relation to possible appointees to the council before any such appointments are made.

I raise this issue today because of my concern about the way in which competition policy reform is proceeding in the Territory. The thing that is worrying to me is that it seems to be rushing along at an out-of-control rate. I move the motion because I believe that there is no other way of ensuring that the Government properly applies the provisions of the public benefit test on implementing competition policy reforms. I move it because I believe that the Government is using competition policy as a smokescreen to justify its ideological commitment to the economic equivalent of a scorched earth policy.

If we ever had any doubts that the Government was driven more by ideology than by the national agreement itself, they were clearly dispelled yesterday when its agenda was clearly articulated in the budget. If you turn to page 18 of Budget Paper No. 3, you will see a section headed "Microeconomic Reform and National Competition Policy". It says:

> The Government intends to extend reform beyond that required under the agreement.

Let me say that again, because it bears repeating: The Government intends to extend its reform beyond that required under the national competition agreement. We will not just comply with competition policy; we intend to be the best in the class when it comes to levelling the playing field. What a pity it is that we will have to level so much in the ACT to achieve this front-of-the-class commitment to an economic theory. Let us not be fooled. We are talking about an economic theory here. The benefits we are supposed to reap are yet to be tested and are the subject of hot debate. Take milk, for example. Historically, across the country, prices have gone up in the long term. In the short term, we lose an industry, people lose jobs and businesses go broke. It sounds to me like a great benefit!

Yesterday in this place I drew attention to a report of a House of Representatives committee entitled "Cultivating Competition". The report notes at the outset that there is considerable agreement that economic benefits will flow to Australia through the competition policy reforms, but it goes on to say that there is considerable disagreement about the magnitude of those benefits. The Industry Commission's analysis of the growth and revenue likely to flow from Hilmer's reforms estimated a long-run annual gain in gross domestic product of 5.5 per cent, or $23 billion a year. However, Professor Quiggin of James Cook University believes that the long-run annual gain in GDP will be as low as 0.48 per cent. That is an estimate that is so close to no change that it does not bear thinking about. Imagine if we were to implement all these changes and we realised no real effect on the nation's bottom line. Imagine how those who are now hailed as economic heroes would be seen then.

But there is more. The House of Representatives committee goes on to point out:

> There has been no major analysis of the broader socio-economic costs of the reforms, particularly the impact on unemployment, changed working conditions, social welfare, equity, social dislocation, environmental impacts ...

When I read this, I thought there must have been an error. Then I thought what geniuses we have as leaders. It beggars belief when you realise that the combined intellect of all those attending the Council of Australian Government meetings - the Keatings, the Kennetts, the Folletts - decided to proceed with the most broad-ranging reform of the way Australia does business since Federation without putting in place any mechanisms to measure their impact on our society. I see Mr Quinlan shake his head when I mention the word "Follett". How interesting it was to see members of the Labor Party outside this afternoon addressing people from Capitol Chilled Foods, yet I bet not one of them let those people know that they actually signed the agreement which created these problems.

Mr Wood: We did not.

MR OSBORNE: You did not? Did someone say he did not? I look forward to hearing from you, Mr Wood.

How dare these people then turn around and tell us that these policies are all for our own good when there is no way of measuring whether they are working! I wonder why it is that people around the country are starting to rebel against the common economic agenda of the two major parties. The zealots who fashion these policies will never admit the damage they do to small business and communities around Australia, because they never see it. They never have to live with the consequences of their decisions. To borrow a phrase from historian Geoffrey Blainey, they do not see it because they do not live in the front-line suburbs where these policies bounce and shatter people's lives. They are too busy staring at a computer-generated economic model and receiving the congratulations of their mates in big business. Let there be no mistake: It is big business who will be the winners in competition policy reform.

As it happens, I do believe that parts of competition policy will benefit the community; but I also believe that applying it like a ruler across the whole of society is foolish, because our community is more complex than that. One answer does not fit all questions. I believe that over time elements of this policy will be exposed as a dangerous fad. It amuses me that Professor Hilmer's latest book is about exposing the damage done to industries by management fads. Unfortunately, by the time we discover the full extent of the damage competition will do to some industries, it will be too late. Once industries are undone by this policy they cannot be remade.

I am aware that anyone who dares question the direction of micro-economic reform is being accused of being an economic caveman. I know that this accusation could be levelled against me. Frankly, on this issue I do not care. I do not care, because I have now been in politics long enough to know that branding is a tactic of groups that do not wish to discuss an issue. It is high time the so-called benefits of competition policy were exposed to a bit of competition, the oldest kind of competition, and that is

competing ideas. Clearly, we are not going to get that kind of competition from the Government, because its budget papers put us firmly in the camp of the competition policy zealots. It is high time this parliament and others around Australia began to question the unquestioning attitude of our leaders to a particular economic theory. It is time to drag this ideology kicking and screaming into the public arena.

Despite what the Government would have us believe, the House of Representatives committee makes it clear that the main consultation and discussion about the reforms took place within the Council of Australian Governments. It says:

> So far there has been little discussion in the community on competition reforms.

This motion today seeks to implement paragraph (j) of recommendation 1 of the committee's report, which says:

> Where possible reviewers should be independent of the existing arrangements with more significant, more major and more sensitive reviews demanding greater independence;

The first part of my motion is worded as it is because I understand that the Greens have issued drafting instructions to set up a council which would monitor, review and make recommendations to the Assembly on, the implementation of the national competition policy principles and agreement. I flag today my intention to support this council and I hope that the legislation will be ready for our next sittings in August. I want it to be an independent body with the resources and the teeth to do its job. I believe that all future reviews should be conducted by that committee.

I also believe that the current review of milk should be referred to it for reconsideration. As I said yesterday, I do not question the integrity of the person conducting this review, as I am certain that it is beyond reproach. However, I do question the motives of the Government. It has compromised the process by conducting an internal review of a process which clearly should have been reviewed by an independent body. The Urban Services Minister, Mr Smyth, yesterday dismissed my question on this review by saying that the person running it was not involved in the milk industry. Unfortunately, the Minister does not seem to get it, so I will spell it out. No, she is not involved in the milk industry, but she is inseparable from the Government and the Government's determination to be top of the class in competition policy reform. In that sense it was not fair of the Government to ask her to do the job, because no matter how fair her report, it will always be subject to criticism. I do not criticise Dr Sheen; I criticise the Government for setting up such a deeply flawed process. I blame the Government for initiating an inquiry which was always going to be called into question. As I said yesterday, it is time the progression of this policy became transparent, as the Federal parliamentary committee concluded. It is time the agenda was handed over to a neutral umpire.

In summary, I hope that members will support my motion. I believe that Mr Hargreaves has an amendment which we have worked with him on. We will certainly be supporting that, and I look forward to support from the majority of the Assembly.

MR HARGREAVES (4.33): I have written to the Clerk and have withdrawn my motion No. 5 on the notice paper on the same subject as that posed by Mr Osborne, and I now move the following amendment circulated in my name:

> After proposed paragraph (2) add the following new paragraph:
>
> "(3) further requires the Carnell Government to mount a full and vigorous defence of the ACT Milk Industry by taking the strongest possible action to prevent the distribution of milk outside the authority of the ACT Milk Authority until such time as the possible deregulation of the industry has been considered in the light of the National Competition Policy.".

There is a connection between my amendment and Mr Osborne's motion, in the sense that Mr Osborne's motion talks about the whole of the national competition policy, the probable detrimental effects here in the ACT, and the need to have some forum independent of the Executive to look into this; and it is my view that the current issue in front of the milk industry in the ACT is the first and most vital one of the issues which will challenge that particular forum.

I move this amendment because of the extent to which public concern has been expressed about the moves of Davids Holdings and National Foods, through the outlet of Woolworths, to challenge the authority of this Government over the distribution of milk in the ACT. In an interview on 2CC today, the Chief Minister said that she believed there could easily be a lower price for the consumer as a result. She was referring to the introduction of interstate supplies. She also agreed with the presenter of the program that we could have "cheaper milk perhaps, but possibly a loss of Territory jobs". I quote her reply: "That's certainly true". We could have cheaper milk and a loss of jobs. What is true is that in all of the States deregulated so far prices have soared. Victoria is now 20c per litre dearer, but this action will definitely mean a loss of jobs. No wonder people are scared.

As the Assembly is only too well aware, the milk industry in the ACT is under review to comply with the competition policy imposed by the ACCC. The Government has commissioned the Sheen review to look into the industry and report on the state of the industry regarding compliance and, a cynic might say, to come up with reasons supporting deregulation. This review is an internal departmental review and, whilst valuable in contributing to the information available to make decisions about the industry, should not be regarded as a full, open and public examination of the test of public benefit required under competition policy guidelines. It is clear, however, that the Government is committed to an examination of the public benefit test, and I am confident that the Government, when convinced that the public benefit will not be served by deregulation, will abandon its agenda for abolishing the Milk Authority and ask the ACCC for an exemption from the application of the policy in respect of milk distribution in the ACT.

It is my understanding that the caretaker Premier and Leader of the Opposition in the State of Queensland have both committed their coalition or party to applications for exemption from the ACCC in respect of milk distribution in that State, so it is not correct to assume that the deregulation of the industry is a countrywide phenomenon. It is being resisted in Queensland and has been shown to be the cause of price rises in Victoria and South Australia and will imminently be shown to be so in New South Wales. We have a number of problems presented to us today. The first is the nature of the public benefit test for milk distribution. I am aware that once the Sheen report is available the Government intends to make it available for public comment. However, concerns over the future of this industry have been expressed by processing distributors, wholesale distributors, vendors, home vendors and the general public. My office has been flooded with calls from people. The general public have a right to full and open examination of the industry and the application of that public benefit test.

Another issue before us today, and a very important one in terms of timeframe and challenge to the authority of this Assembly, is the intention of Davids Holdings and National Foods to supply milk products to Woolworths outlets in contravention of the procedures governed by the Milk Authority. This is a direct challenge to the authority of this Assembly to control activities within its borders. No doubt these wholesale giants will quote section 92 of the Constitution as the authority for challenging the authority of the Assembly.

One could argue that the opportunity to tender for the supply of milk through the ACT Milk Authority negates the contention that there is not free trade between the States, as enshrined in section 92 of the Constitution. This challenge must be taken head-on. The Government must take the strongest steps possible to ensure a full and vigorous defence of the Milk Authority, through injunctions if necessary. Davids Holdings and National Foods do not care about the public benefit test exemption available from the ACCC. They do not care about the loss of 650 jobs as a result of the downsurge in demand suffered by the Milk Authority's contractor, Capitol Chilled Foods, and the trickle-down effect it will have on home vendors. It cannot wait until the test is performed and await the umpire's decision. For some reason unknown to man, these wholesale giants cannot wait six months for a full examination of the industry and any implication for deregulation it may reveal and for a management strategy to be developed.

I call on the Government to mount a vigorous defence of the ACT milk industry - - -

Ms Carnell: We are.

MR HARGREAVES: A vigorous defence and the strongest possible action, not a wussoid one. Only yesterday I asked, "Have you received any legal advice on this?" and the answer was a proliferation of absolute wussiness, following which it was revealed on 2CC that such legal advice had been received. When I asked whether it had been received, I got nothing. I suggest that unless there is a change of heart on the part of this Government the milk industry in the ACT can expect nothing less. I ask the Government - no, I plead with them - to back these people, to back the milk industry, to back the milk runners. There are 400 of them. They are young people. These people need your help, and I hope that you will not be found wanting. I ask the Assembly to support Mr Osborne's motion in the strongest possible terms.

MR KAINE (4.40): I can only say that I totally support the position adopted by Mr Hargreaves on this matter. Only yesterday we amended the appropriate Act to protect the position of the Milk Authority through till the end of this year. It would be an absurdity then to allow people to act unlawfully, starting from 1 July or on any other day after it, and do nothing about it. I can only assume that when the Government amended the Act they meant what they said and that their intention was to protect the current position of the Milk Authority until a proper review of that authority is conducted and decisions made at the end of that time. Until such time as a decision is made by the Government after due consultation and made with or without the endorsement of the Assembly - it certainly is a Government decision that has to be made - the Government has a responsibility to enforce the law. I think that is all that Mr Hargreaves is saying in support of this motion.

I indicated yesterday in the debate that I had no sympathy for the proposition that the Milk Authority should be done away with. I do not think that there is any justification, or I have not been persuaded that there is any justification, under the guise of competition policy to do away with the Milk Authority. The Milk Authority can continue, provided we can satisfy the ACCC that there is public benefit. I do not think it could be argued that there is no public benefit. There has demonstrably been a clear public benefit arising from the operations of the ACT Milk Authority over decades. That public benefit has been reflected in such things as the provision of jobs locally and the provision of a guaranteed high-standard supply of dairy products to this Territory - much better than you would find in other parts of Australia. Those products are guaranteed to the ACT community at prices that have generally been better than one would expect to find anywhere else in Australia. If they are not clearly demonstrable public benefit, I do not know what constitutes demonstrable public benefit.

I have indicated that I will not support the arbitrary disestablishment of the Milk Authority. It is not good enough for the Government simply to argue that if we do not do that we place payments under the uniform competition policy law in jeopardy. As I said yesterday, if that is the case, then it needs to be tested. I do not think that we should simply abandon the arrangements that are in place, which are clearly to the benefit of this community, under threat, under duress, of the Commonwealth not making payments that are due to us. If the Commonwealth did undertake such a course of action, then the proper course of action for this Government to take would be to challenge it, to test it in a court of law to see whether they can legitimately force us to do away with an organisation and an arrangement which clearly bring public benefit.

I thoroughly support the motion put forward by Mr Osborne to set up an organisation, an independent body, to advise the Government on matters of competition policy, and I support the amendment, which originally was a separate motion from Mr Hargreaves, to ensure that the Government takes appropriate action should certain people, as they have indicated they intend to do, set about testing our law on 1 July. The Government has to have in place a strategy for a quick response to that, to establish quite clearly that our law is law and that we will not tolerate people coming from outside and deliberately setting about breaking that law, particularly when it is to the detriment of the public that they be allowed to do so.

I support the motion and I support Mr Hargreaves's amendment. At the end of the day, when the Government has properly considered these issues and what action is open to it, then, and only then, should we take a decision on these matters. We should not be stampeded into taking any other action than that in the meantime.

MR SMYTH (Minister for Urban Services) (4.45): Mr Temporary Deputy Speaker, initially I would like to welcome Mr Trevor Santi and other representatives of the TWU and some local small business people who have a real interest in this issue and who are sitting in the gallery. In rising to support Mr Osborne's motion and Mr Hargreaves's amendment, I simply say what I have said on several occasions in the recent debate, that is, that if people cross the border on 1 July or at any other time and do not act in accordance with the Milk Authority Act we will prosecute. It is as simple as that. The Act is there. This is why, as Mr Kaine has pointed out, we have extended the Act until 31 December this year to allow a full, frank and public discussion of the review that has been conducted by Dr Sheen. I will release that report tomorrow.

But, in rising to support Mr Hargreaves's amendment, I think it is important that we understand what it is that the Government can and cannot do to defend the local milk industry. I can understand that Mr Hargreaves and other members rising in this place have concerns about possible changes to the arrangements for the sale and distribution of milk. If deregulation means higher milk prices and fewer services, I would also be concerned and you would have to wonder what deregulation was all about. This is, however, a matter for the review of the Milk Authority Act, and I will release the report on that review tomorrow.

Mr Osborne asked me yesterday whether I would be prepared to have an independent review of the review. Mr Temporary Deputy Speaker, not only am I comfortable with that; I will go one step further and throw it open to public consultation and we will call for public comment when the review is released. All governments have an obligation to uphold the law and I state categorically in this place that I will, as I am required to do, uphold those sections of the Milk Authority Act for which I am responsible to the extent that it is possible. Similarly, I would expect the ACT Milk Authority to enforce the Act and act in a manner consistent with the law.

Mr Temporary Deputy Speaker, the ACT Milk Authority has a number of powers and obligations. These include making decisions about who may and who may not actually enter the ACT milk market. Members need to understand that the current arrangements under the Milk Authority Act do not preclude the entry of other players into the ACT market. Any business is entitled to seek entry to the market and the Milk Authority may approve or disapprove such entrance. The purpose of that Act was never to make the ACT milk market a monopoly market. We have all heard recently about the intentions of some companies to start operating in the ACT. In fact, there is absolutely no law against that. You cannot prosecute somebody for having an intention.

I do draw the line at the point where companies do not comply with the Territory law. At this point I would expect that the authority, through the DPP, would apply the full weight of the law. But it is sensible to ask what sets of circumstances can give rise to a prosecution. Can we prosecute, for example, a company that has sought approval to operate in the ACT and has got that approval from the ACT Milk Authority?

No, we cannot prosecute a company for doing something that the current law actually provides for. Could we prosecute, for example, if the authority authorised a company to operate inside the ACT milk market? No, we could not, because the authority has the power to approve such operation. Could we prosecute if a company started up, for example, to distribute its products without seeking the approval of the authority? Yes, we could, and we would, because it would be breaching the requirements of the Milk Authority Act. Could we prosecute before it had started to distribute the products? No, we could not. As I have said already, you cannot prosecute for an intention.

Mr Temporary Deputy Speaker, we have heard quite a bit today, as we did yesterday, about the possible impact of competition policy on the milk industry. It is important that we be quite clear about these facts. If Davids Holdings or National Foods comes into the ACT milk market on 1 July this year, it will have nothing to do with competition policy, and it will actually have a lot to do with a longstanding and well-known defect of the Milk Authority Act which I have information has been known about since at least 1989. In essence, the Milk Authority Act is actually inconsistent with the Australian Capital Territory (Self-Government) Act. So, in taking any legal action, this Assembly must be aware that the Territory cannot take action which will ultimately place it in breach of its own Act or of the Commonwealth law. Members are well aware that section 92 of the Constitution and section 69 of the Australian Capital Territory (Self-Government) Act require that trade and commerce between the Territory and States must be free. What we have here, Mr Temporary Deputy Speaker, is an anomaly which has existed for at least a decade but which, up until this time, either has not been forced or has not been proven to be defective.

Mr Temporary Deputy Speaker, the only way we can conceivably get around this problem is actually to seek to have the Commonwealth amend section 69 of the self-government Act. We should also be aware that, I think, there is absolutely no way the Commonwealth would agree to that because, in fact, if section 69 of the self-government Act, which mirrors section 92 of the Constitution, were amended, what it would actually say is that there should be free and fair trade between the States and Territories, but not with the ACT. That would be arguing against the Constitution as a whole applying to Canberra.

Mr Temporary Deputy Speaker, I am aware that the Milk Authority itself has known about this since the beginning of self-government. Indeed, prior to the election of the first ACT Government the members of the authority provided a briefing to the incoming Minister. It is curious because, to quote from the briefing that went to the incoming Minister in 1989, it says:

> Section 69 of ACT Self-Government Act: The Authority and the Australian Workers Union have expressed some concern over the possible and potential effect of s69 of the Self-Government Act on the operations of the Authority and the ACT milk industry.
>
> Section 69 mirrors s92 of the Australian Constitution i.e. "trade and commerce between States shall be absolutely free".

The curious thing about this is that this is the briefing for what eventually became an incoming Labor Minister and on the Milk Board at that time was, in fact, none other than the first Chief Minister of the ACT, Ms Rosemary Follett. So, it is quite clear that the dilemmas that we have here today are not new. They are well known. They certainly should be well known to the other side because, clearly, they were given advice right from the start that there were anomalies. What has happened is that nobody has chosen either to amend them or to come clean on them in the situation regarding the milk industry.

Mr Temporary Deputy Speaker, I would now like to table a legal opinion which I received this morning. Mr Hargreaves asked yesterday whether I had a legal opinion on this issue. Yesterday, I did not. The Government, through Robyn Sheen, was conducting a review - a review which, I say, is fully independent, even though others here would like to see it not that way. It is more than appropriate for a qualified officer who happens to come from the department to conduct a review of an independent authority. That is quite acceptable. It is ludicrous to suggest that the review is in any way faulty or underhanded or is some sort of backdoor deal.

I asked for legal advice specifically in the terms that Mr Hargreaves asked yesterday, and I would now like to table the legal opinion which has been provided by the ACT Government Solicitor on this matter. It covers things like the Mutual Recognition Act of 1993 and the Trade Practices Act. I will quote just one paragraph from the advice, and it will be available for others to look at:

> Paragraph (a) of section 17A, prohibiting import of unprocessed milk, is on its face protectionist and is almost certainly ineffective by virtue of section 69 of the Self-Government Act ... if the substance of the course proposed by the Assembly is that the existing locally based processor and distributor should be allowed to continue to operate but that any interstate competition should be barred, this would seem to amount to a protectionist application of the Milk Authority's powers which would be struck down under section 69.

Mr Hargreaves's amendment refers specifically to those arrangements which have conferred what would appear to be a monopoly status on the current players in the ACT market. That monopoly does not exist. Perhaps over time the Milk Authority actually has been put in the unfortunate position where, as both regulator and marketer of ACT milk, it has been asked to do a job that would require the wisdom of Solomon. That has not occurred as a result of any decisions made by the authority. These arrangements are not arrangements which have any legal imperative. As I have already said, the Milk Authority Act does not in itself preclude other entrants to this market. *(Extension of time granted)* However, the authority has, because of the difficult position it has been placed in by those dual regulatory and marketing functions, actually allowed a monopoly to occur. The monopoly processor, which is in fact owned by some New South Wales dairy farmers, has had a monopoly over processing the 97 per cent of milk which comes from Bega and the Goulburn Valley and the 3 per cent which comes from our own heritage-listed dairy. That is not actually required by the Act. It has occurred, but it certainly is not required.

Mr Temporary Deputy Speaker, we must be realistic about what we can do here and what we cannot do. The Milk Authority has certain obligations under the Act and potential entrants into the market also have certain obligations under the Act. In the event that potential entrants do not comply with the Act and seek that approval from the authority, we will prosecute. But the authority also has the obligation to consider all such applications, and it does. The Milk Authority put out a media release earlier today that reiterates what I have said. It says:

> "The Authority is bound to treat seriously all applications to enter the market. The Milk Authority Act 1971 empowers the Authority to consider all such applications and a process exists for such consideration", Mr White said.
>
> "The Authority has now received an application from National Foods for the marketing of processed milk and the Authority is currently considering that application.

The media statement goes on to say:

> "The Milk Authority has legal advice which makes it clear that failure to allow interstate players entry into the ACT market may have constitutional implications. Section 69 of the Australian Capital Territory (Self-Government) Act provides for the freedom of trade and commerce between the Territory and the States. This provision has the purpose of picking up Section 92 of the Constitution.

Mr Temporary Deputy Speaker, we need to wait and see what happens on 1 July. Anybody entering the market illegally will be prosecuted under the Act. Anyone entering the market with an authority from the Milk Authority will be entering quite legally and will be allowed to participate in the ACT milk market.

MR STANHOPE (Leader of the Opposition) (4.58): Mr Temporary Deputy Speaker, it is a very serious matter that we are debating today and I think that those who are looking for comfort would have received none from the Minister's speech just now. I have to say that the Opposition received no comfort from the preamble to the Minister's answer to a question from Mr Hargreaves yesterday in relation to the legal advice that he may or may not have received and his support for the milk industry. I think *Hansard* will actually prove what I say on this to be true, but his preamble was along the lines that he was more than prepared to support the milk industry because he drank Milo every night.

Ms Carnell: That is not what he said.

MR STANHOPE: Let us look at *Hansard* and see what it records on that.

Mr Smyth: *Hansard* does say that, but it also says that I would support the Milk Authority as best I could under the Act.

MR STANHOPE: Yes, you are prepared to support the milk industry because you drink Milo every night. That was the way in which the Minister commenced his answer to a question from Mr Hargreaves yesterday. The Minister's waffling and equivocating response just now on the strength of his arm in relation to the possible introduction into the ACT of milk after 1 July by those that are prepared to outstare this Government actually gives us as much or less comfort than the fact that we have learnt that the Minister drinks Milo. There are a number of really important principles here. If we go back and look at the way in which this Government has actually handled the implementation of competition policy in the ACT, there is enormous cause for concern.

Ms Carnell: I have to say that we did not handle the implementation; you guys did.

MR STANHOPE: The way in which the Government has been handling the implementation in the last three years. It is quite true, as the Chief Minister interjects, that they have not handled it. That is the problem; they have not handled it.

Debate interrupted.

ADJOURNMENT

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

> That the Assembly do now adjourn.

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

Question resolved in the negative.

NATIONAL COMPETITION POLICY AGREEMENT - INDEPENDENT COUNCIL

Debate resumed.

MR STANHOPE: The shining example of this - and this is what causes us so much concern in relation to this Government's attitude to the deregulation of the milk industry - is actually the example provided by the application of competition principles to the Belconnen pool proposal. In a way, the concern that we must feel about this Government's commitment to public benefit tests or actually meeting community service obligations goes back to the way in which the Belconnen pool issue was or was not handled by this Government, depending on the way you wish to look at it.

Ms Carnell: It has not been finished yet.

MR STANHOPE: It certainly has not been handled - that is the whole problem - and we can have no confidence that the Government will handle the deregulation of the milk industry in any better way.

Let us look at what has happened. Over two years ago, on a motion moved by Ms Tucker, this Assembly directed that a competition policy forum be created. It was created in name and people were appointed to it. The motion moved by Ms Tucker and supported by this side of the house at the time was that the Government establish a forum to provide ongoing monitoring and advice on the implementation of competition policy; that the forum include representatives of community, environmental, consumer, union, business and academic organisations; and that the terms of reference enable the forum to monitor the structural reform of government business enterprises, the regulatory review process, the development of community service obligations, competitive tendering and outsourcing, and any other matter related to the competition principles agreement or the competition code.

The Competition Policy Forum was established by a motion of this Assembly over two years ago, and what do we discover in relation to the Competition Policy Forum - a body that was set up to do precisely what we would like to have done in relation to the milk industry, a body set up to do precisely what we would like to have done in relation to the Belconnen pool issue? The Government's response to the Competition Policy Forum has been not to give it a single reference, not to refer a single thing to it.

Ms Carnell: They asked not to have - - -

MR STANHOPE: That is not true.

Ms Carnell: They did not even want public servants.

MR STANHOPE: You have been exposed for your claims that the Competition Policy Forum has not been asked to do anything. I have letters from half the members of the Competition Policy Forum telling me that your claims that they were not asked to do anything are outright lies.

What facilities has the Government provided to the Competition Policy Forum to do some of the work that it could usefully do, some of the work that needs to be done, to determine exactly how we as a community are going to develop our understanding of public benefit, how we as a community are going to determine what sorts of community service obligations we should expect of the Milk Authority, or of the Bureau of Sport, Recreation and Racing in relation to the provision of swimming pools? These are all the same issues. These are issues about how we as a community will allow our notions of public benefit to be dictated to us by public servants, bureaucrats, people that are not accountable. I was a public servant for donkey's years and I have the greatest respect for public servants; but public servants should not be making decisions of this order that affect the lives of all the citizens of Canberra. This Government is abrogating its responsibility. If we do not do something about it, we as an Assembly are abrogating our responsibility to meet the needs of the people of Canberra.

Mr Humphries: That is absolute nonsense. That is rhetoric and garbage.

MR STANHOPE: It is rhetoric and garbage that this Government could go to the last election with a promise to build a pool for the people of Belconnen and, three months later, trash - - -

Mr Humphries: The competition policy stopped it. You signed that policy; we did not.

MR STANHOPE: It was trashed on the basis of a report from bureaucrats within the Chief - - -

Mr Humphries: Mr Temporary Deputy Speaker, I take a point of order. The Belconnen pool proposal has not been trashed. Mr Stanhope should get his facts straight.

Mr Berry: Mr Temporary Deputy Speaker, that is not a point of order. He is entering the debate.

MR TEMPORARY DEPUTY SPEAKER: Order! The house will come to order. The Leader of the Opposition will resume his seat. There is no substance to the point of order raised by the leader of the house. If you rise again, Mr Berry, having been cautioned by the Chair once and knowing very well that the Chair can only answer - - -

Mr Kaine: Mr Temporary Deputy Speaker, you are not threatening a member of this house, are you?

MR TEMPORARY DEPUTY SPEAKER: No, I am not threatening him; I am reminding him.

Mr Kaine: You are not attempting to coerce a member of this place, are you?

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Kaine, resume your seat.

MR STANHOPE: It is instructive that we look at the history of the Belconnen pool matter because it is the shining example of what has gone wrong. It is the shining example of where this Government's systems simply do not work. It is an example of where this Government has simply refused to engage in the processes which this Assembly has directed be utilised in determining how the competition principles should apply to this community.

One of the instructive things about this Government's attitude to these issues is the statement of the Chief Minister on ABC radio on 8 May that she had deliberately created the Competitive Neutrality Complaints Unit at arm's length, that it was an organisation that she had gone out of her way to ensure was not accountable to her. That is what the Chief Minister claimed on the ABC on 8 May.

Mr Kaine: It is so far at arm's length that it is out of reach altogether.

MR STANHOPE: Not only that, but I actually asked Mr Lilley at a hearing of the Urban Services Committee whether he would describe the Competitive Neutrality Complaints Unit as being at arm's length from the Chief Minister. I asked him whom it reported to and he said, "It reports to the Chief Minister through me". I said, "Mr Lilley, does it fit within your definition of being at arm's length from the Chief Minister that it reports, through you, to the Chief Minister?". He said, "No, I would not regard that as being at arm's length from the Chief Minister. I think that is perhaps drawing a bit of a longbow". Of course, if one looks at the Government's guidelines in relation to this, released to us just the other day, the formal documentation actually says that the Competitive Neutrality Complaints Unit will report through the economic - - -

Ms Carnell: That is right.

MR STANHOPE: That is right. What is right, Chief Minister: Your statement on the ABC that you deliberately made it at arm's length or that it reports directly to you?

This raises the other point we have made about the Minister's dismissal of the Sheen report: It is a report directly to the Minister; it is a report directly to the decision-maker. We are talking about a matter of principle here. We actually want an open, transparent and accountable basis for determining whether we should be dismissing whole industries, whether we should be believing that there is an overriding public benefit on the whim of public servants reporting directly to Ministers, and it is not appropriate. This Assembly decided over two years ago that it was not appropriate. *(Extension of time granted)*

I will wrap up, as there are others who wish to speak; but I think there are some underlying principles here. It is a pity, in a way, that Mr Osborne feels the need to move this motion. We will be supporting it and I urge everybody else to support it. The bottom line is that we already have a Competition Policy Forum that is designed to do the very things that Mr Osborne is suggesting that this council should do. The forum is there. It is just that it is not resourced and that this Government has not seen fit to refer anything to it. Because of the Government's disinclination to refer things to the forum, I have actually written to Mr Acworth and asked him to inquire into the Milk Authority. I know that he wants to and I believe that he has made approaches to the Chief Minister, asking that the Government refer to the forum matters in relation to the Milk Authority. Because the Chief Minister and the Minister have absolutely no interest in the forum, have no interest in a public consultative process, I have formally asked Mr Acworth to undertake an inquiry into the Milk Authority and its deregulation, and to take the Sheen report into account in that inquiry. I expect Mr Acworth to do that.

Mr Smyth: They cannot.

MR STANHOPE: Of course they can.

Mr Smyth: They can advise; they cannot review.

Ms Carnell: They are an advisory group.

MR STANHOPE: Good.

Mr Smyth: They are an advisory group; that is all.

MR STANHOPE: Let us hope they do it. It is a pity that Mr Osborne felt the need to move this motion. It would have been completely unnecessary if only the Government had respected the mechanisms that were put in place. I think that is the first part of the motion.

The second part is the amendment moved by Mr Hargreaves. It is one which, of course, we all support. I think the Minister's response to that was equivocal. He would love to defend the ACT milk industry, the vendors and those who have sunk their life savings into these businesses and can now see their life savings going out the window because the Government has not seen fit to defend them appropriately or to put into place some - - -

Ms Carnell: We will defend within the law. Do you want us to defend outside the law?

MR STANHOPE: No; we want you to develop a notion of public benefit that actually allows you to apply to have these things exempted.

Mr Smyth: The public benefit is addressed in the review. You can have it tomorrow.

MR STANHOPE: And we want the Minister to take these things a bit more seriously in the future and to stop being so flippant and boyish about his responsibilities to a major industry in this town.

MS CARNELL (Chief Minister and Treasurer) (5.10): Mr Speaker, I would like to move the amendment that has been circulated in my name. Can I do so at this stage?

MR SPEAKER: You can foreshadow it.

MS CARNELL: The amendment reads:

> After proposed paragraph (3) add the following new paragraph:
>
> "(4) requires the Chief Minister to report to the Assembly by the last sitting day in August 1998 with a proposed model for such a council including a defined role, accountability arrangements and resource issues.".

Mr Speaker, as other speakers on this side of the house have said, we have no problems with Mr Osborne's motion; but I have to say to those opposite who believe that this body is exactly the same as the previous forum that it actually has significantly greater powers and, fairly obviously, the current Competition Policy Forum would be abolished if this new council were put in place, simply because the Competition Policy Forum has some of its terms of reference. The current forum is able to monitor and review, but it does not have the capacity to recommend that the new body would have. So I indicate that if this new body is set up we will move to abolish the old forum.

Mr Speaker, I think that one of the things we need to do with regard to this new body is to make sure that the appropriate model is put in place, because it is not as easy as just putting people on a forum, as we found with the old one. It does have to have a proper model, it has to have a defined role, and it has to have proper accountability mechanisms. Of course, there are resourcing issues as well. All of that needs to be determined if this is to go ahead. I am suggesting that I report back to the Assembly on the last sitting day in August with a proposed model that would achieve those things, obviously in consultation with the Standing Committee for the Chief Minister's Portfolio and other interested parties.

Mr Speaker, the Government has no problem at all with this approach. In fact, I have to say that national competition policy is not something that is easy for any government, particularly as it was not a policy that was signed or even worked up by this Government, or even by the Coalition Federal Government.

Mr Berry: It was signed by you.

MS CARNELL: It was not signed by me.

Mr Berry: It was signed by you in 1996.

MS CARNELL: I am sorry; the national competition policy was signed in 1994. It was signed in 1994 by Rosemary Follett, Mr Speaker. There is no doubt that Rosemary Follett agreed to the national competition policy.

Mr Speaker, it is a difficult issue and I think the points Mr Smyth has made already show just how difficult it is. Yes, from the perspective of the Government, we will defend the Milk Authority within the law. We cannot defend it outside the law, but within the law we will defend the Milk Authority and the legislation that exists in the ACT. We have made that clear the whole time. When members read the legal advice that Mr Smyth has tabled, I think they will see the issues that are involved. They will also see that this is not to do with competition policy at all; that is not the issue. A public benefit test is no longer the basis of the directions that will be taken in the future. It is with regard to the self-government Act and, of course, the Constitution.

Mr Speaker, to come back to the point, I believe that having a council that will look at issues regarding national competition policy would be in the Government's best interest, because we have found that there are absolutely no wins for the Government. It seems that, when we use consultants, the consultants do not know what they are talking about, Mr Speaker, and that, when we use in-house experts, the in-house experts do not know what they are talking about. By the way, I believe that both do know what they are talking about. Of course, we will be in a position in the next few weeks to table the report into gaming which has been done by an external consultant. I assume that that means that those opposite will accept that one but not accept one that has been done by Dr Sheen - an internal person who has real expertise in this area and is not involved in the Milk Authority.

For the life of me, I do not understand that logic at all. I believe very strongly that, wherever possible, we should use our own internal expertise when we have that expertise at our disposal. I find it absolutely stunning that those opposite do not believe that; that they do not believe that we should use our own people when they have the expertise. It shows a very different view on the professionalism of the Public Service than I have. I believe that our people are very professional and have all of the expertise - in fact, possibly in the case of Dr Sheen, greater expertise - that we are likely to get with an external consultant and a greater background in the area, greater knowledge both academically and professionally, than we are likely to get from an external consultant. That is a fascinating approach, Mr Speaker.

Mr Speaker, again I make the point that the Government will not be opposing the setting up of this entity. We think that it has the potential to be of benefit to the Government. But we do believe that this time it is really important that we do get the role, the accountability arrangements and, most importantly, the resourcing issues agreed by the members of this Assembly prior to going ahead. I make the point again that, obviously, you would not have both the forum and the council operating together, Mr Speaker.

MR RUGENDYKE (5.18): Mr Speaker, I rise in favour of the initial motion, which initiates action to protect the ACT milk industry. The Government promotes heavily its intention to create more jobs. However, in this case, my feeling is that the deregulation of the milk industry could wipe out a valuable source of local jobs. There is the possibility that, if the retail outlets can purchase their milk from across the border through Davids and Woolworths, it would have a dramatic flow-on effect to people like the home delivery milk vendors. Sure, the retail outlets may be able to provide cheaper milk initially; but, if that wipes out the viability of the milk vendors, it wipes out the competition. And then it opens the way for retail outlets to increase prices, as they have done in Victoria. Interestingly, I have heard that there is about 34 million litres of milk sold in the ACT per annum. A 20c per litre increase in the cost of that milk would result in $6.8m a year going straight into the bank account of Woolworths, National Foods, Davids, or whoever these interstate people are.

There is also the big-picture view of national competition policy to consider. I would like to see evidence of the benefits of deregulation before we commit ourselves to it. I would like to see who is at risk and who the major losers are going to be. In the example of milk, it is local people with local businesses providing local jobs who appear to be the potential losers. Once again, the winners appear to be the major retail chains like Woolworths. Just little by little, we seem to be giving bodies like Woolworths more and more power in the interests of competition policy. Take the example of deregulating shopping hours. We all know the impact that has had on local shops. Has that been of benefit to the community? I am concerned about the other gains that the Woolworths of this world will reap at the expense of the community. The next in line is milk. What will be next? Will it be pharmacies in the corners of Woolworths stores? I do not think we would like that idea. I think we should pull our heads in and check our direction on this issue. For this reason, Mr Speaker, I support the motion and also Mr Hargreaves's amendment. I will have to think more about the other two.

MS TUCKER (5.21): Mr Speaker, I rise to support this motion. I wish that there had been more interest in competition policy when it was being formulated and first implemented in the ACT. In 1995, I raised many of the same concerns that are being raised in debates this year, now that the full implications of competition policy are coming to light. It is becoming more and more obvious that employment, social and environmental considerations can become secondary to a narrow definition of economic efficiency. When the Greens established a select committee in 1995, the concerns that were raised by that committee were paid little attention. One outcome of that inquiry, though, was through the motion that I successfully put later in the house to have the Competition Policy Forum established. Obviously, there has been discussion on this subject. Mr Osborne said that, in fact, his motion was referring to the drafting instructions that we had given to the Parliamentary Counsel to develop this body. Basically, our idea was that it would be a competition policy forum, but beefed up, if you like, and given greater powers and responsibilities. I will speak about this in more detail when we address the amendments put by Mrs Carnell and Mr Kaine. I acknowledge, as Mrs Carnell did, that there are a number of quite complicated issues to be addressed.

Given the importance of this issue to the community and given, I believe, the disrespect being shown by the Government to the work of the forum, I believe that it does need to be given greater power and that we do need this kind of body. The functions of the council, as we envisaged it, would be to monitor, review and make recommendations to the Assembly on the implementation of national competition policy principles and agreements, including legislation review, structural reform of government monopolies, public benefit assessments, application of competitive neutrality principles, community service obligations, and competitive tendering and outsourcing. I am by no means wedded to a particular model. My objective was to give this council independence, broad membership and an ability to report directly to the Assembly.

Mr Speaker, while the horse has bolted, in terms of the ACT being locked into competition policy, we do have a choice about how we implement it. We also have a choice to challenge the basic assumptions of that policy. On two occasions now, Mr Osborne has quoted a Federal report - I do not know that I have actually heard the Government respond to it - where it was shown that there is a lot more discretion available than we have been led to believe in how it is implemented. If these reforms really are about social benefit, then let us challenge the reformers to ensure that this happens. That means that local industry, local jobs, the environment, social welfare programs and anything else that is under the eye of the economic "irrationalists" must be defended, in the public interest. I do not have faith in the Government ensuring that adequate processes are in place to ensure that this happens and to challenge reforms that are clearly not in the public interest.

Something else that makes me concerned is that the advocates of efficiency, accountability and transparency do not always live up to their own rhetoric. There are countless examples of open tendering processes being shafted, independent reviews not being in place and completely untransparent processes being adopted. This just reinforces my view that so many of these reforms are completely ideologically driven and have very little to do with efficiency or effectiveness. We never see any cost-benefit analysis of the effectiveness of the reforms; we are just told that they will benefit the community.

The financial benefits that have been projected to flow from the Hilmer reforms have been scrutinised in many quarters. It was claimed that the economic growth implications that would flow from the Hilmer reforms would be as great as 4.5 per cent. As Professor John Quiggin has pointed out, these figures are based on many assumptions about the productivity effects of micro-economic reform, as well as on an assumption that the benefits will flow to the economy as a whole. This is clearly not the case, and the milk industry is a case in point. The big players certainly will benefit; but the cost will be to local industry and local jobs.

We had a very detailed and thoughtful submission from the Milk Authority when we had that select committee looking at competition policy. I would like to read a couple of parts of that submission. I was interested to see the Milk Authority's mission statement, which is:

1. The Authority recognises that it is consumer driven.

2. It sees as its mission therefore to:

Ensure that ACT consumers receive milk that:

. Is affordable, particularly for young families,

. Is of the highest possible quality,

. Covers the broadest possible range of products to meet the individual needs and demands of consumers, and

. Is in reliable and sufficient supply.

Mr Speaker, have you seen the mission statement of Woolworths or Davids? I will bet you that the first point on their mission statement is to maximise profit, because that is what I see in the mission statement of every private sector organisation. Here you have a mission statement from a body that has a broader community interest and a commitment to quality. This is one of the things that we are throwing away in the name of competition.

The other thing that is important is that the Milk Authority made it quite clear that what it believes to be the result of regulation is that the industry is cohesive and that, therefore, consumers enjoy the following: Prices that are the lowest or amongst the lowest in Australia; a choice of fresh milk products, with one of the widest ranges in Australia; a high-quality, reliable, regular supply; the security of government control over prices, product range, packaging and product standards; and the benefits of closely monitored product quality standards, including matters relating to public health issues.

The authority also believes that the community otherwise benefits from access to a broad portfolio of sponsorship of sporting and artistic activities, principally aimed at junior activities and events. That is interesting. I noticed just recently that a woman from a school parents and citizens association - as we know, those associations have

a great deal of responsibility for raising funds for our public schools now - said how disappointed she was to see so many local shops going out of business, because, when she goes to Woolworths to get sponsorship or a subsidy, guess what. They are not interested. They are not a local business. So, there are all these other flow-on effects that we do not usually hear articulated as well as she did. As members know, this submission from the Milk Authority is on the record. There is a more recent submission as well. I will not go right through the submission; but what we can see clearly is that there are very strong arguments for community benefit in keeping this industry in its present form.

Mr Speaker, after yesterday's budget - where the next wave of competition-type reforms, in the shape of comparative pricing, has appeared - an objective observer would be even more convinced that the Government is trying to reshape itself into a business. As we see, competition policy reforms are being used to justify a whole wave of associated reforms to government and the community sectors. Hilmer himself has said that competition policy principles should not really be used in human services - but they are. We do not have services and citizens anymore; we have outputs, outcomes and customers or consumers. We have become almost hardened to all the language of competition policy: Micro-economic reform, outsourcing, competitive tendering, community service obligations, purchaser-provider splits, benchmarking, et cetera.

There has been almost a sense of apathy about all the changes that are taking place to the public and community sectors, often with very little public debate. That is starting to change. It is of very grave concern to me that the backlash against economic rationalism is taking the form of finding scapegoats in our community - the very groups who are often the victims themselves from a preoccupation with economic considerations above all else. So, the populist reaction is gaining momentum. "Wedge politics", as Noel Pearson so aptly calls it, is driving groups in the community against each other. We saw the result of it recently in Queensland. Mr Speaker, it is time that the Assembly took control of the implementation of competition policy. I believe that it has been left in the hands of the Executive for too long, and the consequences of this are being felt throughout many sectors of the community.

MR CORBELL (5.30): Mr Speaker, I rise to support Mr Osborne's motion and Mr Hargreaves's amendment. There have been a number of issues raised in this debate that I feel I really should address. The first is the comment from the other side of the Assembly that, really, national competition policy does not have anything to do with them. The Government says, "National competition policy has nothing to do with us. The Labor Party signed the agreement". Yes, the Labor Party did sign it; but it is disingenuous of the Liberal Party to suggest that, really, they would rather not have anything to do with it.

Mr Speaker, I draw to the Assembly's attention one simple thing that indicates just how rusted-on this Liberal Party is when it comes to competition policy. Governments have options under competition policy. One of those is how you test competition activity. Mr Speaker, there is an option for governments to apply competition policy to significant government business enterprises or to all government business enterprises.

This Government decided that significant government business enterprises were not enough, and that it was going to apply competition policy to the lot. It did not have to do it; but it did. That is why we are in the absurd position where competition policy is used to knock off the Belconnen pool. So, before Government members stand up and say, "Competition policy has nothing to do with us", they should think about their own activities in deciding to apply competition policy to every facet of government activity, even though they themselves knew that they did not have to do that.

Mr Speaker, obviously, the issue of milk is the central issue in the debate today. I challenge this Government to be proactive on this issue. We have seen a lot of bumbling. We have heard a lot of measly words from the Minister, such as, "Oh, gee; we will do our best". But, when it comes down to it, Mr Speaker, the Government has options. The Government can choose to be wholehearted in its defence of the milk industry in the ACT or not to be wholehearted in its defence of the milk industry in the ACT.

One option it has, Mr Speaker, is in relation to licences for people selling and distributing milk in the ACT. I challenge the Government to say that, in the public interest, it will not issue licences to Davids Holdings or National Foods. That is a very simple challenge. If they are serious about protecting the interests of vendors, if they are serious about protecting the interests of the Canberra community when it comes to the supply of milk in the Territory, they can make a decision not to allow the authority to provide a licence to National Foods or Davids Holdings. Mr Speaker, I have a concern that, when this Assembly next sits, in two months' time, the Minister will rise to his feet and will say, "They applied for a licence, and we had to give it to them". That is the sort of measly approach from this Government that we are concerned about. That really comes down to the fundamental issue: Are they wholeheartedly going to defend the interests of vendors and consumers when it comes to the supply of milk in the Territory, or are they not?

Mr Speaker, some other points have been raised in this debate. The next one that I am concerned about is the issue of independent policy and the independent review that the Government claims is being undertaken by an officer in, I understand, the Chief Minister's Department. Mr Speaker, the officer is a person of high repute, who obviously has strong qualifications in the area of competition policy. But, as we have been told time and again in this place, it is not the Public Service that makes policy; it is the Executive. But who is responsible for the activities of public servants? It is the Executive. So, how can we have 100 per cent confidence that the report that comes to the Executive from a public servant is independent?

Ms Carnell: Because they are professional people.

MR CORBELL: Mr Speaker, it would appear that the Chief Minister does not understand the fundamental principle of responsible government and how public servants relate to their Ministers. Whether or not the officer is acting in good faith - and I have no doubt that the officer will act in good faith - this parliament must be assured that it is a properly independent process. You cannot suggest that it is, when the public servant who is writing the report reports to the Minister. Are they seriously suggesting that the public servant will provide advice which is contrary to Government policy? I doubt it, Mr Speaker, and I think that members on the crossbenches feel the same way.

Mr Speaker, the final point I want to make in this debate is in relation to legal advice. Earlier today, the Minister stood up in this debate and said, "We received this legal advice today" - not yesterday, when Mr Hargreaves asked him the question about legal advice, but today. He has kindly provided a copy of that advice, and it is stamped as having been received in his office on 24 June. Mr Speaker, I wonder about this advice, simply because this morning the Chief Minister, in a radio interview, said:

> But there's also I think some fairly good advice - some fairly good legal advice - that we have, suggesting that under the Constitution, that is, capacity to free trade across borders ...

So, Mr Speaker, at 10 minutes past seven this morning, the Chief Minister indicated that the Government had legal advice. I did not think that Australia Post delivered that early. I did not think that there was someone in the Minister's office at 7 o'clock this morning stamping it "Received 24 June". Mr Speaker, I must say that I do cast aspersions on the fact that the Government claims that it got the advice only today, because the Chief Minister said at 7 o'clock this morning she had already got it.

Mr Speaker, what sort of confidence can the Assembly have in this Government when we continue to hear mealy-mouthed words and half-hearted attempts to proclaim their interest in protecting the milk industry? Mr Speaker, if the Government's current record is anything to go on, we must have serious concern. That is why the motion of Mr Osborne's should be supported this evening and why the amendment moved by Mr Hargreaves also should be supported.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer)(5.37): Mr Speaker, I appreciate that there is a lot of grandstanding going on here this evening, in part because there are people here whom people want to impress and because people have already committed themselves publicly to a particular position in so-called defence of the milk industry. But I think that a few things need to be put very squarely on the table in this debate. First of all, I want to quote from a press release which the Milk Authority of the ACT has put out today. I quote the last three paragraphs:

> "The Authority has now received an application from National Foods for the marketing of processed milk and the Authority is currently considering that application.
>
> "The Milk Authority has legal advice which makes it clear that failure to allow interstate players entry into the ACT market may have constitutional implications. Section 69 of the Australian Capital Territory (Self-Government) Act provides for the freedom of trade and commerce between the Territory and the States. This provision has the purpose of picking up Section 92 of the Constitution.

> "The Authority would like to make it clear that, while all applications for market entry will be considered seriously and within the law, this does not mean that anyone can just decide to enter the market. The requirement still exists that approvals be sought".

Mr Speaker, I read that statement to be quite clear. The Milk Authority has received an application from National Foods, not an existing player in the marketplace. The Milk Authority is taking seriously the application of National Foods to become a player in the ACT milk industry. Assuming that they satisfy the other technical requirements which might be imposed in such circumstances, they are perfectly capable of allowing - I would even go so far as to say "are likely to allow" - National Foods entry into the ACT marketplace.

Mr Speaker, the legal advice which is referred to in that press release I have just quoted is not the same legal advice which has been tabled on the floor today by Mr Smyth. It is different advice; but it is advice which is substantially in the same terms. I think any lawyer who looks at that advice and looks at the legislation upon which it is based would have no hesitation in supporting the view which that advice puts forward. I will quote briefly from the advice which the Government Solicitor has delivered today to the ACT Government - to me specifically:

> ... a law which discriminates against interstate trade and is of a protectionist character will infringe section 92. This will be the case even where the law is not discriminatory on its face but is given effect in a discriminatory manner. ...
>
> Paragraph (a) of section 17A -

that is, of the Milk Authority Act -

> prohibiting import of unprocessed milk, is on its face protectionist and is almost certainly ineffective by virtue of section 69 of the Self-Government Act ... if the substance of the course proposed by the Assembly -

which is a reference to Mr Hargreaves's amendment -

> is that the existing locally based processor and distributor should be allowed to continue to operate but that any interstate competition should be barred, this would seem to amount to a protectionist application of the Milk Authority's powers which would be struck down under section 69.

I repeat, "which would be struck down under section 69". The opinion reaches a similar view on a reading of the Mutual Recognition Act, which is a Commonwealth Act which applies by paramount force in the ACT and says that there are similar tendencies, although it is not quite so clear, from the Trade Practices Act. Mr Speaker, if members have not read that opinion already, I suggest that they go and do so straightaway.

Mr Speaker, there is nothing mealy-mouthed about the Government's position on this legislation. We intend to defend the legislation to the extent that it is defensible; but it is also perfectly clear from what has been put before this Assembly today that the ACT Milk Authority legislation is legislation in serious risk of being, in part or in whole, struck down. Mr Speaker, whether the members on the other side of the chamber like that or not is irrelevant to this debate. The fact is that the legislation is on shaky ground, and indeed has been on shaky ground, as Mr Smyth's quote from the briefing paper in 1989 indicates, for at least the last decade.

Mr Speaker, what does the Government do about that? Clearly, what the Government has to do is try to apply the law as far as it will go. Mr Smyth has made it clear that the Milk Authority needs to ensure that the law as it now stands in the Territory is complied with. But, as is clear from this press release, an application has been made under the legislation. It has been made by National Foods under the legislation. It is equally clear that the opportunities to reject the application are extremely limited, if they exist at all. Mr Speaker, very soon we are going to be faced with the reality that the Milk Authority is going to approve the entry of National Foods into the ACT milk market. Let us all understand that that is going to happen, and very soon indeed.

Ms Carnell: It will be inside the law.

MR HUMPHRIES: It will be inside the law of the Territory. The Milk Authority will have acted entirely appropriately in accepting and approving that application. Mr Speaker, the question is not, as this motion amended before us stands, one of mounting a full and vigorous defence of the milk industry, because the breach is already there. The crack in the wall is already very clear, and the crack is about to result in a huge chunk of the wall coming down.

Mr Berry: Nobody has decided that. That has not been decided.

MR HUMPHRIES: Mr Berry, I concede that there has been no decision. What I am saying to you, though, is: Read that legal advice and the advice that the Milk Authority has received. Their press release makes it perfectly clear to anybody. It is going to fall. It is going to come down. That hole is going to appear. National Foods, and probably other players, are going to march through it very quickly. What we think about that - what the Government happens to feel about that - is entirely irrelevant. It is completely and utterly irrelevant. Should we take steps to prevent that happening by, for example, as Mr Hargreaves's original motion called for, the seeking of injunctions, it is very likely that the Territory will incur significant damages, or significant costs, by way of an order for costs or an order for damages at some point down the track, because the position we would try to take in that circumstance would be potentially unsustainable. Mr Speaker, that is the position.

I want to come to this question of national competition policy and what we should do about that policy in respect of the ACT. We support the motion that has been put before the chamber because, frankly, we would like to see the question of how to resolve difficult issues of national competition policy put into another forum where the decisions that we have taken in the present environment could be properly tested. We are happy for that to happen because, frankly, Mr Speaker, we are sick of people loudly proclaiming

that we are not serious about trying to protect aspects of ACT industry or practices which are at risk under the new national competition policy. As has been made clear already, it is not a policy which this Government signed, but one which the former Labor Government signed and which we have been to some extent carried along with because of the implications of that decision back in 1994.

Mr Speaker, we would be happy to have the decisions we propose to take under those principles tested by an independent body. That is why we are prepared to support the amendment which has been put before the house. Mr Speaker, we have been told, in respect of this particular review that has been undertaken in respect of the Milk Authority, that it is clearly not independent enough for the liking of members of this place. Therefore, I would like to throw out a challenge to members here. Mr Speaker, I hope that everyone is listening to what I am about to say. Mr Speaker, members here claim that members of the ACT administration are not sufficiently independent to be able to conduct such a review. Let us assume, for argument's sake, that that is a sustainable argument. The Chief Minister has agreed with me that it is entirely appropriate for whatever answer that review comes up with to be tested independently by a consultant somewhere outside the Government, entirely outside the Government - some firm or body with a background or expertise in implementation of that policy.

Mr Speaker, I am perfectly happy for the Assembly to have a role in choosing who that independent consultant would be. The advice would be provided, not to the Government, but to the Assembly as a whole. *(Extension of time granted)* We have been told tonight in the course of this debate, I think rather insultingly, that the public servants who have developed an expertise in this area within the ACT government service are not sufficiently independent to be able to assess the question of the Milk Authority's future at arm's length and with sufficient empirical application of their own minds. Okay; we have been told that that cannot happen; that is fine. I put the challenge down to members in this place to let the review result be tested independently - not by a committee of the Assembly, which, with great respect, has a considerable amount of political overlay in its decision-making; but by independent consultants altogether, people with expertise on a day-to-day basis in the working of this area. If members are serious about the criticism they have made of this process, I invite them to take up the offer that we have made.

Members have said that we should do this through the Competition Policy Forum. Mr Speaker, I have grave reservations about that, and I will explain why. The reason I have grave reservations about it is the approach that has already been taken by the forum on this very issue, this issue of Milk Authority deregulation. I am advised that, some time ago, when the terms of reference for the review were being settled, the competition policy unit within the Government approached the committee through its chairman, Brian Acworth, to brief the committee on the proposals for review. It offered to do so. Some weeks later, the forum accepted an offer to have a presentation to that forum. Members of the unit arrived to brief the forum on what the proposals were. One member of the forum got up and left as soon as the Government's public servants arrived. It was fairly clear that there was considerable tension about the mere presence of those members of the competition policy unit at that meeting. Notwithstanding that, the very professional public servants who came to that meeting to brief those people conducted a full presentation to the meeting. At the end of the meeting, they offered

to bring the forum along with the process of following through from that point on; that is, explaining to them what would happen from that point on, involving them in the process of considering what that meant in terms of looking at the issue of deregulation of milk in the ACT.

Mr Speaker, that was at least a month ago. No follow-up at all from the forum has occurred. No interest has been expressed. Nobody has approached the Government's competition policy unit to have further discussions on that question. Mr Speaker, I would suggest to members that they need to step back and look at this from a distance for a minute. Do you really think that the issue of this forum has not been sufficiently charged with emotion to make it unlikely that we are going to be able to deal empirically and completely impartially with that issue through that forum at this stage? Let us be honest with ourselves and ask ourselves that question. The answer, we all know, is: No, it is not going to be possible through that mechanism.

But I am suggesting an alternative mechanism. Let us suppose, Mr Speaker, that our public servants have got it wrong; that they have had their arms twisted by the Government to come up with a particular answer which the Government seems to want - God knows why, but we have this particular answer which the Government wants; they have been forced to come up with a review with a particular result. Let us test it against an independent party, a party with expertise in the area. If you people in this place are serious about your concerns in this area, put it to that test. If you are not, then do not continue the criticisms you have made so far of the process that we have embarked upon.

MR BERRY (5.52): Mr Speaker, the Government has been disingenuous in relation to this matter. Mr Humphries's speech adds to the proof of the Government's position. As he spun a web of deception about the whole arrangement, it became clearer and clearer that the Government has no interest at all in defending the Milk Authority.

Mr Smyth: You were in the first Labor Government. Why did you not defend it then?

MR BERRY: Milo Man, be quiet. I dub you the "Milo Man". Wander aimlessly forth under that banner.

Mr Speaker, the fact of the matter is that the challenge was a cheap trick. The Leader of the Opposition has already informed you that he has written to the Competition Policy Forum to have them examine the matter; and I am sure that they will take up the matter, now that they have been requested to do so. Nobody else has requested them to do so. Your Government's performance on this issue has been deplorable from the word go. Let us not forget your action on the Belconnen pool. It will not be forgotten. Your approach from the word go has been deplorable. You used the competition policy, in another round of deception, to ditch the promised Belconnen pool because you never meant it in the first place.

Mr Speaker, the facts of the matter are fairly plain. The Government has been disingenuous on this issue from the start. The Chief Minister is a dry economist who wants to discard valuable public assets to prop up her failing budget. This is about the sale of assets to fund recurrent spending. It is a clear and simple old trick, which will not be accepted by the community. It is an asset that is owned by the community.

The thousands of people who are affected by this want to keep their Milk Authority and they want a government that will defend it. That is why the motion and the amendments have been put forward.

Mr Speaker, there is no reason at all to accept the challenge that Mr Humphries has put forward, because it is meaningless. Their performance on these issues in the past is just not good enough. There needs to be an independent body. It is no good the Government trying to create the impression that we have some lack of faith in public servants. As has already been said, it is unfair to lay this responsibility on public servants. The assessment needed here not only has to be an independent assessment, but also has to be seen to be an independent one; and public servants cannot fill that measure.

Mr Speaker, the motion and the amendments will be supported by Labor. I see that the Chief Minister is proposing to move an amendment to have this matter handed back to her. It will seek to add the following new paragraph:

> (4) requires the Chief Minister to report to the Assembly by the last sitting day in August 1998 with a proposed model for such a council including a defined role, accountability arrangements and resource issues.

Why would we hand over the authority to the Chief Minister, given her performance thus far in relation to competition issues? You would have to be crazy. There is not a chance in the world, in my book. Anybody that is sucked into that has not learnt much from the Government's performance to this point. We will not be sucked into it at all. We will not be supporting the Chief Minister's move to hand herself the authority to deal with this issue along the way. Mr Speaker, the motion and the amendments that have already been moved should be supported. We will wait for further debate in relation to the amendment which has been foreshadowed by Mrs Carnell but is yet to be moved.

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

MS CARNELL (Chief Minister and Treasurer) (5.56): Mr Speaker, I move:

> After proposed paragraph (3) add the following new paragraph:
>
> "(4) requires the Chief Minister to report to the Assembly by the last sitting day in August 1998 with a proposed model for such a council including a defined role, accountability arrangements and resource issues.".

Mr Speaker, again, I make the point that there is a need for a model for this council. I think Ms Tucker made the point that, at this stage, they had not determined what the model would look like. There also need to be a defined role, accountability arrangements, and, just as importantly, resourcing issues. Mr Speaker, although Assembly committees have much power and capacity, they do not have the capacity to resource anything.

That must be done by the Executive. It is the only way that something can be resourced outside current Assembly budgets. So, on that basis, I am suggesting that I bring forward a report to the Assembly. We will consult the relevant Assembly committees with regard to the whole approach. At the end of the day, the only entity that can resource a council of this sort is the Government.

MR KAINE (5.58): Mr Speaker, I move the following amendment to Mrs Carnell's proposed amendment:

> Line 1, omit the words "Chief Minister", substitute the following words "Standing Committee for the Chief Minister's Portfolio".

Mr Speaker, I understand that the Chief Minister has a different view about this matter from mine and that Mr Osborne and Mr Rugendyke have somehow been persuaded to her viewpoint. That being the case, there is a strong probability that my amendment will not get up. But I still think that I should speak to it and explain why I am moving it. Hopefully, Mrs Carnell herself and, certainly, Mr Osborne and Mr Rugendyke will be persuaded by the infallible logic of what I am going to say.

Mr Speaker, it seems to me that for the Chief Minister to take on this role in connection with this independent council is contradictory to part one of Mr Osborne's motion. Mr Osborne is proposing the establishment of an independent council, the purpose of which is to make recommendations to the Assembly - not to the Executive, but to the Assembly. That being so, the constitution of this council, its terms of reference, its roles, how it operates and how it is resourced should be defined, not by the Chief Minister, not by the Executive, but by the body to which this council is going to be responsible; that is, the Assembly.

Ms Carnell: You cannot resource it, though.

MR KAINE: The Chief Minister says, rightly, that the only body that can resource such a council is the Executive. That is true. But it does not follow from that proposition that the Executive must determine the composition, the role, the terms of reference and the like of this council. If they are convinced - and the Chief Minister seems to be - that such a council would be beneficial, not only to the Assembly but also to the Executive, then the Chief Minister and her officers will have the opportunity to put their position to the standing committee that I have nominated as the body that should make these determinations. They can put to the Standing Committee for the Chief Minister's Portfolio their views about how the council should be constituted, what its membership should be in general terms.

In fact, under clause (2) of Mr Osborne's motion, in terms of the possible appointees to the council, they are already obliged to consult this committee. They can consult equally on the composition, the form, the role and the terms of reference. They can indicate to the standing committee at the time that those discussions are taking place the extent to which they are prepared to fund such an organisation - the resourcing that they are

prepared to provide. But, at the end of the day, if the course of action that I am proposing is followed, the council will be one defined by this Assembly, not by the Executive. I would have thought that the Chief Minister would have wanted this council not only to be independent of the Executive but also to be seen to be.

I would suspect that, if the Chief Minister determines the role, composition and terms of reference, that council will always be seen, regardless of any resolution that this Assembly passes, as being a creature of the Executive. I would have thought that that is exactly what the Executive would not want. In fact, the Chief Minister has indicated that she would prefer it to be at arm's length and she would not want it to be seen as a creature of the Executive.

What I am proposing here is not just form; it is substance. It ought to be the Assembly or one of its standing committees that determines these things, and not the Executive. I would ask the Chief Minister to consider that proposition, and I would ask Mr Osborne and Mr Rugendyke to consider whether they really want to have advising this body an independent council that has been, in fact, set up on terms and conditions determined by the Chief Minister and the Executive. There is a contradiction in that, as far as I am concerned.

I repeat: There is no impediment whatsoever to the Chief Minister and her officials putting to the committee their propositions as to how they would see this council being resourced. Then, when the recommendation comes to this place from the standing committee, it has the imprimatur of the Assembly. It has the indicative support of the Executive. It has to be voted on in this place before the Executive is in any way bound; but they have had an opportunity to make their input. Mr Speaker, I submit that this fulfils completely the intent of Mr Osborne's motion, that it be an independent body, accountable to this Assembly and not to the Executive. I would think that completely the opposite would be the case if we went the route that the Chief Minister is suggesting. Mr Speaker and members, I submit to you that you should support my amendment and create a council that is seen to be independent of the Executive.

MS TUCKER (6.04): I rise briefly to - - -

Ms Carnell: I thought we just said that we were not having any more speakers.

MS TUCKER: I just want to say a few words to support Mr Kaine's amendment. I do not think anyone told me that I could not do that. I just want to make the point that I believe that it is quite appropriate for these matters to go to the Chief Minister's Portfolio Committee, which would obviously make recommendations to the Government. Mrs Carnell would then have the opportunity to respond to such matters in the normal way in the Assembly. It is turning the process back to front to do it the other way, and I cannot see any real justification for it. I acknowledged when I first spoke in this debate that there are resource implications and that, of course, the Government needs to be involved. But there are broader issues as well that need to be discussed. I think, normally, the Chief Minister welcomes the advice of our Assembly committees to help inform her decisions. So, I am disappointed that in this case that process does not seem to be appropriate.

MR BERRY (6.05): Mr Speaker - - -

Ms Carnell: Wayne, did we not just agree not to have any more speakers?

MR BERRY: This is on the amendment.

Ms Carnell: Yes; but we said that there would be no more speakers.

MR BERRY: This will take only five minutes. We are just going to tell you Labor's position in relation to the amendment. Labor will support the amendment that has been moved by Mr Kaine. Certainly, there has been no coherent argument against it. If members have an objection to it, I would like to hear the arguments against it. I do not think there can be any arguments, because it makes reasonable sense, particularly on the ground of the independence which is required of such a body.

MS CARNELL (Chief Minister and Treasurer) (6.05): Mr Speaker, I rise on the basis that everyone else has spoken. We will, obviously, consult the Chief Minister's Portfolio Committee; but such things as resourcing, accountability arrangements and so on are issues that do affect government. Obviously, the Executive is the only entity that can actually determine them. What my amendment says is that we will report to the Assembly. Obviously, at that stage, if the Assembly is not happy with the approach that is put forward, the Assembly has every capacity to debate it and to suggest change. Nobody is suggesting that this amendment says that the Chief Minister will go ahead and do this without any input from the Assembly; quite the opposite. It requires the Chief Minister to report to the Assembly. Obviously, the Assembly can then make comment, as it can, by the way, during the process.

I think it is really important that, this time, this is set up properly. Last time, the Assembly set up the forum with no defined role, no accountability arrangements and no resourcing issues having been addressed. The Assembly just decided to go down a path of setting up the entity. Mr Speaker, I am suggesting this time, because we want it to work, that we really do need to get all of those things in place prior to the event. Let us make this work this time, Mr Speaker. This is a way to make sure that it works - to ensure that the Assembly and the relevant committee have input into the whole approach and that we do have an independent council with appropriate people on it that will be able to help in this process.

MR SPEAKER: I call Mr Kaine to close the debate, mercifully.

MR KAINE: If I need leave to speak again in connection with my amendment, then I so seek leave. I will be brief.

Leave granted.

MR KAINE: Mr Speaker, I have to take issue with the proposition just put by the Chief Minister, that only the Executive has the wisdom to create a body of the kind that is proposed here and that nowhere else in this place does such wisdom reside. That is not a proposition that any reasonable person could accept. I firmly believe that the Chief Minister's Portfolio Committee is quite competent to deal with the issues that are inherent in the establishment of such a council. They would not do so without consulting the Chief Minister and her officers. They are quite competent to take that advice and translate it into recommendations to this place. Any other proposition I would have to reject out of hand.

MR OSBORNE (6.08): Just briefly, I will speak to Mr Kaine's amendment and also close the debate, Mr Speaker. I am pleased that all members will be supporting my motion on this issue, because I think it is an important one. I have been speaking about competition policy for 18 months now, and it has really only been since we have seen the impact within the milk industry that other people have seemed to want to jump on board. But I am pleased that steps have been taken to set up an independent body. So, I thank all the members for that, because I think what we have done this evening is very important. I do not think the issue that we have been arguing about for the last half an hour should be carrying as much weight as it is. Mrs Carnell has indicated that she will work with the Chief Minister's Portfolio Committee.

Mr Berry: Oh; and you trust her, Ossie, all of a sudden?

MR OSBORNE: I trust her more than I trust you, Mr Berry. But that is not saying a lot. I would not take that as a rap, Kate.

What this amendment says, Mr Speaker, is that the Chief Minister will report back with a proposed model. So, it is not as if we are giving her an open chequebook to go and do as she likes. She still has to report back. If she has not consulted with the Chief Minister's Portfolio Committee and we are not happy, there is still room within the Assembly to amend it. When I first raised this motion, I indicated to Mrs Carnell, when I was speaking to her, that I wanted to hear from her about whether she would set in train a motion. She has done that. This barking that has gone on for the last half an hour has been, I think, a bit of a waste of time. I understand what members are saying; but the Chief Minister has said in this place that she will work with the Chief Minister's Portfolio Committee. If she does not do that, that is going to be her problem later. As I said, it is a proposed model.

So, once again, I thank all members for supporting this motion. It is very important. I am pleased that people are finally realising the dangers with the competition policy issue. I hope that, in the future, this new body will be able to address some of the concerns that we have been talking about and that people here in the public gallery have been talking about. I thank members for their support.

Question put:

> That the amendment (**Mr Kaine's** to Ms Carnell's proposed amendment) be agreed to.

The Assembly voted -

AYES, 7	*NOES, 8*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Humphries
Mr Stanhope	Mr Osborne
Ms Tucker	Mr Rugendyke
Mr Wood	Mr Smyth
	Mr Stefaniak

Question so resolved in the negative.

Amendment (**Ms Carnell's**) agreed to.

Motion (**Mr Osborne's**), as amended, agreed to.

MR STANHOPE (Leader of the Opposition): I seek leave to make a statement under standing order 46.

MR SPEAKER: Proceed.

MR STANHOPE: Mr Speaker, during my speech on this matter - under severe provocation from an interjection from the Chief Minister - I made a statement which perhaps overstated the facts of the matter. I did respond in a way that I now regret. I used a far more colourful description of the views of some members of the Competition Policy Forum about Mrs Carnell's attitude to the nature of her relationship with that organisation than was the fact. I indicated that members of the competition forum had indicated to me that they did not believe that the Chief Minister was actually telling the truth. That does overstate what they told me. They told me that their recollection was certainly different and they certainly had a different understanding from that of the Chief Minister. But, Mr Speaker, I did overstate the case, and I regret that.

Sitting suspended from 6.17 to 8.15 pm

PAKISTANI NUCLEAR TESTS

MR HIRD: Mr Speaker, under standing order 128, I would like to fix the next day of sitting for the moving of private members business Notice No. 6.

CIVIC AND WODEN YOUTH CENTRES - FUNDING

MR CORBELL (8.17): Mr Speaker, I am pleased to be getting to this matter a little earlier this evening. I move:

> That this Assembly:
>
> (1) condemns the intervention of the Chief Minister in reducing the funding offer to the Civic and Woden Youth Centres from 3 years to 1 year and the subsequent failure of the Minister for Education to defend the needs of the two centres;
>
> (2) recognises that the Civic and Woden Youth Centres qualify for category 1 support as assessed by the Department of Education; and
>
> (3) requires the government to restore its funding offer to a 3 year period for Civic and Woden Youth Centres effective from 1 July this year.

Mr Speaker, this is an important motion and it says some very significant things about how this Government operates in the Territory. It says some significant things about how political patronage happens in this Territory. It says some significant things about the real credibility of the Minister for Education when it comes to protecting the interests of young people in the Territory. Finally, it says some significant things about what sorts of priorities this Government places on youth services.

This is a simple and straightforward motion. It says, first, that this Assembly does not accept the activities of the Chief Minister in arbitrarily deciding to cut funding to two of the ACT's youth centres. Secondly, it says that these youth centres are significant and important facilities and deserve to be funded on a triennial basis like all of their counterparts in the Territory. Finally, it says that this Assembly requires the Government to make that commitment. It is a simple and straightforward motion.

Mr Speaker, I would like to outline this evening exactly what occurred in this particular instance and what led me to place this motion on the notice paper. I was contacted at the beginning of this week by representatives of the Woden and Civic youth centres who told me that they had been told that their original offer of funding from the Government for

three years for the operation of their centres had been cancelled and that instead they would be offered one year's funding only. When they asked why they were offered only one year's funding, they said they were told by officials of the Department of Education, "We are on instructions from the Chief Minister's office to give you one year of funding only". There was no other reason; just, "The Chief Minister told us to do it; and that is what we are doing".

Mr Speaker, what does this say? Let me put it in context. Every other youth centre in Canberra received a funding offer for three years, a triennial funding offer due to take effect at the beginning of the next financial year. Woden and Civic initially received a funding offer for three years as well. If there is any doubt about that, Mr Speaker, I have here a copy of the service purchasing contract between the ACT and the Woden Community Service, which runs the Woden Youth Centre, and it says the contract period means the period commencing 1 July 1998 and ending on 30 June 2001. Mr Speaker, that is a three-year period. Why did the Government make a decision to provide a contract for three years to the organisation to sign but when they showed up on Monday of this week they were told, "Sorry, only one year."?

Mr Speaker, let us look at exactly what has happened here. What has happened here is nothing more than political spite on the part of the Chief Minister to target two youth centres that get up her nose, two youth centres that are articulate and advocate the interests of young people in the Territory. That is a disgraceful act by this Chief Minister. What makes it even more disgraceful than just the pure political spite which drives it is that these two centres were assessed as category 1 under the Government's own criteria. Those criteria mean they are entitled to three-year triennial funding. Erindale was offered it, Belconnen was offered it, Gungahlin was offered it, Southside was offered it, but not Woden and not Civic. Why? That is the question we must ask, and that is exactly the question that Woden and Civic staff asked when they went to sign their contracts. And what were they told? They were told, "The Chief Minister has said we are allowed to offer you only one year contracts".

Ms Carnell: Who told them that?

MR CORBELL: Who told them that, Chief Minister? Officials of Mr Stefaniak's department told them that. That completely undermines any credibility the Government has on this matter, and well may they be sensitive about it, Mr Speaker, because this is nothing more than political spite. That is what it is.

Why is it political spite, Mr Speaker? Let me put the case to you. Woden and Civic have two very articulate advocates when it comes to youth services, two people who say it as they see it. They do not pander to the interests of the Chief Minister. They do not just say, "Kate, please come along and open this for us so you can get your picture on the TV". No. They actually say to the Government, when they do a good thing, "You have done a good thing"; but when the Government has done a bad thing, they say, "You have done a bad thing and we are not prepared to put up with this; it is not in the interests of the constituency we serve". Perhaps, just perhaps, Mr Speaker, the fact is that these two individuals and the services that they represent have got up the Chief Minister's nose and the Chief Minister is not prepared to give them the security of tenure that she and the Minister's department are prepared to give to all the other centres.

The Minister over there is looking at me, absolutely flabbergasted, and well may he be, Mr Speaker, because, when it comes down to it, his failure to stand up for the interests of youth centres is a stunning indictment. His department, and presumably he himself, made the offer of three years; but he does not seem to carry much weight when it comes to handing out the money. Ultimately, it was the Chief Minister who overrode him, yet again.

Mr Stefaniak: Oh, dear me! Oh, mate, Enid Blyton could not write it better for you.

MR CORBELL: It is becoming embarrassing, Bill. Every time something happens in your department that the Chief Minister does not like, you roll over, and she just sends in her adjutants and tells your department what to do. Mr Speaker, this simply is not an acceptable way to run a department, and the youth sector in Canberra deserves to be seriously concerned. They deserve to be seriously concerned because they have a Minister who simply does not stand up for them. Why? Mr Speaker, why do youth centres in Canberra get treated by two different rules? Why do youth centres that all meet the same criteria get treated by two different rules? Why are Civic and Woden singled out? It is just not fair, Mr Speaker. It is simply unfair, and it simply comes down to a matter of political spite.

There are a few other issues I want to address in this debate, and the first is this: Woden and Civic provide essential services to young people. Woden and Civic deal with young people who are at the very margins of our society - people who are homeless, people who have left the education system and people who are unemployed. Many of them face problems with drugs and crime. They are people at the margins. They are people whom we, as a community, must be prepared to assist to get them back into our society and to find meaningful, worthwhile roles within our community. Youth centres are part of the way of achieving that. But youth centres cannot operate properly unless they are given some security of tenure, and unless they have some confidence that the programs they provide are going to be there not simply on a year-to-year basis but on a more continual basis, which is why the Government makes an offer of triennial funding for all except Civic and Woden.

Mr Speaker, I have been alerted to the fact that the Civic Youth Centre has just received funding from the Commonwealth Government for literacy programs; funding to employ a literacy officer to assist young people who are not in school to get some assistance with their literacy skills so that perhaps they have a bit more hope of finding a job and perhaps have a bit more hope of feeling that they have enough confidence to go back into the education system. Mr Speaker, how long is the Commonwealth department's funding arrangement for? Three years. Three years, Mr Speaker, is the funding arrangement from the Commonwealth. The Commonwealth has no concern with Civic. The Commonwealth recognises the importance of giving Civic some continuity so that they can continue to provide effective services to young people. Unfortunately, it is the sort of continuity that this Government, through political spite, has decided is not appropriate for those two centres, and those two centres alone.

Mr Speaker, the most important element of my motion this evening calls on the Government to restore its funding offer to a three-year period for Civic and Woden youth centres effective from 1 July this year. We are not asking the Government to spend any more than they would normally do. We are asking the Government to fund these two centres because they meet exactly the same criteria as all the other youth centres in Canberra for this level of funding - triennial funding for those centres. Mr Speaker, if they are eligible for triennial funding they should receive triennial funding. Under the Government's own criteria, if they are eligible for that level of funding, they should receive it, and that is what we are asking this Government to do. That is exactly what we are asking this Government to do. It is not an unfair request. It is not an unfair imposition. It is simply asking for something that is decent. It is simply asking for something that was going to be done in the first place, until the Chief Minister intervened.

There are all sorts of important services that these youth centres have. There are all sorts of important facilities that they provide. But ultimately, Mr Speaker, the operations of these centres are dependent on a level of security of funding from the Government. I think it is simply unacceptable for a government to make a political decision that certain centres will be treated differently from others, and that is what has happened.

Mr Speaker, the Chief Minister has overridden her Minister for Education again, and this Assembly has to say whether or not it thinks that is acceptable. Clearly, this side of the house thinks it is not, because community services and youth services deserve to be treated on the same basis as that on which they are entitled to be treated under government funding criteria. That is what this motion is about. I hope that members in this place feel it is appropriate to support this motion and require the Government to provide the funding to these centres which they were always entitled to receive.

MR RUGENDYKE (8.30): Mr Speaker, I rise to support this motion. The issue was raised two days ago when Ms Kim Sattler from the Woden Community Service called to alert me to the amendment to their proposed contract. Ms Sattler came to my office, and Ms Tucker was also invited to join our meeting. We wrote to the Chief Minister seeking answers, and subsequently Mr Corbell lodged this motion we are discussing today.

My association with Kim Sattler goes back many years. We have had many dealings in the youth services area. We have been mutually involved in some serious and extremely delicate situations. I particularly applaud the Woden Youth Centre on their difficult and traumatic work regarding male sexual abuse. In fact, I have the utmost trust in Ms Sattler's professional dealings. So, when Ms Sattler came to me with her concern I knew that she was genuinely gobsmacked when she was advised that their funding agreement would be cut back from a three-year period to 12 months. Why would she not have been shocked?

The situation was this. I am told that the Government had spent 12 months conducting a review into service purchasing agreements and formulating a structure to assess funding categories. In November last year these two organisations were informed that they were rated in category 1, and all subsequent negotiations were conducted on the basis that it would be a three-year contract period. Almost four weeks ago Ms Sattler received the

service purchasing contract which specifically stated that the contract period would commence on 1 July 1998 and end on 30 June 2001. When Ms Sattler entered the final stages of negotiation this week she was advised verbally of the change to the contract period, just eight days before the current contract expired.

This raises serious questions about the process which the Department of Education and Community Services executed to implement the decision. I have since spoken with the Minister's office and was told that the reason for the change for these two agencies was that the direction of their services was being reassessed. Ms Sattler assures me that she has yet to be advised of this change of direction by the Minister's office or the department. Again I question the process and the reasoning applied by the Government.

In the case of the Woden Youth Centre, they supposedly have been earmarked to carry out more work with Aboriginal and Torres Strait Islander communities. To my knowledge, they are already extremely active in this area. They recently received an Australia Council grant to accommodate Dorothea Randall's dance program for the next six months. Further, an Education Department officer has been placed two days a week to develop cultural programs targeting at-risk Aboriginal and Torres Strait Islander youth. I am also told that in the case of the Civic Youth Centre it is desired that they concentrate on older youth, the 18- to 25-year-old age groups. My experience over the last several years is that they have been doing that.

Mr Speaker, I am disturbed that it took questions from me on behalf of the Woden Community Service and the Civic Youth Centre to obtain some sort of explanation. I believe the Government should show a sign of good faith to the two agencies and uphold the three-year contract period which they understood was in place until it was plucked out of left field this week.

MR STEFANIAK (Minister for Education) (8.35): I think Mr Corbell needs to learn a little bit about youth centres before he proposes motions such as this. Firstly, I would refer him to his interview on the ABC where he said that there is a total of six youth centres in Canberra. Wrong! There are eight, not six.

Mr Corbell: Six, not including Civic and Woden.

MR STEFANIAK: You indicated that four of the six have received a funding offer for three years. Actually, it is six out of the eight. There are eight. Mr Corbell also uttered absolute nonsense in relation to why the Chief Minister does not like these two youth centres, saying that they criticise and are sort of standard-bearers in terms of looking after the rights of youth. Mr Corbell, I think we have a very vibrant youth sector. We have eight very vibrant youth centres. I do not know whether you have visited them all, Mr Corbell. I certainly have and I do not think any of them are afraid to put their point of view for their constituents, and to put their views in terms of how best the Government can assist youth in this Territory. That is a contribution that I value as Minister, and I would think my colleagues on this side of the house value it as well.

It does not particularly worry me, Mr Corbell, if they are sometimes critical of us. In fact, in my three or so years as youth Minister I cannot remember the Civic or Woden youth centres being any more critical of or supportive of Government policy than any

other youth centre. Far from it. There are a number of people in the sector who will always have constructive criticism and helpful suggestions. I welcome that. So really, Mr Corbell, I think you are completely off with the fairies on this particular motion. Also, your version of what was told to the department is completely different from what has been suggested to me by my officers, so I really wonder where you are getting that. I think you need to check your facts there a little bit.

Let us look at the facts of the matter, Mr Speaker. Basically, the Civic and Woden youth centres have been offered a funding arrangement for a one-year period to continue the same style and level of service which they have provided in the past and with the same level of funding that they have had in the past. That is not a reduction of funding. The offer is certainly not motivated by another amazing comment you have made, Mr Corbell, and that is to sell off the sites. I will quote from your press release. It said:

> "I am also informed that the Government has decided that the land where the Civic and Woden Youth Centres are located should be used for commercial development and this is why they have decided to cut short their funding," Mr Corbell said.

Unbelievable, Mr Corbell! Civic and Woden are two key parts in the ACT in terms of our youth centre structure. This Government is very mindful of the need to ensure that the youth of those areas are adequately and properly provided for. In fact, part of what we are doing here is motivated by improving and expanding the services operated there. Hence the change in terms of these particular youth centres and the fact that they are on 12 months' funding to provide the same service as they do now with a view to additional services and changed services being offered after that. It is about providing for the needs of our youth. That is the key criterion for this Government. That is the absolute, bottom line criterion too, and I do not think any reasonable person can argue with that. For Mr Corbell to say that this is a plan that is also motivated by selling off the land is really just way out of left field.

Mr Speaker, a number of people in the sector have contributed in terms of the various categories that we have come up with for the next few years. A number of people have commented, too, in terms of what they suggest would be best for the needs of youth in relation to this and other issues. That is something that the Government certainly takes notice of. A number of suggestions have been put forward, since we have been returned as the Government, as to how best we can meet the needs of youth for the Woden and Civic areas. Those are things that the Government is very mindful of, and they are really the rationale behind how best we can provide for youth in the region.

The report on service purchasing and its implementation provides stability for the non-government sector through the introduction of three-year contracts for services, but it also provides the opportunity for innovation and for development through the regular review and tendering of those services. It is this innovation and development which I think Mr Corbell seems to be unable to appreciate. Is he really suggesting that the Government should automatically provide three-year contracts to all non-government organisations without taking the opportunity, Mr Speaker, to respond to the needs, and the changing needs that are identified, of people those services are designed to assist?

Mr Speaker, a number of youth centres have been offered three-year contracts. A number of them have recently been on contracts. Those that have been offered the three-year contracts are not actually undergoing a substantial change in the next three years. That obviously will allow them certainty and they will continue to provide the service that they do provide. But in other areas, of course, there is a change, and there is a need for assessment of services. There is a need to ensure that we target the needs of our youth in certain areas of Canberra as best we can, and that basically is what is behind this.

The Government has taken a decision that Civic and Woden should have a 12-month planned process to decide on the purchase of new integrated services for young people - services that target the particular needs of their clients. I emphasise, Mr Speaker, that we are saying to the community that we want to assess the needs of young people in the Civic and Woden areas in the next 12 months. We want to develop new and innovative services in that time, rather than wait for three years and have some young people who would miss out on services that we can provide and that will assist them. That is what it is all about. Mr Corbell mentioned that there are a number of young people maybe getting back into the community, young people who do not feel comfortable going elsewhere, who access these youth services. Yes, they do. I have been around the youth centres. There are young people at every single youth centre we have in that category, and that is one of the benefits of youth centres. There are differences too. There are demographic differences, age differences, all sorts of differences, which affect the various youth services, and there are changing needs which are apparent as well.

The Civic and Woden youth centres are two major and long-established centres. They do serve a unique group of young people, a unique group compared to the client group of some of the other centres. Woden, for example, Mr Speaker - this is something that is becoming more and more apparent - has a very useful geographic location for providing services for young people of Aboriginal and Torres Strait Islander backgrounds. Woden is easily accessible for this purpose and the centre has already provided well-attended programs for that specific group. There is the potential, Mr Speaker, to run further services and outreach services for this group from Woden. The Government is very keen to purchase a range of very flexible, integrated and outreach services for ATSI young people. We need to have discussions about the nature of those services. During the next 12 months a planned process will enable new service specifications to be written, and a major component of those will be additional services to ATSI young people.

Civic, because of its location in the hub of Canberra, needs a specialised and centralised service for young people. A number of young people travel there from across the ACT, not just from the immediate region. This is a widely diverse group of young people in terms of age and differing needs. That is becoming very apparent, Mr Speaker, and it is something that needs to be addressed. The one-year period for which that centre has been funded will be used to conduct another planned process towards establishing and documenting new service specifications for a restructure of the services available to young people who use that centre, young people who have the potential to use it, and young people who need to access that centre. We are committed, Mr Speaker, to ensuring a long-term service provision for young people in those areas, and a service provision that meets the changing and very diverse needs that exist there.

Mr Speaker, I think I have mentioned already that we have a number of categories, and category 2 is the 12-month service. I think it is terribly important that we actually look at what we are doing here. We are providing services. We want to provide services that are applicable to young people. There are certain services that I think we need to assess - services which we can provide and we should provide from these centres - and that is something the Government is committed to doing. That is something that we are committed to assessing over the next 12 months so that those services can then be provided from those centres. That is really the core of this issue - what is best for young people.

We on this side of the house, Mr Corbell, talk to a number of young people. We go out there and we talk to our constituency. We hear what they say. We hear of their needs, and that is important. Some of those needs change. There are some things that need to be improved. We are mindful of that. It is not a case, Mr Corbell, as you say, of some devious means being adopted to sort of shaft two youth centres. Far from it. They are terribly important youth centres. They have provided good service, as have all of our youth services in the past; but there are certainly changing needs. There are things we need to do. There are additional things that I think we need to do and that we need to assess. Hence the need for the approach we have taken.

MR HARGREAVES (8.45): There are a number of issues I would like to address. Firstly, having worked in the department that conducts this, I have every confidence that those officers will be doing things to the best of their abilities. Also, I must say that the Minister is held in fairly high regard by those officers because of his commitment to education and to youth services. The problem, Mr Speaker, is that many of the public servants with whom I have associated over the last 30 years, and in particular the last few, are scared witless of the intervention of the Chief Minister when we talk about Feel the Power. There are many examples, and this is one of them, of how people are scared of the personal intervention of the Chief Minister into program service delivery. I have no doubt whatever in my mind, Mr Speaker, that these people have expressed their fear because their fear is well founded.

Mr Stefaniak: You are a shocker.

Ms Carnell: Not even Cabinet is scared of me. I wish they were.

MR HARGREAVES: Mr Speaker, I believe that the symbolism exchanged by you and the Chief Minister not only is comical but also devalues your position, and I would urge you not to continue it.

The thing that struck me while I sat and listened to the speeches earlier on, Mr Speaker, was the propensity for those opposite to laugh their heads off when we are talking about youth services, and I deplore it. These services are not something that we should be looking at lightly. It is not a case of mirth, Mr Hird. These things are absolutely super serious. What we are talking about here, Mr Speaker, is services to the kids of this city and this Territory. It is absolutely amazing to me how we can pontificate on the one hand and say, "We really value these youth services. We really think that they have a role to play in our society. But we will single out some of them for three-year contracts and others for 12-month contracts".

I accept the fact that services need to be reviewed from time to time. I welcome those reviews and so do the services; but they do not have to be reviewed under the threat of discontinued funding. We all recognise the fact that in three years' time they are going to be there. What is the harm in restoring to these people the guarantee of their existence and then talking to them seriously about the services that they deliver? I do not see why we need to have the sword of Damocles, also known as the will of the Chief Minister, hanging over their heads. I do not accept it at all.

Mr Speaker, the structure of services does not have to be connected every single time to guaranteed funding. We talk about business plans - this Government, and others for that matter, is really keen on people developing business plans - but business plans are not worth zot if they are for only 12 months. They need to be for a considerably longer period than that. You cannot say to a business, "Oh, you have 12 months' funding; good for you". You need to guarantee them at least three years of sustenance. I am suggesting that the same thing applies to all of our youth centres. They should be treated the same. I do not accept that any of the youth centres are any different. They service the same group of people in this community.

Mr Speaker, the Woden and Civic youth centres have an additional burden. If they are different from the others, it is because they have an additional burden. That additional burden is that they also look after itinerant kids from other parts of the town. The Erindale Youth Centre, for example, looks after kids in the Tuggeranong Valley, and so does the Tuggeranong Youth Centre, and they do an excellent job. But the ones in Woden and Civic also look after kids from the Tuggeranong Valley and from Belconnen, and they have an additional burden. We should be recognising that.

When we come specifically to Woden, Kim Sattler, as my colleague Mr Rugendyke has said, has done some magnificent work in this town. She has been recognised widely for that work and now is feeling fear. She is trying to operate under an umbrella of fear, which is totally inappropriate for the quality of work that she delivers. How many of us remember the initiatives that she drove to prevent youth suicide in this town? A number of people, some experts from interstate - Professor Kosky is one that I can recall - came and told us how we can counter this insidious disease that strikes our town. Kim Sattler was right behind all of that stuff.

Ms Carnell: And we funded it.

MR HARGREAVES: You funded it, and you sit there with a grin on your face and you tell me that you are going to drop their bloody funding down to one year. How dare you! I withdraw the expression "bloody", Mr Speaker. However, I do not withdraw the feeling that I put behind this. How can you sit there, Chief Minister, and say that you back that woman but draw her funding down to one year? Shame on you, Chief Minister!

I find that grossly intolerable, particularly when recently we had an expression of a need down at Tuggeranong, down at the backblocks of South Tuggeranong. The Minister for Education, Mr Stefaniak, came along and addressed the Community Council down there and showed us in, I thought, great terms his commitment to youth. I appreciated him coming down, and the council expressed their appreciation for that too. We believed it.

He committed his department to talking with the council and with the community on how those services could be developed in the Lanyon Valley. Well, we have not seen anything yet. You said, I believe, Minister, that we would see Sandra Renew and Michael White. We have seen neither of them yet. I was not going to raise that in this forum; but I am so angry about this particular thing that I have raised it, and I would be grateful if you could take that on board.

I also point to the fact that at that same meeting the Minister for Urban Services, in his capacity as the Minister for planning, was also asked about the provision of a block of land. Perhaps we could do something like that. He also gave that same forum an undertaking that something might be possible. Since he is not here, I will not try to interpret his words; but I suggest to you that there was something in the offing. We have heard nothing since. In my naivety, Mr Speaker, I believed that this Government had a commitment to youth services. I must say that that naivety has been shown to be true. My views on the issue were shattered when I saw that the Woden and Civic youth centres would have their three-year guarantee slashed to 12 months. I cannot tell you how devastated I was when I saw that. I think it is absolutely abominable, and I call upon the Government to restore that funding and that funding guarantee forthwith.

MS CARNELL (Chief Minister and Treasurer) (8.53): What a joke, Mr Speaker! I do not blame Mr Hargreaves, because he has been here for only a short time; but I have to say that Mr Corbell is wet behind the ears. He was absolutely used by a very capable lobby group, I have to say.

Mr Corbell: And Mr Rugendyke as well.

MS CARNELL: Mr Rugendyke is new too. You are not. You have no excuse whatsoever.

Mr Hargreaves: So we are duped, are we? Fifteen years of work in the youth sector dupes us, does it, Chief Minister?

MR SPEAKER: Order! Mr Hargreaves, you have already spoken. Please allow the Chief Minister the same privilege.

MS CARNELL: Mr Corbell, apart from being extraordinarily arrogant, and many other things, Mr Speaker, really should have checked with the Minister on what is actually happening here. Just one question to the Minister and he would have given the same information that he has given here today. I am sure that in the future Mr Rugendyke will do exactly that, rather than necessarily believe what a lobby group tells him.

Mr Hargreaves: What lobby group are we talking about, Chief Minister?

MS CARNELL: The people who are lobbying for three-year funding.

Mr Hargreaves: Name them.

MS CARNELL: I assume it is Ms Lowa and Ms Sattler.

Mr Hargreaves: I have not spoken to either of them, Chief Minister.

MS CARNELL: Well, fairly obviously, you believed him, and I would not do that. Mr Speaker, it is absolutely essential when we are looking at service delivery, particularly in an area such as youth, and in other areas as well, that we make sure that the service we are providing is of the highest quality, is flexible and is most responsive to the needs of the people we are servicing. In this case that is the young people of Canberra.

It has been determined, as part of an ACT Government-wide strategy, that two of the centres in Canberra need to have their services reviewed. There are any number of reasons why that would be the case, and the reasons are nothing to do with the centres at all, Mr Speaker. They are to do with the needs of the kids that those centres look after, and to make sure that we do have an integrated, flexible and innovative set of services right across Canberra.

This is the first time, at least in my time here, that a motion like this has been brought forward. There are many community groups - I am sure the Minister would agree with this - that have one-year contracts. In fact, since we came to government, a lot more have three-year contracts than did under the previous Government. But three-year contracts are not a right, particularly when the Government believes, as we do in this case, that we can make the services more innovative, more appropriate and maybe more reflective of the needs of the kids in the area.

It is interesting that people opposite did not bother to check out whether there was any approach that would improve the services here. We might be able to get a more integrated service if we bring together some of the services that are provided in Civic for kids. If we have more flexible opening hours for our youth centres, maybe that is a smart approach. Maybe we should not have a youth centre in Civic that closes at 5 o'clock. Maybe we should have a youth centre that is open at the times that the kids are here. It may be a big ask, Mr Speaker, but we believe that we can get better. The way to get better, of course, is to have a full review of the services that are needed, and whom do you ask, Mr Speaker? You ask the kids. You ask the other services that are operating in the area. Mr Speaker, I wonder whether those opposite bothered to check with the umbrella youth group, YANACT. Mr Corbell, did you check with the umbrella group? Did you check with YANACT? What is their view? They did not, Mr Speaker, and I know they did not.

Mr Speaker, the position that has been put forward this evening is not necessarily the view of the youth sector. In fact, I would have to say it is potentially not the view of the youth sector at all. From the discussions that I have had with their umbrella group, YANACT, and others in this area, they believe that youth centres do need to change over time. Some areas, particularly Woden and Civic at this stage, should be part of a review to see whether we can look after our kids better. That question was not asked by those opposite because they saw an opportunity to have a political go, to make a straight political attack. We heard no information at all about YANACT's view, other youth centres' views or the kids' views. They have no idea at all. They have done no work at all on that, Mr Speaker. The fact is that the department has and it believes that over the next 12 months we can put together a more integrated service, at both Civic and Woden, that may just reflect the needs of the kids better. Wow, what a surprise!

It was very interesting that Mr Corbell spoke on radio about the need for the Government to reflect the needs of the youth centres. Wrong, Mr Speaker! We are here to reflect the needs of the people who use the youth centres. That is what this is all about. Yes, those opposite should be very upset about this because they did not bother asking the kids who use them or, most importantly, the kids who do not use them and maybe need them. There is any amount of examples of reasons why, from time to time, centres like youth centres need to be reviewed and why we may need to come up with a different approach. Neither of those youth centres will be closed. Both youth centres are desperately needed in the town centres. There is no doubt at all about that. I state right here and now that there is no change of funding. In fact, in the outyears, the funding is there. There are no reductions, Mr Speaker, but let us have better services.

Mr Corbell was lobbied by somebody who obviously would like a three-year contract for their service and obviously would like not to have to go out again in 12 months' time and tender for their own service, or a service they perceive to be their own. Potentially, there will be a different service in 12 months' time. The approach that we take under service purchasing agreements is that if there is a new service it goes out to tender. If a service continues, we are willing to work with the people who are there. I think that is a very appropriate approach, and it is one that we have been working on very closely with ACTCOSS.

Mr Speaker, the bottom line here is not about cheap political points. We have certainly seen a straight-out personal attack on me today.

Mr Berry: Poor you!

MS CARNELL: Yes, it is all right. I can cope. I am not overly worried. The decisions that were made, as I am sure the Minister already said, were made by Cabinet after a quite significant debate on the needs of kids. The fact is that this Government will continue to reflect and to act on the needs of the people who use our services, not the needs of the services themselves. I cannot believe that the members of this Assembly would not take the same approach.

The Civic and Woden youth centres will not be closed, but I have to say that the services that we put out to tender in 12 months' time will very definitely be tailored to the needs of the kids who use them, and the services that we will have will not necessarily close at 5 o'clock in Civic. The services that we have in the future will be open when the kids need them. We will have more services available for kids of indigenous backgrounds, kids from non-English-speaking backgrounds, and the kids who fall through the cracks and whom those opposite could not give a stuff about. They would rather have a go at me. I can cope with it, Mr Speaker, if the outcome is better services for young people.

MR BERRY (9.03): Mr Speaker, I have to say that the Chief Minister is at her most disingenuous today. It is very clear from the complaints that we have received that the officials from the Civic and Woden youth centres were negotiating in good faith for a three-year contract right up to the point of signature. When they went in to sign the documents they were informed that officers had received instructions that, of the eight youth centres, six would get three-year terms and two would not. That was a decision

which was directed to them at the last moment. For the Chief Minister to say that there had been an assessment by the department that these services ought to be provided in a different way and contracted out in a year's time is completely disingenuous and flies in the face of the evidence which is quite plain for the eye to see.

Mrs Carnell had a personal shot at my colleagues. They are pretty tough and they are able to cope with that. I was a little bit surprised at her attack on Mr Rugendyke. Whilst we might have our disagreements from time to time, Mr Rugendyke could never be described as wet behind the ears when it comes to community services, and he could never be described as wet behind the ears when it comes to experience in the community. So to launch into Mr Rugendyke about his experience in the community in relation to these matters is just a wee bit rich.

Those of us who have been here a bit longer remember a few events. We remember when ACTCOSS was threatened with defunding unless its executive officer resigned. They were bullied into a position where the executive officer of ACTCOSS resigned to save the service. That was because the Chief Minister and her office threatened their funding. That is why Mr Anforth was forced to resign. We also remember the Chief Minister's office attacking Jobline and making sure that it was defunded. Guess who was the hardworking community worker looking after Jobline. It was one of the officers concerned with this matter at this point.

Mr Corbell: Who was it?

MR BERRY: Mary Lowa.

Mr Hargreaves: Who?

MR BERRY: Mary Lowa. Let us not forget that the Chief Minister had to be dragged to the line in relation to the SACS award and forced to support it in the Industrial Relations Commission. Guess who was one of the strongest advocates for the SACS award.

Mr Hargreaves: Mary.

MR BERRY: No.

Mr Hargreaves: Kim.

MR BERRY: You are right. Kim Sattler. Of course, each time one of these advocates for youth services stands up, this Government and this Chief Minister want to smack them down. It is all very comfortable and nice if you are surrounded by a bunch of fawning sycophants that do exactly what you want them to do from time to time, but if you do not have a strong community sector that is capable of challenging your views there will never be any satisfactory change out there in the community.

This motion deserves unanimous support in this Assembly because of the events which have preceded it. Mrs Carnell and her office have been consistent bullies to people who disagree with them. It is unfair that the approach taken in relation to the Civic and Woden youth centres is along the same lines as the treatment that was meted out, or was threatened to be meted out, to ACTCOSS some years ago. We all remember that because it was unjust at the time, and it still remains unjust in my mind. It is also unjust that the action taken against the Civic and Woden youth centres has been taken in this way. For people to be negotiated with in good faith in relation to a three-year agreement right up to the date of signature and then have it pulled from under their noses is completely unfair. For the Chief Minister to say that the department had worked out that they wanted to do it a different way before that point is quite inaccurate and beggars description in terms of justice.

Mr Speaker, this is a motion that deserves support. The Chief Minister has not denied that she has taken this approach with youth services and community services and other people who are funded in the Territory, and I think that tells us all we need to know on this score. It tells us that the only just way to deal with this issue is to support this motion unanimously.

MS TUCKER (9.09): I will speak briefly to this motion. I will be supporting the motion. I listened to the Chief Minister's response where she claimed that she was interested in working with the needs of the young people, and not working with the providers of services. I thought it was pretty clearly stated, and it usually is in this place, that it is about partnership with people who use services and people who provide services. Of course, you have to treat both sides of those areas with respect.

The issue here, particularly in the community sector at the moment, is that there is a lot of angst because we now have the purchaser-provider split in place and we have competitive tendering. Community groups now have a lot of different issues to deal with in regard to competitive tendering, and we have had quite a number of discussions about it. There is a service purchasing report that has been produced. We know that the community sector is under stress. We know that they are people of good faith on the whole and that they are trying to work with government on this new agenda of competitive tendering.

That is why I think it is particularly disappointing when people work in good faith with government to come up with arrangements for funding and then see it suddenly change to a different department after 12 months' work. That is, basically, what has happened here, as I understand it. No-one has convinced me tonight that that is not the case, so that is why I will support this motion. It is not about not being able to be flexible with service provision. It is about respecting processes that are being set up and, particularly, respecting the community who have put a lot of hours into those processes.

I was also a bit concerned when Mrs Carnell was saying that she would like to see youth centres where non-English-speaking people and Aboriginal people went. From my experience, and I have talked to young people in the community, I think a lot of Aboriginal people are using the Woden Youth Centre. I think Kim Sattler is doing a pretty amazing job there, so I would like to defend what that particular centre is doing in that area.

As I said, I will be supporting this motion because I think we need to understand that the community sector deserves exactly the same respect as the private sector, or whoever else is providing services. I believe that this is a very disrespectful way to treat these particular people who have worked for so long in good faith to work out the nature of funding and who were under the impression that it was triennial until the day that they went in to sign the contract.

MR CORBELL (9.12), in reply: I am grateful to the members who have indicated their support here this evening, Mr Speaker, and I am equally disappointed in the Government's response on this matter. I am disappointed because what we are asking this evening is the decent thing. It is the decent thing because the Government made an offer, and the offer was not for 12 months; it was for three years. They made the offer for three years. They gave the organisation the contract, a copy of which I have here, which indicated three years. At no time in the debate this evening did we hear the Government indicate that they did not offer a three-year contract. Everything points to the fact that they did. They did offer a three-year contract.

No-one is disputing that different organisations have different levels of funding and different terms for funding agreements. That is an entirely appropriate course of action for the Government to take. No-one on this side of the house is suggesting otherwise. What we are suggesting, Mr Speaker, is that, when the Government enters into a negotiation in good faith and a community organisation enters into a negotiation in good faith, both parties stick with that good faith, and, when the Government offers a period of time, it stick to that period of time. That is a reasonable thing to do. It is the decent thing to do.

The other issue that I want to address this evening in reply is the issue to do with how you work with a sector. Clearly, when organisations come and negotiate with government, they are the people who are on the front line. They are the people who are providing services to young people. They are the people who are seeing people come in the door with problems. They know what demands they can meet and what demands they cannot meet. It is pure semantics for the Government to suggest that I am defending the interests of the organisation rather than the interests of the people who use the organisation, because, Mr Speaker, they are the people from organisations which know what issues need to be addressed. The real partnership is between service delivery organisations and the Government that provides the funding. That is the true partnership, and that is the partnership which should be fostered and built on, not undermined and cut away, which is exactly what happened with Civic and Woden.

Mr Speaker, I do not resile for one moment from my comment that this is an act of political spite. What else can it be, Mr Speaker? It cannot be the excuse that the Government has presented to us, that they are doing a review. If they were doing a review, why did they offer a three-year contract, and why did they tell the organisation only on Monday that they were doing a review and the three-year contract was off? What sort of coordination is that? It is not an excuse, Mr Speaker. If it is an excuse, they really need to get a bit more creative upstairs. Mr Speaker, if there is a need for a review, why was it that the way the organisations found out was through Mr Rugendyke?

Why did it take a member of the Assembly to ask the Minister what was going on before the organisations found out what the deal was with funding? Why did it come to that, Mr Speaker? We do not accept that story, and I think most people in this place do not do so either.

Ultimately, the provision of youth services in the Territory comes down to a matter of cooperation and certainty for the organisations that provide those services. Civic and Woden were entitled to three years' funding. They were offered three years' funding. They need three years' funding and they deserve three years' funding. That is what this motion is about this evening. I urge the Assembly to support it.

Question put:

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

The Assembly voted -

AYES, 8	*NOES, 9*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Quinlan	Mr Humphries
Mr Rugendyke	Mr Kaine
Mr Stanhope	Mr Moore
Ms Tucker	Mr Osborne
Mr Wood	Mr Smyth
	Mr Stefaniak

Question so resolved in the negative.

TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL 1998

Debate resumed from 20 May 1998, on motion by **Mr Corbell**:

That this Bill be agreed to in principle.

MS CARNELL (Chief Minister and Treasurer) (9.20): Mr Speaker, the Government does not support this Bill - and I am sure no-one will be too surprised about that - nor does the Government support the proposed amendments to the standing orders. These proposals really are an affront, as Mr Corbell plainly wants the Labor Party to make the decisions on what are the responsibilities of the Government and the Assembly as a whole. Mr Corbell has stated that currently there is no formal role for the Assembly to be informed of, let alone to approve, any privatisation of a Territory-owned corporation. This is simply not the case; Mr Corbell is wrong. If the Government sought

to privatise a Territory-owned corporation, it would require the Territory Owned Corporations Act 1990 to be amended to delete references to that particular company in Schedule 1 of the Act. It is also likely that separate enabling legislation would be required or that any inconsistent provisions in associated legislation would have to be removed through consequential amendments. Either way, this allows the Assembly to influence any decision to privatise.

Mr Speaker, I put it to you that the amendments proposed by Mr Corbell are unnecessary, as the Government would not be able to privatise a Territory-owned corporation without the support of the Assembly. Indeed, if Mr Corbell had cared to seek an understanding of the issues, he would have realised that, in other jurisdictions, any proposal to privatise government business enterprises has required specific legislation to be approved by parliament. As I have already pointed out, the situation in the ACT is no different. If the Government were to decide to privatise a Territory-owned corporation, this would require a number of legislative measures to be passed by the Assembly right now. Therefore, the Assembly would be fully informed of the Government's intentions and would be able to support or dismiss the proposals through a simple majority. However, none of this appears to satisfy Mr Corbell's desire to allow his party to have a veto vote on such matters. That is what we are talking about here - a veto vote.

Mr Corbell: I take a point of order, Mr Speaker, under the standing order relating to relevance. This Bill in no way deals with the issue of a two-thirds majority, and I do not understand why the Chief Minister is debating it at this point.

Mr Humphries: Mr Speaker, on the point of order: When Mr Corbell presented this Bill he talked about a two-thirds majority. That was his original announcement. He also made it clear that he wants to amend the standing orders to include a two-thirds majority as the operative provision of this legislation. It is intimately related to what has been put forward.

Mr Moore: On the point of order, Mr Speaker: Line 10 on page 2 of the Bill refers to "special majority". A special majority means something other than a conventional majority; so, of course it is relevant.

MR SPEAKER: I uphold Mr Moore's point.

MS CARNELL: Thank you very much, Mr Speaker. Again I am flabbergasted. Aside from satisfying any legal requirements, I have also advised the Assembly that the Government is conducting independent strategic reviews of ACTTAB and ACTEW that involve extensive public consultations. I have further stated that the findings will be publicly released and tabled in the Assembly before finalising any decisions upon ownership. Not only are we saying that we have to pass pieces of legislation or amendments to legislation, but also we are consulting the community and having those reports tabled in the Assembly. So much for Mr Corbell's claim that the Assembly would not have any involvement - and I use that term which he used, "any involvement" - in considering the possible privatisation of Territory-owned corporations.

In tabling his amendments to the Territory Owned Corporations Act, Mr Corbell commented that this was a very important piece of legislation, as it was "a proposal which brings greater power to the Assembly, and thus to the people of Canberra, in decisions affecting assets that they own, notably Territory-owned corporations". But we really do need to consider Mr Corbell's Bill, alongside his proposed amendment to standing order 134, to understand what Mr Corbell is really about. Here lies the real purpose behind Mr Corbell's proposal. It has nothing to do with bringing greater power to the Assembly and to the people of Canberra; it is all about bringing greater power to the Labor Party, despite their poor showing at the recent election. Mr Corbell first wrote to me on 24 April 1998 about his proposal that a two-thirds majority of the Assembly would be required before a Territory-owned corporation could be privatised. So much for Mr Corbell's comments that this was nothing to do with a two-thirds majority. His letter indicated that it was.

Mr Corbell was subsequently advised that section 26 of the self-government Act meant that the Bill, to have effect, would need to be passed by a two-thirds majority and be approved by a referendum. Mr Corbell was wrong again. Now we find Mr Corbell craftily trying to circumvent the self-government Act, our constitution. The amendment to standing order 134 would enable just six members of the Assembly to decide a particular outcome concerning Territory-owned corporations. It is, by no strange coincidence, that the Labor Party has - wait for this, Mr Speaker - six members in the current Assembly. Mr Corbell knows very well what this means. This means that the Labor Party would be able to override or veto decisions that would otherwise be determined by a simple majority. This means that the Labor Party would be able to fetter the Government and the Assembly all by themselves. So much for democracy! This means that the Labor Party would be governing by default. In proposing that one-third of the Assembly should be able to override or veto decisions that would otherwise be determined by a simple majority, Mr Corbell is undermining the constitutional provisions of section 26 of the self-government Act.

Unlike Mr Corbell's crude attempt to work around the self-government Act, the Government will abide by the requirements of the Territory Owned Corporations Act and bring any proposals to privatise a Territory-owned corporation before the Assembly; it is already there. By proposing that a two-thirds majority approve the sale of a Territory-owned corporation, Mr Corbell is asking the Assembly to remove the Government's and the Assembly's prerogative in deciding these matters. Consequently, the Government does not support the Bill; nor does it support the proposed changes to standing orders. This is simply a silly Bill. It is a Bill that decides quite simply that the six members of the Labor Party - six of 17 - should be able to veto a particular piece of legislation or a particular Government decision.

As I have said, already there is legislation in place which means an amendment would have to be brought before the Assembly. This would be an opportunity for members to vote. But, not comfortable with that, because Mr Corbell obviously believes that possibly a simple majority of this Assembly would support, under the right circumstances, a sale of a Territory-owned corporation, he has decided to make sure that the Labor Party,

with what percentage of the vote - 30 per cent, on their good days - should determine the decisions on this very important issue all by themselves. Not a majority, Mr Speaker; not a simple majority; but the Labor Party all by themselves! This has nothing to do with democracy; this is all to do with political expediency and, I have to say, downright arrogance.

MR QUINLAN (9.30): Mr Speaker, I rise to support the Bill and actually to speak to the Bill, as opposed to what might be defined as a special majority later.

Ms Carnell: What it is is in Mr Corbell's letter.

MR QUINLAN: Let us do it by stages, shall we? Let us have it come to the Assembly first and let us decide the majority second. The essence of the debate swings on whether we accept that we have a minority government and that a minority government could, without reference to the Assembly, take irrevocable decisions that have quite significant long-term effects. We have seen this Government in relation to Ecowise, a part of ACTEW, be very dismissive - not dismissive of the Assembly's capacity to decide, but dismissive of their own responsibility to decide. "We will leave it to the board" was said in response to questions in this place. We have received in this place misinformation on the economic performance of ACTTAB, intended, I presume, for public consumption and to soften up and pave the way for a sale.

We have received in this place from Fay Richwhite a report that purports to justify serious consideration of the sale of ACTEW because it is claimed that it is at risk. But it is not all at risk; only a portion of ACTEW is at risk. This is not an impressive report. It does not contain the alternative - the option of partitioning ACTEW, separating water and sewerage from electricity and separating electricity retail from distribution. The facts are that only a portion of ACTEW is at genuine risk, namely, that which it markets, the contestable part of its business. I have to say and say again: That which is at risk with ACTEW is no longer ours to sell, and that which is ours to sell is no longer at risk. But we are having another evaluation, and we await it with misgivings. When those findings materialise, I believe it must rest with the full Assembly to evaluate and decide upon the recommendations that it might make.

That consultant's review must consider, and must demonstrate that it has addressed, all of the consequences of the sale of public assets. Yes, we will consider the money we are going to receive, the application of same, and the revenue stream that we are forgoing as a consequence of disposing of that asset. But this Assembly needs to be assured that the review is fully embracing of the problem or the question. It must embrace potential job losses - those that are direct job losses and those that are consequential flow-ons from a reduction in that work force. It must take into account potential price increases that may accrue to private citizens and to our business sector and that impact on our economy. It must take into account the risks of asset stripping, either directly or by allowing assets to run down; of investment being reduced, bringing about a degradation in service through cost minimisation.

The numbers in the house are such that we do have a minority government. The Government has 6½; we on this side of the house have six; and the crossbenches have 4½. It follows that decisions cannot be left to 6½, and we have had arguments from the Chief Minister in this place that decisions should not be left to a minority in the Assembly. It follows that significant privatisation decisions must be debated in this place and decided in this place. The fate of the people's assets should be decided in the people's house. I commend the Bill.

MS TUCKER (9.36): The Greens will be supporting the Bill, although I do want to make it clear that I am actually uncomfortable with the proposal that there should be a greater majority necessary; but that is not what is actually being debated tonight. All this does is enable Mr Corbell's proposal to be put into effect if a standing order is changed. I would not support that being changed, but I am happy enough to support this as it stands because I do believe it is very important that any decisions on Territory-owned corporations and the sale of them should certainly be vigorously debated. This Bill is certainly ensuring that. It also ensures, hopefully, that no subsidiaries of Territory-owned corporations could be sold.

I am concerned, obviously, about the way the review of ACTEW has been framed. I believe most of the terms of reference deal with the sale value of ACTEW, the possible timing of the sale, the impact of the sale on services and consumer protection, the implications for other legislation and the way to achieve the maximum yield. With terms of reference like that, it would be difficult for an independent reviewer, through no fault of their own, to come up with anything other than a recommendation for sale. The terms, in their attitude to the environment, are also biased towards a sale. ACTEW is described as being at risk because of competition from alternative energy and environmental protection legislation. In fact, alternative energy and strict legislation are challenges for ACTEW. This could enhance its profitability, rather than putting it at risk. I close by saying that, obviously, I believe these debates need to be broad and certainly not biased in the way that the review terms of reference have been framed, so that we have as much opportunity for debate as possible.

MR MOORE (Minister for Health and Community Care) (9.37): Yes, opportunity for debate is entirely appropriate and these matters ought to be debated in the Assembly prior to any decision being made; but not by this sort of legislation. I have brought a range of Bills before the Assembly over the last nine years, and a number of people have considered my Bills strange or different - and they have been - but I do not think any were as poorly conceived as this piece of legislation. I speak in particular about the special majority part of the legislation.

Mr Quinlan: We are not debating that.

MR MOORE: I hear Mr Quinlan saying that we are not debating that. I do not have a problem with such issues coming before the Assembly. The question is: Is this the best way to do it? You have already heard the Chief Minister explain that, because of the nature of the TOC Act already, it would have to come before the Assembly anyway. To put an amendment to the Territory Owned Corporations Act to ensure that the matter is debated, and to make that very clear, I do not have a problem with. I see that as reasonably sensible.

The silly part in the legislation, to use the word the Chief Minister used, is this special majority. We have heard Mr Corbell previously talk about two-thirds being what he meant by a special majority. The special majority issue, of course, is one which could be overturned immediately if anybody wants to deal with the sale of any of the Territory-owned corporations, because all you have to do is say, "Okay; we have to come to the legislation anyway; so, we overturn the special majority"; or, easier still, "I move that so much of the standing orders be suspended as would allow me to ...". The issue can be resolved in that way. By the suspension of standing orders, which requires a simple majority, you can suspend the standing orders that set up the special majority. That is why I say it is really ill conceived and too simple.

The intention of the legislation - to ensure that any such matter would come before the Assembly - is an entirely different matter. I know that Mr Corbell is genuine in his desire to ensure that such matters come before the Assembly. I believe that no government would contemplate, and no government ever has contemplated, dealing with these sorts of issues without bringing them before the Assembly, because there are too many ways in which an Assembly can ensure that a minority government is required to do so. I can hear Mr Berry laughing, and there is no doubt why he is laughing. When he was a Minister he probably tried to get away with lots of things - and he may well have done - and that may set the tone. But in fact, Mr Speaker, that has not been the practice in the Assembly for many years.

First of all, it is an unnecessary piece of legislation; but it is also ill conceived in the way that it is constructed. An issue like this is not one that any government could sneak through the Assembly and say, "Well, it is done; too bad". The sale of Territory-owned corporations is a matter of considerable community interest and will always be something that an Assembly would deal with.

MR CORBELL (9.42), in reply: Mr Speaker, the Labor Party does believe that this is an important piece of legislation and a necessary piece of legislation, and I thank the members who have indicated their support for it this evening. The Government has made a suggestion that there is no need for this legislation because any sale of a Territory-owned corporation would require an amendment of the Territory Owned Corporations Act to remove that company from the schedule. That is probably true. But when would that removal take place? It would take place once the decision to sell had been made; it would take place when it was too late for this Assembly to express its opinion on the matter, because the Territory Owned Corporations Act makes provision for a shareholders meeting to take place to decide on the future of the organisation.

When we are talking about a shareholders meeting, we are not talking about an enormous hall, full of people raising their hands. We are talking about two people; we are talking about the Chief Minister and, usually, the relevant portfolio Minister. They are the shareholders and the people who will vote on the future of the company.

Mr Moore: But they might meet in a big hall.

MR CORBELL: They might meet in a big hall; they might hope that lots of other people come along and watch. Ultimately, they will make the decision about the future of the company. Then, under the requirements of the Territory Owned Corporations Act, they will notify the Assembly of their decision. When will they do that? They will notify the Assembly of their decision within 15 sitting days of making the decision.

Mr Hargreaves: After the decision has been made.

MR CORBELL: After the decision has been made, as my colleague Mr Hargreaves points out. That is why there must be a requirement for the Assembly to make the decision, and that is why I have proposed this piece of legislation. It is disingenuous of the Government to suggest that, of course, the Assembly will be informed because we have to amend the Territory Owned Corporations Act. We all know that will happen after the sale takes place, and the Assembly will be put in the position of revoking a business deal entered into by the Territory. We do not want that to be the position; that is not the way to do business. That is why we are proposing that up front, before any decision on the sale is made, the Assembly must approve. That is what the Bill is about.

The Chief Minister talked about a number of other issues in relation to this Bill. The first, and obviously the one of greatest contention, is the issue of a special majority. I want to assure members this evening that, if they choose to support this Bill, they are not choosing to put in place a two-thirds majority or, indeed, any special majority in relation to this Bill. What they are supporting is, firstly, the right of the Assembly to vote on any decision before it takes place; and, secondly, a provision in the Bill which, if the Assembly so decides, makes allowance for a special majority. I do not want to enter into the debate about special majorities this evening because the Bill itself does not indicate what a special majority will be. It simply says, "If the Assembly makes a decision to create a standing order which provides for a special majority, the Bill recognises that in relation to the Assembly making a decision". I do not want to enter the debate about a special majority this evening because I have on the notice paper a matter that deals with that issue. I will bring that matter forward for debate at an appropriate time.

What I want the Assembly to consider tonight is the issue of the Bill itself - the issue of whether or not this Assembly should have a say or should have the say. Mr Speaker, it is a fundamentally important principle that the fate of corporations and other business enterprises that are owned by the Territory is decided by the people of the Territory. That is the simple proposition behind this Bill. These are not assets owned by the Chief Minister alone. These are not assets owned by Mr Moore alone, or owned by me alone. They are owned by all of us. All of us in this community that we call Canberra have invested in these organisations. All of us have built up these organisations to be strong, effective and efficient publicly-owned enterprises. All of us should have a say on whether or not they remain in our hands, owned by us, the public, or whether they are sold to a private owner.

Mr Speaker, it is a simple proposition; it is a decent proposition; and it is the way that privatisations should have always been dealt with. But we have seen from the Government already that they have a very clear privatisation agenda, that they have a very clear agenda that is heading down the road of selling off valuable Territory-owned assets simply for the purposes of plugging a hole in their budget. We have seen it, as my colleague Mr Quinlan pointed out earlier, in relation to Ecowise, where we have a significant business undertaking of ACTEW being prepared for sale and being openly discussed for sale. Indeed, it would look like it is about to be sold. At the moment, under the Territory Owned Corporations Act, as it currently stands, the Government can decide to sell and inform the Assembly afterwards, within 15 sitting days. They will tell us afterwards. That is all they have to do; that is all they are required to do.

We do not believe that is an acceptable approach. We believe that the decent approach is to allow the Assembly to decide whether or not these assets are sold. That gives the people of Canberra the opportunity to decide whether or not these assets are sold. I thank members for their indication of support this evening, and I urge all members to support this Bill which will give the people of Canberra a say on whether or not the assets that they own are privatised.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9	*NOES, 8*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Osborne	Mr Humphries
Mr Quinlan	Mr Kaine
Mr Rugendyke	Mr Moore
Mr Stanhope	Mr Smyth
Ms Tucker	Mr Stefaniak
Mr Wood	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 3, by leave, taken together, and agreed to.

Clause 4

MR MOORE (Minister for Health and Community Care) (9.53): Mr Speaker, I speak in general terms, I suppose; but the thing that I find most difficulty with in this legislation is the notion of a special majority. It seems to me, when you use the word "majority", we cannot be below nine; and, when you are talking about a special majority, you must, therefore, be talking about at least 10, because a simple majority is nine members of this Assembly. So, it would seem to me that the issue would be clarified if proposed subsection (3B) in clause 4 and proposed subsection (5) in clause 5 were omitted.

MR SPEAKER: Mr Moore, the Clerk advises that we should be addressing clause 5, which is the point I think you wish to discuss.

MR MOORE: Except that the reason why I am talking about it in general terms at the moment, Mr Speaker, is that it applies to both clause 4 and clause 5. But I would be happy to take clauses 4 and 5 together and speak to them together, if that would be the wish of the Assembly.

MR SPEAKER: You were hoping for a cognate debate on clauses 4 and 5?

MR MOORE: Yes, Mr Speaker. I will continue what I was saying. This would apply to both clauses 4 and 5, but I will speak to just the first one at this time. If members are concerned that the issue of Territory-owned corporations coming before the Assembly is what we are really interested in - and Mr Corbell, in his speech, certainly said that at this stage he is not really interested in whether or not there is a special majority; the real issue is to ensure that the matter comes before the Assembly - then it would seem to me to be logical to remove those subsections. There is no doubt that both subsections do say, "If the standing rules and orders of the Legislative Assembly require a special majority ..." and therefore imply that, if the standing orders do not say it, then this approach is not necessary. But it seems to me that the deletion of these subsections is a more sensible approach.

In this case, if it is the wish of members to ensure that any such move comes before the Assembly, then they should have the chance to deal with it. But to have this silly piece of technique built into legislation is pointless, because, even if it is in the standing orders, the first thing that will happen is that somebody will say, "I move that so much of the standing orders be suspended ...". It requires a simple majority to get that through. So, what we will have instead is a very poor piece of legislation that will be built into the statute books of the Assembly. It seems to me to be absolutely pointless.

It seems to me that there could be a very simple amendment. In fact, we do not even need an amendment; we could just ask the Speaker to divide the clause into two parts. I think that would be a reasonable way to do it. We could vote against subsection (3B) and we could vote against subsection (5) in clause 5 when the time came. It would seem to me that we would then at least have on our statute books a reasonably sensible piece of legislation, instead of having a piece of legislation that was, by its very nature, silly.

What I am trying to do is divide the question so that the legislation reflects the intention of Mr Corbell - to bring the matter before the Assembly. I do not have a problem with that; I cannot imagine the Government having a problem with that. It would always be the Government's intention to bring such a matter before the Assembly anyway; but let us not have this silly bit of mechanism in legislation. Mr Speaker, I request that when we vote on clause 4 it be divided in such a way that I will be able to vote against subsection (3B). I have an indication that another member will be moving an amendment to that effect, which strikes me as being a sensible way to operate as well.

MR CORBELL (9.58): I understand the concerns that have been raised by some members in relation to these clauses of the Bill. Mr Speaker, I would simply make the point that, whilst the Assembly at this stage does not believe that it is appropriate for a special majority, it does not necessarily mean that the Assembly in the future will decide otherwise or will not decide otherwise. For that very reason, I see no reason why these clauses cannot remain in the Bill; they are enabling clauses. If the Assembly chooses not to require a special majority, then they sit in the Bill; they do not operate; they have no effect; they have effect only if the standing orders are amended to require a special majority in relation to a vote on the Territory Owned Corporations Act and the clauses that are mentioned. That is not an unreasonable proposition. I can understand why members this evening may feel that they cannot support a special majority, but in the future this Assembly may decide otherwise. For that reason, I believe that there is no reason why these clauses cannot remain in the Bill.

I accept that members this evening may not be willing to support a special majority, but that does not mean that provision should not remain in the Bill for a special majority if the Assembly changes its mind. When it comes down to it, the sale of a Territory-owned corporation, unlike other pieces of legislation that are introduced in this place, is a one-off decision; you get to make the decision only once. Once something is sold, it is gone forever. For that reason, we assert that there is an argument for a special majority. If other members at this stage do not accept that, we understand; but we do not see why provision for that should not be retained in the Bill, even if it is not active - and I stress "not active" - until the Assembly itself makes a decision on whether or not a special majority should apply.

MS TUCKER (10.00): I spoke before and said that I was not supportive of the special majority. I think Mr Moore has made a sensible suggestion. If we can somehow divide the clause, I would be supportive of that move so that we could vote specifically on proposed subsections (5), (3A) and (3B).

MR MOORE (Minister for Health and Community Care) (10.01): While Mr Osborne is preparing the amendment to achieve this goal, let me say that it seems to me that there is another more fundamental issue that we ought to consider, and that is that you would have a situation whereby, effectively, standing orders were actually demanding that you get a special majority. In other words, you are disenfranchising some other members in this sort of case. That is the worst case scenario. But it is so easily undone. It is easily undone by a simple motion to suspend standing orders.

Members who were in the First Assembly - and I am sure Mr Berry will remember it - will remember that Ministers were the only members who could move for the suspension of standing orders under our first set of standing orders. That was the position until about, I think, three or four months into the First Assembly, when there was a motion to change that standing order. I know that members like Mr Berry, Mr Wood, Mr Kaine, Mr Humphries and I will remember this. It was a quite vigorous debate as to whether or not this was an appropriate transfer of power. It was, I think, our first debate on the issue of the power of the Assembly compared to the power of the Executive, and what was the appropriate relationship between the Executive and the Assembly. Of course, the idea of Ministers moving for the suspension of standing orders was one that came from a house that was controlled by majority governments. I think Mr Berry was in government when this matter was raised. Although the Government at the time did not resist the issue - my recollection is that it did not - it was a matter that was debated in detail.

It seems to me that, having this sort of enabling mechanism - and I think it was accurately described by Mr Corbell as an enabling mechanism - in the legislation has about it an implication, and it is only an implication, that it will be in the standing orders. That is setting a path that really ought to be resisted. I think we ought to resist the notion that standing orders can ever set up a special majority as part of our standing orders; and that is why it is, Mr Speaker, that I am keen to see this matter resolved. Subsection (3B) is very similar to subsection (5). They raise for us a whole series of matters in terms of standing orders.

I have to say that there is a fundamental issue that we need to consider as well, and that is the way we use the issue of two-thirds majorities anyway. The two-thirds majority or special majority is really a matter for referendums. It is not a matter that should be taken lightly. It has only ever been used in this Assembly as a matter of how we deal with referendum results. Under our legislation, the only way that a referendum result can be overturned by the Assembly is when the matter has been passed by the Assembly with a special majority. It seems to me that what we should do is allow Mr Corbell's legislation to pass. The real intention of the legislation is to make sure that matters come before the Assembly. Although I voted against it, it is clearly the will of the Assembly. It will at least resolve these issues. I see that Mr Osborne is ready to move his amendment.

MR OSBORNE (10.05): I move:

> Page 2, lines 6 to 10, proposed subsection 13(3B), omit the proposed subsection.

I might just sit down, as Michael has explained what I am doing. Mr Speaker, I supported Mr Corbell when he came to me on this issue. I think it is very important. Quite clearly, the sale of Territory-owned assets is quite topical at the moment. I must admit, though, it was very tempting not to support this Bill and to be able just to blame the Government. That course was offered to me, I must admit; but I just think that something of this importance requires all members to put their hands up and not be afraid to face the issues, because quite clearly there are issues. When I did speak to Mr Corbell I indicated that I was quite happy to support this but not the issue of the special majority.

Although Mr Corbell argues that there is no reason for these provisions to be removed, I can see no reason for them to be there, given the discussions that we had. I think that the amendment will solve the problem I have with this.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 5

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

> Page 2, lines 21 to 25, proposed subsection 16(5), omit the proposed subsection.

Clause, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

CRIME PREVENTION POWERS BILL 1998

Debate resumed from 20 May 1998, on motion by **Mr Osborne**:

> That this Bill be agreed to in principle.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.08): Mr Speaker, in light of the time and the fact that very few of the citizens of the Territory are listening to what we have to say at this time of night, or are likely to read what we say, I am going to be brief. Mr Speaker, Mr Osborne has proposed what he calls a Crime Prevention Powers Bill. Mr Osborne has, rightly, identified that a better approach to the problem of crime in this community, particularly on the streets of this community, is to prevent it, rather than dealing with it after it has occurred. Mr Osborne's Bill is a slightly revised version of the move-on powers Bill which was originally introduced in this place by my colleague Mr Stefaniak.

Mr Speaker, the Bill seeks to allow a move-on power to be used by police in circumstances where they have reasonable grounds to believe a person in a public place has engaged, or is likely to engage, in violent conduct. It allows police to use a proactive power to prevent a crime from taking place, rather than simply a reactive power when a crime has already taken place. This Government stands ready to support such measures in legislation, because they are sensible in concept and they have been proven to be workable on the streets of this city and, indeed, other parts of Australia.

Mr Speaker, as I said, the Bill mirrors the provisions which were in place from 1989 until 1993. During that period they were used on 199 different occasions, involving 2,620 people. During that time, of that entire number of 2,620, something like 27 people were arrested for failing to comply with a direction - very few indeed. It is clear, Mr Speaker - - -

Mr Berry: How many were thrown out of court?

MR HUMPHRIES: None, in fact.

Mr Berry: Yes, they were.

MR HUMPHRIES: I do not believe any were, Mr Speaker, but I will take Mr Berry's advice on it. Perhaps he can give us the details of the time and the place that they occurred. Mr Speaker, if any were affected in that way, they certainly were not all affected in that way. The fact that the powers might not always succeed in court does not indicate, for one instant, that the powers will not ever succeed in court, or that they do not have an effective role to play out in the streets of Canberra.

Mr Speaker, I go back to the figures that I just mentioned. They were used on 199 occasions over four years, involving 2,600 people. Over that period, only 27 people, or only one per cent of the people affected by them, chose to reject the direction of a police officer and they, in turn, were arrested for failing to comply with the direction. Mr Speaker, it follows that on 99 per cent of the occasions when this power was exercised it did result in people peacefully moving on to somewhere else - 99 per cent of occasions where a crime - - -

Mr Berry: Did the crime rate fall? Answer me. Did the crime rate fall?

MR HUMPHRIES: I am not obliged to answer you at all, Mr Berry; I am sorry. I am talking in this debate and you can - - -

MR SPEAKER: Order! There will be no interjections, Mr Berry. You will have an opportunity to respond when you wish to.

MR HUMPHRIES: Indeed, Mr Speaker. The fact is that these laws, on any measure, have been effective. They have achieved the purpose for which they were in place for four years. It is, in my view, regrettable that the Assembly did not allow them to continue to operate beyond that time. Indeed, the Assembly laid down very specific conditions for the continuation of move-on powers in both 1991 and 1993, when the sunset clauses which had operated in respect of the previous legislation came up for renewal. They said that, if there was evidence that the powers in the Act had been abused, the Assembly would repeal them or allow the sunset clauses to operate to make them lapse. Mr Speaker, my recollection of the debate in 1991 is that there was no instance of any abuse before the Assembly.

Mr Moore: There was. That is why I changed my mind. That is why I changed my vote.

MR HUMPHRIES: In 1991 you supported the legislation, Mr Moore, and the legislation actually went through on your vote, on the basis that there was no problem with the legislation. In 1993 the legislation actually lapsed because the Assembly did not consider the renewal until after the legislation had actually lapsed. Mr Speaker, it is my recollection - and I am open to correction here - that there were no complaints about the legislation between 1991 and 1993. The only complaints about the legislation occurred before 1991. Mr Moore shakes his head. I am happy to hear what he has to say in the debate.

Mr Speaker, the bar being set for this legislation in previous Assemblies was a very high one. If someone complained about it, it was not allowed to be renewed. I think that was far too high, far too demanding, a standard. This legislation was effective. As I said, in over 2,500 cases people peacefully moved on, and a situation on the streets of Canberra which police officers of this Territory perceived to be a situation where violence might occur were those people not moved on was avoided. That constitutes, in my book, a good basis on which to enact such laws in the Territory.

Mr Speaker, let me close by saying that I do not propose to support this legislation tonight in an entirely open-ended way. The fact remains that any officer of the Territory - in this case, technically, of the Commonwealth - who, on behalf of the community, exercises important powers on the streets of this city must do so in a highly accountable way. The exercising of these powers is, of course, capable of being monitored by the courts and, indeed, by other bodies, such as the Ombudsman. I have no doubt that it will be monitored in that way.

I repeat the undertaking I gave on earlier occasions in debating the equivalent legislation, which is that if there is evidence of a problem with the exercising of these powers, if it is clear that there is a systemic or systematic abuse of the powers by police officers - and I note in passing that it was the custom of the police between 1989 and 1993 to have the power exercised only under the supervision of sergeants or officers of above sergeant rank - I will be the first to come back to this place and say that we should repeal the legislation. However, I think that the police of the city have shown already - between 1989 and 1993 - that they are capable of exercising those powers on the vast majority of occasions, if not on all occasions, responsibly, judiciously and in order to avoid the incidence of crime. They, therefore, deserve to have those powers once again.

MR MOORE (Minister for Health and Community Care) (10.16): Not so, Mr Speaker; not so. In fact, I did support the move-on powers originally and, as Mr Humphries points out, they went through. My recollection is the same as his, that is, that they finally went through on my vote, because I was prepared to try them. So, what happened in the intervening period to change my mind? I gave the same assurance as Mr Humphries has just given. I am sure that Mr Berry remembers it well. So, what changed my mind? That is why it is that I am very sure that there were a number of cases. I specifically remember one. It is inappropriate to name the person here, I think, but I could name a member who refused to move on and was arrested, went to court and was found by the court to have acted appropriately; in other words, the power was misused. It was not a judgment by me that the power was misused. It was the judgment in the particular case that I am thinking of - and I understand that it was in another case - that the power was misused.

So, Mr Speaker, I set about finding out whether there were alternative mechanisms whereby we could still protect civil liberties, and I brought to the Assembly a series of possible ways of dealing with street offences by way of a matter that was appealable, which is a fundamental part of our democracy. It is absolutely fundamental to us that we have the right of appeal when an administrative decision is made, particularly on matters of policing. That is why it is that people talk about move-on powers being a part of a police state or being the first step on the way to a police state. They have about them a significant danger that there is no appeal mechanism built in. They also have significant advantages. I would never have supported them in the first place if I did not see those advantages. When people are lined up looking like they are about to have a fight, being able to dissipate them under those circumstances has clear advantages. The question is: Are those advantages outweighed by the disadvantages of the infringement of civil liberties? I was prepared to test that. It was tested, and I believe the result of the test was that the advantages were outweighed by the disadvantages in going down that path.

Mr Speaker, I am not so silly that I cannot count. I can see that the numbers are finally here, as we swing to a more conservative Assembly, for Mr Stefaniak and Mr Osborne to get up legislation that they have both proposed in this place. But I do say, Mr Speaker, that I think warnings ought to be given in this Assembly about the downside of this sort of legislation, about this step towards a system which does not have contestability built into it, because fundamental to our democracy is the notion of contestability.

Mr Speaker, I have to say that I think it is a sad day when we pass this sort of legislation. To a certain extent, I can understand why it is that people want it, because we have terrible problems. But, Mr Speaker, were those terrible problems resolved any better in the period when we did have move-on powers than they have been since that time? Did they actually prevent crime? Of course, the answer is: No, they did not. Nobody has brought evidence here to show that they did. Instead, it is about law and order. It is about tub-thumping. It is about a standard electoral ploy of the right wing of the conservatives of saying, "We will move them on. We will protect you from crime". They do it every election and every time either they put up penalties or they take some kind of action like this. What is the result of it all? Nil. It is nil because they come back next time and say, "There is still more crime. We had better do something even more draconian"; so we get a more draconian process.

Mr Speaker, it is simply unnecessary. Let us not forget that we live in the safest city in Australia and that Australia is one of the safest countries in the world in which to live. We live in one of the safest cities in the world. Our crime statistics indicate that very clearly. I agree that there is a perception amongst some elements of our society that that is not the case. What that says to us is not, "Let us do more about law and order". What it says to us is that we should be out there reminding people that they are fortunate to live in one of the safest cities in the world. If I were to leave this Assembly tonight at 20 past 10, as it is now, or at 2 o'clock in the morning, would I walk through Civic? Of course; I often do. Would I walk through Glebe Park? Of course; I often do, even when it is dark. Do I ever feel unsafe? No. Why not? Because we do not have the sorts of problems that this sort of legislation would be designed to resolve.

Mr Speaker, this is entirely inappropriate legislation. It is simply about law and order and tub-thumping. It was part of an election ploy and we ought now to sit back in the cool and calm of the Assembly and say to ourselves, "Is it really worth pursuing this?". My sensible colleagues next to me should rethink their position and say, "This is a matter that is worth crossing the floor on".

MR STEFANIAK (Minister for Education) (10.23): Mr Speaker, I can answer a few of the questions that Mr Moore and Mr Berry raised in relation to this issue simply by going through *Hansard*. I go back to page 2771 of *Hansard* of 14 August 1991. Might I say, to start with, that when the power was continued for another two years as a result of an amendment moved by Mr Collaery, which we accepted, I made a rather prophetic statement when I said:

> That means, I think, that the power will remain for another two years. Whether or not I am in the next Assembly -

and I was not -

> does not really matter; but, if I am not, I hope that in two years' time the power can be extended indefinitely.

It was not after 1993; it was allowed to lapse. I am delighted to see that Mr Osborne has brought back this commonsense power. The people of Canberra have consistently supported move-on powers for police, Mr Speaker. When the issue was first raised by my Liberal colleagues and me in the First Assembly, in August 1991, the *Canberra Times* conducted a survey. It showed a number of interesting things. Seventy per cent of the population surveyed - and it was a survey of about 630 people - supported this commonsense power. Interestingly enough, 58 per cent of young people - those aged under 25 - supported this power, and about 85 per cent of people over 55 supported it.

A number of surveys were done in 1991, including a sizeable survey of some 434 people which showed 85 per cent of the population surveyed then supported it, including, interestingly enough, 85 per cent of people under 25. Little wonder, Mr Speaker, because young people are often victims of aggressive, antisocial and violent activities. They are often harassed by louts around bus interchanges. They are often harassed when they go about their lawful business in enjoying themselves around places like Civic and other centres in Canberra. They are very often victims. Old people, especially those dependent on public transport - people who cannot necessarily drive around in cars - are often victims. They often feel intimidated. These are the people who are protected by these powers.

Mr Speaker, the whole idea of having these powers is to nip potential trouble in the bud and enable problems to be avoided or broken up. I think the facts speak for themselves. On page 2770 of *Hansard* of 14 August 1991 I referred to surveys that had been done. When the powers were introduced a provision of them was that for the first two years they would be regularly reported on. As at 14 August 1991, 2,060 people had been moved on, there had been 19 arrests and there had been only one complaint. In terms of an offence for which people go to court, that is a very impressive statistic. It speaks volumes for the very fair way that the Australian Federal Police exercised this power.

My colleague Mr Humphries has mentioned what occurred between 1991 and 1993, when about 2,620 people were moved on and there were 27 arrests. The fact that there were only 27 arrests is profound, Mr Speaker. It means that most of those people were moved on successfully, they did not have to go to court, and trouble was averted. Indeed, for the potential troublemakers themselves, who are often young people, that means that by being moved on before they get themselves into something more serious, like assault or malicious damage to property, they averted trouble. It means that they do not have to go to court. It means that there is not any damage, there is not a fight, and someone is not injured. It means that they do not end up with a criminal conviction. There are real benefits in this for people who might otherwise offend. Of course, there are real benefits for the law-abiding community, the people who have every right to expect to be protected as they go about our streets.

Mr Speaker, I think the fact that there was only one complaint as at 1991 shows just how effective it was. The fact that the police had to arrest only 19 people in the first two years and only a further seven, on Mr Humphries's figures, in the next two years shows just how successful this power has been. The fact that this power was under such scrutiny for the first two years and there was only one complaint speaks volumes for the ability of our police force properly to enforce this power. Mr Speaker, I have seen nothing in relation to our police force in the last few years - since 1991 or 1993, for that matter - which would make me doubt in any way their ability to operate successfully with this commonsense power that, quite clearly, the people of Canberra in survey after survey have shown that they support.

It is absolute commonsense. It is something that the vast majority of our population supports. We have seen the figures. I refer people to the break-up of the age groups in the *Canberra Times* survey of 24 August 1989. Look at the details in the *Hansard* of 14 August 1991 if you doubt me.

Mr Berry: I am surprised that we have survived without them, if they are so important.

MR STEFANIAK: I think you might find in a 1990 *Hansard* that I reported back to the Assembly on this after 12 months. Mr Berry asks whether there is any evidence of crimes actually dropping. I think he will find that the crime of offensive behaviour in that period went down from 48 to about 18 or 19. He can check the *Hansard* there. That shows quite clearly that in some instances of street crime there was a real benefit.

This is a commonsense power. We have a track record over four years of its being effectively used by the police to overcome such diverse problems as two gangs of about 100 youths in Tuggeranong being broken up before a fight got too serious and domestic violence disputes. The powers were used by the police around the bus interchanges to great effect. The powers were supported by police from the rank of assistant commissioner down to the most junior constable from the time they were effected in 1989 through to the time they lapsed in 1993, and the police have continually sought to have these commonsense powers reintroduced.

The facts speak for themselves, Mr Speaker. The people of Canberra have spoken out, too, in a number of surveys in relation to this issue. It is absolute ideological, head-in-the-sand stuff for the Opposition or, indeed, anyone else to deny the citizens of this Territory restoration of this most sensible power. I have every confidence that it will continue now that it is being restored. I can read the numbers as well as Mr Moore, and the numbers are here for this power. I think that is being very sensible. I commend the members who will be voting for it for their stance. I have every confidence in our fine police force being able to exercise this power well. They exercised it very well for the four years that they had it. I am sure that, when this legislation is promulgated in several days' time and they get this commonsense power back again, they will exercise it to the benefit of the many people in our city who are very keen to have it restored.

MR STANHOPE (Leader of the Opposition) (10.31): Mr Speaker, I, too, have read all the *Hansard*s on this issue, which has been debated often in this place. I recall many of the members who first debated it in 1989 talking about the fact that this was a short-term response to a specific problem. I think it indicates a lot that Mr Stefaniak has not moved at all on it in 10 years. A power was introduced in 1989, with a sunset clause, to address a specific problem in the short term. Members of the Assembly actually indicated that this perceived problem of youth disruption or youth rowdiness in our streets needed to be addressed by giving police arbitrary powers to move on people who were not committing a crime but who were behaving in a way that actually offended the sensibilities of police, who made an arbitrary, subjective judgment to move them on.

Part of the debate then and part of the community debate was that this particular approach to law enforcement or to law and order simply allows politicians, parliaments and, particularly, communities to ignore the real problems of lawlessness. That is the trouble with the debate tonight. We are actually talking about the powers that police must have to protect us in the streets from - and let us not be mistaken about this - rowdy young people, young people that intimidate us, young people that threaten us, young people that make us feel unsafe. That is underlying this debate. That is the subset of this debate.

Of course, there is no discussion from Mr Stefaniak or others who support this sort of legislation about what we need to do to address the causes of that alleged or perceived lawlessness. That is a really serious issue. It is something that we brush under the carpet all the time. In giving the police arbitrary powers to move people on, to interfere with the liberties and the rights of people that are not committing an offence, we are actually pushing those people around, shoving them around, presenting an interface between the people of our community and the police force and accepting that as an appropriate response to those people within our community that are feeling alienated, that feel that they are on the edge of society, that feel that they are not wanted, that feel that there is no place for them.

Perhaps they are those people in our community that actually have nowhere to live, that do not have jobs, that have a very low self-esteem. But let us not talk about that. Let us not talk about what we as a community need to do to address the needs of those people. Let us empower our police force basically to bully them, to push them around,

to shove them on. And they do do it. The Government quoted to us statistics about 2,620 people being moved on, with only 27 of them being dealt with by the court and only one of them complaining. Can you imagine the feelings of some of the people that were actually pushed on?

Mr Osborne: "Stanhope says police are bullies". Hang on; I am just doing a press release.

MR STANHOPE: Yes, write it down. Have you got that? I can speak more slowly, Ossie, if you need it. And I know they are.

Mr Humphries: Oh, come on! Are you seriously suggesting that all police are bullies?

MR STANHOPE: I did not say that. Minister, you are getting worse. What was the royal commission that New South Wales had over the last couple of years? What was it about? What was the royal commission, Mr Osborne, and what was it about? What did it reveal?

Mr Humphries: Mr Speaker, I rise to a point of order. Mr Stanhope is, effectively, making a comment about the reliability and honesty of the Federal Police. That is what he is saying, Mr Speaker; he is making a point about that.

Mr Berry: That is not a point of order, Mr Speaker.

MR SPEAKER: Order! Let me hear him out.

Mr Humphries: In this place there have been conventions about dealing with public servants. It is not necessarily under standing orders, but under conventions in this place. I would ask Mr Stanhope to be careful about what he says. There is no evidence of any dishonest behaviour on anything like the scale in New South Wales. I think it is very unfortunate that Mr Stanhope should use that comparison between the ACT and New South Wales.

Mr Osborne: Further to that point of order, I would respectfully say to Mr Stanhope that what he did say was that the police are bullies. Perhaps he would like to apologise to the AFP in the ACT.

MR SPEAKER: That is not a point of order, but I would simply advise Mr Stanhope to be careful.

MR STANHOPE: Mr Speaker, I said no such thing. I am quite seriously offended that Mr Osborne seeks to put words in my mouth. I am very happy to rely on the *Hansard* tomorrow.

Mr Osborne: I take a point of order, Mr Speaker. I am now being accused of being a liar. Mr Stanhope said - I wrote it down - "The police are bullies", and he said, "Yes, they are".

MR SPEAKER: It is 25 to 11, and if we continue with this it will be 25 to 3 and we will not be any further advanced. I would simply caution you, Mr Stanhope, about your comments concerning the police. I am sure you will understand.

MR STANHOPE: If I had been allowed to say what I meant to say, Mr Speaker, we would not be in this knot. What I said, and I will not resile from it, is that it cannot be denied that police do on occasions bully people, and they do. Who in this room, Attorney-General, will actually deny that? Will you?

Mr Humphries: That is not the point you were making. You were making a generalisation about police.

MR STANHOPE: That is the point I was making. That is the point I was making until Mr Osborne began to interject, when Mr Osborne insisted that all police were actually lilywhite. But that is not the point. It is a real distraction and it actually allows us not to get to the nub of this debate. It was a distraction and I regret that I was distracted by it. It diverted me from the very important point that this sort of legislation does not address the cause of those problems which, perhaps, lead to our youth, to our sons and daughters, to our neighbours, to all those young people in our community, being at some risk. It does not do it. It is just a bandaid. The point I make is that it actually allows us to ignore all those important things about what we need to do to create safer communities.

I have spoken with Mr Rugendyke about my views on community policing and the style of community policing. I discussed with Mr Rugendyke how often he, as a community policeman, would have had to resort to a move-on power had the power been available. I asked Mr Rugendyke, as a community policeman, how often he, in his day-to-day work, felt that his work was inhibited by the fact that he did not have a move-on power to back him up in his responsibilities. I will allow Mr Rugendyke to speak for himself, but Mr Rugendyke advised me that in his work as a community policeman he could not actually remember when he could not handle a problem by simply negotiating a response. If a policeman is actually concerned enough to negotiate, most people will respond and we actually get a much better result. We do not get the 2,600 alienated people. Every one of those people that was moved on went back and complained to somebody, to a parent or to a mate, saying, "I was pushed around. I was not doing anything wrong and I was made to go somewhere else. I was doing nothing wrong. I was not committing a crime". That is what these kids say. They always say, "I was doing nothing wrong; yet I was told to go somewhere else".

Of course, there are people within our community that actually do claim to suffer particularly under laws of this sort. Everybody saw the representations made - I do not know whether they were made to members individually - by the local Aboriginal legal services about their concerns as to how their clients are particularly targeted by this sort of legislation. That is a real concern in terms of the particular disadvantage that indigenous Australians suffer in their relationships with the law. I do not know whether they have spoken to other members about it, but they have made representations to me about their serious concerns as to the impact of this law on their people. That, in itself, is enough to cause us to stop and think.

I might just raise a couple of other issues about the way that this Bill has been brought on that really do concern me. I do not believe there has been nearly enough debate about this issue. I do not believe that the community has been involved closely enough in either this Bill or the next Bill that we will debate. I am concerned at the absolute lack of objective data about the impact of these sorts of laws. I am concerned about the fact that we do not know what the real problem on our streets is. The crime statistics that we have give us no indication of the actual impact. I tried to find some data. I actually went to the Australian Institute of Criminology over the last week. I asked the Australian Institute of Criminology for the latest statistical profile of crime in Australia, with a view to getting some figures on how much street crime there is in Canberra compared to the rest of Australia. I asked for the data compiled by location and offence. I think it is appropriate that I actually read to members the Australian Institute of Criminology's latest - I am told that it is the latest; it is for 1995-96 - statistical profile on crime. It actually breaks down crime in each jurisdiction by offence and by place.

I will go through the offender profiles for robbery. I will just read out the ACT figures. There is a whole series of locations - residential location - private dwelling, other dwelling; community location - street/footpath, car park, other; other locations - retail, recreation, other; et cetera. I will just read out the community location ones for streets and footpaths, the ones that will be most affected by this legislation. Location where offence occurred, robbery, ACT: Street/footpath, none. Location where offence occurred, sexual assault, ACT: Street/footpath, none.

Mr Humphries: Is that meant to be read as sexual assaults? They are not about sexual assaults.

MR STANHOPE: We will get to assault now, Mr Attorney-General. As I say, there are three locations - street/footpath, car park, and other: Location where offence occurred, assault, ACT: Street/footpath, none. Location where offence occurred, homicide, ACT: Street/footpath, none.

Mr Humphries: Move-on powers do not prevent homicide.

MR STANHOPE: Or assault, or robbery, or sexual assault.

Mr Humphries: Are you saying that no assaults occur on footpaths or on the streets?

MR STANHOPE: No, I am not. I am not saying that. What I am saying is that you have no data to indicate to you why this legislation is necessary; nor does the Australian Institute of Criminology. It is quite obvious that the information provided by the Australian Federal Police - - -

Mr Osborne: We do not need the police! Save the $54m for policing! There is no crime!

MR STANHOPE: No; there are plenty of offences. We all know that there are very serious offences in the ACT and there are plenty of offences listed under other locations. But my point is that there are none listed for the ACT under streets or footpaths.

How do you know what is the nature of offences on streets and footpaths in Canberra when we do not have the data that reveals it? You are claiming that we are actually clamouring for this legislation and that the police desperately need it, when the police information does not reveal the extent of the problem. What is your basis for deciding that there is an amazing need for the police to have powers to control activities on streets and footpaths, when the basic data on which we can rely to determine the extent of the problem reveals that there is no problem? I must say that I am extremely surprised - - -

Mr Humphries: That is just not true. Why do you not table it?

MR STANHOPE: I will do that. I will be happy to table it. All I am saying is that I tried to find the data on streets and footpaths and it appears not to exist.

Mr Humphries: I will go and get it.

MR STANHOPE: I think you should. *(Extension of time granted)* I am concerned, Mr Speaker, that this very serious matter perhaps has not received the treatment it deserves from me in my rebuttal of the arguments advanced by those on the other side, because I allowed myself to be distracted - a characteristic which I will have to overcome.

I regret that Mr Osborne got under my skin and I allowed myself to be distracted from actually mounting what I believe to be objective arguments against this legislation. I find it regrettable that he feels the need to challenge any suggestion that perhaps we really do need to look at the powers that we give to our police and that any suggestion by anybody that we need to be careful not to provide untrammelled and arbitrary powers to the police is automatically to be assumed to be an assault on the integrity and reputation of our police force. That, I think, is just nonsense and does not allow us, as a parliament, to address issues on their merits. Those are simply not my feelings about police. I do not feel that in a debate such as this I should be required to respond to fierce interjections about whether I respect the job that the police do in this city. It is simply, it seems to me, a totally unnecessary attack on me and anybody else who wishes to mount a sustained and objective argument against the principles of this sort of legislation, why it is not good legislation, and why it does not enhance the enforcement of the law in the ACT in any way.

Debate interrupted.

SUSPENSION OF STANDING ORDER 76

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

> That standing order 76 be suspended for the remainder of this sitting.

CRIME PREVENTION POWERS BILL 1998

Debate resumed.

MS TUCKER (10.48): Basically, I believe that in this debate we need to look at what impact responses such as move-on powers have, particularly on our young people and on minority groups - but I will focus on young people first - and whether the perception that young people pose a threat to the rest of the community is warranted, or is a beat-up. Alan Rose, the president of the Australian Law Reform Commission, as reported in the *Australian Weekend Magazine* on youth issues around the time of recent State elections, commented:

> ... it was almost a game to build the myth ... almost on no basis of fact at all except the perception of young people congregating in public places and the amount of graffiti in some parts of the cities ... There are as a result increased calls by some groups in the society for regulating young people's use of public spaces.

There was a strong element of that approach in the Social Policy Committee's inquiry into the use of skateboards. A number of the submissions were, basically, more about the exclusion of young people in a quite aggressive way, really. People were not prepared to accept that these other people had a place in our public areas. Of course, it has also been an issue in enclosed spaces, such as malls, where private operators have taken it upon themselves to reduce the availability of their spaces to young people, in particular, who are not obviously consumers or customers of their shops. There has even been talk in Australia over the last few years of youth curfews, particularly in Western Australia.

This whole issue of curfews and the exclusion of certain groups from public spaces is something that is really interesting to look at historically, as well. I did some reading on it and was interested to see that the first attempts to clear the streets of young people were made in the nineteenth century when young working-class people were excluded from streets, and there was the invention of new social categories of people and new ways of talking about people that made such control processes viable, for example, juvenile delinquent. We have had many other such terms since then. These attempts to control the use of public spaces came about as the use of the streets changed.

Interestingly, in pre-industrial times, there were no shops as we know them now, and streets were used for a wide range of activities. Houses were smaller and a lot of social activity, as well as political activity, labour recruitment, and so on, occurred on the streets. From about 1830, European cities started to become more planned. That was for a number of reasons; but the one I find most interesting was the emergence of shopping as an activity for the middle-class women, who found the normal street activities of the working class, especially the young, to be scandalous. Then came the development of the police force and legislation such as vagrancy Acts and malicious trespass Acts which declared illegal a whole lot of normal working-class practices. These included street football, games of chance, and unlicensed gatherings, including unlicensed theatre.

In Australia, such measures were promoted in Acts such as the larrikin Act. The history of curfews and the exclusion of groups from public spaces also needed to acknowledge the progression in Australia of Aboriginal Acts which gave power to declare areas prohibited to Aboriginal people, who had to carry permits to be in certain areas. Fortunately, exclusion from areas no longer happens on racial grounds, and neither do we have youth curfews. However, what we do have in this legislation can, I believe, lead to a similar result. It is putting police in the situation where they have to make decisions about what so-called decent citizens would think appropriate. It is asking them to make decisions about what are legitimate uses of public spaces.

In private malls, the decision made by security guards appears often to be based on whether people are customers of the shops. To be a shopper is legitimate. To sit and busk may not be, depending on how you busk and the management of the day. To hand out political leaflets may not be okay, as Mr Humphries and I found out in the election campaign. Certainly, being in a group of young people just hanging around can be seen as an affront to so-called decent citizens, especially if that group is a bit noisy. Move-on powers bother me for a number of reasons. It is quite possible that our young people will be moved on inappropriately. Aboriginal people and other minority groups certainly have been victims or targets of move-on powers in other places around Australia.

Principles such as the right of lawful assembly and the right to do what you like as long as it is not unlawful are regularly abused with these sorts of policies. This can result, as other members have said - Mr Stanhope in particular - in people becoming angry and actually lead to an increase in conflict. It can also force young people out of central areas, which makes them more vulnerable. We have gone to a lot of trouble to light our city and make it safe. In fact, the most vulnerable people in some ways are the very ones who will be moved on. Of course I want to see everyone able to enjoy the city and I am not saying that uncivil behaviour is okay; but I am saying that move-on powers give a very large responsibility to police. I believe that there will be cases where they are abused. I do not believe that the police will benefit in the long run, because there will be growing antagonism from young people towards these powers that they have.

An open letter was sent to the Assembly by two women who have worked for a long time in the Canberra community, Hellen Cooke and Nancy Shelley - both well known for their work. I would like to read just a part of that open letter to all members, so that it is in *Hansard*. Basically, they said:

> The immediate effect of what is proposed will be the abuse of human rights, in that Article 20(1) of the Universal Declaration of Human Rights states:
>
> Everyone has the right to peaceful assembly and association.

As well, Article 29(2) states:

> In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Each of these articles is echoed in the International Covenant on Civil and Political Rights to which Australia is a party.

Ms Shelley and Ms Cooke also said:

> While there already exists common law power to avert a possible breach of the peace, as the Community Law Reform Committee of the ACT Report to the Legislative Assembly on street offences in 1997 (after 3-4 years work) notes:
>
> > Good legislation provisions would be preferable to using a common law regime which is not clearly defined.

That was from page 39 of that report. They continued:

> Further, the committee advised that a more appropriate approach than move-on powers would be statutory "limited power to direct a separation of protagonists" to be accompanied by "a statutory form of caution" to be "provided to the police as an alternative to arrest".

That was from page 41 of that report. They went on:

> Recommendation 5 of that Report, together with the suggested public information pamphlet and their offer to "assist in the preparation of the 'separation' provision" ... have all been by-passed by the introduction of this proposed Bill.

MR RUGENDYKE (10.56): I wholeheartedly support this Bill. This support stems from my knowledge of the use of crime prevention powers in a practical sense. It is a commonsense approach to nip potential confrontations in the bud. It is not about a means of harassment; it is about giving our police an avenue to efficiently and effectively do their job. I can recall countless occasions, from my own experience, when move-on powers would have been useful - occasions like when there is trouble brewing amongst swelling crowds in the early hours of the morning outside nightclubs; at the bottom of school ovals after school when groups of kids are looking for a fight, ganging up on someone weaker or less powerful; and problems that occur at bus interchanges late at night.

Under current laws, police have no powers to intervene. They have to stand by and wait for a substantive offence to occur. It makes sense for police to be able to apply crime prevention powers in this situation, simply ask the crowd to move on, and remove the crowd mentality which fuels emotion and confrontation in these situations. Ask yourself, Mr Speaker: Is it more sensible to avert trouble brewing or to wait until there is an act of violence; to wait until people are hurt and put in hospital, and charges are laid? I know which is the better option and I know that my experience of the police force is such that, if granted these powers, they would be utilised appropriately. I believe this Bill can provide a welcome addition to increasing community safety in the ACT.

MR BERRY (10.59): Mr Speaker, I opposed the introduction of move-on powers when the issue was first raised in this Assembly, and I thought, once they were seen off, that we would never have to face the situation again, because I thought that more sensible people would be elected to this Assembly as time passed and the urge that some people had to empower the police more would be allowed to pass as an anachronism, as something out of the past, by people who were knowledgeable about law enforcement and who would have a commitment to treating the difficulties, rather than simplistic tub-thumping right-wing proposals which lead nowhere.

Mr Speaker, I have a great deal of respect for the job of policing. It is a role which is filled by people who are generally committed to law enforcement and who face particular difficulties. I understand why some amongst the police would be attracted to these sorts of powers, because they see it superficially as making their job easier. But it is not always the case that just making the policeman's job easier is the proper course. You have to have due regard to the civil liberties of the citizens. After all, the police are there to serve the citizens, not their own particular interests.

I am extremely disappointed that people who might be regarded by the community as intelligent would resort to this sort of tub-thumping right-wing nonsense when it comes to the issue of law reform. I am disgusted at the rationalisation by some Liberal Party members of the performance of these laws in the past. Fancy saying that the fact that the laws enabled police to move on 2,600 people is a sure sign of their success! What a joke! That demonstrates your inability to come to grips with the issues of law enforcement. If it was so important and it was so successful, how have we possibly survived with 2,600 people out there who ought to have been moved on and who are still wandering the streets, threatening violence to or intimidation of a person or damage to property? What a joke you lot are! Fancy saying that the fact that police moved on 2,600 people is a demonstration of the success of these laws! All it demonstrates is that there are lots of people out there who never protested to the courts.

Mr Speaker, I know of a couple of cases that did not succeed in the courts and I have heard of others where charges were not brought to the courts because of the misuse of these powers. They have been misused in the past. Nobody can sit there and honestly tell me that, among the 2,600 that were moved on, the police powers were not misused and that bullying tactics were not used in the course thereof. These powers have not improved the situation in the ACT at all. I am disappointed that Mr Rugendyke climbs to his feet and says that police are unable to deal with violence to a person or intimidation of a person without move-on powers. I am extremely disappointed that he should say that,

because they are empowered to do that; they have powers of arrest. If somebody is involved in a violent activity, they can be arrested if it is a crime, and they should be arrested. But for you to say that the police have no powers, I think, is disingenuous. There are powers for police to deal with persons involved in damage to property, for example.

Mr Moore made the right point. The point is that if police arrest persons involved in or about to be involved in crime, the police can be challenged in the courts. Under the move-on powers, there is no challenge unless you refuse. So, you must refuse and be arrested before you can challenge the authority of a policeman. This is a summary power which ought not to be handed over lightly. It is a simplistic approach to a difficult problem that may exist in one or two places in the community. The fact of the matter is that, throughout time, there will always be sullen youth who will challenge authority. To alienate them with these sorts of powers is to demonstrate the inability of the proponents of these laws to come to grips with law enforcement.

It disappoints me that their own experience does not tell them that there is another way. It disappoints me that they do not care about the alienation of individuals who might be moved on under these powers. I think that is a significant issue which has been avoided in this place. Sure, as I said earlier, some police would think that this is a good idea because it might make their lot easier; but that is not to say that it is a justification for taking away the civil rights of others. This problem, and the solution to it, has been created largely by ruthless politicians who go and create the impression that something is terribly wrong, so that we need these move-on powers.

Bill Stefaniak did it when they were first raised in the Assembly and, of course, Paul Osborne and Dave Rugendyke are doing it now. The problem is not so serious as to require this serious infringement of civil liberties. The proponents of this Bill do not know what they are talking about. It is merely pandering to a created public impression, and the creation of the public impression was mostly the work of politicians. As I said earlier and as Michael Moore said earlier, this is the old law and order tub-thumping which will not achieve the desired result.

Mr Speaker, take a look at some of this law. Clause 4, under the heading "Move-on powers", states:

> Where a police officer has reasonable grounds for believing that a person in a public place has engaged, or is likely to engage, in violent conduct in that place, the police officer may direct the person to leave the vicinity.

What they are saying to the policeman is, "If somebody has engaged in violent behaviour you should move them on, not arrest them. Here is an option for you to move them on, rather than arresting them". It could be violence to or intimidation of a person. Intimidation of a person could be an assault. What you are saying to the policeman is, "You should not arrest them; you should move them on. It is too much trouble to arrest them, as they might challenge your authority". That is what you are saying.

Mr Speaker, these laws are dumb laws. They are dumb laws, they are draconian laws, and they will not get to the nub of the problem. Nothing the Government has raised in its argument demonstrates that these laws were successful in the past. All they proved in the past was that they could be abused. Moving 2,600 people on is not a demonstration that these laws were successful. In fact, for all we know, that could demonstrate that there were hundreds upon hundreds of people who were moved on unfairly. If they were, in fact, people who were about to be involved in violence to or intimidation of a person or damage to property, I wonder why it is so safe out there now.

Mr Hargreaves: They should have been arrested.

MR BERRY: They should have been arrested. I wonder why it is so safe out there now, if those 2,600 people are going free all the time and not being moved on.

Mr Rugendyke: Ask Eddie Amsteins. He knows.

MR BERRY: Mr Rugendyke, in a very cheap interjection, tries to create the impression that serious crimes in the past may have been prevented if police had move-on powers. I do not think so. They would not have been, and you cannot - - -

Mr Rugendyke: They certainly may have been.

MR BERRY: They would not have been, and you know it. You know better than that. Do not wheel that tripe up in here. The fact of the matter is that these move-on powers will just make police feel better, but they will not improve law enforcement in the community. In fact, in the long run they will make the police officers' job harder because they will alienate themselves from the community even more. If they are moving on 2,600 people every couple of years, a large proportion of those 2,600 people each couple of years are going to have a gripe with the police.

If that is the sort of situation you want to create, you ought to be ashamed of yourself. What you should be doing is creating a situation where police can get on with the community, rather than having a situation where police draw a line in the sand and dare people to put a toe over it, because young people - and it will be mostly young people that will be affected by this - will always put a toe over it. That is what the development of the human being is all about. It is about occasionally challenging the system; but it is not about putting police in a position where they might feel comfortable with the laws, at the loss of civil liberties to ordinary people out there in the community.

I saw these laws off once before and I will see them off again if they are introduced in this place because, in the end, goodness will prevail, a fair view of a police officer's role will prevail, and these laws will disappear. The ignorant approach to law enforcement that has been taken in relation to these powers will not advance our society one jot. I say again that the policeman's role is not an easy one and I understand and support his need to have a safe workplace and, of course, his right to contribute to sensible law enforcement measures. But sometimes you have to take into account, whether you like it or not,

the civil liberties of ordinary people, of ordinary young people, of some people whom you ordinarily would not like much but who, nevertheless, have civil liberties which are precious and ought not to be discarded in the shabby way that is being attempted in this matter.

These are dumb laws which have been proven in the ACT in the past not to work. The Government's own figures demonstrate to us that at least 2,600 people were moved on, most of whom would be antagonistic to police, as was properly said by my - - -

Mr Hird: Rubbish!

MR BERRY: You would know a lot about it, Harold!

Mr Hird: I do. Thank goodness I do know something about it. I ran a shopping centre, which you know I ran, and I had a problem.

MR BERRY: If you had a problem, why did you not call the police and get them to arrest someone?

Mr Hird: They could not do anything about it. They needed move-on powers. You would know that. You raised the question; I am telling you.

MR BERRY: You would not know, Harold.

MR SPEAKER: Order!

MR BERRY: Come over here and make me look good. I like that one, Ossie. Can I use it again?

Mr Osborne: There are 10,000 comedians out of work and you are trying to be funny.

MR BERRY: I like that one. It was not mine; it was Paul Osborne's. I think it is a beauty.

Mr Speaker, the policeman's lot is a difficult one and much care has to be taken to ensure that the police have proper authority to deal with crime in society and to protect society as a whole. But they also have a role in improving it. Mr Speaker, in some cases this might make the job a bit easier for the policeman; but the trade-off of civil liberties of our community, particularly the young and disadvantaged in our community, is just not worth it.

Mr Humphries: Mr Speaker, I seek leave to speak again on this matter.

Leave not granted.

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 Mr Humphries again addressing the Assembly.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.15): I thank members for their indulgence and their courtesy to me on this occasion.

Mr Berry: Do not thank me.

MR HUMPHRIES: No, I will not thank you, Mr Berry. We thank you for leaving, Mr Berry.

Mr Speaker, I think it is quite important that I do rise only briefly in this debate to speak once more, because there were some rather extraordinary statements made by Mr Stanhope a little while ago in this debate when he alleged that the figures supplied to him by the Australian Institute of Criminology indicated that there simply were not the offences taking place on the streets of Canberra that would warrant the use of move-on powers. As a police Minister who has not only been told about serious problems on the streets of Canberra over the last three years but also actually seen them take place - I have seen more assaults take place on the streets of Canberra than the figures Mr Stanhope refers to would indicate - I felt that there was something fairly strange about the way in which Mr Stanhope was quoting the figures. So, I have gone back and checked the figures. Indeed, Mr Speaker, it appears that Mr Stanhope has rather seriously misread the documents that he has at his disposal.

I have here a document from the Australian Bureau of Statistics, which I gather is the same source as the information that the Institute of Criminology has relied upon - I suggest you check that - and, indeed, under "Victims of Assault" for 1996 under the classification "Street/footpath" there are none recorded for the ACT; that is quite true. That compares with, for example, 11,763 in New South Wales. However, Mr Speaker, it is clear if you read the rest of the table that there is a classification difference between the ACT and New South Wales. In the ACT they are classified not by whether they are on a street or footpath, in an open space, in a "community location n.e.c.", or whatever; they are obviously classified according to "community location n.f.d.".

In that respect, Mr Speaker, in 1996 there were 713 assaults on the streets of Canberra, or at least in community locations in Canberra, as well as assaults in other places. There were 82 assaults in education institutions, four in health institutions, two in religious institutions, 16 in transport terminals - that is, bus terminals and, possibly, the train station - and another 67 in car parks. Mr Speaker, there were well over 800 assaults on the streets of Canberra in one year. Before we rely on Mr Stanhope for figures, I suggest that he check them more carefully next time.

Mr Speaker, let us put this in perspective for one minute. We had 2,600 move-ons over four years, with 365 days in a year. Even if all those move-ons occurred in the space of a single year, it amounts to move-ons being exercised by less than one per cent of the ACT's police force on any given day, and on only one person on that given day. Mr Speaker, it is hardly a power which is being used to trample on or ride roughshod over the rights of citizens the length and breadth of this Territory, is it?

MR STANHOPE (Leader of the Opposition) (11.18): I seek leave to speak again.

Leave granted.

MR STANHOPE: I do not wish to delay members any longer; it is very late. Obviously, I have a different set of figures from the Minister's.

Mr Humphries: Better figures?

MR STANHOPE: No, different. I do not know why they are different. These are the ones that I received from the Australian Institute of Criminology this week. I seek leave to table them.

Leave granted.

MR STANHOPE: I have checked the figures again since the Minister sought to illustrate that he has a different set of figures that actually indicate different things. The figures provided to me by the Australian Institute of Criminology are as I read them. It may be that I am completely illiterate when it comes to reading tables and numbers; but they are as I read them and I would like to table them, for the edification of members. I would like to see the Minister's figures. I will show him mine if he will show me his.

Mr Humphries: Mr Speaker, I am happy to table my figures as well.

MR OSBORNE (11.19), in reply: I do not know where to start, Mr Speaker. I thank members for their support. I thank the Government, I thank Mr Rugendyke, and I thank the leader of the United Canberra Party. I thank Mr Hargreaves for his support. I had faxed to me from the AFPA a copy of an election survey and Mr Hargreaves said that he does support crime prevention powers; so I do thank him for his support. I do not know whether his Caucus colleagues will understand his support for me, but I thank him for that.

I think I will start with Mr Berry. Mr Berry has a heart of gold - small, yellow and hard to find. I always enjoy listening to Mr Berry. He stands up and says that this is something out of the past; and, yes, it is. He went on to say that he had a great deal of respect for the police, but later he claimed that the police are bullies when they use this legislation. I would just like to remind him that words mean nothing, and that actions count for everything. I think Mr Berry's actions towards the police over the years are well documented.

Mr Moore claimed that we have the safest city in Australia. I would ask: For how long will that remain? When I arrived here at the end of 1991 I was surprised at the type of city that Canberra was. The thing that worried me was that over time some of the things that I had experienced in Sydney would see their way down here.

Unfortunately, I have been proven correct. I remember walking into a bank when I first moved down here and thinking to myself, "My God, if some of the crooks that I used to deal with up in Sydney realised what was going on down here they would be down here quick smart". Unfortunately, I was proven right as we have seen an increase in armed hold-ups in the last few years.

Mr Moore went on to say that he had changed his mind on this law because it was being abused, and he used as justification going to court and losing. If that were the case, you could claim that every law that the police went to court and lost on was being abused. Why are move-on powers any different from someone being charged with breaking and entering or assault? For people to say that, because police go to court and lose - rarely - on these types of matters, they are being abused is a pathetic argument. To add to that, there are many places for people to complain to. First of all, the matter goes to court and the police have to prove beyond reasonable doubt that the offence has been committed. There is the Ombudsman for people to complain to and there is the internal affairs section of the police force. I cannot see how people can claim that something is being abused because it loses at court.

Mr Speaker, I could go on and on about some of the things that were said tonight. The need to protect civil liberties was argued. I would argue that we have as much of a duty to protect the common good as we have to protect the civil liberties of individuals. I think that we need to protect the rights of citizens to feel safe. If people feel safe with police having these powers, I would feel that that, in itself, would be justification enough for us to support them.

Mr Stanhope raised some interesting issues. I will not go over them. I hope that he does not think that what had slipped out was the case. Perhaps it was unfair of me to goad him, as he said; but perhaps he should have a little glance at *Hansard* tomorrow and realise what was said.

Mr Speaker, I have to say that the attitudes of the Michael Moores and the Wayne Berrys over the last year have seen crime rise. I make no excuse for wanting to stand up in this place and be as supportive of the police as I can. Unlike the people opposite, I have had experience in this regard. I have been a policeman, as was Mr Rugendyke. Having listened to him, a man who only six months ago was a member of the police force, I would have thought would be justification enough to support it.

Mr Speaker, once again I thank the majority of members and Mr Hargreaves for supporting the Crime Prevention Powers Bill. I have to say, Mr Speaker, that I have faith in the police force, unlike some people in here. I trust the police force, unlike some people in here. I look forward to this legislation being used sensibly and, I am sure, not being abused by the police force.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9	*NOES, 8*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Moore
Mr Kaine	Mr Quinlan
Mr Osborne	Mr Stanhope
Mr Rugendyke	Ms Tucker
Mr Smyth	Mr Wood
Mr Stefaniak	

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Question put:

That this Bill be agreed to.

The Assembly voted -

AYES, 9	*NOES, 8*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Moore
Mr Kaine	Mr Quinlan
Mr Osborne	Mr Stanhope
Mr Rugendyke	Ms Tucker
Mr Smyth	Mr Wood
Mr Stefaniak	

Question so resolved in the affirmative.

Bill agreed to.

CRIMES (AMENDMENT) BILL (NO. 3) 1998

Debate resumed from 20 May 1998, on motion by **Mr Rugendyke**:

That this Bill be agreed to in principle.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.31): Mr Speaker, I will be even briefer on this Bill than I was on the previous Bill.

Mr Moore: Be sharp and to the point.

MR HUMPHRIES: Sharp and to the point; thank you, yes. I can see that this will be a debate at the cutting edge, will it not, Mr Moore? Mr Speaker, this Bill prohibits the carriage of knives without reasonable excuse. The Crimes Act has a general provision dealing with possession of an offensive weapon, which could be a knife. The proposal to strengthen the law in relation to an area which is of significant community concern should not present any difficulties, I believe, to any fair-minded person.

This proposal, I believe, addresses what has been a matter of concern to some in the community, and that is the increasing frequency with which knives are carried, particularly by young people, and the extent to which knives are being used increasingly in offences in public places, maybe even on the streets and footpaths. There is a very good case, I believe, for dealing with this issue, as in the case of the previous Bill, on a preventative basis. Obviously, we would like to make sure that we catch people who use knives for particular offences, such as assaults or batteries or robberies; but, more than that, we need to put in place a power to ensure that those who carry knives for no good purpose are prevented from doing so.

Mr Speaker, this legislation will depend on the cooperation and goodwill of the police who administer it. If police abuse the powers to confiscate knives which are contained in the legislation, then clearly the legislation will not work well. However, as I have indicated already once tonight, I believe that the police who operate in this Territory - the Australian Federal Police - are more than capable of administering such laws with integrity and fairly to the whole community. I do not know whether those opposite will take the view that, although the police cannot be trusted, apparently, to deal with move-on powers fairly, they can, however, be trusted to confiscate the knives of young people in a fair fashion. I look forward with interest to the comments they will make in the course of this debate.

Speaking for this side of the chamber, I have no doubt that this is an appropriate and important development in the law. It will ensure that we are able to deal with a problem in a forthright way. I have little doubt that the application of this power in the hands of the police will probably prevent many young people from carrying knives at all and will therefore avoid a situation where confrontation with the police is necessary. By that I mean that, when it becomes clear that police will exercise this power and do from time to time confiscate knives, others who might think it is appropriate or trendy to do so will reconsider that course of action because they will lose their knives in the process. That is not a bad thing, in my view, and it should be supported by the Assembly.

I have seen a legal advice from Mr Corr of counsel on the constitutionality of these provisions. I do not wish to enter into strong debate on what this opinion says; but the opinion, which I think members in this place have seen, argues that to conduct a frisk search or an ordinary search of a suspect whom a police officer suspects on reasonable grounds to have a knife is potentially ultra vires the Australian Constitution and the Australian Capital Territory (Self-Government) Act. The opinion depends on the premise that in order to conduct a search the police officer must of necessity detain the person. That, I am advised, is a premise which is not justified by the legislation. It is possible to search without detaining a person, I am advised, and therefore - - -

Mr Wood: How do you do that?

MR HUMPHRIES: Because it is done by consent, Mr Wood. That is how you do it. Therefore, the premise and the opinion, I am advised, are not justifiable. I am content to see the legislation pass. I do have some concerns about the forfeiture of knives, and the permanent forfeiture of knives in certain circumstances. I have amendments which I have circulated in the chamber today, and I will speak to those when we come to the detail stage of the Bill.

MS TUCKER (11.37): Mr Speaker, there are parts of this Bill which the Greens can support. I understand that we will be dealing with the Bill in detail and I will be opposing the clause in regard to the search. The legal opinion that I sought and that Mr Humphries has referred to already is, I believe, a concern. I think I am prepared to support the other aspects of this Bill, although I am interested to see Mr Humphries's amendments to the forfeiture clause. I am quite happy to support the proposition that people do not have these sorts of weapons, and that it is seen to be an offence to have them. I will not be supporting the fifth clause.

MR OSBORNE (11.38): Mr Speaker, I rise to give strong support to the Bill presented by my colleague Dave Rugendyke. Mr Rugendyke has worked hard on this, and I believe that he and his staff have done an admirable job.

In essence, Mr Speaker, the Bill does two things. It makes it an offence for a person to carry a knife in a public place, and it bans the sale of knives to people under the age of 16. It also removes the right of people to argue before a court that they carry a knife for the purpose of self-defence. It is, in effect, similar to legislation brought in by the Carr Labor Government in New South Wales which will come into effect in July. However, it does not go quite as far as that law, as it does not seek to make parents liable if their children are found carrying knives. Perhaps that is something we can look at later, Mr Speaker. I might lean to the right, but I see no reason to topple over the edge following Mr Carr's lead.

It has been said that legislation such as this cannot stop people from carrying knives, and perhaps there is some truth in that. Some people will break the law no matter what laws we pass, just as some people continue to cling to their guns despite the nationwide attempt to wipe the scourge of guns from our community. Be that as it may, Mr Speaker,

what we are doing is sending a loud and clear message that carrying a knife in the community without good cause is unacceptable, and that there is no more reason for our young people to carry knives than there is for them to carry guns. Because, as the law stands, police can react only when someone is assaulted with a knife, they have no power to try to stop an offence from occurring. This law seeks to give police the power to intervene before a tragedy occurs.

From my discussions with the police, especially in the last three-and-a-half years, I am in no doubt that there is an increase in the number of knives now being carried in the community. It is becoming common for knives to be used in violent crimes. I think it was back in 1995 that I first raised the issue about young people carrying knives in the Tuggeranong Valley, and I was howled down by members of the Labor Party, especially. It is time, Mr Speaker, for us to draw a line. It is time we started talking about the common good of the community with the same vigour we use when we talk about individual civil liberties. I note that this Bill has been attacked by people who parade themselves about town as the sole arbiters of civil liberties. That does not surprise me or disappoint me. Nor will it make me reconsider for one second my support for this Bill or, as we saw, my Crime Prevention Powers Bill. I believe that this Bill is a civil liberties Bill. It seeks to protect the rights of the majority. It protects the right of the majority of people to go about their business without fear.

Ms Tucker has raised a legal point about whether the search powers in the Bill are in conflict with the Constitution. I understand that Mr Rugendyke has advice from Parliamentary Counsel that they can see no problem. In addition, I believe that the Government has legal advice saying that there is a weak case supporting Ms Tucker's legal advice. In addition, this afternoon, on 2CN, a constitutional lawyer from the ANU, George Williams, said that the advice did not make a strong case. Mr Speaker, it is up to us to make the law and for the courts to interpret it. Parliaments do that all the time. If we were frozen with fear every time a lawyer disagreed with our legislation, we would never get anything done.

Once again, Mr Speaker, I support Mr Rugendyke's piece of legislation. I think it is sensible. I think it is proactive. As I said, he and his staff have done a good job in getting this up as quickly as possible. I am pleased that the majority of members are going to support it. I believe that even the Labor Party are going to support some of it, although I am not quite sure about that. I will be supporting it wholeheartedly.

MR STEFANIAK (Minister for Education) (11.42): Speaking just briefly, Mr Speaker, I can remember that, back in 1979 when I first started prosecuting in the ACT, we would consider it a very bad year if we had two or three robberies in the course of the year. Sadly, now, often a week does not go by without our hearing of some robbery, and knives are often used. The community has a right to be protected. I think society expects bodies like the Assembly to enact laws for the protection of the community. This is a good commonsense move by Mr Rugendyke which I fully support. I have also been very disturbed, Mr Speaker, especially more so now that I have young children, about the number of instances of fights around Canberra and the increasing number in which knives are used. I think it is time we sent a message to people in the community who might like transgressing against the norms that this is simply not on. I think Mr Rugendyke's legislation sends that message out loud and clear, and it is worthy of support.

MR STANHOPE (Leader of the Opposition) (11.43): The Labor Party has thought very seriously about this Bill. I have had discussions with Mr Rugendyke and we are happy, after very serious consideration, to support those parts of the Bill that outlaw the carrying of knives in covered places and schools. We really do think that this community is confronting a serious problem in the carrying of knives. I think it is a problem that particularly confronts schoolteachers. It is a problem that confronts other people who deal with young people and with youth. We acknowledge the need for us as a community to send a signal that the carrying of knives is not acceptable; that it is not tough; that it is not a good thing to do. We think that legislation can have a viable role to play in that regard. I think the reference which Mr Osborne made to the gun laws is a valid reference. That legislation does have a significant role in the long process of changing cultures, and we support that aspect of it.

We will support the part of the Bill that prohibits the sale of knives to people under 16; but we do so, I have to say, with some real concern about the practical administration of the law. I foresee some very significant difficulties there. I struggled to determine some other way of achieving the same result, in the time that I have considered the Bill. I foresee some very serious practical difficulties with any proposal that seeks to prohibit the sale of knives to people under 16. Anyway, I think it is inconsistent with the ban on the carrying of knives. I think it is consistent with the overall principle and we will support it, but with some real concern about its application and administration.

We will not be supporting those parts of the Bill that provide for a power of search. In the context of the debate we have just had about move-on powers and the prospect of this community accepting move-on powers, broadening the range of circumstances in which police can search almost arbitrarily - it seems to me that it is the sort of power that can be used arbitrarily - is the sort of power that I think we really must resist. I have serious concerns about extending to police a right to search anybody on the basis of a suspicion that they may be carrying a knife. I think that is just too broad. I believe that at this stage we should specifically outlaw the carrying of knives, but I do not think we should go that additional step of applying a power of search to police in that sort of instance.

This issue of the power of search is the one issue in relation to the Bill that I really would like to have been explored by a committee of the Assembly. I did discuss that with Mr Rugendyke and Mr Osborne, and I regret that they were not minded to support that course. I think it would have been very useful. I think we, as a legislature, do need to look at the range of search powers that are available to the police. We do need to look to see whether or not the granting of a power of search in these circumstances is consistent with the nature of the offence that we are seeking to overcome.

I have a real concern about how that power will be used. I have a real concern about the way in which it is being applied. I do not believe that the circumstances of its application or the way in which it will be applied is appropriately set out in the legislation. I do not believe that there are appropriate accountability mechanisms in place to make the police properly accountable for the use of what I regard as an arbitrary power of search. There are significant issues relating to the inviolability of the person, privacy, and the extent to which the granting of a power of search in the circumstances that we are dealing with here is an overreaction.

When we get to the detail stage, Mr Speaker, we will be opposing the part of the legislation dealing with the power of search and, as a corollary to that, we will be opposing those aspects of the Bill that deal with confiscation. To the extent that I am being a little bit fatalistic - I do not want to pre-empt the outcome of the debate or the vote on this - I live in hope that these particular parts of the legislation may not be successful, but I should say that I was happy to see the amendments which the Attorney is proposing. I think they significantly overcome some fairly major problems that exist with the provisions as drafted.

There is one other thing that I will raise, and I raise it seriously. The Attorney took me to task about my statistic reading capacity in the previous debate. In that debate I quite explicitly said that I was dealing just with the inadequacy of the statistics made available to me by the Australian Institute of Criminology. I explicitly stated that I was reading only those statistics relating to streets and footpaths. The statistics available to me, under the heading "Street/footpath", revealed no offences recorded for the ACT.

Mr Humphries: Yes; but it was a wrong reading of the statistics.

MR STANHOPE: It is not.

Mr Humphries: Either by you or by the Institute of Criminology, one or the other.

MR STANHOPE: It is not. It is quite explicit under "Street/footpath". I was not concealing the fact that there were other designations, and that under those other designations and descriptions there were numbers of offences. I was explicit about that, and the *Hansard* will record that.

The Minister then tabled his statistics, upbraided me, and challenged my ability to read statistics. He even went so far as to suggest I should be careful not to mislead the Assembly. He claimed that I had misread the statistics. He said that his statistics revealed all these offences. Actually, Minister, you suggested that I had misled, when I was explicit that I was speaking about only streets and footpaths. Under the heading "Street/footpath" in the material tabled by the Minister, what is revealed for the ACT? It reveals nil offences. Minister, you have misled this house - - -

Mr Humphries: You were not listening. You were not listening to what I had to say. I will repeat it in a moment. You will have a chance to hear what I have to say.

MR STANHOPE: I ask you, Minister, to apologise for misleading this house.

Mr Humphries: No, not at all.

MR SPEAKER: Gentlemen, this is not relevant to the current debate. You may bring it up, if you like, at some later time.

Mr Humphries: Mr Speaker, I did not refer at any stage to Mr Stanhope misleading. He has now referred to me as misleading, and I think that is unparliamentary. I would ask him to withdraw it.

Mr Berry: We will censure you.

Mr Humphries: If he wants to move a substantive motion to that effect he should do so; but that is not the case.

MR SPEAKER: Yes, I think that is an option. Have you finished, Mr Stanhope?

MR STANHOPE: Actually, I would have been prepared to let the matter go, Mr Speaker; but the document tabled by the Minister quite explicitly states, clearly states, unequivocally states, against the heading "Street/footpath", that in the ACT there were no recorded offences.

Mr Humphries: And I said that when I made my statement. Go back and read the *Hansard*, Jon.

MR STANHOPE: I will. I might reserve this matter, Mr Speaker.

MR SPEAKER: Gentlemen, I suggest that it is late. You are not going to get anywhere, I think, at this point. I think it is a matter of looking at the *Hansard*.

Mr Humphries: Yes, Mr Speaker; but I still require that the word "misleading" be withdrawn.

MR STANHOPE: I will look at the *Hansard*, Mr Speaker. I believe my understanding of what was said is correct, but until I look at the *Hansard* I will withdraw the suggestion that he had misled the Assembly.

MR SPEAKER: Right. We can take that up tomorrow.

MR WOOD (11.53): Mr Speaker, it is clear that there is a growing culture amongst many of our younger people to carry knives. That is a highly unsatisfactory development and one that has been discerned by many in our community directly and anecdotally over recent times. Further, the evidence is there in police proceedings in quite a number of circumstances. I have given some thought to this matter over a period and, indeed, in the last Assembly believed that I might try to bring before us some measure that could deal with this problem. However, the fact is that I could not find a means to deal satisfactorily with the issue. Mr Rugendyke's legislation is somewhat welcome. I do not believe it will play a great role in reducing the incidence of knife-carrying or, certainly, in changing the culture I mentioned. We will support it, as Mr Stanhope has said, with some reservations.

I am sure we have all walked through the Canberra Centre nearby and seen at least one shop there - clearly in my mind, one shop - with a range of knives that have no reason at all to be sold. They are not fishing knives; they are not kitchen knives. They seem to be knives that might possibly be used, or conceivably be used, only for an aggressive purpose. It seems to me that a sensible approach might be to ban the sale of those knives.

But that is not easy to do. I have only to walk a little further than that shop and go to another one in the Civic area which sells kitchen knives. Are we to ban those? Each one of those kitchen knives has a clearly useful function or purpose. Yet they are no less lethal than the knives in the other shop I mentioned. To me, that demonstrates the problem.

I do believe we need to run an education campaign, but that is very difficult. We have done it over the years with tobacco, with cigarette smoking. We did it more recently with guns. Maybe it is time to start doing it with knives, but that will be no easy task. Changing a culture is not easy at any time; but in this case, since it appears to be a growing culture - I do not think it has been a longstanding habit amongst Australian people to carry knives - we ought to be paying some attention to it. If this Bill helps us in some way, it is a good thing. Therefore, I am happy to support it to the extent that we do.

MR MOORE (Minister for Health and Community Care) (11.55): Mr Speaker, I rise to support this legislation. It actually has been a quite difficult decision for me, because I think members would have understood from my speech on move-on powers that I believe there are issues of civil liberties which are particularly important and which we should guard. Like all of us, I balance those against what is in the community interest. I see a growing attitude that the carrying of knives is acceptable, and I believe we should also have harsh knife laws like the harsh gun laws that were adopted by this country. I hear other members agreeing with that, I must say. So, the question is: Where do you get the balance between the sorts of knife laws that you have now and these new laws, so that I do not get stopped from carrying my Swiss army knife on my belt, which I almost always do on the weekend? How do we draw the distinction? It is very difficult to draw the distinction. The issue, I think, can be resolved by regulation.

There is also the issue of whether people should be able to be searched, under what circumstances they should be searched, and whether there is an appeal against that. Of course, when the legislation builds in reasonable grounds, then there are grounds upon which to lodge an appeal. That, to me, is the element of contestability. It is a weak element of contestability in this legislation, I think. As I said, it is a reason why I agonised for quite some time. In fact, Mr Rugendyke will verify that, because I discussed with him on quite a number of occasions how we could improve this legislation. I suggested to him that I thought it would be a far better method for us, in terms of the approach we took, to use the same sort of approach as we use for videos and actually have a board that determines whether a particular knife can or cannot be sold. If we were to do that Australia-wide, I think we would be able to manage. In the ACT, I do not think we would be able to manage in any practical way, which is unfortunate.

It may be time for the Attorney-General to take this issue to his ministerial colleagues across Australia, in the Standing Committee of Attorneys-General, and raise whether or not we can find a sensible way to regulate the sorts of knives that come into Australia. But it is difficult, because we also know that there are people who use diving knives, and quite rightly so. Of course, diving knives are a particularly lethal form of knife.

I presume that is what they are designed to be. There are issues that make it very difficult, but there were also issues that made it very difficult with guns. People said, "How do you decide; where do you determine; and how do you draw the line between one gun and another?". We did it, and we managed. We have improved the safety of society because of that. In this case, I am prepared to support Mr Rugendyke's legislation because I believe, on a cost-benefit analysis, that this will bring more benefits than the downside.

Thursday, 25 June 1998

MR HARGREAVES (12.01 am): I rise to speak to this motion, largely because I also was accused somewhat in the last debate of having made undertakings during the election campaign, and I would like to take the opportunity of clearing it for the record because the undertaking I made with respect to move-on powers was the same as the undertaking on knives. That undertaking was that I supported both of the two positions in principle - and I do - and I do not resile from that. But I put a proviso on it, and that was that there needed to be some sort of overt expression of protection of the civil liberties of those people who were caught up by this sort of legislation when they ought not to have been so caught up. That is my dilemma with the legislation that Mr Rugendyke has introduced, and I have actually expressed this to him before.

I support most strongly - and I cannot underscore how strongly - anything that we can do to change this culture that it is a smart thing to carry a knife around. In fact, what we have is groups of kids in all parts of this town who are now carrying knives of exotic types as a fashion accessory. What happens is that you get some smart alec in the group; and, next thing you know, there is a fight on, out the knife comes and there are all sorts of trouble. Finding out what knife ought not to be permissible and what ought to be permissible is a difficult question also. Superintendent Castle informed me that a girl was stabbed and killed by a Swiss army knife with a very short blade. That means that Mr Moore's favourite toy is, in fact, a lethal weapon in the hands of someone else. We have an interpretation problem. I agree with Mr Moore. In fact, I would rather go down harder on this than softer on this.

I want to congratulate Mr Rugendyke on bringing this legislation forward. If we can kill this culture off by drawing attention to this, we will need to give the police the power to do something about it. But again I stress my reservations about the civil liberties bit, about the arbitrary power of search. I am not sure about it; I am not comfortable with it; and, until we can come up with some regime that we can be comfortable with, I cannot support that part. My preferred approach to this would have been to put forward the legislation without that power in it but to have referred it to a committee - the Justice and Community Safety Committee would have been fine; anybody, for all I care, on that one - to examine how we could come up with an answer to that vexing question. But, as I say, I fully support and very strongly support the legislation, without that clause in it.

MR RUGENDYKE (12.03 am), in reply: I thank all members of the Assembly for basic support of this Bill - guarded support, in some cases. I respect the views of Mr Stanhope, Ms Tucker and the Labor Party in general in relation to the search powers and concede that we come from different philosophical perspectives on this issue. The search power in itself is a key aspect of the Bill which makes it workable. At the moment people are able to carry concealed knives in their socks, down their backs, or down the front of their pants. The police are able to do nothing about it until these people take the knife out and perform the final act of damage, whether that damage is fatal, lethal, serious or what. This is workable, sensible legislation that allows knives to be taken out of the system. We see daily reports of assaults, robberies and offences involving knives. We need to get them out of the hands of people that are going to do damage.

One key aspect behind my confidence in the success of this Bill came just the other day from a youth worker who was totally frustrated by their inability to deal with this issue. They know that the kids coming into their premises are carrying knives; they know that these knives can be brought out in fights and in dangerous situations. They applaud the fact that now they will be able to call the police if they have a reasonable suspicion that someone is carrying a knife. "Reasonable suspicion" seems to be another aspect that people are concerned about. "Reasonable suspicion" is, in a way, a key to success in the art of policing - that discretionary power that police are able to use. "Reasonable suspicion" has been developed over the centuries and is laid down in case law. There are books six inches or a foot thick that describe what "reasonable suspicion" is. Once police step over that line, once police abuse that discretion, the sanctions are there - and, believe me, they are - the Ombudsman, the threat of civil action, and the threat of the loss of your job. They are real consequences if the right thing is not done.

As I have said, the main sticking point is the search power. It is a key element of the Bill. I respect the views of those who are concerned about the liberties of these potential offenders, but my view is that the liberties of ordinary people going about their daily business in safety override the liberties of those who would do us damage. I thank members for their support of the Bill as it is and commend the Bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

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

Clause 5

MR STANHOPE (Leader of the Opposition) (12.08 am): Mr Speaker, the Opposition is opposing clause 5. I spoke briefly to this before. I do not know whether I need to reiterate that. I think the issues have been covered. I would repeat, however, my concern that we are actually introducing into the Crimes Act another power of search in relation to this offence. I think powers of search are very significant powers. I think we should look

really carefully at the range of offences in respect of which we deem it appropriate that police have a power of search. I am not quite sure - and I am prepared to admit this - what is the range of other offences in relation to which police have a power of search prior to arrest. I think it is extremely limited, and I must say I do have a concern that in this legislation we are being asked to consider whether or not, in relation to this offence, it is actually appropriate that we catapult the carrying of knives above a whole range of other potential offences. I must say that I am speaking to some extent on a theoretical basis because I do not know the answers to those questions, but it does concern me that the power of search is now being applied to the carrying of knives. I am not at all convinced that that is necessarily appropriate. The power of search is a most significant power. It is a power that actually impacts on the most direct liberty of individuals - the inviolability of their person.

I am also concerned that this particular clause does not provide significant details about the modus or the operation of the power - whether or not it will be conducted in public; whether or not persons that are approached to be searched will be required to remove any garments; whether or not they can say that they will not remove any garments; and whether or not the police have to show appropriate identification. The policeman conducting the search must be in uniform; it does say that. I believe that a basic accountability mechanism is required. I notice that there is included in the Bill a suggestion that the circumstances of the search do need to be recorded in a register. We could have been much more directive about the way those things are done. So there is a whole range of things that I believe could have been done better, but that does not undercut the fact that I do not believe we should be applying a power of search in these circumstances.

I do not think we should be going from a situation where the Crimes Act does not specifically outlaw the carrying of knives to a situation where it does; and on top of that, allow the police what I think, even on a generous interpretation, must be regarded as a fairly arbitrary power to search, a power to search on reasonable suspicion that a person is carrying a knife. I am not quite sure of the basis on which the police in every circumstance will determine that reasonable suspicion, and I have grave concerns about the power of search. I think, traditionally, it is accepted that powers of search should not be exercised until arrest. I think one of the things that we could have considered - and it needs to be considered in this context - is whether or not there are other methods of getting some sort of judicial certification of the need to search. We are in a high-tech age; we have a capacity now, I think, in terms of the hardware available to police, to make arrangements perhaps for tele-warrants. If there were a circumstance demanding a search of somebody on reasonable suspicion, there should be a mechanism for having that search authorised by a judicial officer, perhaps by telephone.

I am also concerned that, once again, this legislation will impact, I think, in the main, on young people; and there are genuine concerns about how legislation of this ilk impacts on young people. I notice that section 30 of the Children's Services Act requires that a child not be interviewed by the police unless reasonable attempts have been made to contact that child's parents. Perhaps no child should be subjected to a search by police unless reasonable attempts have been made to contact the child's parents. I am not sure that we

should be drawing a distinction between the right of police to question a youth and the right of police to search a youth. I do not feel comfortable that there is no requirement in this legislation for the police proposing to search one of my children to call me to say, "I am proposing to search your child. I will be conducting a frisk search on your daughter. I suspect that she is carrying a knife". I do not think it is appropriate. I have, as I said, major concerns about this legislation. The Labor Party will not be supporting this clause.

MS TUCKER (12.14 am): I have already spoken on this briefly. I will not take a lot of everyone's time, but I would just like to seek leave to table the legal opinion. It may be of interest to people who are looking at this at a later date. I seek leave to table it.

Leave granted.

MR SPEAKER: Did you want to incorporate that in *Hansard*?

MS TUCKER: Yes; I seek leave to have that incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 2.

MR RUGENDYKE (12.15 am): Mr Speaker, I speak to clause 5, in response to Mr Stanhope's speech. The search power included in this Bill is one of two or three within the Crimes Act 1900, the difference being that the other two provisions for search - the frisk search and the ordinary search - have a precondition that the person to be searched must be arrested. This clause allows for that not to happen. For example, in a practical sense - and I speak as an ex-police officer with a practical idea of how this might work - it might be appropriate to do the search, to locate a knife, to caution a child, to caution the person carrying it, to summons the person, to have him attend a diversionary conference, or you might wish to arrest him; but this power of search leaves all those options open. There are other search powers, of course, throughout other pieces of legislation - search powers in the Drugs of Dependence Act and other search powers in other Acts. This is not a one-off. It might be an extra one, but it is not a draconian one.

There are, in this clause, conditions that need to be considered prior to a person being searched. The person doing the search has to establish that he is a police officer; he has to inform the person of the reason for the search; and, as soon as practicable after that search has been conducted, under this clause the police officer who has conducted the search shall record the time, location and nature of the search. In my discussion with Mr Stanhope yesterday, it was suggested that a register be kept of all the people that are searched. The register is the police officer's notebook; it is a key part of the search. So, Mr Speaker, I stand by this power of search; it is not unreasonable and is a key to the success of this Bill.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.18 am): Mr Speaker, I just want to rise briefly to indicate our support also for the retention of these provisions. I ask members to imagine how this legislation could operate effectively without a search power being there. Picture the conversation out on the street: Police officer, "Are you carrying a knife, sonny?". Young person, "No". Police officer, "Okay". And off he walks. It does not make any sense not to have that backup power, and I think, frankly, that members should not imagine this can be excised easily, without doing considerable damage to the legislation itself.

Clause agreed to.

Clause 6

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.20 am): Mr Speaker, I move:

> Page 2, line 29, omit the clause, substitute the following clause:
>
> **"1. Return of knife or thing which is seized**
>
> Section 349ZZD of the Principal Act is amended by inserting before subsection (1) the following subsection:
>
> '(1A) If a knife is seized under section 349DB, the person from whom it was seized or, if that person is under 16 years of age, his or her parent or guardian is entitled to have the knife returned if -
>
> (a) a prosecution for an offence under section 495 in respect of that knife has not been commenced before the end of 60 days after the seizure; or
>
> (b) a prosecution for an offence under section 495 in respect of that knife has been commenced before the end of 60 days after the seizure and the prosecution (and any appeal to a court in relation to that prosecution) has been completed without the knife having been forfeited under section 349ZZH.'.".

I present the explanatory memorandum to this amendment and the other amendment. I might speak cognately to both amendments which have been circulated in my name. Amendment is needed to the existing provisions in the Bill which govern the procedure for the return of any knife seized. This is to overcome the concern that the effect of the existing provision is to require the immediate return of a knife, once seized.

We are proposing an amendment which inserts a new subsection 349ZZD(1A) - it sounds like the numberplate of a police car, does it not, Mr Speaker? - which deals specifically with the return of a knife seized in a search. It provides that, where a knife is seized under the proposed search power, the person from whom it was seized or, if the person is under the age of 16, that person's parent or guardian is entitled to have the knife returned where either (a) a prosecution for an offence under proposed section 495 has not been commenced within 60 days after the seizure or (b) a prosecution for an offence under the proposed section has not been commenced within 60 days after the seizure, and the prosecution has been finalised without the knife being forfeited. It creates a separate regime for the return of a knife and serves to clarify that the power to search for and seize a knife is a different power from the power to seize other things under the Crimes Act. So, a person has an entitlement to have a seized knife returned to them in certain circumstances. It will also allow the police, where the person is under the age of 16, to return the knife to a parent or guardian.

The other amendment is to the forfeiture provision of the Bill. The amendment is required to ensure that a forfeiture is linked to a conviction for an offence rather than simply the seizure of a knife. The proposed amendment inserts a proposed new subsection 349ZZH(1), which provides that a knife that has been seized under the proposed search power is forfeited to the Territory where (a) the person from whom the knife was seized was convicted of an offence under the proposed new section 495 or (b) the person from whom the knife was seized was charged with an offence and the matter was dealt with under section 556A of the Crimes Act. Under that section of the Crimes Act, a person might have an offence proved against them, but the court might not proceed to record a conviction. Notwithstanding that, in those circumstances it is appropriate that the court not allow the person to have the knife returned because, in fact, the substance of the offence has been made out. So, in those two circumstances, there is power to retain the knife. I think that would clarify what is a fairly important issue once the knife has been seized.

MR STANHOPE (Leader of the Opposition) (12.23 am): I just reiterate the Labor Party's position on this, to clarify the record. The situation, as I try to work it through, is that we were opposed to clause 5. We actually voted on that, and the Labor Party voted against clause 5; but it was carried. We had anticipated opposing clauses 6 and 7, which were consequential on clause 5; but, as I indicated earlier, the Minister's amendments, I do believe, are a significant improvement. So, there is little to be gained by our pursuing our opposition to clauses 6 and 7, other than perhaps to raise and actually put on the record a consideration as to whether or not the compulsory acquisition of property really does require just terms in some circumstances and whether or not the legislation does run into a little bit of a constitutional problem in relation to the confiscation of property and its destruction without any real suggestion as to whether or not just terms are required to be paid.

MR RUGENDYKE (12.24 am): I thank Mr Humphries for this amendment to my Bill. It is a much more appropriate way to deal with the return or forfeiture of a knife. I did have trouble with those provisions, and this is a sensible alternative.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 7

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

> Page 3, line 5, proposed new subsection 349ZZH(1), omit the subsection, substitute the following subsection:
>
> "(1) A knife that has been seized under section 349DB shall be forfeited to the Territory where the person from whom the knife was seized -
>
> (a) was convicted of an offence under section 495 in respect of that knife; or
>
> (b) was charged with an offence under section 495 in respect of that knife that was dealt with under section 556A.".

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

GAMING MACHINE LEGISLATION - CONSIDERATION
Suspension of Standing Orders

Motion (by **Ms Tucker**) proposed:

> That so much of the standing orders be suspended as would prevent further consideration of the Gaming Machine (Amendment) Bill (No. 2) 1998 (introduced earlier this day) as a private members business order of the day and further consideration of that order of the day being called on forthwith.

MR MOORE (Minister for Health and Community Care) (12.26 am): Mr Speaker, I am appalled; I am shocked; I am disgusted that Ms Tucker, of all people, should move for the suspension of standing orders in this way. We have had this piece of legislation since this morning, although it was foreshadowed when the committee reported yesterday. Ms Tucker has, time and again, since she was first elected to this Assembly - and I am talking about the previous Assembly, so I should say "since she was elected as a member of parliament" - has come to us and said, "No; you cannot rush something through. What about the community consultation? What about giving an opportunity for comment?". But when she has an issue that she thinks is important because it might bring about some change in the interim, what happens then? All those ideas go out the window.

This is appalling hypocrisy because Ms Tucker knows very well that we have not had an opportunity to deal with this legislation; we have only just had enough time to work out that it is an appalling and inadequate piece of legislation. When we get to the legislation, I will talk about that. What will happen, Mr Speaker, if we proceed now with this piece of legislation, is that we will have a very inadequate piece of legislation indeed. That is not to confuse the issue of whether or not there should be a cap. I do not have a problem with a cap. In fact, I approve of the notion of putting a cap on the number of poker machines. I do not believe it would make very much difference at all in percentage terms if this were to wait for an adequate amount of time.

Mr Speaker, there has been issue after issue on which other members of parliament have come to Ms Tucker and said, "We feel that this is a very important issue, and it should be dealt with quickly because there are important ramifications". But, no; we could not deal with those. Because we are dealing with gambling, because Ms Tucker believes it is an important issue, because she believes gambling is an important issue, because she believes we have too many poker machines and because she wants to investigate that in detail, it is now a different story. Suddenly, we should all bend over backwards and say, "Yes; of course, we have to do this quickly". We ought not do it as quickly as this. It is an inappropriate way to deal with legislation. It will give us a very poor outcome in terms of the legislation if it is pushed through; and it ought not go through today. I am asking members, rather than dealing with this piece of legislation now, not to allow the suspension of standing orders; to vote against the suspension of standing orders to deal with this legislation.

One of the amendments to this legislation arrived on my desk during the break. It was dated 5.28 this evening. Since that time we have hardly had enough time - - -

Mr Kaine: That was last evening, Michael; that was yesterday.

MR MOORE: Mr Kaine interjects that it was yesterday. He is correct. It was 5.28 last evening, since it is now half past 12 in the morning. To be debating this issue at half past 12, in the early hours of the morning, having been given just a few hours' notice of the legislation, is entirely and completely inappropriate; it is entirely inconsistent with the number of approaches that Ms Tucker has made to us. When I approached her and asked her would she reconsider this position, she made it very clear that she would not. I also made it very clear that I would take the opportunity to say the sorts of things that I have just said. It is entirely inappropriate for us to proceed with this legislation now. We ought not support this suspension of standing orders to deal with this piece of legislation now.

MR KAINE (12.31 am): Mr Speaker, I am appalled that Mr Moore is appalled, because the only implication of his argument is that somehow this is Ms Tucker's private Bill and there are no precedents for this. The fact is that only three weeks ago this house passed a resolution requiring that a cap be put on poker machines in licensed clubs. In consequence of that resolution, a select committee of this Assembly examined that matter and on Tuesday tabled some draft legislation. Ms Tucker has done some more work on that since then. But this is not Ms Tucker's private business; in fact, it is implementing a resolution of this place of three weeks ago. If Mr Moore does not like the draft legislation that has been put forward - and there has been consultation;

the committee talked to all of the interested parties before we put this legislation before the house - he has the opportunity to vote against it. That is his sanction. I think Ms Tucker is right. I support the suspension of standing orders because it is getting on with the business of this Assembly as has been directed by a resolution of this place.

MR WOOD (12.33 am): I think Mr Kaine has responded appropriately to Mr Moore's practised indignation; and, the longer the night has gone on, the more Mr Moore has rehearsed his indignation. Mr Kaine is right; this arises from a resolution of this Assembly. Following legal advice, this is necessary from the resolution of this Assembly. No consultation? We have spoken to various bodies in the community; they came and spoke to the committee, not to Ms Tucker.

Mr Moore: Did they see the legislation?

MR WOOD: No, Mr Moore; they did not see the legislation. It has been carefully explained to people what the ramifications of that resolution of the Assembly are. The legislation was flagged yesterday when the report of the committee was brought down. These sorts of circumstances have arisen on no small number of occasions in the Assembly. They are not unusual, and it is, after all, not a particularly complex piece of legislation. The legislation simply applies a cap - the cap that we want, the cap that we asked for in this Assembly. It is a page of text. It is not difficult. It has taken a little time to work out and to make sure it is correct. It has gone through the scrutiny of Bills committee. It has been well drafted. It is now capable of implementation tonight.

Question resolved in the affirmative, with the concurrence of an absolute majority.

GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1998

Debate resumed.

MS CARNELL (Chief Minister and Treasurer) (12.35 am): Mr Speaker, it is true that this Assembly passed a resolution - certainly, in no way unanimously, I have to say; but, for all of that, passed a resolution - with regard to a cap on the number of poker machines. But I have to say that Mr Moore is right in his comments about having this legislation in front of us for a very short period of time. As we know and as members of the committee know, that legislation was very badly drafted. Why was it very badly drafted? Why have we gone through so many different runs of amendments today, in the very short period of time since we have had it? Simply because the legislation was not run past anybody; it was not run past the Revenue Office; it was not run past anybody that could have helped. The scrutiny of Bills committee flagged problems; the Revenue Office flagged problems. Anyone who has read the legislation will know that there are still fundamental drafting problems in the legislation as it stands. There is no doubt that this legislation will have to be amended again in the future.

Mr Speaker, we very rarely pass pieces of legislation in a single day's sitting. Maybe the people who have been here for longer than I have will tell me that I am wrong, but I have never known a piece of legislation to be passed in the same day if it had the potential to adversely affect certain members of our community. We have passed legislation where we have had to protect members of the community, where there was potentially money that needed to be paid or that could have been required of a particular person. I remember that there was a piece of legislation about lotteries that had to be passed very quickly. When I suggested to Ms Tucker earlier that it was unusual to pass legislation that would adversely affect people in one day without showing it to them, she basically said, "Oh, well, that is just bad luck. We need a cap, and it really does not matter that some people will be adversely affected".

Already, Mr Speaker, we have identified at least one case of a particular club which has significant plans for extension in with Planning - they are quite significantly through the planning process - and which is expecting to be able to get extra poker machines that it may not be able to get under this legislation because of the way it is drafted. It gives new clubs precedence over existing clubs, and existing clubs that do not have applications in and have not spent substantial amounts of money may or may not be able to apply for poker machines. Is it fair for a club that has spent significant dollars but actually has not started to build - it means they have gone through all the board processes, they have raised the money, they have planning approval, all of those sorts of things - to potentially end up in a situation where they cannot go ahead?

Mr Kaine: That is not true. All they do is put in an application, and the commissioner will deal with it.

MS CARNELL: Unfortunately, Mr Kaine, after reading the legislation and after taking some advice on that legislation, there is no guarantee whatsoever that that club will be able to apply.

Mr Kaine: That is why we put a cap on it, Chief Minister. There is no guarantee that any club will get what it wants.

MS CARNELL: Mr Speaker, on that basis, legislation passed in one day, as members of the committee are now admitting, could significantly adversely affect at least one group in the community - it may not, but it may - without their being able to have input into the process.

The issue is not about the cap. Again, I have no problems with the cap. The issue is about the process and whether we really know the impact of the legislation that is in front of us. The reality is that we do not know; nobody knows. Yes; we, as an Assembly, have supported a cap. But do we support the legislation and the potential effects that the legislation will have? The fact is that we do not know. We have had a number of different attempts to amend this legislation in the 24 hours since we have had it. As I said, the scrutiny of Bills committee had significant problems with it. A lot of the people that it affects have not seen the legislation at all. I just come back to the case,

Mr Speaker. In my time in this place I have never seen a piece of legislation passed in 24 hours, or in the same sitting day - and members of this Assembly who have just interjected admit quite freely that it could significantly adversely affect some people - without giving those affected a chance to actually tell us what they think.

This side of the house does not oppose a cap. We have no problems with the basic approach that the committee is taking. But what happens if this legislation is as badly drafted as it appears to be? What happens if the legislation, as it appears may be the case, is simply unenforceable?

Mr Berry: Move an amendment.

MS CARNELL: We cannot move an amendment; we have not had the legislation for long enough to know which amendments to move. Already today I have given Ms Tucker a huge page of amendments which she has then incorporated in her amendments to the Bill. We have gone down that path at least once today already. I am just making the point that we have never done this before; we have never passed in this timeframe legislation that we, as an Assembly, know and accept may adversely affect some members of the community, without giving them an opportunity to put their case. I think it is a really retrograde step. I also think it is a retrograde step to pass a piece of legislation that has already been shown to have real gaps and real problems in it. But again I come back to the initial situation. We do not have a problem with a cap; we just have a problem with legislation that appears to have real problems.

MR RUGENDYKE (12.43 am): Mr Speaker, I congratulate Ms Tucker on presenting this Bill today on behalf of the Select Committee on Gambling. This is a task that the committee has been given. In fact, the committee has gone further. The committee has drafted legislation as well as decided how to implement the cap. This Assembly suggested a cap on poker machines whilst we look at the problem of gambling, if there is one. As it turns out, the committee, by simply saying the word "cap" publicly, has scared up the numbers. The numbers are there. The numbers are about 5,800. That includes about 805 applications that poured into the Revenue Office in the seven days after we first started looking at this matter. This legislation may well be somewhat inadequate. It was done in a hurry; it was done to serve a purpose. This piece of legislation has a life of 12 months, with a one-year sunset clause. If the Licensed Clubs Association, the Hotels Association or the Casino club want to mount a serious challenge to this piece of legislation in the 12-month period during which they will miss out on poker machines, it will highlight our suspicion that there is a problem; that these things are driven by greed; that these machines are put into clubs as a revenue base.

People that try to bluff us with smoke and mirrors here today are missing the point about what we have tried to do. They are missing the point that we have been tasked with setting a moratorium on poker machines for the duration of the inquiry. We have done that; we have done what the Assembly has asked. I would suggest that the nine people who voted for the select committee to be formed should be the nine people that pass this piece of legislation and show that we have the courage to actually do something; that we have the courage to actually perform a task without being bluffed by the vested interests.

As I said before, we know what the numbers are. We have been extremely generous with the vested interests. We have said, "Come and give us all your numbers", and we have scared them up. It is about 5,800. We have tried to set a cap of 5,200 - about 800 more than there are in existence at the moment. Existing clubs have a leeway of about 800. Clubs in the building stage, in the planning stage, once they get to the point where they can apply, will be able to apply to the Revenue Commissioner and will be considered. We have been extremely generous to and extremely placating of the vested interests. But, if they want to mount a challenge to this cap within the 12 months, that highlights the greed that these things do generate. I urge members to support this Bill.

MR MOORE (Minister for Health and Community Care) (12.47 am): Through you, Mr Speaker, I say to Mr Rugendyke, "We can all crunch numbers; we know about the crunching of numbers". But the point I would like to make is that on most occasions - in fact, any occasion that I can remember that we have put legislation through on the same day - it has been by unanimous agreement. We have said, "Yes; we know what is in the legislation; we are not just pushing it through without giving everybody the opportunity to look at the legislation that we have in front of us". I think you of all people, Ms Tucker, ought to realise that there will be many occasions when you have the opportunity to crunch the numbers, but there will be many occasions when the numbers are against you. So what happens in those circumstances is that we always give each other a bit of room and a bit of consideration when somebody says, "I have a serious problem" with either the way we are doing something or the way a particular piece of legislation is framed.

Mr Speaker, I would like to draw attention to the fact - just to continue on from what Mrs Carnell has pointed out - that the legislation has had a series of amendments, even as late as 5.30 pm today. But let us look at how this is actually going to operate. The critical part about this legislation is that there is a general view, as I read it, that a cap ought to be applied. How is it going to apply? The critical part in this legislation is not the application of the cap but the circumstances in which the restrictions do not apply. I want to draw attention to proposed new section 23C paragraph (c). The section will read this way, if you take the other paragraphs out:

> Section 23B does not apply to a club that, on 24 June 1998, does not hold a licence in relation to premises if, having regard to the following criteria, the Commissioner is satisfied that the number of licensed gaming machines referred to in section 23B should be exceeded:

this is one of the criteria -

> (c) the corporate and financial relationships with an existing club;

That is how you would have to read it. It does not make sense. I have read it a dozen times or more. I cannot make it make sense. It is just nonsense. We are now going to pass a piece of legislation, I gather. If you pursue this line of reasoning, you are going to crunch through, with the numbers, legislation that does not make sense. If somebody else can interpret that for me, I will be happy. I have asked for advice on it as well, and the people with legal backgrounds I have consulted also cannot make it make sense. I will be very keen to have Ms Tucker explain that.

If you go further down the subsection and look at paragraph (e) of the circumstances in which the restriction does not apply, it refers to "such other matters as are relevant". Well, what is going to happen? Remember that you want the cap to apply; I want the cap to apply. Somebody comes in and says, "I want to apply". The commissioner says, "No". So, what is the first thing that happens? Remember that you are trying to get a cap. The commissioner says, "No". So, then what happens? Is it an administrative decision entitled to a review in the AAT, which is, of course, a normal thing? How is a review by the AAT going to be conducted when they are talking about "such other matters as are relevant" and this totally nonsensical sentence? I believe it is not going to work. Another small factor, because of the fact that we have been sitting for so long, is that it has now become retrospective. It says, "24 June". It is now 25 June. It is a minor thing; it is amusing. But I do note that that is now the case. It is not hard for us to change "24" to "25"; anybody can do that. But it does raise those issues, Mr Speaker.

I raised one by way of interjection earlier when Mr Rugendyke was talking about the extra 800 poker machines, or whatever it was. I said, "How many of those are associated with the Labor clubs, the ones that provide funds to the Labor Party?". We know that there is an expanding group of clubs with an expanding number of poker machines that are associated with the Labor Club. It is an important question; it is a question of community interest. It is a question that I have raised in this Assembly on many occasions before. Every time we debate these matters and Labor does not separate itself from the debate, I will raise it again; it is a matter of conflict of interest. As far as I am concerned, it is a matter of conflict of interest. Anybody I talk to in the community, with the exception of people who are Labor Party members - some of whom disagree with me - agrees. I do not mean members of the Assembly; I mean members of the party. The vast majority of people, whenever this issue is raised, say, "Of course it is a clear conflict of interest"; and indeed it is.

Mr Speaker, it seems to me that to ram this through, to crunch this through with the numbers today, within a period of less than 24 hours, is the antithesis of everything that we have been doing in terms of processes in this place. It is entirely inappropriate. It is not a good piece of legislation. It is not well drafted. There are question marks over it. You ought to rethink whether you are going to push it through today. What is the downside if you do not put it through? I think that is a reasonable question. I guess it will be the same as if we had not started this inquiry. I ask all of you: Would it have mattered if we had not started this inquiry now? We had this debate in the last Assembly; should we have an inquiry, or should we not have an inquiry? It was on the books and has been effectively on the books for discussion now, as my recollection serves me, for about a year, formally, from the time motions were actually formally put on the notice paper. It simply would not change the position very much if we had the extra time to look at this legislation and to go to the community and consult on it and see whether we can get a decent piece of legislation. I think it is entirely inappropriate to ram it through tonight, and particularly inappropriate for the Labor Party, which has a conflict of interest.

MR KAINE (12.54 am): Mr Speaker, it is quite clear that the Government wants a Clayton's cap; they want a cap that is not a cap. The Chief Minister and Mr Moore have both said, "We love a cap; we want a cap". In fact, it is not a matter of whether or not you want one; there is a resolution of the Assembly that we will have one. What you want to do is delay this. Why do you want to delay this? The Government wants to delay this because they know that, if they delay it for long enough, it is a waste of time to put one into effect. This committee is supposed to report on the broader issues by February next year. If you do not put a cap on until September or November, why bother? Mr Moore is quite right; if you leave it for long enough it will not make the slightest bit of difference. All of the applications will be in and the commissioner will have approved them all because the commissioner has no discretion, without this amendment, to reject one; and the Government will be delighted, because the Government does not want a cap. The Government are the only group of people in this place who do not want one; so they delay and delay until it gets to the point where, even if you impose one, it has no effect.

So, Mr Speaker, I urge the members of this Assembly who are not Government members to ignore what the Government is saying. It suits the Government fine not to have a cap; they did not want one in the first place. The record will show, I guess, that they voted against the motion in the Assembly three weeks ago. Now, of course, they are going to try to stop that resolution being put into effect. The select committee did - - -

Mr Moore: You found out that you could not do it by resolution; you had to do it by legislation. When you got that wrong, you got this wrong.

MR SPEAKER: Order!

MR KAINE: Mr Speaker, can you stop Mr Moore trying to talk over the top of me? I listened to him, and he can listen to me whether he likes it or not.

The select committee did what it was tasked to do by this Assembly. Now the Government do not like it; so, they criticise the legislation. The legislation that has been put before you has been developed with the advice of the commissioner, with the advice of the commissioner every inch of the way. It reflects the method by which the commissioner believes the cap can be put in place. I do not give a hoot if the Revenue Office people do not like it. It does not bother me in the slightest. The Chief Minister said that the Revenue Office people have not had a chance to look at it. So what! What we are doing is putting into effect the resolution of this Assembly. The Revenue Office people can work within the law after the law is in place. That is the role of this place.

Members interjected.

Mr Hargreaves: On a point of order, Mr Speaker: Mr Kaine sat in silence and listened to people. Not one of these people has given him the same courtesy, and I urge you to enforce the standing orders.

MR SPEAKER: I uphold the point of order.

MR KAINE: Thank you, Mr Speaker; and thank you, Mr Hargreaves. I submit that we have to be very careful about listening to the protestations of the Government. If any one of them had ever said, "We honestly support a cap", then you might be able to listen to what they say and give it some credibility. None of them ever has. They have opposed it from the outset. In other words, the Government is resisting implementing a resolution of this Assembly.

Well, the Government has to be told that a resolution of this Assembly means something. They are bound by it. They might not like it; but, once in a while, you have to chew on something that you do not particularly like. I think this is a case where the Government is going to have to do that. They can protest; they can argue; and Mr Moore can put up spurious reasons for not doing it. But at the end of the day this place is going to vote on it. I think the Government have given a clear indication that they are going to resist to the hilt implementing this legislation. The Chief Minister is going to keep arguing that it is inadequate; it will not work; we cannot make it work; it is going to have to be amended; the Revenue Office people do not like it. The Assembly is warned about the position that the Government is going to take. If the Executive is going to be accountable to this place, this is a good test case.

MR BERRY (12.59 am): I just want to draw attention to something. Mr Moore went on at great length, with some indignation, about the fact that this matter was being brought on and dealt with in one day. I just want to refer Mr Moore to an amendment which he moved on 30 November 1994.

Mr Moore: An amendment?

MR BERRY: An amendment, yes; but a significant amendment, nonetheless. It was the cannabis medicinal use amendment, and we all recall that. It was a significant amendment which was moved and rammed through in one day.

MR WOOD (1.00 am): Mr Speaker, I rise to support the proposal in front of us. I think most of the arguments have been well expressed by others supporting the Bill. It seems strange to me that when we respond to a requirement of the Assembly we are criticised for so doing. I do not understand that. I am aware of the reasons for the opposition that has been expressed tonight. I do not think the words that have been uttered cover the claim to passion behind those words. After this Bill has been enacted we can get down to the real work of the committee and start to assess the social and economic consequences of gambling. That is what the prime purpose of the committee is, and that is what we all need to get onto as quickly as possible. Once this is in place, we can do that. We can report to the Assembly later in the year. I hope we will be bringing forward further measures for your careful consideration.

MS TUCKER (1.01 am), in reply: There are a couple of important things I need to say at the moment. First of all, I respond to Mrs Carnell's passionate pleas for those people adversely affected in our community. I might need to remind members that the reason we had this committee set up and the reason we are setting a cap is that we actually think a lot of people in the community are being adversely affected. This is not just people who have a gambling problem. This is people who live with people who have a gambling problem; this is the community generally who pays an incredible amount of money in

costs as a result of problem gambling. This is also a huge cost to small businesses which, particularly now in Victoria, are realising the impact of increased gambling on their viability. Of course we are very concerned about affecting people in our community adversely by actions that we take in this place, and that is why, when we originally debated this, I was prepared to reconsider it, work with the drafters and the gaming commissioner to come up with a piece of legislation or work in the way that we needed to in order to actually put a cap in place.

Mrs Carnell said that all these amendments were put up today and that things have changed. Yes, thank you; thank you to the gaming commissioner; thank you to the drafters; thank you to Mrs Carnell. I thought that was a good cooperative effort. We have now come up with something that I believe will work.

I am quite happy to rebut some of the concerns Mr Moore has. This came up in the debate on prevalence. The Government does want to understand; so, it would be nice if they listened. This issue of whether or not the legislation is looked at by itself came up in the debate on prevalence in regard to sentencing, when it was explained quite clearly that those people administering that law - in that case the magistrates - look at the speech and the explanatory memorandum. The gaming commissioner looks at the committee's report and the explanatory memorandum as well. If Mr Moore actually had a look, he would find clarification on a number of concerns that he has.

Mr Moore: Not on (c). The corporate and financial relationships aspect is not mentioned in the explanatory memorandum or the report.

MS TUCKER: Yes, it is explained in the report.

Mr Moore: It is not.

MS TUCKER: I believe that it is; but I will check that for you. I am happy to explain "such other matters as are relevant". The gaming commissioner asked for that to go in. This is really about issues of membership drives and so on. There are other matters which are relevant and which can be looked at, and it is quite appropriate to have that in there.

The issue was raised of the one club that may be disadvantaged. As I said before, I am sorry if a club has been disadvantaged. There are probably going to be a number of clubs disadvantaged. Possibly other groups in the community will be disadvantaged. What we saw quite clearly after the first debate was that there was a huge demand for an increase in poker machines in the ACT. As I have already said and made quite clear, per capita we have a lot more poker machines in this place than Victoria or New South Wales has, and it is very important that we have this cap. For heaven's sake, this cap is for 12 months; this is not the end of the world. If a club wants to put up an extension, that 12 months is not likely to be a huge issue. They have not started building, according to Mrs Carnell, anyway.

The very reason that we put in that exception to the cap was for new clubs that could prove that they had expended significant amounts of funds and were well progressed and there would be community benefit. They are exactly the concerns that were raised in the last debate, and we have accommodated them. So I am very pleased that, in a minute,

I will move the amendments in my name, which have been a cooperative effort with the government agency. Mrs Carnell, I guess, got her ideas from there, too. I do not know where she got them from, but that is fine; I am happy to work with them and have them in there. I believe it is very important that we have done this work. I have been pleased to do it for the committee. As I said, this is for 12 months. This is just saying, "We will stop now because we need to have a look at these issues around gambling". It is something that can be worked with.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MS TUCKER (1.07 am): I seek leave to move my amendments together.

Leave granted.

MS TUCKER: I move:

Page 2, line 8, clause 4, proposed section 23B, omit the proposed section, substitute the following section:

"23B. **Restriction on gaming machines**

'(1) This section applies to -

(a) an application for the grant of a licence; or

(b) a request to vary a licence for the purpose of increasing the number of licensed gaming machines;

made -

(c) on or before 24 June 1998 but not determined by the Commissioner before that date; or

(d) after that date.

'(2) The Commissioner shall not -

(a) grant a licence on an application; or

(b) vary a licence on a request;

to which this section applies if -

(c) to grant the licence; or

(d) to increase the number of licensed gaming machines;

would result in the number of gaming machines on licensed premises exceeding 5,200.

'(3) In determining the number and type of gaming machines to be specified in a licence granted on an application, or varied on a request, to which this section applies, the Commissioner, in addition to the matters about which he or she is to be satisfied or to which he or she is to have regard under this Part, shall also have regard to -

(a) in the case of a request by a club to vary a licence - the ratio of the membership to the number and types of gaming machines in existing clubs;

(b) in the case of an application or request made by a club - the extent to which the club is likely to contribute to, support and be beneficial to the community; and

(c) such other matters as are relevant.".

Page 3, line 3, clause 4, proposed section 23C, omit from and including "to a club" to and including "exceeded:", substitute "in relation to a club that, on 24 June 1998, did not hold a licence if, having regard to the following criteria, the Commissioner is satisfied that the section should not apply in relation to that club:".

I will speak briefly to these amendments. They are mostly technical in nature. They pick up on comments made by the scrutiny of Bills committee, as well as issues that have been raised by the Government officials administering this legislation. Following discussions with Government officials, it has also emerged that there was one loophole in the legislation. The wording of the proposed section 23B would have allowed a loophole, as clubs which already hold a licence but do not currently have an application or request for a variation before the commissioner would fall outside the cap. That is clearly not the policy intention of the legislation. In coming up with amendments to close the loophole, there has been one policy change to the legislation, and that follows discussion with the Commissioner for Revenue. The commissioner is prepared to consider allocating gaming machines, within the cap, to clubs which apply for licences or variations to licences after the passage of this legislation.

Just turning back to the scrutiny of Bills report, there were three issues raised by the committee. The first two have been addressed by the amendments. Having consulted with the drafters, the final comment is not relevant, as proposed section 23C is the list. So no "and" or "or" is required. I commend the amendments to the Assembly.

MS CARNELL (Chief Minister and Treasurer) (1.09 am): Mr Speaker, just very briefly: I think it is really important to get the facts straight here. Mr Kaine, I understand, and I think even potentially Ms Tucker, made the point that the Revenue Commissioner and the Revenue Office had been involved in putting this legislation together. I think it is important to recognise that they, too, had not seen the legislation until in the last 24 hours. They, too, have had to put together their input into this legislation today.

Mr Moore: Including a change of policy.

MS CARNELL: Including a change of policy. The Bill was not developed with the commissioner's advice, contrary to what Mr Kaine said. No advice on the Bill was sought from the commissioner. The commissioner and others certainly had some input into discussions but not into the legislation. The Bill was developed by the committee; and none of us - whether it be the commissioner, the Revenue Office or any of the relevant or interested parties - had commented on it until today. So, it is simply not right to say that there was input into the legislation by anybody in government or anybody on this side of the house.

MS TUCKER (1.11 am): I just want to respond to that. The latest form of the legislation certainly was presented and shown to the commissioner today; but we were working with the commissioner before that, asking for advice. I am not trying to put responsibility here.

Ms Carnell: Are you saying that the commissioner saw copies of the early draft of the legislation?

MS TUCKER: No; I just explained that I did not say that.

Ms Carnell: No; well, that is what you said. You said "the latest draft". They did not see any legislation.

MS TUCKER: I said "this morning" or "yesterday morning". You are not listening.

Mr Kaine: On a point of order, Mr Speaker - - -

MR SPEAKER: Order! Would everybody stop quibbling at this point and try to get things sorted out. It is 10 past one in the morning.

Mr Kaine: Thank you, Mr Speaker.

MS TUCKER: All I wanted to clarify was that we had been trying to work with the Government agents before they saw the whole legislation today. We had some advice. Mrs Carnell is correct; the whole piece of legislation was not presented to them until today. She is correct in saying that, but we had conferred with them before.

MR MOORE (Minister for Health and Community Care) (1.11 am): Mr Speaker, if a Minister misleads this house they lose their position in the house. I wonder whether the same would be true of a committee chair. Maybe that is something that we ought to look at, because committee chairs, and any other member, have to be particularly careful to be accurate in the information they give. During the in-principle stage of the debate I raised the issue that proposed section 23C paragraph (c), read in its context, just does not make sense. I went on further to ask questions about it. Ms Tucker said that the matter was explained in the explanatory memorandum and in the report. That is not true. The issue of "the corporate and financial relationships with an existing club" could be taken in the sense of however you read that paragraph. The closest that anything could come to it is in paragraph 4.4 of the report. Under the heading "Criteria for exercise of Commissioner's discretion", it states:

> The committee is aware that a number of club groups operate under the same body corporate and it is concerned to ensure that these, mainly large, clubs should not be able to access additional machines by setting up new associated clubs.

That does not explain "the corporate and financial relationships with an existing club", which is a meaningless phrase anyway. The explanatory memorandum on proposed section 23C says:

> The Commissioner should be satisfied that the application is not from an existing club that is seeking to access additional machines by establishing a new associated club.

It is really pushing it to a large extent indeed to suggest that that is the case. I am not suggesting for one minute that Ms Tucker deliberately misled. It is the issue of deliberately misleading that we would be concerned about. But what I am saying is that we have to be particularly careful - - -

Mr Berry: Or recklessly.

MR MOORE: Mr Berry interjects, "Or recklessly". Indeed. That is something that we have to be particularly careful of. Mr Speaker, what we have is a piece of legislation with amendments moved, and I am saying to you that I simply have not had enough time to properly consider these matters; I simply have not had enough time to consult on these matters to see how they will affect other people and how this particular piece of legislation will affect people. I think it is appalling that members are prepared to push it through when there are still significant doubts about this particular piece of legislation.

Amendments agreed to.

MR MOORE (Minister for Health and Community Care) (1.14 am): Mr Speaker, it seems to me that this legislation is appalling; it seems to me that it will not work. This is not because I oppose a cap. I do not oppose a cap. Contrary to what Mr Kaine has said, I have made a number of public statements to that effect, before the election and at other times. I am not opposed to a cap. In fact, I think a cap is a good idea.

What I am concerned about, Mr Speaker, is whether this legislation will achieve what it set out to achieve. It is just the same as when you were proposing to do it by a motion and I was saying to you, "No; a motion like this will not work". You have now discovered that a motion will not work, which is why you are putting legislation in. When it comes back in six months' time and you see that this has not achieved anything, I hope you will say to yourselves, "Well, damn; we have been incompetent".

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

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

AYES, 9	*NOES, 7*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Humphries
Mr Quinlan	Mr Moore
Mr Rugendyke	Mr Smyth
Mr Stanhope	Mr Stefaniak
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Mr Moore: Mr Speaker, Mr Osborne did indicate to me earlier that he would not vote on this issue.

MR SPEAKER: Thank you.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 1.19 am (Thursday)