DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

26 August 1999

Thursday, 26 August 1999

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The Assembly met at 10.30 am.

(Quorum formed)

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

GAMBLING LEGISLATION AMENDMENT BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.32): I present the Gambling Legislation Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This legislation amends the Casino Control Act 1988, the Gaming Machine Act 1987 and the Interactive Gambling Act 1998. The establishment of the Gambling and Racing Commission provides the impetus to review these principal gambling laws. As members will be aware, the commission is to assume the responsibilities and functions of the Casino Surveillance Authority, and the gaming machine, lotteries, interactive gambling, and racing and betting functions currently within the Department of Treasury and Infrastructure.

This is the first occasion since its enactment that the Casino Control Act has been the subject of a major review. The amendments to the Gaming Machine Act in recent years have been to address specific issues but not its technical deficiencies, and the amendments to the Interactive Gambling Act have resulted from experience in its administration. The primary purposes of these amendments are to remove obsolete provisions and anomalies; where possible provide consistency within each Act, across the three pieces of legislation and with the commission legislation; and overcome administrative and operational deficiencies.

There has been insufficient time to review all the gambling laws. These amendments are intended to shore up the principal gambling Acts until the urgently needed review of all of the Territory's gambling laws is undertaken. These amendments will allow gambling in the Territory to be more effectively regulated until the wider review is completed.

These amendments, in addition to assisting the regulator, will also make it easier for those who are subject to each law to understand their obligations and therefore make compliance easier. The bulk of the amendments are minor technical corrections. However, there are amendments of some substance and I will touch on some of them.

The Casino Control Act and the Gaming Machine Act are to be amended to provide some measure of consistency with the Interactive Gambling Act in the area of the power to give directions. The regulator has also been given disciplinary powers. The harm minimisation provisions in all three Acts are to be amended. The Gaming Machine Act will expressly prohibit under 18-year-olds being in gaming areas, and the provisions relating to exclusion and/or self-exclusion of patrons from gambling venues have been enhanced.

The Interactive Gambling Act will provide for the provisional registration of players. This amendment recognises the nature of Internet activities and will provide a real alternative for people who may consider accessing an unregulated site. The amendment has appropriate safeguards to maintain the integrity of the regulatory regime and, as far as practicable, prohibit gambling by minors. It is worth pointing out, Mr Speaker, that the Commonwealth Productivity Commission in its draft report on Australia's gambling industries, which was released recently, noted that because of the regulatory restrictions which the Interactive Gambling Act embodies the risk of access by minors to interactive gambling without parental consent is likely to be significantly lower than their access to physical sites.

The Gaming Machine Act is to be amended to allow, in special circumstances, for gaming machines to be installed at other than licensed premises. For example, machines will be allowed to be installed at the Canberra Institute of Technology specifically for use in its hospitality training courses. I anticipate that, in view of the Productivity Commission's draft report, the institute will be revisiting its curricula to ensure that such training courses also include material about responsible gambling and harm minimisation.

As I said earlier, Mr Speaker, this is the first review of this kind in relation to the Casino Control Act since 1988, and similarly for the Gaming Machine Act. The amendments to the Interactive Gambling Act arise from experience in its administration. Mr Speaker, I commend the Bill to the Assembly.

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

VISITORS

MR SPEAKER: Before I call the Clerk for the next item of business, I would like to recognise the presence in the gallery of people from the Wesley Uniting Church who are studying local government. Welcome to your Assembly.

MAGISTRATES COURT AMENDMENT BILL (No. 2) 1999

MR HUMPHRIES: (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.37): Mr Speaker, I present the Magistrates Court Amendment Bill (No. 2) 1999.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

That this Bill be agreed to in principle.

The proposed amendments to the Magistrates Court Act 1930 deal with the limitation period under the Act. Presently, section 31 of the Act precludes the commencement of prosecutions from more than 12 months after the commission of certain offences unless another Act makes specific provision for a longer period in which to commence a prosecution. The limitation period of a year applies to offences where the penalty is a pecuniary one or, for a first conviction, a term of imprisonment of less than six months.

Members will recall that amendments to the Occupational Health and Safety Act and the Dangerous Goods Act were passed by this Assembly recently to allow for the institution of criminal proceedings after the one-year limitation period has expired in circumstances where a coronial inquiry is held. At the time I advised the Assembly that these two Acts were not the only legislation to which the limitation period in the Magistrates Court Act applied. Some examples of the types of offences to which this section of the Act applies include the conducting of a boxing contest without approval under the Boxing Act; setting fire to growing crops, lighting fires in plantations, lighting a fire on an acute fire danger day, all under the Bushfire Act; improper disposal of clinical waste under the Clinical Waste Act; sale of ammunition by a person not licensed in accordance with the Firearms Act 1996; and allowing insanitary conditions to exist contrary to the Public Health Act 1997. It is foreseeable that any one of these activities could be the subject of a coroner's inquest.

This Bill is brought before the Assembly for completeness. This Bill, unlike the amendments to the Occupational Health and Safety Act and the Dangerous Goods Act, not only allows for a prosecution to be commenced upon the conclusion of a coronial inquiry for a whole range of legislation but also includes the situation where there is an inquiry held by a board of inquiry established under the Inquiries Act or a royal commission.

For example, there could be an intention by the Director of Public Prosecutions or an investigating authority to bring such a prosecution before a court, but where a royal commission, coronial inquiry or inquiry by an Inquiries Act board is held, the investigation and prosecution may be delayed pending the outcome of the coronial inquest, royal commission or the inquiry. The complexity of the issue and the nature of the evidence or information may mean that an extra-judicial inquiry is not completed for some time and that a year or more may elapse since the commission of certain acts that

could lead to a prosecution. Where an inquiry extends beyond the one-year time period, people involved in the commission of the alleged offence may cease to be liable to prosecution because of the operation of the limitation period.

This situation is not limited to circumstances where reasonable grounds exist to suspect the commission of an offence before the royal commission, coroner's inquest or inquiry commences. Potentially the commission of an offence could be revealed during a coronial inquest, royal commission or inquiry or from further investigations by law enforcement agencies prompted by a royal commission, coronial or board of inquiry hearing or report.

The Government proposes, by this Bill, to ensure that prosecution of an offence under a range of legislation is able to be commenced within a reasonable period of time, irrespective of whether the offence is directly related to the subject matter under investigation by the coroner, a royal commissioner or an Inquiries Act board.

This Bill, Mr Speaker, is not retrospective. Members well know my position on retrospectivity. It is a position supported by this Assembly on many occasions. Citizens are entitled to order their affairs, secure in the knowledge that the Government will not legislate retrospectively, or, rather, that the Assembly will not legislate retrospectively to alter their rights and responsibilities.

In the debate on the amendments to the Occupational Health and Safety Act and the Dangerous Goods Act, I cautioned members of this Assembly about embarking on a path that enacts retrospective legislation which creates legal obligations for past events. It remains the Government's position that this Assembly should not legislate retrospectively to alter people's rights. This Bill is prospective in its application. I assume, for the sake of consistency, that there will be amendments to the Bill to make it retrospective, but I can only repeat the warnings which the Government gave on earlier occasions about the unwise nature of that course of action. I commend this Bill to the Assembly.

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

ANIMAL DISEASES AMENDMENT BILL 1999

MR SMYTH (Minister for Urban Services) (10.43): Mr Speaker, I present the Animal Diseases Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

> That this Bill be agreed to in principle.

Mr Speaker, as we indulged ourselves at breakfast this morning, perhaps some of us had honey with it. Perhaps it was on our toast or our muffins, or even drizzled generously over our muesli or porridge. In either case I am sure that many of us did not consider the ramifications that either an exotic or an endemic bee disease outbreak could cause to the availability of our honey.

Mr Wood: Yes, I did.

MR SMYTH: Mr Wood obviously is a very scrutable man who is out there considering his honey. It is pleasing. He is probably a Pooh Bear fan as well. Until 5 March 1997, Mr Speaker, when the Apiaries Act 1928 was repealed, all beekeepers in the ACT were required to comply with the provisions of that Act. On this date the Animal Diseases Act 1993 was amended to allow that Act to deal with bee diseases. These diseases used to be covered by the Apiaries Act.

As part of this consolidation, bees have been declared to be "stock" for the purposes of the Animal Diseases Act, and the diseases that can affect bees have been identified and declared as either exotic or endemic diseases. To complete the consolidation of bee disease provisions into the Animal Diseases Act, the Government commenced drafting regulations under that Act. However, Parliamentary Counsel has advised that several amendments must first be made to the Animal Diseases Act itself. Therefore, I now bring before the Assembly the Animal Diseases Amendment Bill 1999. Together with regulations that the Government intends making, this legislation will help to ensure that bee disease outbreaks are prevented and that they can be controlled should they occur. Similar legislation is currently enacted in all other jurisdictions within Australia.

Contained within the Bill, Mr Speaker, is a provision that will allow an inspector to enter premises, with either the consent of the occupier or by a warrant if necessary, if the inspector has reasonable grounds to believe that there are bees housed on the premises. This provision is vital for ensuring that beekeepers are not keeping beehives that are infected with either an endemic or exotic bee disease. Should a bee disease be identified following such a visit, the existing provisions from the Animal Diseases Act 1993 are available to be enacted to take immediate action to control the outbreak. Mr Speaker, I should also advise all members that the Beekeepers Association of the ACT is currently voluntarily complying with the proposed amendments to the legislation. This Bill will also amend the regulation-making power in the Animal Diseases Act to ensure that the necessary bee disease regulations will be within the scope of the Act.

Mr Speaker, without wishing to set the Assembly into a hive of activity over these amendments, the Animal Diseases Amendment Bill 1999 and the regulations, which I can foreshadow the Government intends to make after the passage of this Bill, will ensure that our local apiarists and the community at large will have appropriate legislative protection in respect of endemic and exotic bee diseases.

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

URBAN SERVICES - STANDING COMMITTEE

Inquiry into Betterment and Change of Use Charge

MR HIRD (10.46): Mr Speaker, I move:

> That the resolution of the Assembly of 1 July 1999 referring betterment and change of use charges to the Standing Committee on Urban Services for inquiry and report be amended by omitting paragraph (3) and substituting the following paragraphs:
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> "(3) the Committee to report to the Assembly by the last sitting day in 1999;
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> (4) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
>
> (5) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.".

Mr Speaker, in view of the time that was allocated by the parliament to my committee and the heavy work schedule that my committee has undertaken, such as a number of Territory Plan variations and other inquiries, it is essential that we move the time back to the last sitting day of this year. I urge members to support my committee.

Question resolved in the affirmative.

ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE

Report on a Protocol for Government Interaction with Assembly Committees

Debate resumed from 11 March 1999, on motion by **Mr Corbell**:

> That the report be noted.

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

EXECUTIVE BUSINESS - PRECEDENCE

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

That Executive business be called on.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE

Report on Review of Auditor-General's Report No. 1, 1999

MR QUINLAN (10.50): Mr Speaker, I present public accounts committee Report No. 21 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 1, 1999 - Stamp Duty on Motor Vehicle Registrations", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, this report again typifies a process that we seem to have fallen into. The Auditor finds a problem and compiles a report. The Government then defends itself against the criticism in the report, occasionally begrudgingly adopts some of the recommendations, and hopefully the whole thing, to some extent, goes away. From time to time the Public Accounts Committee has discussed whether it needs to come back and ask the Auditor to revisit some of these issues. There does not appear to be a huge amount of money involved in this exercise and there does appear to be some cost in tightening the system. However, the committee has recommended that the Government have a damn good look at it.

Ms Carnell: We did.

MR QUINLAN: There you go. I rest my case. I do not think it is beyond the wit of mankind to devise a system whereby we can have deemed market prices. That can be a process for assessment, and any diversion from that should become an exception. However, at this point, Mr Speaker, I commend the recommendations of the committee to the Assembly.

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

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE

Report on Review of Auditor-General's Report No. 2, 1999

MR QUINLAN (10.53): Mr Speaker, I present public accounts committee Report No. 22 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of the Auditor-General's Report No. 2, The Management of Year 2000 Risks - Interim Report", together with a copy of the extracts of minutes of proceedings. I move:

That the report be noted.

Mr Speaker, the audit report summarises the results of the performance audit of the Y2K risk management by the ACT public sector agencies and addresses management responses to risks in relation to computer hardware, software applications, operating systems and computerised applications embedded in operational systems. The committee focused on critical systems in the key ACT agencies where it was noted that audit estimated that a little over 50 per cent of critical systems would be Y2K ready by 30 June 1999, although audit was confident that all agencies would be ready by 31 December if, in particular, outstanding work on the modernisation of the ACT IT infrastructure was complete.

The committee took evidence from key ACT agencies, ACTEW, Canberra Hospital, the ACT Emergency Services Bureau, InTACT, and the Office of Information Technology and Multimedia in the public hearing, and issues canvassed are outlined in the committee's report. The committee was advised that considerable progress had been made since the audit had been carried out and that some of the agencies had completed their Y2K readiness. The committee accepts that appropriate steps are being taken to attain full compliance by all ACT agencies. However, the committee will revisit this matter during November and will further report to the Assembly at that time.

The committee notes that the Emergency Management Bill 1998 is currently referred to the Standing Committee on Justice and Community Safety for examination. This committee considers it important that the Justice and Community Safety Committee report in sufficient time to allow the Assembly to consider and pass the Bill, amended if necessary, in order that the Emergency Services Bureau has powers appropriate to meet whatever emergency situation might arise on 1 January 2000. I commend the report to the Assembly.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE

Inquiry into car parking at EPIC

MR HIRD: Mr Speaker, I ask for leave to make a statement regarding the Standing Committee on Urban Services new inquiry into car parking at EPIC.

Leave granted.

MR HIRD: Mr Speaker, on 3 August this year the Standing Committee on Urban Services resolved to inquire into and report on car parking at EPIC and the surrounding areas. We have moved quickly in relation to this inquiry. We have met with key stakeholders, taken evidence on two occasions and have visited the site. We have had assistance from officers in Urban Services, in particular, PALM. We have also visited other stakeholders, such as the Show Society, Summernats and EPIC, and taken evidence. Whilst I am now informing the house of the new inquiry, I am pleased to say

that this would be one of the shortest of inquiries because we have authorised the report and will be tabling our findings in the house next Thursday, it is hoped, Mr Speaker, on 2 September. While it may well be one of the shortest inquiries that my committee has undertaken, it has been conducted in depth. The report will be useful not only to the parliament but also to those other stakeholders I mentioned earlier. I look forward to the support of the chamber.

URBAN SERVICES - STANDING COMMITTEE

Report on Draft Variation No. 137 to the Territory Plan - Macpherson Court

MR HIRD (10.58): Mr Speaker, I present Report No. 29 of the Standing Committee on Urban Services, entitled "Draft Variation to the Territory Plan No. 137 - O'Connor, section 86, block 2, Macpherson Court", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, in presenting this report, I would like to quickly advise members of the committee's position. In considering this issue the committee met with witnesses from the local community, from PALM and from Canberra Community Housing Ltd at two public hearings. Following these meetings, the committee has endorsed the draft variation to the Territory Plan in relation to Macpherson Court in O'Connor.

In doing so we have noted that the draft variation deals only with a proposed change of land use for the site, and that it does not deal with ancillary issues which may affect the surrounding areas. In recognition of this fact, we have also recommended that we be fully briefed on the section master plan for the Macpherson Court area before it is signed off. I am delighted to inform the house that officers of PALM have indicated that they will do that. It is a strong recommendation within our report. This will enable us to be satisfied that all issues have been satisfactorily addressed as well as the concerns that were raised by witnesses who gave evidence to my committee. I look forward to the support of the house.

MR CORBELL (11.00): Mr Speaker, I want to add briefly to the comments of my colleague Mr Hird in relation to this report. The draft variation relating to Macpherson Court was a matter that I had some fairly serious reservations about. Whilst on the face of it the change is a straightforward one in providing for the B11-B12 overlay to be applied to section 86, block 2 of O'Connor to allow for the redevelopment of Macpherson Court, and whilst the design proposals for Macpherson Court appear to be innovative and responsive to a range of issues needed, both in terms of community housing and the wider community, there were a wide range of fairly serious concerns expressed by members of the immediate community in O'Connor, Turner and the inner north generally about the impact of the proposed development in relation to a number of areas. Specifically, Mr Speaker, these related to public car parking spaces, the use of what is existing green space for car parking, issues to do with the location of a road adjacent to Sullivan's Creek, and a range of other matters relating to the density of the proposed redevelopment.

At the end of the day it was fairly clear that the committee had to consider the draft variation as it related specifically to the request to consider a B11- B12 overlay on section 86, block 2, O'Connor. On that basis, Mr Speaker, the committee has recommended that that change be endorsed by the Assembly.

However, Mr Speaker, I think it is only fair to note that, because the range of concerns about the impact of the redevelopment in relation to car parking and other matters at the O'Connor shops is considerable, the section master plan must ensure that all these issues are properly addressed. That means, Mr Speaker, and the committee has recommended this, that the Planning and Land Management Group needs to come back to the Standing Committee on Urban Services and demonstrate that those concerns have been satisfactorily addressed. Clearly, if they have not, there will be a significant problem for residents of O'Connor, Turner and Lyneham, and the inner north more generally, and it is important that that situation not be allowed to come about.

The draft variation itself is a straightforward one, but I would like to place on the record our concern, and my concern as a member of the committee, that this endorsement of the draft variation today does not, in itself, imply that all the other matters relating to the section master plan will be dealt with adequately on faith. We want to see that demonstrated. I hope that the Minister will take those comments on board when he responds, both to the draft variation report and also to the preparation of the section master plan for section 86, block 2 and the surrounding areas.

Question resolved in the affirmative.

DRAFT DOCUMENT FOR RECONCILIATION

MS CARNELL (Chief Minister) (11.03): Mr Speaker, I move:

That this Assembly:

(1) supports the proposed Australia-wide consultation strategy on the Draft Document for Reconciliation;

(2) notes that the Draft Document for Reconciliation also proposes that the following National Strategies to Advance Reconciliation be developed:

(a) a National Strategy for Economic Independence;

(b) a National Strategy to Address Aboriginal and Torres Strait Islander Disadvantage;

(c) a National Strategy to Promote Recognition of Aboriginal and Torres Strait Islander Rights; and

(d) a National Strategy to Sustain the Reconciliation Process.

(3) notes that the consultation process will culminate in May 2000 with an event organised by the Council for Aboriginal Reconciliation to launch its final proposals for a national document for reconciliation;

(4) commends the consultation process and calls on all Members to actively encourage all residents (including schools, businesses, community organisations and groups) to participate in the consultation process;

(5) considers that a successful May 2000 reconciliation event attracting broad community participation and support will make a significant contribution to advancing national reconciliation; and

(6) congratulates the Council on its initiative.

Mr Speaker, on the last day of the recent National Reconciliation Week the Council for Aboriginal Reconciliation, CAR, launched the draft document for reconciliation, a document which aims to encourage nationwide discussion on this issue by all Australians. The document is comprised of a draft declaration and four national strategies which address economic independence, Aboriginal and Torres Strait Islander disadvantage, the promotion of Aboriginal and Torres Strait Islander rights and sustaining the reconciliation process.

None of the strategies in that document come as a surprise. We are all aware that greater economic independence leads to self-reliance and empowerment; that there is a need to improve social and economic conditions and broaden opportunities for indigenous Australians; that to do this will require practical steps; and that reconciliation is an ongoing process that can only be sustained through the ongoing goodwill and commitment of the majority of Australians. However, the publication of the draft document for reconciliation provides us with an opportunity to focus on what is still required to advance reconciliation and to allow it to become a living reality.

I can understand that we may not all agree on every issue, and that there are areas that are open to debate, but it seems to me the majority of issues outlined in this paper are fundamental to the success of reconciliation and deserve our wholehearted support. And

it is essential that we give more than just lip-service to the steps involved in achieving these goals. We should take every opportunity to make reconciliation a living, breathing reality. Practical support and reconciliation must come not only from government initiatives but also from deep within the community.

Mr Speaker, I believe that the Government's commitment is reflected in the many positive steps it has taken towards reconciliation. The ACT Government has played an active role in contributing towards reconciliation, identifying it as important for Australia's heritage and identity. We have demonstrated in many ways that we have an attitude of goodwill and will continue to honour our commitment now and in the future.

For example, our goodwill is demonstrated by the Government's efforts to achieve a settlement of the native title litigation. As members would be aware, the Government has recently offered the Ngunnawal people a lease over those portions of Namadgi National Park which can be leased. While the legislative framework tightly controls major management matters in the park, the lease is an important symbolic gesture. The lease has the potential to foster reconciliation because it is a symbolic reversal of the dispossession process, and because greater indigenous involvement may help to promote understanding of the role of indigenous people in the natural environment and create new opportunities for users of the park to understand that relationship in context.

There have been many other achievements. We have provided over $20,000 to the Australians for Reconciliation coordinators to further reconciliation in the ACT through community meetings, public forums and workshops, and we have been active in funding and participating in a range of reconciliation activities and projects, including, most recently, the Journey of Healing and Reconciliation Week, a week of activities which helped to give recognition to the stolen generations and their experiences.

In June, as part of Reconciliation Week, Mabo Day celebrations were held in the Assembly reception room. To help celebrate this day, the Government arranged for the Torres Strait Islander flag to be flown from City Hill for the first time, a positive gesture which, I have been advised, was well received by the Torres Strait Islander community throughout Australia and the Torres Strait. It was at the end of Reconciliation Week that the draft document for reconciliation was released.

Mr Speaker, this Government has been assisting the council with the distribution of the document through the indigenous community and government agencies. Copies have been sent to community organisations and to members of the Aboriginal and Torres Strait Islander Consultative Council. Funding has been provided to the Australians for Reconciliation coordinators to enable them to hold two public meetings, one north side and one south side, in September this year. These meetings will provide a valuable opportunity for members of the Assembly and the wider ACT community to comment and provide constructive input into the development of the draft document. Therefore, I encourage all members of the Assembly and the wider ACT community to take an active interest in the draft document for reconciliation. Attend one of these meetings and have your say in the consultative process and what is, or should be, included in the document.

Mr Speaker, by supporting this motion the Assembly has, again, an opportunity to demonstrate its continuing commitment to meaningful reconciliation with indigenous people. Mr Speaker, I circulated the motion to members of the Assembly and asked for input. Some input was received from Ms Tucker and that has been incorporated in the motion. Of course, the wording of the motion did come from the National Council for Reconciliation, Ms Evelyn Scott, so I would assume that Ms Tucker consulted with them when making the changes. Mr Speaker, we do not have any problems with those changes.

I urge all members to support this motion on reconciliation. The ACT Legislative Assembly has passed two previous motions in this area. As we would all be aware, this Assembly has been more than happy, and perceived it appropriate, to say sorry, to use Mr Berry's words just then, and to do everything we can as an Assembly to ensure that the reconciliation process does continue and is a grass roots indication of what every Australian believes, and that is that indigenous people in this country are a very integral part of the future of this nation, just as they were an integral part of the past.

MR STANHOPE (Leader of the Opposition) (11.12): Mr Speaker, I join with the Chief Minister in supporting and endorsing this motion. Last week I had the privilege of visiting the Institute of Aboriginal and Torres Strait Islander Studies. As a guest of the institute, I was briefed on the work being done there and on the organisation's aspirations as it prepares to move to a new permanent home associated with the National Museum now under construction on Acton Peninsula. My host presented me with a memento of my visit, a copy of their CD based "Encyclopedia of Aboriginal Australia", edited by David Horton. It is an innovative and valuable resource that in a few days has taught me a lot more than I thought I knew.

In the context of this debate, I was particularly struck by David Horton's opening comment in his introduction to the encyclopedia - "Aboriginal people have been in Australia for more than 18 million days". That short, stark statement I think puts this debate in quite a dramatic context. Eighteen million days is an extraordinarily long time. It is a time during which Aboriginal and Torres Strait Islander people have developed a broadly diverse culture. They spoke hundreds of languages, each characterised by several dialects. There were differences in initiation rights, differences in the ways each group of people celebrated their culture in song and dance, and differences in the ways in which they lived. All these things differed subtly between neighbours, and more distinctly over greater distance.

As David Horton points out, diversity has always been a feature of Aboriginal and Torres Strait Islander society - diversity, but not difference. Aboriginal and Torres Strait Islander people are recognised, and have recognised each other, as one people. Against the indigenous presence in this land of 18 million days, European settlers have a history of less than 100,000 days, but have had, of course, a far greater impact on the physical environment.

Mr Speaker, eight years ago this nation embarked on a process of reconciliation between indigenous and non-indigenous Australians in clear recognition that a reconciled Australia is a much stronger nation. In September 1991 the Commonwealth Parliament passed legislation that established the Council for Aboriginal Reconciliation. The legislation was passed unanimously in both houses.

The council adopted a vision - "A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all" - and identified eight key issues to take the reconciliation process forward. These eight key issues have all been discussed in some form and at some length in this Assembly, and they are understanding country; improving relationships; valuing cultures; sharing history; addressing disadvantage; custody levels; destiny; and a formal document of reconciliation. There is not much time, given the enormity of the task and the decade's life span of the council, and we still have so far to go, as a report released in the last month by the Australian Bureau of Statistics and the Institute of Health and Welfare shows.

That report, "The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples", looks at just one of the council's key issues, disadvantage. It presents a chilling account of the current situation. It shows that indigenous people, when compared as a group with other Australians, are worse off in a number of areas that form the basis of our quality of life - employment, income, housing, health and education.

It is worth reflecting on some of the report's findings, drawn from the time of the 1996 census, in the context of today's debate. At that time, just three years ago, 41 per cent of indigenous adults were employed, compared with 57 per cent of other Australian adults. The average income for indigenous adults was $189 a week for males, and $190 a week for women. For non-indigenous males, the average income at that stage was $415, and for women $224.

Indigenous people were less likely to own their own home, and less likely to have completed any studies after school, when compared with other Australians. Indigenous children were four times more likely to be under care and protection orders, and six times more likely to be in out-of-home placements than non-indigenous children. Although indigenous people make up less than 2 per cent of the Australian population, almost 19 per cent of adult prisoners in Australian gaols were indigenous.

Indigenous people suffer from more health problems than other Australians and die younger. Census data shows that indigenous men can expect to live 56.9 years and indigenous women 61.7 years, compared with a life expectancy of 75.2 years for all Australian males and 81.1 for females. Indigenous people are more likely to be admitted to hospital than other Australians.

Mr Speaker, the snapshot of disadvantage presented by this report shows how far the reconciliation process has to go. Soberingly for us here in Canberra is the fact that all of these appalling indicators of indigenous disadvantage apply equally to the ACT. There can be no genuine reconciliation without a commitment to address these problems and

the other key issues identified by the council. Yet, despite the apparent commitment of the nation in 1991 to move towards reconciliation, there are signs that the process has stalled.

I was saddened to read the view of Galarrwuy Yunupingu, Chairman of the Northern Land Council, in the *Australian* newspaper last week. He argued in that article that there has been a "radical view" of Aboriginal policy which has been ascendant in Australia for the past three years. Galarrwuy Yunupingu argues that this radical policy suggests that Aboriginal people taken from their families were in fact rescued, not stolen. It questions the outcome of 25 years of land rights and the value of reconciliation.

Mr Speaker, it is impossible, regrettably, to disagree with the view of this distinguished Australian, especially as we witness, for example, the attempts to dismantle the Aboriginal Embassy and the continuing refusal of the Prime Minister to include an acknowledgment in the preamble to the Constitution of the original occupancy and custodianship of this land, and, I have to say, his shameful and tawdry agonising over whether or not to say "sorry".

There are times in the history of nations when communities have the opportunity to do great things. Australians have two such opportunities before them at the moment - the chance to become a republic, to tell the world that we are quite capable of standing for ourselves, and the chance to commit to a genuine reconciliation with those who originally occupied the land. The two opportunities are linked, in my view, and the achievement of one will be lessened if the other fails.

Today's debate can go a good way towards getting the process back on track. It reflects the fact that the council has continued its important work without being deflected by any turn in the national policy debate. There is a draft document of reconciliation on the table, and this motion endorses the consultative process that is necessary to carry the argument. As my Federal counterpart, Kim Beazley, said in a debate on a similar motion before the House of Representatives in June, the draft declaration shows that "there remain people with patience, dignity and quiet hope who continue to push the process of reconciliation forward". We have the opportunity to do our small part today by supporting this motion, and I expect that every member will, but I do want to go a little further than the words that are before us, important though they are.

I want to make two suggestions which I think might be considered for some action that will reinforce the commitment of this Assembly and community to the reconciliation process. We are conducting today's debate on Ngunnawal land, a fact we often acknowledge, but I think we could do more to acknowledge the original occupiers of this land in a very simple way. There are numerous natural landmarks around Canberra and the region and many of them are sign-posted in English. My suggestion in relation to this, which I would like to see discussed and further considered, is for joint signage in English and in the language of the Ngunnawal of these natural features and places of significance.

Mr Speaker, there has also been some debate, in public and in this Assembly, about the participation of indigenous people in public life and in the decision-making processes of government. The recent report of the select committee on the governance of the ACT

recommended an inquiry into the issue of indigenous participation in government decision-making and administration and the process of reconciliation in the ACT. I propose to discuss this proposal with members of the Assembly and other interested parties within the community. I welcome debate on the issue.

I also wish, subject to the outcome of negotiations with representatives of local indigenous people, to confirm my support and that of the Labor Party for the proposal by the ACT Government to negotiate a land use agreement with representatives of the Ngunnawal people in respect of Namadgi National Park. It is important for there to be actions to back words, and my hope is that these actions will demonstrate a commitment to reconciliation. I am drawn to another comment of Kim Beazley's in the debate I referred to earlier. He said:

> Ultimately … real reconciliation is not a matter of documents. It is a matter of the human heart.

An incident having occurred in the gallery -

MR SPEAKER: Order! The sitting is suspended until the ringing of the bells.

Sitting suspended from 11.23 to 11.28 am

MR SPEAKER: Mr Stanhope, you have a little time left for your comments.

MR STANHOPE: Thank you, Mr Speaker. I had almost completed my speech on reconciliation when we were interrupted in relation to another issue on which there is obviously a need for some reconciliation between the ACT Government and workers at the Canberra Hospital.

MR SPEAKER: Relevance, please, Mr Stanhope.

Mr Smyth: Linking the two is atrocious. It is atrocious to try to link that sort of puerile attitude with an issue as serious as this one.

MR STANHOPE: Mr Smyth, have you just called the nurses at the Canberra Hospital puerile?

MR SPEAKER: Order! Mr Stanhope, relevance, please.

MR STANHOPE: Thank you, Mr Speaker. I was concluding my speech on the reconciliation motion before the Assembly today. I was saying that it is important for there to be actions to back words. Of course, that is a sentiment that applies to other than just reconciliation. My hope is that the actions that we have talked about and are talking about here today will demonstrate a commitment to reconciliation. I was noting, Mr Speaker, that I was drawn to another comment of Kim Beazley's in the debate on reconciliation, a debate that I referred to earlier. He said:

> Ultimately ... real reconciliation is not a matter of documents. It is a matter of the human heart.

We can endorse this motion today, and I am sure that we will, but it means little if our hearts are not in it. I urge all members to treat the issue of reconciliation with indigenous Australians with the importance that it must command if this nation is ever to realise the enormous potential it has in all its people.

MR SPEAKER: I wish to address remarks briefly to the gallery. You are most welcome to come and listen to the debate, but I have to ask you to do so in silence. Thank you.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety (11.30): I also want to contribute to this debate and I think, just to start, I also should address some comments to those in the gallery concerning the issue which obviously brings them to the Assembly today. I understand that the Chief Minister and the Minister for Health and Community Care have indicated their willingness to meet a delegation of the nurses. I understand that that message has been sent down and I hope that there will be a productive meeting and that we will be able to proceed now to debate uninterrupted an issue of considerable importance to the community and to our future as a society.

Mr Stanhope: Relevance, Mr Speaker.

MR SPEAKER: Yes, I do uphold the point of order.

MR HUMPHRIES: I think it is important to record that the offer was made before the disruption occurred.

Mr Speaker, the issue before us is very important. It is about the future of this community and its capacity to exist on a basis that will be sustainable into the future. We have all seen on our television screens and perhaps at closer hand instances of communities around the world failing to deal with fundamental and sometimes irreconcilable differences about matters to do with race, to do with ethnic differences, to do with beliefs and to do with religion. To achieve a society which is free of fundamental tensions on those things, we as an Australian community need constantly to review where we are going and what we are achieving with respect to the assimilation of those people who make up our community.

Undoubtedly, we have not succeeded as a society in fully addressing the issues represented by Aboriginal dispossession in the past and the process of national reconciliation with the indigenous community of this country is an essential process in being able to deal with that issue adequately for the future's sake. Mr Speaker, I do not believe that we can separate the future welfare of this country from this issue. I believe that without meaningful, sincere and community based reconciliation our future as a stable, democratic, tolerant society is at risk. I might point out that the comments I make on this subject, as were comments of the Chief Minister, are made on behalf of my colleagues who will not have a chance to speak in this debate today, including my colleague Mr Moore.

Mr Stanhope in his remarks made reference to the considerable disadvantage which is still experienced by Aboriginal Australians today. We can only reflect with sadness on the reality of those statistics. It is true that mortality, morbidity and lack of access to decent housing, education and employment opportunities are still real factors that Aboriginal Australians have to deal with. That is a profoundly sad fact and one which we, as a community, collectively need to work on.

There is, however, another element which I think it is vitally important to address in a debate like this one - Mr Stanhope did touch upon it - and that is the question of the use and ownership of land and its importance as a basis on which to move forward on the process of reconciliation. In the reality of the invasion, if you like, or the occupation of what was previously Aboriginal land by non-Aboriginal people nothing is more fundamental to the original indigenous owners than the loss of indigenous land. It was a fundamental reality of life 200 years ago as white settlers moved across the landscape and settled larger and larger parts of the Australian countryside. Today it is an inescapable fact for many Aboriginal people who are learning more about their past and who are reflecting on the loss of their land and the traditional way of life that went with that land.

Mr Speaker, for the ACT's part it is essential that we be able to address the question of Aboriginal relationship to the land if we are to take forward in the context of the ACT community reconciliation with our indigenous citizens. That is why the Government a few weeks ago made what I believe is a significant offer of a lease over most of the Namadgi National Park to those people who are representative of the Ngunnawal community in the ACT. That offer has attracted a number of comments, some supportive and some critical. I note with great appreciation the expression of support from the Leader of the Opposition today, because I think it is essential if such an offer is to be taken up that it appears to be, and is, an offer made by the entire ACT community to the entire indigenous community of this region, that is, the people who traditionally represent those who were owners of this land.

Despite differences of view about how that might occur, it is vital at the end of the day, if reconciliation on this issue is to be achieved, that we do so as a whole community. In particular, that means showing leadership within the Assembly on this question and being able to offer a basis for genuine agreement with the Ngunnawal people about that matter. A lease is the most that the ACT can provide and it cannot provide it over all of the Namadgi National Park. That may change, however, if there is an acceptance on the part of the Commonwealth Government that we are entitled to deal with this issue in terms of the whole of the land and a more formal title to the land. Perhaps in the fullness of time there will be some expansion of that offer on the basis of some shift in the Commonwealth's position on that matter.

But that is only part of the process, naturally. Although it is probably true to say that traditional owners of this land living in the ACT are less disadvantaged than Aboriginal people in other parts of Australia, there are still serious issues to address in the context of the ACT, issues about unemployment, issues about contact with the criminal justice system and also, I suspect, issues about health and education. We have to deal with those issues at the same time, but I simply express the view that I think that reaching

agreement with Aboriginal people on the basis of a just accounting for the land is a vital and precedent-setting first step. I trust that it will be a step we will take together as a community.

Mr Speaker, I commend this motion. I think that the process that has been followed by the Council for Aboriginal Reconciliation has been a good one. I have attended some of the functions that have been organised by the council and I have great faith in what we have here being the basis for national reconciliation as well. But we in the ACT pride ourselves on being a progressive community, on being at the forefront of debates of this kind, and I hope that we will be able to move forward on this issue in a way which will engage the entire community.

MR HARGREAVES (11.39): Mr Speaker, I have to say that I am very keen to throw whatever small weight I have behind not only the Council for Aboriginal Reconciliation's initiatives but also the Government's commitment to putting some reality into them and I am rather heartened that both sides of this chamber and, I hope, the crossbench will be united and unanimous at the end of the day.

I looked up a dictionary to see how the word "reconciliation" is defined. I wonder how many of us have actually done that recently. There are a number of definitions and they are very interesting. The first couple went to reconciliation being about healing, settling and harmonising. Those are the ones that most people would take as the meaning. It also means to make friendly after estrangement, and I think that one is particularly apt as well. We have had an estrangement between our two communities in our attempts to make for one community for 200 years or so, and I think that if we approach all of our activities with that intention of making friendly after an estrangement we will go a long way towards achieving our goal. However, there is another meaning which I think is more likely to be espoused by Mr Howard in his reluctance to apologise to the Aboriginal community on behalf of all of us, and that meaning is "to make acquiescent or contentedly submissive". I think that would be his preferred position, and I think that that is terrible.

The council's work, provided sufficient members of our community have read their report and followed the issue, has opened the eyes of the wider community to the plight and suffering many indigenous Australians have experienced and are still experiencing. We have come a long way with reconciliation, but there are still people within our communities who fail to see the issue. Again I mention the Hon. John Howard, who seems to have missed the point. Saying sorry is not just symbolic; it is an enormous step. It is actually reaching into your own heart and saying to somebody, "I am sorry that something really awful has happened to you". It is not an admission of guilt. The sooner Mr Howard wakes up to the fact that it is not an admission of guilt, that it is merely an expression of regret that something really awful has happened to somebody else, and makes that expression of regret on behalf of the rest of us, the sooner we can put a lot of these things to bed.

Saying sorry to the families of the past will allow us to plan for the future, to stop looking backwards, to start looking forwards. Failure to say sorry has brought much pain and anguish to many Australians, both indigenous people and non-indigenous people. Reconciliation is about Australia's future. As we enter the new millennium, it

should be the beginning of a new partnership between all Australians. Mr Speaker, my dream is for this community, this multicultural and diverse community, to be a seamless one. There is no difference. The difference, in fact, is only the difference in ideas and the difference in how we can attack the future. Anything else is just not acceptable to me, Mr Speaker.

It is really the responsibility of all members of this Assembly to promote reconciliation amongst all Australians. How many times have we been to gatherings and thought that most of the people there had not embraced it at all? They actually take their lead from people like us. I think that we live each and every day of our lives on show for these people and we need to go out there and take every opportunity we can to tell people that we are sorry. Saying that you are sorry for what has happened is something that you do in your daily life; we do. Mr Speaker, what we have here is an opportunity to do that.

This activity on the part of the Council for Aboriginal Reconciliation is a step in a very widespread educational exercise. We know that educating our schoolchildren about reconciliation is a really good way to go because, hopefully, the minds of children going to school are a greenfields site and they are ready to be influenced. If we influence them in the proper way - with tolerance, expressions of regret, sorrow and desires for a seamless society - it will come off. However, Mr Speaker, we need to address the core issue and resolve those underlying problems that many of us would take for granted. That is the role of the adults in this world. We have to go back and make good what has happened before so that the kids can get on with it in a seamless society.

We have to address the many scars that exist among indigenous people. It is our job to promote the healing process and to see the healing process finish. Let us hope that it will not take 200 years for us to say sorry for something that it took us 200 years to do. Our desire for reconciliation must be incorporated in our laws, in our constitution, in our customs and in the way we live our lives. Mr Speaker, it is very easy for us to talk about reconciliation with indigenous people on a global basis. It is very easy to say, “Let us worry about Aboriginal reconciliation”, and then in our minds to start thinking about the outback. I suggest that people should take a look in their own backyard, that we should not be NIMBYs as far as reconciliation is concerned. We should be starting to think about our own backyard here.

Mr Humphries quite appropriately said that we have many issues to address with respect to the indigenous people who live in the ACT and surrounding areas, and he is dead right. If people think that it is a question of having control of disease, unemployment, housing and lifestyles and that is limited to outback New South Wales, outback Queensland or outback Western Australia, I suggest that they take a look at outback Red Hill, outback Narrabundah, outback Griffith, outback Wreck Bay, and the list goes on. If we embrace all of these things on a global basis and say how wonderful it is that we are doing these things for the good of all indigenous Australian people and we let down the people in our own neighbourhood, we will be a sad and sorry lot and we will have failed miserably.

Mr Speaker, I would like to conclude by congratulating a particular piece of reality here. A year ago, or thereabouts, a couple of people in the ACT decided to do something real about reconciliation, not leave it to the leaders like ourselves and some of the high

profile publicity seekers to do it. They just wanted to get on and do it. I will not name them, Mr Speaker, because they asked me not to quite a few months ago. But I will name their project. It is called the Jundah project and it is about bringing a couple of kids to Canberra from Cherbourg.

The group was motivated by a talk that we received from Matthew Malone, who, I must say, was incredibly inspirational. These people just went out and got a few little fundraising activities together. They got behind them the Hotel Kurrajong, the Body Shop, the Queanbeyan branch of Australians for Native Title and Reconciliation, a large section of the school system - Barry Woolacott, the principal of Lanyon High School; I am sure that Mr Smyth will be chuffed to hear that, as indeed I was - and a number of high profile people who get their names in the paper often enough for me not to bother to mention them here.

They had a vision, Mr Speaker. That vision in their own small way was to empower young Aboriginal people through new experiences, to give young Aboriginal people an opportunity to be heard in Canberra, to provide an opportunity for ourselves and all involved to learn about reconciliation from the kids from Cherbourg, and to demonstrate that ordinary citizens in Canberra support reconciliation and, importantly, that we provide a human face to reconciliation. *(Extension of time granted)* As I have said, they have arranged to sponsor two young people and a senior member of the Cherbourg Aboriginal community to visit Canberra for a few days and meet some people in Canberra. The community in Cherbourg actually conducted a little competition by nature, some short essays that the kids wrote on reconciliation, and chose from that two young people, Rosie Collins and Naomi Malone, who are both only 14 years old, and they will be coming down here with a chaperone, Sandra Morgan.

They are going to see how the Federal Government works - best of luck to them; I think it needs a heart starter, quite frankly, because I do not think that it is doing too well in this game - and they are going to meet with some other young people who are working and studying in Canberra and get a chance to see the national capital's attractions and institutions. They are going to get a little holiday, which will be supremely exciting for 14-year-old kids, and then they are going to talk to people about what reconciliation is all about from their perspective. I sincerely hope, Mr Speaker, that those people who come in contact with this group will get more out of what they have to say than these kids will get out of coming to Canberra.

I gave you that little story just to emphasise that there are people in our community who are doing something in real time about it. They are not just standing still in places such as this and saying, "What a great idea this is". Mr Speaker, I conclude by saying that we need to have a reality check on this issue. We need to make sure that we are actually doing what we are saying. We need to make sure that our aim is for a seamless society and we have to put real emphasis on saying to these people how sorry we are that something really dreadful has happened to them in their lives - I have to say that it is just frightening to think about it - and make sure that we actually do what the dictionary says in the sense of making friendly after an estrangement.

I am hopeful also, Mr Speaker, that in May 2000, when the final report is launched, it contains a finalisation event, because one of the other definitions that I did not mention before is "to purify by special service after profanation or desecration". I think the opportunity is here for us to say, "Let us reconcile with a particular event, a particular service". I urge those behind the actual compilation of that report to give that some thought. What I do not want to see happen with the reconciliation is what I believe Mr Howard is trying to do, that is, to make it acquiescent or contentedly submissive. We should get behind this sort of thing. I commend the motion to the Assembly. I commend the Government for bringing it on and for providing the moment for it. I commend my leader, Mr Stanhope, whose commitment to it is a great example to us all. He is constantly coming up with different ways in which to express our collective views. I urge the Assembly to support the motion.

MR KAINE (11.53): My sentiments on this issue are quite straightforward and can be stated very simply. They are that the time is long gone when we, the inheritors of this land, should have recognised the contribution made to the sustenance and the maintenance of the land by the indigenous people who were here before we came; and we should have recognised that they should have a special status in our community because of that contribution to and their affinity with this land. The time is long gone when we should have recognised that the indigenous people of this country are economically disadvantaged. There are huge inequities, they suffer real disadvantage, and the time is long gone when we should have addressed that problem and rectified it.

The time is long gone when, because of the particular affinity that the indigenous people have with the land, we should have recognised their rights in connection with that and, if necessary, set those rights into law. The time is long gone for talking about reconciliation; we should have achieved it long ago. Finally, the time is long gone for moving and debating motions such as this one instead of getting on with the job.

Mr Speaker, for those reasons I totally support this motion for what it contributes, if anything, to the processes that I have identified. Let us do something and, for heaven's sake, stop talking about it.

MR WOOD (11.55): Mr Speaker, I rise to support this important motion. It is important to continue to do so and, as Mr Kaine suggests, to do something as well. I want to speak in the context of a challenge that was made to me some months ago. I was confronted in very fierce terms by a group of people whom I would call friends about the need for reconciliation. They argued to me most strongly that reconciliation was nonsense, that we should not feel a guilt for what happened years ago, and asked why we should say sorry. That view is still common in society in Canberra and Australia today. I do not know whether it remains the predominant view, but it is still a common view. I responded just as vehemently to this group of people by saying that we do need reconciliation. Yes, I do feel guilt, and I wish we would say sorry at all levels, including the national level.

That challenge to me coincided with the day that we were watching on our television screens the arrival of refugees from Kosovo and the next day we saw the photographs in the newspapers. I responded strongly - it was not too strongly - by saying to them,

"What is the difference between ethnic cleansing in Kosovo and the impact of the white advance into the Australian continent?. One group with power moved in on another group without power and made them move on, sometimes by force, sometimes by violence. What is the difference?".

Australians expressed great sympathy to the Kosovars. We opened our country and our hearts to them. Do we offer the same sympathy even today to our Aboriginal population that was moved on? They did have to move on. I live in a house on land where once Aborigines walked without hindrance. I hope that there are differences. I reflect on what I said. Was the situation different 200-plus years ago? Was there a different culture? Were there different expectations? Indeed, there were. But some of these events have been very recent. Some of these events are in the memory of people who live today. Some of these events are in the experience of people who live today.

Are there differences - I am still asking myself what the differences are - or was it basically the same thing? There was violence with the European incursion, raid, invasion or settlement of Australia. We still argue around the country about whether we should ever use the word "invasion" in our textbooks. There was violence. It is recorded; there is no question of that. Hunting parties and the like were deliberately sent out. History records it. Of course, there were no TV cameras there to record it. There was nothing beamed onto television sets at night to show what happened to evince the sort of sympathy that we felt for the Kosovars; so we could only read about it, and then in poor detail. But we do know that many of the people who first lived here died by direct and deliberate assault, as well as dying by neglect or from the poor policies that were implemented over a long period.

I suppose I speak strongly. I have just finished reading a book by Professor Reynolds from Townsville. *Why weren't we told?* is the title of the book and he has gone into some of that history in more detail than is sometimes well known. We do know that very large numbers of Aborigines were assaulted and killed quite deliberately. They were moved on. There is a considerable record. Of course, it is still very incomplete, only a minor account of what did happen.

I do feel guilty and I responded strongly to the people who challenged me. I still ask the question, and now publicly: What is the difference? Those who occupy this land in Canberra and across Australia do have very strong obligations and we must take action and we must acknowledge that past and apologise for it. Our current leader, if I am right, commented that the Japanese never apologised for war atrocities. That may be a fair point. Focus on Australia, not just beyond Australia. Too often we cannot see where we may be in error, but can see very clearly where others may be in error. Let us move on. Let us acknowledge this need for reconciliation. I join the Assembly in taking that lead.

MR QUINLAN (12.01): Mr Speaker, I will be very brief. I have had the opportunity in recent years to spend some time outback, travelling through the Northern Territory, central and western Queensland and the north-west, and I have to say that the plight of some of the Aboriginals in Australia is quite obvious and the alienation of those people is quite obvious. It is, in fact, a quite depressing sight to wander around towns such as

Alice Springs, Halls Creek and Derby and see the situation first-hand. Some of the elements of this motion do apply. The absence of economic independence is quite clear. The disadvantage that exists is quite clear.

Being the simple fellow I am, I would like to see reconciliation - not tokenism or superficial ceremony - taken to the point where we can reconcile the preservation of the values, the belief systems and the freedoms of the original Australians from some of the materialistic baggage that we carry around and I would like to see them preserved while we are able at the same time to extend the benefits of modern society, such as advances in health and education. Beyond what we put together in these draft strategies, we really have to get down sooner or later as a society and genuinely resolve those dichotomous situations. I can do nothing else but support the motion.

MS TUCKER (12.04): This cross-party motion on reconciliation represents a beginning, not an end. It is entirely appropriate that all members of this Assembly support this motion and, in doing so, support the process of national consultation that is currently being undertaken by the Council for Aboriginal Reconciliation in the draft document for reconciliation and the four national strategies to advance reconciliation. Australia's indigenous and non-indigenous people, including the millions of people who have so sincerely committed themselves to the reconciliation process already, are looking to Australian parliaments to make genuine, substantial, practical and real commitments to reconciliation.

As the reconciliation document reminds us, Aboriginal and Torres Strait Islander people are the poorest, unhealthiest, least employed, worst housed and most imprisoned Australians. You need only to look at statistics from the 1996 census of the ABS to be reminded of the extent of ongoing indigenous disadvantage. In 1996, 23 per cent of the indigenous people were unemployed nationally, compared with 9 per cent for the non-indigenous people. Only 11 per cent of the indigenous people had post-school educational qualifications, compared with 31 per cent of the non-indigenous population. The median weekly income for indigenous males was $189, compared with $415 for non-indigenous males.

A recent study by John Taylor of the ANU Centre for Aboriginal Economic Policy projected that Aboriginal disadvantage in employment will only increase. He estimates unemployment in the Aboriginal population in the ACT, let alone in the rest of Australia, could be as high as 48 per cent by 2006, because Aboriginals face serious and growing disadvantage in an increasingly sophisticated job market that is requiring more highly-skilled employees.

Indigenous children and adults are over-represented in juvenile justice facilities and gaols. In 1996, 40 per cent of the children in corrective institutions for children were identified as indigenous and 19 per cent of the adult prison population were identified as indigenous. The imprisonment rate for indigenous adults is more than 14 times that for non-indigenous adults. Indigenous people are also more likely to be homeless, with indigenous people comprising 12 per cent of adult clients of the supported accommodation assistance program, despite comprising less than 2 per cent of the adult

population. For those with homes, indigenous people are more likely than other Australians to live in improvised and/or overcrowded dwellings. Almost 7 per cent of the indigenous people lived in dwellings with 10 or more residents in 1996.

Life expectancy for indigenous people continues to be much less than for non-indigenous people. From 1991 to 1996, life expectancy at birth was estimated to be 56.9 years for indigenous males and 61.7 for indigenous females, compared with all-Australian estimates of 75.2 years for males and 81.1 years for females. As the ABS points out, the health disadvantage for indigenous people begins with the beginning of life. On average, indigenous mothers give birth at a younger age than non-indigenous mothers and their babies are almost twice as likely to be of low birth weight and more than twice as likely to die at birth than are babies born to non-indigenous mothers. The ABS says that indigenous people are more likely to be hospitalised for or die of conditions which are indicators of mental illness, such as self-harm, substance abuse and suicidal behaviour. They are more likely to be at risk of reduced mental and emotional wellbeing due to such factors as violence, removal from family, poverty and racism.

The disadvantage has come about and continues for a huge number of reasons. It has as its basis the original dispossession of most indigenous people of their land as a result of European occupation of this continent. That was amplified and exacerbated by laws enacted by the colonies last century, then State, Territory and Federal governments this century, which were aimed at and are still aimed at somehow legalising this dispossession. The Federal Government's Wik amendments to the Native Title Act are the most recent example of these types of laws, along with this Government's proposed amendments to the ACT Native Title Act. This disadvantage has been perpetuated and accelerated by unofficial and official policies and laws which have variously sought to destroy traditional Aboriginal culture and family structures through genocide, segregation, assimilation and, as many Australians only recently discovered, systematic forced removal of Aboriginal children from their families. The legacy of past and continuing policies joins with continuing racism at official and unofficial levels to perpetuate Aboriginal disadvantage to this day.

How do this Assembly and this Government and future governments address ongoing Aboriginal disadvantage and how do all of us make good our commitment to the reconciliation process? First, look to the powerful and quite beautiful expression of reconciliation in the draft declaration for reconciliation and strive to give life and meaning to the words in our lives and in our actions in this Assembly. Secondly, look to the four strategies. As the Council for Aboriginal Reconciliation says, these strategies will map out the steps we must take as we work together towards a reconciled nation. These strategies will facilitate greater economic independence and self-reliance in the lives of Aboriginal and Torres Strait Islander people; aim for better outcomes in health, education, employment, housing, law and justice; ensure Aboriginal and Torres Strait Islander people can participate equally in all levels of decision-making on matters which affect them and their communities; and build on the existing people's movement.

The Greens nationally and in the ACT are very strong supporters of the reconciliation process. In 1997 the Assembly supported my motion to have the Aboriginal and Torres Strait Islander flag placed permanently alongside the Territory and Australian flags as an

important gesture of reconciliation. We have also supported motions of apology to the stolen generation and moved motions recognising the contributions of significant members of the Aboriginal community, including one of the founders of the Aboriginal tent embassy and a founding father of the Aboriginal Legal Service, Billy Craigie. At the national level the Greens fielded an Aboriginal candidate in the last Federal election and have fought hard on issues that have directly affected the lives of Aboriginal people.

Some might argue that the day-to-day politics of the Assembly and a motion such as this one in support of the reconciliation processes are separate; but the debates, the policies and the policy outcomes are inseparable from the reconciliation process. This Assembly is currently considering issues associated with the administration of juvenile justice in the Territory. As I mentioned earlier, 40 per cent of the children in corrective institutions for children in 1996 were identified as indigenous. In the true spirit of reconciliation and in the spirit of the recommendations of the Aboriginal deaths in custody report, all major changes to juvenile justice must be undertaken after extensive, detailed and genuine consultation with the Aboriginal community. To ignore the Aboriginal community on this and other policy decisions which directly affect their lives and the wellbeing of Aboriginal people in the Territory is undemocratic and a complete abrogation of the reconciliation process.

Finally, I want to remind the Assembly of the extraordinary efforts of the local indigenous and non-indigenous communities in analysing government and community implementation of the 54 recommendations of the *Bringing them home* inquiry. This inquiry and its recommendations provided a very strong basis for addressing many of the facets of disadvantage to indigenous people in the ACT by addressing the ramifications of the policies of systematic forced removal of Aboriginal children from their families. Action on implementing the concerns addressed in this report will go some way to achieving reconciliation in the ACT.

MR SMYTH (Minister for Urban Services) (12.12): Mr Stanhope opened his speech today with a reference to the *Encyclopedia of Aboriginal Australia.* I keep a copy in the office because it is just a superb two-volume history of the Aboriginal people. I have the CD at home. He is quite correct in saying that it is an excellent journal in its ability to dispel the myths that terra nullius existed and that really there was an Aboriginal culture or an Aboriginal civilisation. Mr Quinlan said he was very keen to see that we preserve the attitudes and customs of the Aboriginal people and in some way incorporate them in modern Australian life.

It is interesting that in both volumes there is reference to a quote from a Fred Maynard. It is put as a prompt in both volumes in a condensed form, but it is somewhat longer under the reference to Fred Maynard. I would like to read it because I think what Fred had to say is a tremendous challenge to all of us. Fred Maynard died in 1944, so he did not live to see what is going on today, but he set up a body called the Australian Aborigines Progressive Association to fight the Aboriginal protection boards. It was the Aboriginal protection boards that really were removing the children and the start of the stolen generation. The Aboriginal protection boards' response to Mr Maynard setting up his association was to rely on the assertion that Aboriginal people were incapable of handling their own affairs. Fred's response is tremendously appropriate to a day like today, and I quote from the encyclopedia:

> I wish to make perfectly clear on behalf of our people that we wish to accept no condition of inferiority as compared with European people. Two distinct civilisations are represented by the respective races...That the European people by the arts of war destroyed our more ancient civilisation is freely admitted and that by their vices and diseases our people have been decimated is also patent, but neither of these facts are evidence of superiority. Quite the contrary is the case. Furthermore, I may refer, in passing, to the fact that your present scheme of Old Age Pensions was obtained from our ancient code, as likewise your Child Endowment Scheme and Widows Pensions. Our divorce laws may yet find a place on the Statute Book. The members of this Board (AAPA) have also noticed strenuous efforts of the Trade Union leaders to attain the conditions which existed in our country at the time of the invasion by Europeans - the men only worked when necessary - we called no man "Master" and we had no "King".

I think Fred's words are as relevant today as they were when he made those statements many years ago. Mr Wood, in his comments, went on to refer to Henry Reynolds' excellent publication, *Why weren't we told?* The reason we were not told was simply that the victors get to write the history. Throughout history that has always been the case. Particularly from 1838 onwards there was a shift in what was published in Australian newspapers, which simply did not refer to what was going on at the frontier.

I had the pleasure not too long ago of launching a book by a Canberra author, Judith Monticone, called *Healing the land*. In that Judith has gone back through quite an extensive array of journals and found some 1,200 sites where atrocities or great sadness occurred. Of that, I think something like 50 sites were where more than 100 Aboriginal people were killed and in several of those sites it was well past the 500 mark. The reason we were not told was, I think, that we simply wished to forget.

But that is not happening. People such as Evelyn Scott and her Council for Aboriginal Reconciliation are doing a tremendous job and should be congratulated. It is with great pleasure that I stand to support this motion. I am very pleased that everyone, all sides of the Assembly, is behind the motion. I think it is great that a territory such as the ACT can speak with one voice on such an issue and really be an example to all the other jurisdictions that if we do work together we can make progress. I am delighted to support the motion and delighted to bring back to life in this place the words of Fred Maynard.

Question resolved in the affirmative.

GAMING AND RACING CONTROL BILL 1998

[COGNATE BILL:

GAMBLING AND RACING CONTROL (CONSEQUENTIAL PROVISIONS) BILL 1999]

Debate resumed from 24 August 1999, on motion by **Ms Carnell:**

That this Bill be agreed to in principle**.**

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Gaming and Racing Control (Consequential Provisions) Bill 1999? There being no objection, that course will be followed. I remind members that in debating order of the day No. 1 they may also address their remarks to order of the day No. 2.

MR KAINE (12.18): Mr Speaker, I think I have made it pretty clear long before now that I support the Government's Bill in principle. Much of the material in the Government's Bill and the subsequent amendments were influenced by the report of the Select Committee on Gambling, which reported some time ago. We were to debate that report and the Government's response to it this morning, but we have bypassed that. I do not think it matters because the Government's response to that report has been reflected in the amendments that it is proposing to the legislation for debate today.

As I say, I have no difficulty with the Bill in principle, although I do have some problems with some of the detail of it, and will come to that in the detail stage. I think it is worth while saying at this stage of the debate that there is a very interesting correlation between what the select committee said in its report and what the Productivity Commission said in a major report published quite recently. In fact, I could go through the Productivity Commission's report and identify the commission's key findings, which are summarised on pages xii and xiii of its report, and identify particular recommendations and paragraphs in our own select committee's report which are almost identical. Although the Government tended to denigrate our report a bit when we tabled it and tended to write it off as being a report that did not come to any serious conclusions, in fact the Productivity Commission has very largely endorsed and supported the recommendations and some of the comment in our report. I think that is worth noting.

It is quite clear that gambling in the ACT pretty much reflects the situation across the country. For example, we had recommended that greater research be conducted and one of the comments in the Government's response to our report was that the lack of hard evidence in regard to problem gambling in the ACT had apparently led to various recommendations by the committee for study and research and for increased services to gamblers without any assessment of possible costs and benefits to the community. That was a very interesting comment in light of the key findings of the Productivity Commission's report, which confirms what we said - data is simply not available.

The commission also made the point, and I quote from its report, that "quantification of the costs and benefits of the gambling industries is hazardous". Even at their level they had difficulty in quantifying it, although the Government was quite denigratory in its response to our report because we had failed at our level to identify these things. I think there is a lesson in that. Although much of what we said in our report was based on local anecdotal evidence because there is no body of research and no data from which we could draw and although the Government also commented in their response that we

had drawn some wrong conclusions because we tended to depend somewhat on interstate experience where the circumstances were different, in fact the Productivity Commission came to pretty much the same conclusions as we did on those issues.

The Bill is necessary. It is justified. By the time we have debated the amendments that the Government has already put forward on the basis of the committee's report, together with amendments for our consideration from Ms Tucker and from Mr Quinlan, I think we will have at the end of the day, and I hope it is not too late today, an effective Bill establishing controlled mechanisms for gambling in all its forms in the Territory. For that reason, as I said, I support the Bill in principle. We might have some interesting debate, however, when we get to the detail stage of the Bill later today.

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

Leave granted.

MR QUINLAN: I was ruled out before on a technicality. At the time this Bill was tabled - about eight months ago - the ALP did not have any great problems with the Bill or see any great dangers looming from it. We had some reservations as to what would be the real structure of the Gaming and Racing Commission, which would be effectively determined by the appointment of individuals to the commission and any predispositions that they might have. Nevertheless, our support was there. Since that time we have received the report from the Select Committee on Gambling, we have witnessed an increased public awareness of problem gambling and we have had published the report of the Productivity Commission, to which Mr Kaine referred, and a couple of other expert opinions. These really cannot be ignored and must figure in our deliberations. At the same time, we must respect absolutely the freedom of choice of people who do choose to gamble and their freedom to make their own decisions.

To cut short my contribution during the detail stage, let me say that generally we accept the thrust of Ms Tucker's proposed amendments, which generally follow the recommendations of the Select Committee on Gambling and recognise the current public debate on the social impacts of gambling. We differ really only on the prescriptiveness of the qualifications for appointment as members of the commission. We agree that at least one of five members, and we will be proposing five, should have a grounding and understanding of the problems with problem gambling. We are less inclined to define limitations on the background and qualifications of other members. We would rather the primary qualification be competence.

It is expected that in the short to mid term the commission will wrestle with some complex and vexed questions in relation to gambling, particularly with advances on the electronic front, so we believe that membership should be open to the most able people. But we do accept that there is a need to prescribe the inclusion of expertise in problem gambling. Other than that, we would like to see some consistency of treatment across the various elements of the gambling industry. If there were to be more than one code of practice, we would like to see a high degree of consistency. We do agree that the Bill should be amended to exclude the promotion and development of gambling as opposed to allowing the commission to take the role of monitoring and regulating. In general, we support the Bill.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.27): Mr Speaker, I will be very brief in closing the debate. I assume that we will return to the detail stage this afternoon. I thank members for their support for the legislation. This is, of course, a very significant transition in the administration and monitoring of gambling activities in the ACT. We have for the first time recognised that gambling has an impact which is community-wide and which in its various facets needs to be considered in an integrated way. For that reason, the proposed legislation contains a commission which would have overarching powers with respect to all forms of gambling in the ACT. I am pleased that members have supported the concept and, putting aside the issues we will debate in the detail stage, it is pleasing to see that there is some support for those concepts.

Mr Speaker, much work will need to be done, clearly, in the future about just what gambling is all about. Do we see it as an industry with significant benefits to the broader community, do we see it as simply a source of problems or do we see it as something in between? That is a matter on which, I suspect, some further research will need to be conducted to answer that question more fully. Mr Speaker, I indicate my appreciation of members' support for the Bills.

Question resolved in the affirmative.

Bill agreed to in principle.

MR SPEAKER: Order! It being almost 12.30 p.m., the debate is interrupted in accordance with standing order 74.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Bruce Stadium

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. Yesterday the Chief Minister, in answer to my question, told the Assembly that two of the agreements between the Government and tenants of Bruce Stadium - those with the Raiders and the Cosmos - contained confidentiality clauses that prevented their release. The third agreement, that with the Brumbies, did not contain a confidentiality clause. Can the Chief Minister now say whether documents submitted to the Government by Lend Lease, the unsuccessful short-listed tenderer for the redevelopment, also contained confidentiality clauses? Will she explain to the Assembly the nature of the confidentiality clauses in contracts with the Raiders and the Cosmos and, if they exist, in tender documents from Lend Lease? If she cannot explain them, will she table those clauses?

MS CARNELL: Mr Speaker, there is a standing order about questions being on one topic only. It is standing order 117. I would like you to rule on whether a question with multiple parts is in order.

MR SPEAKER: Standing order 117(a) states that questions shall be brief and relate to a single issue.

Mr Wood: How about an answer? Can we have a bit of consistency between question and answer?

MS CARNELL: Mr Speaker, I have asked for this ruling because it is becoming more normal for those opposite to ask a question with parts A, B, C, D, E and F. I suggest that such questions are out of order.

Mr Berry: I raise a point of order, Mr Speaker. A question on a single issue can have separate parts. The Chief Minister is being - - -

MR SPEAKER: I would agree with you there. Nevertheless - - -

MS CARNELL: Mr Speaker, they have to be brief and on a single issue.

MR SPEAKER: Yes, they shall be brief and relate to a single issue. You cannot expect a Minister to answer a detailed question. Yesterday Mr Smyth was asked a detailed question in relation to housing, as I recall, and he was obliged - and I could well understand it - to take the question on notice.

MS CARNELL: Mr Speaker, I have asked for a ruling because the standing orders are in place for a reason. Question time is supposed to be about brief questions that are on one topic. With regard to the issue of a confidentiality agreement in the Lend Lease tender document, I have never seen the Lend Lease tender document, nor should I have seen it. In a tender process, it would be totally inappropriate for a Minister to see tender documents, particularly in this case, where the tender document we are talking about was a losing tender document. Mr Speaker, again I make the point that those opposite simply have no idea about government or business. They obviously believe that Ministers should be involved in tender processes, which would be absolutely out of order - - -

Mr Berry: Mr Speaker, I take a point of order. Is this a point of order or an answer?

MR SPEAKER: No, she is giving - - -

Mr Wood: How about a ruling on the point of order? Are we still on the point of order?

MR SPEAKER: It is a response.

MS CARNELL: Mr Speaker, it shows again that those opposite have no idea of business, no idea of tender processes and no idea of government. I would assume that if I had seen tender documents, particularly losing tender documents, those opposite would be on their feet in two minutes saying, "Shock, horror! Minister intervenes,

Minister hands-on in tender process. Corruption, fraud. Shock, horror!". The fact is that I have not seen the Lend Lease tender document, nor should I have. What I do know, though, is that after the - - -

Mr Berry: Mr Speaker, I take point of order. I remain confused. Is this an answer or a point of order?

MR SPEAKER: I told you once it was an answer. I will now tell you a second time. I will not tell you a third time.

MS CARNELL: Mr Speaker, with regard to the Lend Lease contract, one thing I do know is that after the Assembly passed a motion asking us to table all of the relevant documents with regard to the Bruce Stadium development I undertook in this place to write to all the people involved asking whether they minded their tender documents or their contracts being released. It is my understanding that Lend Lease indicated that they were unhappy about their losing tender document being released.

Again, to show just how fundamentally Mr Stanhope and obviously Mr Quinlan – I would have thought better of Mr Quinlan but obviously I should not - misunderstand the business process, can I just use an analogy. Suppose one of those opposite had chosen to tender for government business in whatever area they might have been involved. Mr Quinlan at one stage was involved in some community services. If he had put in a tender to provide a particular service to the ACT Government and had put in it information about his business, about the cost of his services and what he could provide for a particular outcome, and the Government then chose, without his okay, to release that information to his competitors, what would Mr Quinlan be likely to do? I do not even have to answer that question, because anybody in this place would know the answer.

MR STANHOPE: I ask a supplementary question. That was a most bizarre response. It is absolutely staggering that the Chief Minister has refused to comply - - -

Mr Moore: I take a point of order, Mr Speaker. Supplementary questions cannot introduce new material or have a preamble.

MR SPEAKER: Correct. Upheld.

MR STANHOPE: My supplementary question is: Having regard to the refusal of the Chief Minister to table the Lend Lease tender documents as required by most of this Assembly, can the Chief Minister tell the Assembly how much longer she will hold the Assembly in contempt by refusing to comply with its request, which was consistent with the standing orders, for access to these documents and other documents related to the Bruce Stadium fiasco, and how much longer will she keep these documents secret?

Mr Moore: I take a point of order, Mr Speaker. The supplementary question is out of order. Standing order 117(b), in both (iii) and (iv), makes it clear that questions shall not contain either inferences or imputations. It is quite clear that talking about the Assembly being held in contempt is out of order. Therefore, the question should not be answered.

Mr Berry: Mr Speaker, it sounds to me as if there is a plot afoot for this mob not to answer questions. Mr Speaker, how about letting them answer questions?

MR SPEAKER: I think you will find that you are wrong, Mr Berry. I am sure that they will answer your question, when it is asked, if it is possible to answer it. I uphold Mr Moore's point of order. I have standing order 117 in front of me, and there is no question that there was an inference or an imputation in the question implying that the Chief Minister was somehow holding this Assembly in contempt. The question is out of order.

Mr Berry: Just let him rephrase the question.

MR SPEAKER: It was a supplementary question.

ACTEW

MR QUINLAN: Mr Speaker, my question is to the Chief Minister. It is nothing personal. Chief Minister, you said in your answer to my supplementary question yesterday - - -

Mr Moore: I rise on a point of order, Mr Speaker, so that people understand. Standing order 117(b)(vi) says that ironical expressions are out of order. I thought I would make sure that members understand that we expect questions to be asked in accordance with standing orders.

MR SPEAKER: Members might like to read standing order 117.

MR QUINLAN: Mr Speaker, my question is to the Chief Minister. The Chief Minister, in her answer to my supplementary question of yesterday, said:

> At this stage, as Mr Quinlan knows, we do not have the working party report on the merger to weigh up against the other entities ...

She also said that the report had been with the New South Wales Government for the past two weeks. Is the Chief Minister sure that the New South Wales Government has the report, and has had it for weeks, and that she does not? If so, Chief Minister, what sort of arrangement do you have with New South Wales that would permit them but not you to have a copy of this joint report ?

MS CARNELL: Mr Speaker, I can be absolutely confident that I do not have a copy of the report. Because I am not on the working party - surprise, surprise - it would be very inappropriate for me to have a copy. I would be fairly confident that the Minister in New South Wales does not have a copy either, because he is not on the working party either. When the working party does have a final document agreed by both sides, I am sure, as we have said, that it will be released.

MR QUINLAN: I ask a supplementary question. Given the magnitude of this possible merger and its obvious significance to the ACT, do you have any formal agreement or arrangement with New South Wales for the progress of the report into a merger proposition, or is this the same sort of unprofessional fly by the seat of your pants approach that gave us the Bruce Stadium fiasco?

Mr Humphries: Mr Speaker, I raise a point of order. You warn these people about what they should not do, and they flagrantly and deliberately breach the standing orders a second time and a third time and a fourth time. I can guess what is going to come in the rest of the questions today. I think members are deliberately - not accidentally but deliberately - breaching standing orders.

Mr Berry: Which one?

Mr Humphries: You know perfectly well, Mr Berry.

Mr Moore: Standing order 117(b)(iii) and (iv).

MR SPEAKER: Yes.

Mr Berry: Go away. Is a little bit of gratuitous body language out of order?

MR SPEAKER: Mr Kaine, would you like to bring this thing back on the rails?

Mr Kaine: I would like to ask a question - - -

Mr Quinlan: Do I get an answer to my question?

Mr Moore: On the point of order, Mr Speaker: Body language is out of order. I would look at standing order 202(b) if I were you, Mr Berry.

Mr Quinlan: I take a point of order, Mr Speaker. Have you ruled my question out of order?

MR SPEAKER: Yes, I have.

Liquidity Ratio

MR KAINE: Mr Speaker, my question is to the Treasurer. This is a very serious question, and he may wish to consult with senior officers of the Treasury in order to answer it. I refer the Minister to page 3 of the Consolidated Financial Management Report for 30 June 1999. On that page there is reference to a liquidity ratio. I will make the question simple. I will put it in objective form. Minister, is a liquidity ratio:

(a) a measure of the capacity of the ACT ship of state, the *MV Titanic II*, to stay afloat,
(b) a measure of the contribution made to the ACT budget by the water supply activities of ACTEW,

(c) a measure of the capacity of the Executive to consume liquid refreshments during an entire fiscal year or
(d) all of the above?

MR HUMPHRIES: I thank Mr Kaine for that question. Having anticipated his question, I have been helpfully provided with a glossary of accrual accounting terms which I assure him I have been assiduously poring over in the last few weeks. Liquidity is the ease with which funds can be raised from the sale of assets. In the context of the ACT it means, therefore, the extent to which our assets exceed our liabilities. On that basis, I am not sure which of the three categories in Mr Kaine's question it falls into, but he can make his own guess based on my answer.

Public Service - Executive Positions

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Chief Minister, what executive positions within the Departments of Urban Services, Education and Community Services, and Health and Community Care will be reviewed in accordance with the Cullen Egan Dell methodology due to the transfer of policy functions to the Chief Minister's Department?

MS CARNELL: Mr Speaker, I am very happy to take that question on notice. Obviously that is an organisational issue, not one that would be addressed by any of the Ministers here.

MR CORBELL: I ask a supplementary question. Perhaps the Chief Minister can take this one on notice too. Can the Chief Minister say what savings will be returned to the ACT budget with the accompanying downgrading of executive positions in these departments following the loss of policy functions for which these executives were responsible?

MS CARNELL: Mr Speaker, I suspect this supplementary question does include new information, but one thing I can say is that the reorganisation of the ACT Government was not put in place to save dollars. In fact, we made it clear that what we were doing was maintaining the same sorts of staff levels. I am very pleased that Mr Corbell asked me why we have done it. We have gone down the path of reorganisation - - -

Mr Corbell: I raise a point of order, Mr Speaker. I have not asked the Chief Minister why at all. "Why" does not emerge in any of my questions. I certainly have not asked why. I wanted to know what the savings were. If she cannot answer that question, she can take it on notice. I ask you to rule on relevance, Mr Speaker.

MS CARNELL: Mr Speaker, he indicated that the reason was to save money. I have indicated that the reason was not to save money. We did it for a number of other reasons which I am about to speak about. We did the reorganisation not to save money but because we as a government had moved from a $344m operating loss that those opposite left the ACT. Yesterday, when that question was asked, Mr Humphries showed that it was nothing to do with ACTEW at all. We had done the reorganisation because

we have now addressed two of the major issues that we came into government to address. One was the operating loss, the financial shambles, that those opposite left for this Territory.

Mr Quinlan: I take a point of order, Mr Speaker. Standing order 118(b) states that an answer to a question without notice shall not debate the subject to which the question refers.

MS CARNELL: I am not debating the question. I am answering the question. I will come back to it, Mr Speaker. The reason was not that we were trying to save money, as Mr Corbell said. We needed to reorganise because we had addressed the financial shambles and management mess that those opposite left the ACT in, and therefore we felt that it was an appropriate time to move Treasury and Infrastructure out of the Chief Minister's Department and to move a new strategic planning area into Chief Minister's to have a more definite focus on things like information technology, advanced technology, education and producing the outcomes we should be getting for the significant dollars we spend on health.

Today Mr Moore and I had a meeting with some of the nurses. We asked the nurses whether they believed we were getting 30 per cent better outcomes in our hospital system for the extra dollars that we put in. We spend 30 per cent more than the national average. Do we have a system at our hospital that is 30 per cent better? What did they say? They said no. They said it was a good system but that that probably did not quite reflect in the outcomes. We have changed to make sure that the people of Canberra get value for their money; that we move from a focus on financial capital to social capital.

Totalcare Incinerator

MS TUCKER: My question to the Minister for Urban Services relates to the Totalcare incinerator at Mitchell. Minister, you would be aware that last week Greenpeace released documents obtained from Totalcare that showed problems with the incinerator, including frequent breakdowns, overloading and breaches of OH&S rules. In response, Totalcare has stated that it has commissioned a consultant to undertake a review of all aspects of the facility's management. Could you tell us why Totalcare has been left to handle this by itself? Why did the Environment Management Authority not order an environmental audit of the incinerator as it is able to do under the Environment Protection Act? Why do we have an Environment Management Authority if it is not prepared to take action to correct breaches of environmental authorisations?

MR SMYTH: That is a good question, but Ms Tucker ignores the process. The Environment Management Authority were conducting the annual review, as they are required to do. They found some things that they were not happy with. They wrote a letter to Totalcare asking them to address those issues. It is curious that almost every time we have approached Totalcare they have responded quite positively. When we approached them about dioxins, they said they would spend up to $1m to meet a standard that is in place in Germany and nowhere else in the world. They have gone to the world's best practice.

In the annual review this year, the Environment Management Authority looked at what was going on at Totalcare. They looked at the figures that Totalcare has provided. They wrote back with some concerns. Totalcare will answer those concerns. At the same time, as they are allowed to do under the Act, they have themselves asked for an independent audit which they will pay for. I think it is a tremendous outcome when you have a company in the ACT that is willing to lead in environmental world's best practice.

MS TUCKER: I ask a supplementary question. How will you be ensuring the independence and thoroughness of Totalcare's review of its own operations, or will this be another independent consultant's report like the independent rural residential study?

MR SMYTH: I am told that we do not have somebody in the ACT who can conduct an audit of that nature. We do not have a firm resident here. There is a list. We have gone to some of the other environmental protection authorities to see whom they would recommend. Somebody appropriate will be selected from that list, and they will conduct the independent review.

Impounded Trailer

MR BERRY: My question is to the Chief Minister. I refer to the *Canberra Times* article of 18 June this year in relation to preferential treatment handed out to a friend of the Liberals over the impounding of an unregistered trailer and the government funded return of that unregistered trailer. The *Canberra Times* report said - - -

Mr Humphries: Mr Speaker, I take a point of order. If Mr Berry would like to resume his seat, I would be happy to put my point of order.

MR SPEAKER: Sit down, please, Mr Berry.

Mr Humphries: Mr Speaker, you have already ruled today twice on the question of inferences and imputations. The imputation in that question already - we have not heard it all yet - is so very clear and is so very clearly outside standing order 117(d) that I think you should rule the question out of order.

MR BERRY: You have not heard it all yet. How can you rule it out of order, Mr Speaker?

MR SPEAKER: I would suggest you rephrase it, because as it is at the moment Mr Humphries is perfectly correct.

MR BERRY: What was the full cost of this service to Mr Murphy? Has the Government sent Mr Murphy a bill?

Mr Humphries: Mr Speaker, I rise on a point of order. Mr Berry has not withdrawn the inference in his question, and if he has not - - -

MR SPEAKER: No, he has not.

MR BERRY: What reference do you want me to withdraw, for heaven's sake?

MR SPEAKER: You began your question with certain inferences.

Mr Humphries: Mr Berry is playing dumb. He does that very well. The fact is that there is an inference in that question. It is a very serious one and it should not be on the record.

MR BERRY: Okay, I will start again.

MR SPEAKER: I suggest that you withdraw the imputation that you began your question with.

MR BERRY: Imputation about what? I am a little unclear whom I impugned.

MR SPEAKER: About a trailer.

Ms Carnell: You implied that there was something inappropriate.

MR BERRY: It is a bit hard when it was inappropriate. I refer to the *Canberra Times* article of 18 June this year headed "Carnell denies intervention 'for friend' ". Is that okay? That was over the impounding of an unregistered trailer and government funded return of trailer. Is that okay so far? The *Canberra Times* report said that Totalcare charged Urban Services $300 to pick up the trailer. What was the full cost of this service to Mr Murphy? Has the Government sent Mr Murphy a bill? If not, why not? Has Mr Murphy offered to pay the full cost of the Government's generosity to him?

MS CARNELL: Mr Speaker, again we see people not in this place being impugned here. Regardless of what those opposite might think, Mr Murphy has contributed a huge amount to the city at all sorts of levels.

Mr Corbell: Huge amount to your re-election funds as well. He is the main fundraiser for the Liberal Party.

MR SPEAKER: Order! You have asked your question.

Mr Humphries: Mr Speaker, again Mr Corbell is breaching standing orders, obviously very flagrantly, and again he has made inferences which I think he should withdraw.

Mr Kaine: I raise a point of order, Mr Speaker. Perhaps we need a ruling here. I am not clear on how it is that a member quoting from a newspaper can be said to be impugning somebody's integrity. That is what happened, as I heard it. I think we need a ruling on whether we are permitted or not permitted to quote headlines from newspapers without being accused of impugning somebody's integrity.

MR SPEAKER: No, it was not that, Mr Kaine. In fact, I was happy to allow Mr Berry to ask his question as he did. It is an interjection from Mr Corbell that I am asking to be withdrawn.

MS CARNELL: Mr Speaker, the interjection was totally inappropriate. Again I make the comment that Mr Murphy does many things in the city, including significant work for the Catholic Church and other charities in this city. I come back to the answer to the question involved. It is my advice that the headline was absolutely right. I was not involved in this in any way at all. My understanding is that the issue of the trailer and Mr Murphy was handled in exactly the same way as it would have been handled for Mr Corbell, Mr Stanhope or Mr Berry.

MR BERRY: This is a supplementary question to the Chief Minister. Is it appropriate for Mr Murphy to represent the ACT as the head of CanTrade against the background of this absolutely inappropriate largesse with taxpayers' money?

MS CARNELL: Mr Speaker, is Mr Berry saying that because Mr Murphy had a sign outside Market Cellars that makes him an inappropriate person to run CanTrade? Mr Speaker, I think we have slid to a very interesting position here. As we know, the issue with the trailer was a sign that Mr Murphy has had in that particular place for a very long time. In fact, that is just a ridiculous - - -

Mr Berry: It is about petty corruption.

Mr Humphries: Mr Speaker, I have really reached the end of my tether with comments by Mr Berry. Mr Berry has just made a reference to corruption.

MR SPEAKER: I did hear that.

Mr Berry: It is only on a small scale. It is only $600. I said "petty".

MR SPEAKER: Withdraw it.

Mr Berry: I did say "petty corruption", Mr Speaker, not "real corruption".

MR SPEAKER: Withdraw it, please.

Mr Berry: Withdraw what? Something has gone wrong somewhere.

MR SPEAKER: Withdraw the word "corruption".

Mr Berry: The law has been corrupted here. He should have paid.

MR SPEAKER: Come along. That is a very serious allegation against somebody who cannot defend himself.

Ms Carnell: What law?

Mr Berry: Mrs Carnell asks a question. Would you like me to answer it? She says, "What law?". I will tell her.

Mr Humphries: Mr Speaker, this is a side issue. Mr Berry has clearly made an inference of corruption, and I ask that he withdraw it.

MR SPEAKER: Withdraw, please.

Mr Berry: Under what standing order, Mr Speaker, can this lot ask me to withdraw something I have said about somebody outside this place?

Mr Moore: On that point of order, Mr Speaker, I would be delighted to provide Mr Berry with the answer. Standing order 117(d) is one of them. It says that questions shall not be critical of the character or conduct of a person. Nor should questions impugn a person. Most importantly, 202(e) applies, because Mr Berry has persistently and wilfully disregarded the authority of the chair, which gives you the authority to name him.

MR SPEAKER: I uphold standing order 117(d), which states:

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

Mr Berry: Mr Speaker, I rise on that point of order. That does not mean that I have to move a motion here to talk about Mr Murphy's behaviour. That means I have to move a motion here to talk about other members' behaviour.

MR SPEAKER: No, it does not say that.

Mr Berry: That is a deliberate misuse of the standing order.

MR SPEAKER: Mr Berry, it does not state "other members of this house". You may wish to change standing orders at some stage, but it does not say that at the moment. It speaks of anybody.

Mr Humphries: Mr Speaker, standing order 55 is quite clear. Imputations against members are highly improper.

Mr Berry: This is not an imputation against members. Who is the member I impugned?

Mr Humphries: Mr Speaker, the imputation is clearly about the Government, in particular Mrs Carnell, to whom the question has been directed. Mr Berry said "corruption", clearly with the inference that Mrs Carnell was being corrupt in some way in doing favours for Mr Murphy. The inference should be withdrawn.

Mr Berry: There have been no admissions by the Chief Minister that she has been involved in corrupt practice. There has been some corrupt practice in relation to this matter and it needs to be sorted out. I have impugned nobody in this house, and I cannot be asked to withdraw.

MR SPEAKER: Just a moment. Mr Berry, I thought I read the standing order to you. Standing order 117(d) states:

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

It is not "members" but "persons".

Mr Berry: Sir, do you say that that relates to people outside this place as well? Then you will have to throw me out, because I am not going to withdraw.

Mr Moore: Mr Speaker, we are happy to do that but there is a further point of order that I think needs to be taken into account. Part of standing orders is the resolution of the Assembly of 4 May 1995 dealing with freedom of speech and the care we take in the Assembly. Mr Berry is not taking any of that care. In addition, you have already instructed him on a number of occasions to withdraw, and he is still wilfully disobeying your authority and the standing orders of the Assembly.

Mr Berry: I am not going to withdraw. It is not in relation to a member in this place, and I will not withdraw it.

MR SPEAKER: I made the point, Mr Berry, that standing order 117(d) does not mention members in this place. It is a general question. Look it up. It states:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged in a substantive motion, and notice must be given of questions critical of the character or conduct of other persons;

There is no question about it. We are not talking about members of his house.

Mr Berry: Yes, we are. You may take further advice on that. It is about members of this house.

MR SPEAKER: The Administration and Procedure Committee may have to look at changing the standing order to clarify it.

Mr Smyth: Mr Speaker, standing order 116 talks of a member not being a Minister. It is quite clearly aimed at all persons.

Mr Berry: Mr Speaker, have a look at the standing order. It goes on to say:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion, and notice must be given of questions critical of the character or conduct of other persons;

That is to say, in this place.

MR SPEAKER: No.

Mr Berry: That is how it is applied. That is the way I read it. This is a new one today.

MR SPEAKER: You asked me to seek advice from elsewhere. I refer to *House of Representatives Practice*, which is the normal reference. It states:

> Questions may not be asked which reflect on, or are critical of, the character or conduct of those people whose conduct may only be challenged on a substantive motion. Such people include the Sovereign, the heir to the throne, other members of the Royal Family, the Governor-General, the Governor of a State, the Speaker, Members of either House and members of the judiciary. In the past the rule was also held to apply to the Chairman of Committees, and with the creation of the positions of Deputy Speaker and Second Deputy Speaker, it is considered these positions would also be covered by the practice.

Mr Stanhope: So Mr Berry is right - again.

MR SPEAKER: No, Mr Berry is not right again. Mr Berry, we have clarified the matter by reference to *House of Representatives Practice*. We may yet have to look at our standing order to clarify the point.

Mr Stanhope: Mr Speaker, the case you have just made from *House of Representatives Practice* reflects exactly what is in this standing order. Your reading from *House of Representatives Practice* agreed entirely with the interpretation that has been put on this standing order.

MR SPEAKER: However, I would not go too far. The Clerks have also drawn my attention to the next paragraph, which states:

> Questions critical of the character or conduct of other persons cannot be asked without notice. Although this rule is generally applied to named persons, it has also been applied to unnamed, but readily identifiable, persons. Such questions may, however, be placed on the Notice Paper. The purpose of the rule is to protect a person against criticism which could be unwarranted.

Mr Kaine: I raise a point of order, Mr Speaker. I have had the benefit of advice from every member of the Government except Mr Hird. Would you care to ask him for an opinion?

MR SPEAKER: There is no point of order. The conclusion of the paragraph states:

> A question on notice does not receive the same publicity and prominence as a question without notice and the reply can be more considered.

I cannot argue with that comment.

Mr Moore: Mr Speaker, I accept that, although the ruling is not as I would have made it. I accept your reference to *House of Representatives Practice*. I would also ask you to refer to the resolution agreed by the Assembly on 4 May 1995 in relation to exercise of freedom of speech. As I raised before, Mr Berry has accused somebody of being corrupt.

Mr Stanhope: He was talking about a process.

Mr Moore: He has refused to withdraw that. Mr Stanhope now talks about a corrupt process and petty corruption. I think at the very least we should draw Mr Berry's attention to what was agreed when Mr Berry was in this Assembly and on the Administration and Procedure Committee - because I was there with him - in May 1995 when this sort of issue came up. If members are free to stand here and name people, I could name one of Mr Berry's staffers or somebody else's staffer and say things about them. We do not do that.

Mr Wood: Is this a point of order or a speech?

Mr Moore: I am referring to the resolution of the Assembly. We do not do that, because we have here a particular privilege, a particular right, which we should exercise with a great deal of care and caution. Mr Berry might technically be right about the standing order, but he ought to take that responsibility instead of dealing with it in such a low way.

Mr Hargreaves: I take a point of order, Mr Speaker. Could I seek your guidance? This has become very cloudy, very murky - - -

Ms Carnell: It has not.

Mr Hargreaves: Do be quiet, you silly woman. Mr Speaker, I am going to ask you to make a ruling, please. I suggest that you draw to the attention of members the relevant things and then get on with question time. Time is getting away, and they are just behaving like a bunch of school kids.

MR SPEAKER: Very sensible advice.

Mr Humphries: Mr Speaker, on the last point of order, I would ask Mr Hargreaves to withdraw that reference to the Chief Minister.

Mr Berry: Which one?

MR HUMPHRIES: He referred to her as a "silly woman". I think it is highly inappropriate. Members of the other side of the chamber have taken that point before, Mr Speaker.

Mr Hargreaves: Without reservation, I withdraw, Mr Speaker.

Mr Berry: I am happy to withdraw any imputation against Mr Murphy, but there has been petty corruption of the process, and I think that needs to be addressed.

Supreme Court Building - Coat of Arms

MR OSBORNE: Mr Speaker, I am pleased that that was withdrawn. I thought it was a pretty cheap shot. My question is to the Attorney-General. Minister, you will recall that this Assembly passed a motion, from memory, last year in relation to the replacing of the Commonwealth coat of arms with the ACT coat of arms outside the Supreme Court building. You can imagine my surprise, Minister, when I was recently going past that building and discovered that the coat of arms had not been replaced. Can you tell me why you have chosen to ignore the will of this Assembly and have not done as the Assembly has requested and replaced the Commonwealth coat of arms with the ACT coat of arms?

MR HUMPHRIES: Mr Osborne crash tackles an issue of high sensitivity between the judiciary and the Executive. Perhaps he is a braver man than I am, but I have taken a more cautious approach than he has on the issue of the coat of arms on the court. I have to advise the house that two problems have emerged with the changing of the coat of arms on the court. The first and fundamental problem is that the building is nominally a building under the control of the Supreme Court, and the Government is not technically able to move in and take down the coat of arms.

The second problems is a more interesting problem that Mr Osborne may not be aware of. An issue has been raised about to whom the coat of arms on the piece of glass behind you, Mr Speaker, belongs. The coat of arms of course is technically the coat of arms for the city of Canberra, and the city of Canberra was granted a coat of arms many years go, probably in the 1920s, by the authority in London which is responsible for the granting of coats of arms. The name of that authority, I am advised, is the Garter King of Arms.

Mr Speaker, an issue has been raised as to whether it is possible for the ACT to place its coat of arms on the Supreme Court. In other words, the issue of whether the Territory actually owns the arms of the city of Canberra has been raised. I am not sure on the answer to that question and the issue, I understand, has been raised with the relevant authority, which is the Garter King of Arms in London. I am not aware of any response yet to that issue. I did raise the issue only a few weeks ago with the head of my

department, and I have not had any information back yet, so I assume the issue is still in London awaiting resolution. Perhaps the republicans in the chamber can tell us how we will deal with this problem when and if Australia ever becomes a republic.

Of course a more direct approach might be possible. It might be possible simply to grasp the nettle and to do as some have done in history and simply go over and remove the coat of arms by force from the building. However, I would ask only that if I am to be charged with that task by the Assembly Mr Osborne accompanies me for protection when I do so.

Crime Statistics

MR HIRD: Justice Miles might have something to say. Mr Speaker, my question is to the Minister for Justice and Community Safety, Mr Humphries. Has the Minister seen comments made by our colleague Labor MLA John Hargreaves in the wake of crime statistics issued by the Australian Bureau of Statistics yesterday? If so, how do his comments relate to the trends in ACT law enforcement?

MR HUMPHRIES: Mr Speaker, I thank Mr Hird for that question. I did hear Mr Hargreaves' comments yesterday, and I must say I was pretty surprised. When I looked at WIN television, I wondered whether I was listening to an ACT Labor member of parliament or a Northern Territory Country-Liberal Party member of parliament. It certainly had me flabbergasted. The comments Mr Hargreaves was making were in respect of figures on victimisation with respect to crime in the community, figures released by the Australian Bureau of Statistics yesterday.

The figures do contain some matters of concern, and I have indicated that very clearly on the record. I think some analysis of what those figures mean has to be done before we can be sure about what they actually represent in terms of this community's position with respect to crime. There are some differences between the questions asked three years ago and the questions asked in the most recent survey, but that is a matter we are going to have to analyse at more length.

Mr Hargreaves' comments were quite extraordinary. I quote him:

> We need to have more police out there, being seen in the community to prevent people having a go at invading folks' homes and actually solving them, picking up these criminals and chucking 'em in gaol for it.

That is right, Mr Speaker - "chucking 'em in gaol for it". I can see a bit of red in Mr Stanhope's face as he hears these comments. They are sort of warm and fuzzy. Mr Stanhope has a member of his party who wants to "chuck 'em in gaol" for breaking the law.

Mr Stanhope: And you don't?

MR HUMPHRIES: I wonder which of us is more hard line on this question, Mr Stanhope. I am not exactly a pussyfoot on this question, but Mr Hargreaves is stealing my thunder a bit. I am a bit worried. He might even rival Mr Stefaniak on the law and order issue, if last night's comments are any indication.

Mr Hargreaves: I take a point of order, Mr Speaker. He is impugning Mr Stefaniak. You cannot impugn Mr Stefaniak like that.

MR HUMPHRIES: I humbly withdraw any reference to Mr Stefaniak, if that is the case. I would not wish to impugn Mr Stefaniak while he is not here. This is Labor's police spokesman who told Canberra's police before the last election that he would support the reintroduction of move-on powers. When we came to vote on the issue a year or so ago, he did not even speak on the subject. In fact, he voted against it. He voted against the Bill when it came forward.

Mr Berry: Mr Speaker, I think the answer should only relate to the question. Relevance is appropriate. The question was about statistics. I would like to hear Mr Humphries' rendition on the statistics.

MR SPEAKER: As I understood it, he was quoting a comment which was made by Mr Hargreaves yesterday.

MR HUMPHRIES: The question was about trends in law enforcement and Mr Hargreaves' comments. Mr Hargreaves said that we need to have more police out there.

Mr Stanhope: We do.

MR HUMPHRIES: Perhaps we do and perhaps he could well be right on that subject, but the question needs to be asked: Why are there not more police out there at the moment? Perhaps one of the answers is what has happened over the last few years - in fact, over the 10 years of self-government - with respect to police numbers. I am looking here at the trend in numbers of police dedicated to ACT police services from the Australian Federal Police. Back in 1991-92 we had 618 involved in ACT policing services. Do not forget that the Labor Party came into office at that stage. Then the number dropped to 611 police. Then in 1993-94, it dropped to 600 police. Then in 1994-95, the last year of the Labor Party's administration, it dropped to 552 - from 660 at the time that Mr Kaine was Chief Minister.

If Mr Hargreaves wants to know where the police have gone, he should ask his own colleagues, because they are the ones who took them off the streets of Canberra during the early years of this decade. They are the ones who are responsible for there not being police on the streets.

The figures Mr Hargreaves was talking about were figures released yesterday by the Bureau of Statistics about how often crimes occur in the community - crimes like burglary, assault and motor vehicle theft. How often crimes occur in the community is about the prevalence of crimes. Was it not just a few months ago that Mr "lock 'em up and throw away the key" Hargreaves had before him and his colleagues a Bill in this

place which allowed judges and magistrates, when sentencing people to gaol, to take into account the prevalence of the sorts of offences he was talking about yesterday? In other words, there was a chance of doing exactly what he was saying yesterday - "picking up these criminals and chucking 'em in gaol for it". What did Mr Hargreaves do when he had that Bill in front of him? Of course he voted against it.

Contrast Mr Hargreaves' words with Mr Stanhope's words on 19 May last year. I quote Mr Stanhope:

> As a matter of principle it is not appropriate that a particular offender who has committed an offence should have added to the punishment which we as a community seek to impose on that person a measure of punishment which is a response to what other criminals do.

Prevalence, Mr Speaker. Mr Berry at that stage - listen very carefully, Mr Speaker - said:

> It is very popular for politicians to beat the old law-and-order drum and say, "We should lock them away and keep them there until they rot".

I am sure Mr Hargreaves and Mr Stanhope will have a few words to say after today's sitting.

Clubs and Charities - Assistance to Community

MR WOOD: Mr Speaker, my question is to the Chief Minister. Chief Minister, I noticed that the recently published annual report of a large Canberra community based club contained the following statement on behalf of its community support grants committee:

> The Committee is now receiving more and more requests for assistance from local community groups and charities, as previous sources of funding are no longer available. Many members may have considered the provision of welfare to be a Government responsibility, but this appears to be changing.

I also notice a statement from the Smith Family in the *Canberra Times* this morning. They say they have been unable to meet requests for clothing and blankets this winter from families in need. Chief Minister, in these circumstances, how can you continue to claim to have a caring government?

MS CARNELL: Mr Speaker, I could not have asked for a better question. Since this Government came to office we have not in any way cut funding to community services, but because we know - - -

Mr Moore: We have increased it.

MS CARNELL: We have increased money in areas like people with - - -

Mr Stanhope: Have you sacked any disabled workers today?

Mr Berry: Have you sacked any disabled workers today?

MR SPEAKER: Just a moment. A perfectly reasonable question has been asked. The Chief Minister stands up to answer it and is then prevented from doing so by a barrage of questions. What do you people imagine she has to hide in answering the question that you have to try to silence her like some football crowd?

MS CARNELL: Mr Speaker, I am very happy to answer the question. As Mr Moore and other members would know, we have significantly increased the money spent on people with disabilities. Mr Stanhope should have known that as well. We have also significantly increased money for people with mental health problems and significantly increased the benefits for ageing people in our community.

But, even with those increases in funding, we agree that there is unmet need in the community, and that is the reason we have on the notice paper a Bill with regard to gaming machine revenue and clubs. We on this side of the house believe very strongly that because clubs have a monopoly on poker machines and they are making a large amount of money out of them a percentage of that money - a very small percentage, 3 per cent of the net gaming machine revenue, to start with - should go to exactly those organisations that Mr Bill Wood is talking about. Three per cent of net gaming machine revenue is not a lot. Net gaming machine revenue is gaming machine revenue after costs, wages and taxes are all taken out. But I understand that Mr Wood does not support that legislation.

MR WOOD: I ask a supplementary question. I have in earlier days acknowledged the extra funding to disability services, as I acknowledged last year the extra funding to mental health services. I appreciate the acknowledgment by the Chief Minister that there is an unmet need. I ask the further question: Does she recognise how large that unmet need is, and does she still fail to acknowledge the work that clubs do - in fact, I think she has been involved recently - in helping to meet that unmet need?

MS CARNELL: The Government fully appreciates the work that some clubs do to meet community need. The whole reason clubs exist in this city is to benefit the community. They are not-for-profit organisations. They have a monopoly on poker machines. According to them - and I agree with them - they are there to benefit the community. That is the reason they have poker machines and a monopoly. We absolutely agree with that, and we think that some clubs do the right thing. But, as we found out when we asked the clubs to report totally at the end of last year, not all clubs do.

Yes, there will always be need in any community. The fact is that the need is significantly lower now than it was when we came to government. The reason for that is that more people are in jobs. The one thing that does create more social equity in any community is people having jobs. We have significantly more people in jobs and significantly fewer people collecting social security benefits. Therefore, the situation has improved, but it would improve even more if those opposite would support our

legislation which would ensure that probably in excess of $2m of extra money goes to exactly the organisations Mr Wood is talking about. If they oppose it, that money will be lost to organisations who need it.

ACTION - Patron Survey

MR HARGREAVES: My question is to the Minister for Urban Services. I understand that recently ACTION undertook an on-board and telephone survey asking ACTION patrons how they felt the new service was operating. Fifteen to 20 questions were asked in the phone survey, some of them lengthy. However, interestingly, the final question in the phone survey was: "Do you think ACTION should be privatised?". Why was this question asked?

MR SMYTH: It was a reasonable survey that canvassed a whole range of issues. One of the issues was whether people were happy with the Government providing this service or whether perhaps other operators should be allowed into the ACT. It was a reasonable question.

MR HARGREAVES: I ask a supplementary question. We note the Government's intention to go to the first stage of privatisation by introducing the ACTION Corporation Bill in the spring sitting. When, Minister, does this Government intend to fully privatise ACTION?

MR SMYTH: The Government has made it quite clear that if the $10.5m worth of savings were made we had no intention to privatise ACTION. If I remember the advice from Mr Hargreaves, it was: "Stop at 8; stop at 8.1; stop at 8.4. You cannot go any further". Then the specialist for industrial relations on the other side, Mr Stanhope, jumped in and said, "Stop at 8.7; stop at 9. You cannot go past 9. Stop at 9.6". We have made $10.5m worth of savings from ACTION. We have delivered 27 per cent extra services to the people of Canberra. They are the sorts of services that they asked for, and we will continue to ask them about the sort of service that they want provided.

It is very curious that those opposite are offended by this. The reason that the service works is that the union - in conjunction with the staff, the management and the Government - have made it work. We work with our community. We work very hard with the community. We have even worked with the unions. Again today the Chief Minister and Mr Moore are talking to the unions, talking to representatives of the nurses, trying to get on with life.

What did Graham Richardson call this lot opposite? He called them the last of the Stalinist Labor parties in the world. They sit over there in splendid isolation, totally out of this world, because they do not stand for anything. They do not stand for anything, because they cannot match us on anything. Can they match us on our performance on unemployment and fiscal management? No, they cannot. Can they match us on policy? No, they cannot, because they simply do not have - - -

Mr Corbell: I take a point of order on the ground of relevance, Mr Speaker.

MR SPEAKER: Thank you.

MR SMYTH: We always jump to relevance when we are offended by the truth. They cannot match us on our performance, our policy or personnel in this place.

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

Impounded Trailer

MS CARNELL: Mr Speaker, I would like to provide some more information on Mr Berry's unfortunate question before. Apparently there was some confusion over whether Mr Murphy's trailer was legally removed by rangers, so it was returned without charge. The apparent legal anomaly has now been rectified. I think it is appropriate right now to make it clear to this Assembly and the people of Canberra that I believe that Mr Murphy is a truly great Canberran, somebody who does his job at CanTrade at no cost to the taxpayer, somebody who contributes significant time to entities such as the Smith Family and the Catholic Church and to many other charities. He has my total support.

ACT Housing

MR SMYTH: Mr Wood asked a question yesterday about Community Housing Canberra and I have some further information for him. Community Housing Canberra was set up by the Government to expand the community housing sector in the ACT. The Government agreed to transfer 200 properties to Community Housing for management between July 1998 and December 1999, at the rate of approximately 30 per quarter. As at 20 August 1999, 96 properties have been formally leased to CHC, agreement has been reached on a further 26, and CHC are negotiating with ACT Housing on another 18, bringing the total to 140 properties. This leaves 60 properties to be transferred to meet the target of 200 by December. Given that dwellings in multi-site units are soon to commence being transferred, the program is well on target.

Mr Wood, in a supplementary question, went on to ask what training is being given to community organisations to manage these properties. Mr Speaker, as part of the service purchasing contract between the Territory and Community Housing Canberra, a management fee of $2,858 per property per annum is paid for properties transferred. This fee is paid on the basis of the number of properties managed by the provider at the end of each quarter. As part of this contract CHC is required to assist with the establishment of new and existing community based providers and further develop the sector to assist it to grow and provide quality, cost effective and efficient housing management services to their tenants, as well as assist the community based housing providers to gain the skills necessary to provide effective housing management services.

To achieve these requirements, Community Housing Canberra has initiated a sector development plan which provides for forums to be conducted on a monthly basis to facilitate the development of community housing organisations. Some topics that either have been or are to be covered include rent policy, insurance, tenant participation, measuring tenant satisfaction, data collection, the Residential Tenancies Act and

conflict management. CHC also received $30,000 in the ACT budget to assist new providers with establishment costs. These funds were provided on the condition that Community Housing Canberra match the amount dollar for dollar.

CULTURAL FACILITIES CORPORATION

Papers

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the third and fourth quarterly reports for 1998-99, for the periods 1 January 1999 to 31 March 1999 and 1 April 1999 to 30 June 1999, of the Cultural Facilities Corporation, pursuant to subsection 29(3) of the Cultural Facilities Corporation Act 1997.

PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS

Papers and Ministerial Statement

MS CARNELL (Chief Minister): Mr Speaker, I present for the information of members, and pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of long-term contracts made with Roslyn Hughes, Michael Vanderheide and Neil Morgan, and short-term contracts made with Edward Rayment, Irene McKinnon, Allan Schmidt and Hugo Harmstorf. I ask for leave to make a short statement with regard to these contracts.

Leave granted.

MS CARNELL: Mr Speaker, I present another set of executive contracts today. These contracts are tabled in accordance with sections 31A and 79 of the Public Sector Management Act which require the tabling of all executive contracts and contract variations. You will recall that I previously tabled contracts on 30 June 1999. Today I present three long-term contracts and four short-term contracts. I would like to note that there has been a delay in tabling Mr Morgan's contract. This is due to a delay in completing his performance agreement. I think I have already read out the names of the people involved.

Mr Speaker, I would also like to alert members to the issue of privacy and personal information that may be contained in the contracts. I would like members to deal sensitively with the information and respect the privacy of individual executives.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE

Reference - Cooperatives Exposure Draft Legislation - Papers

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.31): Mr Speaker, for the information of members, I present the cooperative's exposure draft legislation, together with an explanatory memorandum. I move, pursuant to standing order 214:

> That the Cooperatives exposure draft legislation, together with the explanatory memorandum, be referred to the Standing Committee for the Chief Minister's Portfolio for inquiry into and report by 21 October 1999.

Mr Speaker, I have a tabling statement with respect to the legislation. To save time, I seek leave to have it incorporated in *Hansard*, Mr Speaker.

Leave granted.

The tabling statement read as follows:

> I am pleased to table the Cooperatives Bill 1999 as an exposure draft for members and for consultation with the local cooperative sector.
>
> A cooperative society is an alternative form of trading organisation to companies and partnerships. Cooperatives are characterised by a greater role of member participation in the organisation of the activities of the entity, particularly through the concept of mutuality one member, one vote. Members contribute equitably to the cooperative and the democratic control of its operations. The legislation identifies specific cooperative principles to ensure the identity of cooperatives, for example voluntary and open membership and concern for the community.
>
> While the ACT does not have many cooperatives, they are an important business entity in other regions of Australia providing a range of goods and services to both their members and the local community.
>
> The passing of the Cooperatives Bill provides a number of potential benefits to the existing ACT cooperative sector, such as enhanced capacity to raise funds. The new provisions also provide a more flexible framework for trading by cooperatives within and outside the ACT.
>
> The Bill represents a major reform to the current Act which needs to be updated and generally brought into line with other jurisdictions.

The local cooperative sector will be given six weeks to make submissions on the draft Bill. It is intended that following this period of consultation the Bill will be introduced later in the Spring sittings.

The Bill incorporates a comprehensive set of core consistent provisions which have been adopted by most state and territory jurisdictions of Australia with the exception of Tasmania and Western Australia which are expected to enact similar legislation in the near future. The Commonwealth is not directly involved in the regulation of cooperatives.

In the July 1996 meeting of the Standing Committee of Attorneys-General it was agreed that each state and territory would reform their cooperative societies legislation by adopting a set of core consistent provisions.

Ministers have discussed the need to have a formal intergovernment agreement to ensure legislative consistency and effective regulation and administration of cooperatives across Australia.

The purpose of the Agreement would be to provide uniformity and clarity for the States and Territories and the Commonwealth about the way in which consistent cooperatives legislation is formulated and maintained.

As yet, there is no draft agreement before the Ministers and there is no final timetable for the draft Cooperative Laws Agreement, prepared by officers, to be considered by the Standing Committee of Attorneys-General.

This reference to the Committee meets the requirements of the *Administration (Interstate Agreement) Act 1997.*

I move that the Bill be referred to the Standing Committee for the Chief Minister's Portfolio.

MR HUMPHRIES: Mr Speaker, I also indicate that I have referred this to the Chief Minister's Portfolio Standing Committee because, (a) I am a sadist, and, (b) there is not yet a committee established with respect to the Department of Treasury and Infrastructure.

Mr Quinlan: I have been meaning to talk to you about that.

MR HUMPHRIES: I am working on the assumption that the Chief Minister's Portfolio Committee will play that role. In fact, until otherwise resolved by the Assembly, that is the basis on which the Government will proceed. If Mr Quinlan and his committee wish to avoid this responsibility they will have to move the motion very quickly.

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

BATTERY HENS LEGISLATION

Ministerial Statement and Paper

MS CARNELL (Chief Minister): Mr Speaker, I seek leave to make a ministerial statement on battery hens legislation.

Leave granted.

MS CARNELL: Members will recall that in September 1997 the Assembly passed amendments to the Animal Welfare Act 1992 and the Food Act 1992. The effect of these amendments was to prohibit in the ACT the sale and production of eggs using battery cage systems. However, the amendment to the Animal Welfare Act contained a commencement provision that the ban on the keeping of battery hens, and the sale of eggs from battery hens, would not come into effect until six years after the permanent exemptions schedule to the Commonwealth's Mutual Recognition Act 1992 had been amended. This change to the Mutual Recognition Act would prevent the sale in the ACT of battery hen eggs produced in other States.

I would like to detail for members the active approach taken by the Government in progressing the legislation passed by the Assembly. In doing this, I will highlight a number of issues that emerged as a result of the legislation.

The ACT is a party to the Australian Mutual Recognition Agreement which has been put into effect by the Commonwealth's Mutual Recognition Act of 1992. The ACT signed the Intergovernmental Agreement on Mutual Recognition in May 1992 and became a 'participating jurisdiction' in December 1992 when the Assembly passed the Mutual Recognition (Australian Capital Territory) Act 1992. The basis of the mutual recognition scheme is simple. Goods that can be sold in one jurisdiction may be sold in any other jurisdiction. Therefore, without an exemption, the Mutual Recognition Act would allow for sale in the ACT eggs laid by battery hens in other jurisdictions even if the sale of eggs laid by battery hens in the ACT is banned.

Mr Speaker, the ACT Government and the ACT Legislative Assembly, including the Labor Opposition, have supported the aim of mutual recognition to remove regulatory barriers to the free flow of goods and labour between Australian states and territories. The alternative, which existed prior to 1992, would require the six states and two territories to maintain different regulatory standards. It would also require people such as plumbers, electricians and nurses to be registered under separate legislation in each jurisdiction. That is, to practise as a plumber in Queanbeyan, an ACT plumber would have to register to possibly different standards in New South Wales.

In establishing mutual recognition, governments did, however, recognise that individual jurisdictions may wish to seek permanent exemptions to the general principle for issues of particular significance, for example, firearms and fireworks, on the grounds of public health and safety. But, to avoid multiple exemptions and to maintain the principle, it was determined that changes to the permanent exemption schedule to the Mutual

Recognition Act would only be made with the unanimous consent of heads of government of the participating parties to the agreement; that is, the Prime Minister, the State Premiers and the two Territory Chief Ministers. As I will detail shortly, unanimous consent has not been given to ban in the ACT the sale and production of eggs from battery cage systems.

Mr Speaker, I also need to clarify the role of the competition principles agreement in this matter. Ms Tucker has said publicly that the opposition to this legislation from the states is as a result of the competition principles agreement. Mr Speaker, this is not the case. The mutual recognition agreement predates the competition principles agreement by three years. The competition principles agreement only came into play in this matter because one of the effects of amending the Mutual Recognition Act would have been to restrict competition. Therefore, a public benefit test was required to determine whether the benefits from this action outweighed the costs.

In undertaking the public benefit test, considerable latitude was needed to determine what public benefit means. The competition principles agreement includes in its test of the public benefit a wide range of qualitative and quantitative measures including, but not limited to, social welfare, occupational health and safety, ecologically sustainable development, regional development and the interests of consumers generally as matters that should be considered in all circumstances when determining the public benefit.

Following officer level discussions with the Commonwealth Department of Prime Minister and Cabinet, which was responsible for the Mutual Recognition Act, I wrote to the Treasurer, Mr Costello, seeking his agreement to the Productivity Commissioner undertaking the required public benefit test on behalf of the ACT Government. The Treasurer agreed to this request in July 1998 and the Productivity Commissioner sought public submissions to the test in August and September 1998. The rationale for the Productivity Commissioner undertaking the test was based on a recognition that, in order for the ACT's request to heads of government to amend the Mutual Recognition Act to have any chance of succeeding, the mutual benefit test would need to be independent and rigorous. Secondly, the commission's involvement was based on its strong endorsement and use of the public benefits test to help assess the efficiency of regulations and the important national implications of legislative changes.

Mr Speaker, the Productivity Commission's report, "Battery Eggs Sale and Production in the ACT", was released on 3 November 1998. Overall, the commission found that the legislative amendments would lead to some improvement in layer hen welfare, particularly in the longer term. However, the extent of the improvement and the benefit that would be derived by the community could not be measured reliably. This in part reflects the fact that the proposed ban on battery hen production raises ethical as well as economic issues.

Importantly, the commission found that the implementation of the ban on the production and sale of battery hen eggs would give rise to two significant economic costs - costs borne by ACT consumers from higher egg prices, estimated to be a permanent annual liability of $650,000, and adjustment costs resulting from the premature retirement of

productive assets, estimated to be a permanent and annual liability of $290,000. However, the commissioner made no attempt to judge whether the community benefits of banning the production and sale of battery eggs outweigh these costs.

In undertaking the test the commission also examined section 24B of the amended Food Act that requires the compulsory labelling of egg cartons to indicate the manner in which eggs have been produced. The commission determined that the benefits associated with labelling in terms of better community information would outweigh any increase in producers' costs. Furthermore, the commission found that the benefits would be greater if interstate producers were also required to label the eggs they sell in the ACT. This required a second permanent exemption to the Mutual Recognition Act.

Mr Speaker, following the commission's report I wrote to State Premiers and the Chief Minister of the Northern Territory seeking their agreement to amend the permanent exemptions schedule to the Mutual Recognition Act. There were two aspects to my request: First, agreement to add section 24A(1) of the ACT's Food Act to the permanent exemptions listed in Schedule 2 to the Mutual Recognition Act. This action would prevent the sale in the ACT of battery hen eggs produced outside the ACT. Second, agreement to add section 24B of the ACT's Food Act to the permanent exemptions listed in Schedule 2 to the Mutual Recognition Act. This action would make it compulsory for interstate egg producers to label the eggs they sell in the ACT to indicate the manner in which the eggs were produced. A copy of the Productivity Commission's report was included with my correspondence.

Mr Speaker, a response has now been received from all jurisdictions. On the issue of banning the sale in the ACT of battery hen eggs produced in other States, not one jurisdiction agreed to the amendment. Of all the jurisdictions, only the Northern Territory agreed to amend the permanent exemptions schedule to require the compulsory labelling of eggs sold in the ACT.

In their replies, jurisdictions have indicated that special consideration was given to preserving the intent of the mutual recognition scheme which, as I previously mentioned, was developed after all states and territories recognised a need to remove the regulatory restrictions that impeded interstate trade in goods. Although the ACT's request may only be seen as minor in the general scheme of mutual recognition, broadening of the permanent exemptions could lead to a significant weakening of the scheme.

As I have stated before, under the mutual recognition agreement, changes to the permanent exemptions can only be made with the unanimous consent of heads of government. As unanimous agreement has not been obtained, the amendments to the Mutual Recognition Act cannot go ahead. As a result, eggs produced from interstate battery cage systems can still be sold in the ACT. Furthermore, only ACT based producers will be required to label the eggs they sell in the ACT to indicate the manner in which the eggs were produced. I have recently written to the Prime Minister informing him of this outcome.

Mr Speaker, the ACT Government has put in a great deal of effort to implement legislation which, it must be said, we advised the Assembly was unworkable. In terms of officers' time, including the Productivity Commission, the ACT, the Commonwealth and other State officials, the exercise has probably cost well in excess of $200,000. Therefore, I do not believe that it would be appropriate for the ACT Government to continue to allocate additional resources in pursuing the inclusion of sections 24A(1) and 24B of the Food Act as permanent exemptions to the Mutual Recognition Act.

However, efforts are being made in other areas. The issue of hens and hen welfare was recently debated at some length at a meeting of the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ) on 6 August 1999. I am pleased to report to members that this issue is gaining greater significance in the national arena and it was agreed that there should be a nationally consistent system of truth in labelling for egg production methods.

Mr Speaker, the ACT will actually lead the rest of Australia in this respect. The Department of Health and Community Care and the Minister for Health, Mr Moore, are taking action to implement requirements for the labelling of egg cartons to provide regulations for prescribed expressions for the labelling of ACT produced eggs. This requirement will commence on 20 September 1999. Officers have also initiated discussions with ACT agencies and relevant industries to prepare for the implementation of the requirements and have developed a strategy to inform consumers, the ACT industry and other stakeholders.

ARMCANZ has further agreed to a review of layer hen housing conditions that will take into account the work that has been completed on this issue by the RSPCA and the industry. This review will provide an appropriate forum to recommend any changes to the nationally accepted Code of Practice for the Welfare of Animals: Domestic Poultry.

Therefore, Mr Speaker, I think it would be far more sensible for interested parties who feel strongly about the battery hens issue to continue to lobby governments to reach agreement on appropriate national standards. In my view, this would be a much more worthwhile approach than piecemeal attempts to amend the Mutual Recognition Act.

Mr Speaker, I would like to thank my colleague Mr Moore for the work he has done in this area. It certainly looks much more positive now that at some stage in the foreseeable future we will see national labelling, at least, of eggs with regard to how they were produced. I move:

> That the Assembly takes note of the paper.

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

FOOD STANDARDS - AUSTRALIA NEW ZEALAND COUNCIL MEETING - OUTCOMES

Ministerial Statement and Paper

MR MOORE (Minister for Health and Community Care): Mr Deputy Speaker, I seek leave of the Assembly to make a ministerial statement on the outcomes from the Australia New Zealand Food Standards Council meeting.

Leave granted.

MR MOORE: I move:

That the Assembly takes note of the paper.

It was a pleasure to hear of the issues that Mrs Carnell raised in her ministerial statement. They relate to a major issue about food labelling as well that has been dealt with by the Australia New Zealand Food Standards Council.

Mr Deputy Speaker, ensuring the health and safety of the food we eat is an essential component of any public health system. The Australian community expects the highest standards for the food that we consume. The Australia New Zealand Food Standards Council consists of Health Ministers from all states and territories, New Zealand, and the Parliamentary Secretary to the Minister for Health and Aged Care. The major function of the council is to approve food standards for Australia and New Zealand. A council meeting was held on 3 August 1999 in Canberra.

The council at this meeting deliberated over some very important and contentious food standards. These included the labelling of genetically modified food, food irradiation, maximum permitted concentration of cadmium in peanuts, pasteurisation of orange juice, development of uniform food Acts, food safety standards, and the maximum permitted residue levels in foods. The discussion and deliberation on the labelling of genetically modified foods preoccupied most of the meeting and gained the greatest media attention. I will say as an aside that the meeting went on for some seven hours when the Food Ministers Council has traditionally gone on for not much more than three-quarters of an hour to 1 hour.

Food produced using gene technology is a sign of the modern times, Mr Deputy Speaker. Scientists are able to modify or transfer the genes from one organism to another to produce the desired characteristics. Gene technology provides the food industry with opportunities to provide us with better quality food at supermarkets shelves and to improve crop yields. As with any new technology, however, there are ethical, moral, health and safety issues which must be addressed. It is imperative that these issues are addressed with great care, consultation and caution to ensure that any decision that is made protects the health of present and future generations.

Mr Deputy Speaker, the ACT has attempted to ensure that health issues in relation to genetically modified food are fully addressed. It was the ACT which first advocated for comprehensive labelling of all genetically modified foods at the first food council

meeting which I attended. The maximum permitted concentration of cadmium in peanuts has been on the council agenda for a while. In 1997 the council agreed to new permitted concentrations of cadmium in many foods, but requested further research on the health, trade and agricultural impacts of the permitted cadmium concentration in peanuts.

In December 1998 the council agreed in principle to raise the maximum permitted concentration of cadmium in peanuts from .05 milligrams per kilogram to 0.1 milligrams per kilogram, subject to no contrary advice being received from the National Health and Medical Research Council. However, at the time the peak Australian health and medical research body had not been asked to assess, and were not consulted over the health implications of, such a proposal. Mr Deputy Speaker, it is essential that all health consequences of any new or modified food standard be assessed thoroughly, including input from leading and independent health research organisations.

The ACT accepts that the raising of the maximum permitted cadmium concentration in peanuts alone is not a public health significance, but it agrees with the NHMRC view that "there can be no isolated consideration of the maximum permitted concentration for peanuts independent of a more general consideration of likely or possible impact on health and dietary intake of changes in MPC's of foods containing cadmium". While the ACT did not agree to the raising of the MPC of cadmium in peanuts and recommended a review of the cadmium level in all foods, the majority decision of the council was to approve the new higher concentration. Mr Deputy Speaker, considering the benefits of a national uniform approach to food, the majority view of the council should be accepted. However, the raising of issues of concern for jurisdictions is an important part of a robust and informed decision-making process.

Another important issue discussed was the development of uniform national food Acts and food safety standards. The principle of uniform national food legislation and food safety standards is supported. The proposals put forward, however, need more research and justification. There are likely to be significant impacts to government, consumers, the food service sector and industry. The issue will be further discussed in the October meeting of the council.

Mr Deputy Speaker, the approval and labelling of genetically modified foods, Standard A18, was first put forward to the council in July 1998. The council decided to adopt Standard A18 which requires the labelling only of genetically modified foods which are not substantially equivalent to their conventional counterpart. The standard also requires a health and safety assessment of any genetically modified product before being released to the market in Australia. The council agreed to consider at its December 1998 meeting additional labelling requirements for genetically modified foods.

At this time the council agreed by a majority decision to require further development of the standard. This included: Where foods are not substantially equivalent they must be labelled; where foods are substantially equivalent to their conventional counterpart, for food manufacturers to label food that is known to contain genetically modified material; and if the manufacturer is uncertain of the genetically modified content of the food product, to indicate that the food "may contain" genetically modified material. That was the December position.

Mr Deputy Speaker, on 3 August 1999 Health Ministers agreed to require comprehensive mandatory labelling of all foods and foods made from ingredients which have been produced using gene technology. This was a major step forward for the Ministers. They have now agreed that consumers have a need and a right to full information so that they can make choices about the food they eat. Another major achievement for consumers was the removal by Ministers of the concept of "substantially equivalent" from all discussions about the labelling of genetically modified foods. This was a unanimous decision of the council. Mr Deputy Speaker, the ACT has been at the forefront of ensuring consumers' concerns and health and safety issues are addressed. The ACT has played a leading role in ensuring that comprehensive and practical labelling requirements are mandated.

There are a number of issues still to be investigated and reported back to the council. These include: Threshold limits of genetically modified material in foods; compliance cost to industry and producers; and the need for education and information for the consumer. Mr Deputy Speaker, the concept of threshold raises a concern. To determine an arbitrary acceptable threshold level before requiring mandatory labelling of genetically modified foods will present real difficulties. Surveys indicate that consumers want labelling of genetically modified foods. A threshold level is unlikely to satisfy consumers. Rather, it will make consumers suspicious of the industry and regulatory authorities. While the discussions continue on genetically modified food, the ACT will maintain its commitment to comprehensive labelling. Indeed, Mr Deputy Speaker, even since that meeting there has been a series of meetings. Officers of my department and from my staff have attended these meetings, and are doing so this very day.

I would like to move on to irradiated food. There has been a moratorium on the irradiation of food and the sale of irradiated food in Australia since 1989. A proposed new food standard to permit the sale of irradiated food was put to the council. The ACT had concerns over the proposal because it was based on out-of- date science, but supported the comprehensive labelling of irradiated foods. It is interesting that the proposal to permit food irradiation was passed by the council with comprehensive labelling, while the council struggled to agree to labelling of genetically modified foods.

Mr Deputy Speaker, the ACT earlier this year requested further information to consider three proposals to amend the maximum residue limits, MRLs, in our food. These residues can be antibiotics, steroids, insecticides or fungicides. It came to light at the council meeting that these MRLs were being approved or raised without adequate assessment of the health impacts. The peak Australian health and medical research organisation had apparently not been requested to assess the health implications. This is of considerable concern to me as a Health Minister responsible for ensuring the health of all in our community. It was agreed that the proposals would be referred to the NHMRC for advice on health issues before being reconsidered by the council. Mr Deputy Speaker, I was very pleased about that.

Many of you would have read articles by Dr Peter Collignon of the Canberra Hospital. Associate Professor Collignon had these published in peer review journals, and has also had at least one article published in the *Canberra Times* about the impact of growth enhancing antibiotics in animals on resistance in humans. It is a very important issue for

us to take into account. An interesting debate is going on about the peer review journals. If anybody is interested, I could refer them to some of them. It was agreed that the proposals would be referred to the NHMRC for advice on health issues before being reconsidered by the council.

South Australia raised concerns about recent food poisoning attributed to the consumption of unpasteurised orange juice. The council was generally supportive of the proposal to require pasteurisation of orange juice, and the matter will be considered at a future meeting.

Mr Deputy Speaker, the Australia New Zealand Food Standards Council on 3 August 1999 made significant decisions on food standards. The ACT has continued to take seriously its role to do what it can to ensure that health, safety and consumers' concerns are fully addressed. We will continue to do that.

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

McKELLAR AND FISHER SHOPS - SALE OF LAND

Discussion of Matter of Public Importance

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

> The Government's handling of the sale of land at McKellar and Fisher shops by direct grant to Tokich Homes Pty Ltd under the Ecoland proposal.

MS TUCKER (4.01): Mr Deputy Speaker, I have raised this issue as a matter of public importance today because I am very disturbed about what has been happening with this direct grant of land and I was very unsatisfied with the answers given by Mr Humphries to my questions on Tuesday about this development at McKellar shops. The whole affair has a very bad smell about it, and unfortunately there would not be enough question times to get to the bottom of it. Mr Humphries has really evaded the key problems with the Government's handling of this land deal and I am asking him today to set the record straight.

In fact, three different Ministers have been involved in this. In a nutshell, what we have here is the Government announcing some time ago that it will give a direct grant of land, without competitive tender, to one group of people for an innovative project at McKellar shops that will provide community benefit. We then found out recently that a different group of people, Tokich Homes, ended up with the land for a fairly conventional development that could have been done by any number of builders, with no net benefit to government. At present the only development proceeding is that at McKellar shops, but I should point out that the Government has also given a direct grant of land at Fisher shops to the same group, for which a development application has not yet been made.

Just to explain the policy background to this issue, the usual process by which government land is sold is by auction or tender, but under the Land Act the Government can sell land by direct grant, without any auction process, provided that the criteria for making such a direct grant are previously tabled in the Assembly by disallowable instrument. However, there has been a longstanding policy that the public interest is better served by releasing land through a competitive process rather than through direct grant, unless the land is to be used for some community purpose or the project is of a unique and exceptional nature. This was recently confirmed by the Government in the report "Appropriateness of dealing with developers outside a competitive process", released by the ACT Government's Property Advisory Council in June 1999.

What happened with McKellar goes right back to 1996 when the Chief Minister announced investigation of the feasibility of a joint venture with a group of five people called Eco-Land to develop vacant land around local centres with environmentally sensitive housing to help revitalise the centres. Much stress was placed on the fact that these five people were young local people who had good ideas that deserve support. Two of these people were the Tokich brothers. The Chief Minister even said that ACTEW was interested in the proposal and was advising the group on energy efficiency and water reuse issues.

In September 1997 Gary Humphries, as the then Planning Minister, tabled a number of disallowable instruments in the Assembly. Contrary to what Mr Humphries said on Tuesday, he did not speak to them. One of these was Determination 200 of 1997 which established the criteria for direct grants of land in or adjacent to local centres. The Minister's statement that was issued with the determination stated that this was to allow grants of land to be made to a local company, "Eco-Land", to develop innovative ecologically sustainable housing near local shops as a way of revitalising them. However, the statement later says that, unfortunately, Eco-Land had hoped to include environmental initiatives as part of the development, but because they were small projects this was not possible.

This statement obviously begs the question of why the Government was proceeding with this direct grant at all when there was nothing particularly innovative about it. Sure, there would be community benefit from an improvement to the local centres, but the Government could have got any number of builders to do this work.

This statement also included the incorrect statement that Eco-Land was a local company. There has never been a company registered in the name of Eco-Land. Eco-Land was registered as a business name by one of the five people, Ms Kylie Lenihan, but there was never a formal business relationship between the five.

The idea that this was going to be a joint venture with government also became a lot vaguer. The statement said that, apart from paying for the land, as part of the agreement Eco-Land will enter into various public works at the centre. However, only yesterday did we find out that Tokich Homes, who were eventually given the land, did not actually pay the full market value of the land. They only paid some $90,000 instead of $190,000. Contrary to what Mr Humphries said on Tuesday, that Tokich were paying full value for the land plus putting in more money for the public works, we have since been told that the market value was reduced by the $100,000 to cover the extra costs. In effect, the

ACT Government still paid for the public works by forgoing full market value of the land, and Tokich did not have to spend an extra cent on public works because they got the land at a discount price.

As an aside, it appears that the price paid by Tokich for the Fisher land, $284,000, as listed in the schedule provided by the Minister for Urban Services, is full market value. Perhaps Mr Humphries could enlighten us on whether this is also an error or whether this amount actually includes public works at the Fisher shops.

On Tuesday Mr Humphries also said that if the Government had gone to tender on the McKellar land the bidders would minimise the amount of money that they would set aside for public works. This is not true and it is rubbish. The Government has already set up a competitive tender process for land where the amount of money to be spent on public works is set in the conditions of the sale. For example, Mr Humphries would remember the sale of section 41 in Manuka where bidders were required to put aside some $1.5m for associated works on Palmerston Lane.

I regret that the Assembly did not pick up the problems with this disallowable instrument at the time. It is, however, of great concern to me that the questions on notice I asked about this direct grant proved to contain incorrect information. We can thank the Chief Minister for drawing our attention to this whole mess again by launching the building work recently.

Let me move on to one of the key issues in this affair, the issue of how Tokich Homes ended up with the lease on the land. In late 1998 and early 1999 Brendan Smyth tabled schedules of leases directly granted by the Government which indicated that Tokich Homes had been granted leases over vacant blocks next to McKellar and Fisher shops. In three questions on notice I asked about the reason for this grant, I got the response that the land had been sold to Tokich Homes, who used the trading name of Eco-Land, in accordance with the earlier determination. It is interesting that all the documents now refer to Tokich Homes rather than Eco-Land. However, in a briefing given to the Greens in 1996 by the five people in Eco-Land, we were told that Eco-Land was independent of the other construction businesses of the Tokich family, even though two of the partners in the Eco-Land group were members of the Tokich family. We have since received information from Ms Lenihan that the Eco-Land group ceased to meet during 1997 but that the Tokich brothers continued independent negotiations with the Government over the land.

On Tuesday, Mr Humphries confirmed that at some point in 1997 and 1998 it became unclear who were the exact organisations and people that the Government was dealing with, and that they relied on the information on the application form for the grant of land that Tokich Homes Pty Ltd was trading as Eco-Land Developments and was authorised to act on behalf of the Eco-Land group. It has since become clear that Tokich Homes has never traded as Eco-Land Developments.

I am amazed and concerned that the bureaucrats did not check the details in the application. In fact, they should have been alerted to a problem by the letter from St George Bank, which we saw after getting these copies of these documents from Mr Humphries, attached to the application which referred to Tokich Homes trading as

Nouvelle Homes, not Eco-Land. One of the other directors of Tokich Homes, a person who was not one of the five original group members, was also included in the application.

Mr Humphries implied on Tuesday that everything is now okay because Tokich registered the business name of Eco-Land last Friday. This is a great piece of retrospective approval. At the time the application was put in, at the end of 1997, Tokich Homes was definitely not trading as Eco-Land. The application was false, yet the land was still granted to Tokich Homes.

It is also of great concern that Tokich registered the business name of Eco-Land one day after the article appeared in the *Canberra Times* exposing this affair last week. We have since heard from Ms Lenihan, the original holder of the Eco-Land business name, that since late 1998 the Tokich brothers had regularly requested her to hand over the business registration to them - in her words - almost to the point of harassment. Once the newspaper article appeared last Thursday, Ms Lenihan started receiving phone calls and visits to her work from the Tokich brothers and, under pressure, has agreed to deregister the name so that the Tokichs can take it over. She no longer wants anything to do with them.

Mr Humphries told us on Tuesday that he was satisfied that all the five people involved in the Eco-Land group supported the application by Tokich for the land and that he had no evidence of false pretences. I am asking him what backing he has for those statements. Everything I am hearing would indicate the opposite.

Mr Humphries also said that the Government Solicitor's Office had provided advice that the Government was obliged to only give the land to the people on the application. Interestingly, he also said that he had looked at the advice and would give it to Mr Stanhope if he wanted it. However, when I asked for this advice later on he had to admit it was only oral advice. I wonder how he can read something that is not written.

Let me remind Mr Humphries of the note at the end of the statutory declaration form where the Tokich brothers declared that their statement that Tokich Homes traded as Eco-Land was true. It says that any person who wilfully makes a false statement in a statutory declaration is guilty of an offence against the statutory declaration Act and may be prosecuted. It also says that, in addition, a false statement may result in the application being withdrawn and negotiations being cancelled.

As the chief law officer in the ACT, I would hope that Mr Humphries would want the law to be complied with. So, I am asking Mr Humphries to explain fully to the Assembly how Tokich Homes ended up with this land that was originally supposed to be granted to the five people who put up the Eco-Land proposal back in 1996. Why was the Office of Asset Management slack enough to not check the accuracy of the application by Tokich Homes, or was there some complicity on the part of the OAM officers? Did they just want this project to proceed because they felt bound to follow through on the earlier ministerial announcements about the Eco-Land proposal, regardless of the fact that the Eco-Land group had changed?

It is just not good enough for Mr Humphries to give assurances that the community is getting benefit from this redevelopment. Proper process has not been followed and this has resulted in one building company getting the rights to build a fairly ordinary but quite profitable townhouse development next to McKellar shops, to the exclusion of all other builders in town. The same thing will soon happen at Fisher shops unless the Government takes action to address the concerns I have raised today.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.13): Mr Deputy Speaker, I have listened to the concerns that Ms Tucker has raised in respect of the granting of land at McKellar to Tokich Homes. I think I need to put on the record that I see two distinct aspects of this issue that she has raised. There was apparently a third one originally, and that was whether this was an environmentally sensitive kind of development, but I do not think she presses that point in this debate.

Ms Tucker: That is why the grant was given. It was supposed to be and it was not. The grant was given because that was supposed to be the special quality, so it is quite an important factor. Why did you give the land?

MR HUMPHRIES: Okay, Mr Deputy Speaker, she makes that point as well. I will come to that point first. She raises an issue with respect to the question of process, and how the process was used to bring this development to the stage where agreement was made, a lease was granted and development began. I see two separate issues about the way in which the issue has been before the house. One is the process used to take the issue from the point where the Government made an announcement about wanting to encourage development around local centres, and how it wanted to develop innovative development of that kind which would have the incidental effect of supporting local centres which were otherwise in some trouble of not being viable.

Then there is a slightly separate question and that is the question of what level of support or activity or innovation was necessary with respect to the kind of development that was being talked about that would warrant the applicants receiving the benefit of not having their venture or their application subject to competitive forces. In other words, why a person should be able to bid for land and have it directly granted - that is directly sold to them - rather than have to bid for it at some kind of auction or by some kind of tender.

On that second question of whether, as a matter of policy, the level of innovation was of a sufficiently high order to warrant the benefit that was being conferred and was adequate for the purposes of directly dealing with land, I have indicated already, as I said to the house yesterday, that, as the Minister now responsible in a full sense for asset management within the Department of Treasury and Infrastructure, I feel there is a need to review that position and see whether the approach that has been adopted and is being pursued at the moment is the right approach.

I came to the Assembly on Wednesday, admittedly with some surprise, finding that in the case of the McKellar shops the $100,000 that was being spent on the revitalisation of the shops was not additional to the purchase price being paid by Tokich Homes.

It was, in fact, part of that purchase price. In other words, what was being spent was effectively part of the money that the Government otherwise would receive by way of a purchase price.

Ms Tucker: So you paid for it?

MR HUMPHRIES: Well, I suppose you cannot have it both ways. You cannot claim that they were getting a discounted price for the land and that they were not paying for the development of the - - -

Ms Tucker: Why did they get a discounted price to begin with?

MR HUMPHRIES: Well, may I put this on the table, Ms Tucker? In a sense they might have paid full market value and then we would have used the money in the form of consolidated revenue to go out and do that revitalisation work at the McKellar shops ourselves. It would not have been recorded as having anything to do with Tokich Homes. It would have been incidental to the fact that Tokich Homes was developing part of the land around McKellar shops and we happened to be spending the money.

Mr Quinlan: Without a competitive process.

MR HUMPHRIES: I will come to that.

Ms Tucker: You said they did it.

MR HUMPHRIES: I know you have an issue here, Ms Tucker, but let me answer the question you have raised. The question of whether the degree of innovation in that proposal is sufficient to warrant direct dealing is the issue I have indicated I want to have examined. I am not satisfied in my mind that we have a process that is appropriate.

The argument has been put to me that we need to encourage development around local shops in Canberra and that warrants saying to people, "If you can come up with a good idea to put development around a centre which supports that centre, then we will deal with you directly to make sure that that kind of development goes ahead and the shops have a new lease on life, so to speak, by virtue of that development".

It has been put to me that that is sufficient benefit, community benefit, to warrant the direct granting of land. That may or may not be the case, Mr Deputy Speaker. I am not sure in my own mind about that. I can see that there is some intellectual value in coming forward with an idea to develop land around a particular centre in a way that interacts with the centre, such as design issues, issues to deal with the type of accommodation you create at those centres to interact with the local centre as opposed to just slapping up whatever is in your bottom draw in the way of a design for a house or a block of houses to achieve a quick result and get a quick profit out of it. There is some degree of innovation in this. Whether there is enough to warrant direct dealing I am not sure about, and I want to find out about , and that is why I have indicated to Ms Tucker and the Assembly that I, as a Minister newly responsible in this area, want to go back and review that question. So, that is one issue.

The other issue is the question of the process being used here to arrive at the point where a lease was granted to Tokich Homes, because the original applicants were not actually Tokich Homes. They were five people, two of whom were people by the surname of Tokich. I think in this respect there is less concern in my mind and the Government's mind about the process that has been used. Certainly, what happened was that a number of changes occurred along a path that took over two years to travel that resulted in different people applying and different people receiving a lease at the end of the day. That is perfectly true. Yes, Ms Tucker, it is true.

Ms Tucker: Who applied to begin with?

MR HUMPHRIES: There were five people who applied originally as Eco-Land to be considered.

Ms Tucker: A formal development application.

MR HUMPHRIES: Okay, Ms Tucker. You can have a say in the adjournment debate about this.

Ms Tucker: All right. Okay. Go on.

MR HUMPHRIES: I am putting it to you that originally five people approached the Government about developing that block of land. Those people described themselves as Eco-Land. The impression was created at the time, perhaps, that Eco-Land was a company and they were shareholders or directors of that company; that having come forward it was the expectation at that point that these people would take their application forward and they would get their lease at the end of the day if they satisfied all the criteria.

They did not do that. The five people apparently had a falling out. In any case, something happened to not allow all five of them to proceed. Certainly, the name Eco-Land, which was associated with the application in the first place and was admittedly used on a number of occasions in respect of the application, was abandoned or fell to one side in the process going forward.

Ms Tucker, no doubt, would assert that the thing got its first legs on the basis of it being an environmentally sensitive development under a very warm and sexy name like Eco Land when in fact there was no such connection with this development and it should not have had that name associated with it. She may be right, but the point is that in these processes it is a fact of life that relevant details do change and organisations change. In respect of a matter which might be considered a joint venture, or a partnership or some other kind of corporate or non-corporate entity which comes forward to deal with the Government, the composition of that may change over time.

In this case it did change. The government officers who dealt with this initially probably thought this group called Eco-Land was a company of some kind. It was not a company. It was in fact a group of individuals who came forward wanting to take a lease. By the time the lease was at a point of being offered it was clear that they were not Eco-land but were in fact Tokich Homes Pty Ltd. Also, the proposal had changed a bit in the

course of that process. However, we had noted that some point back. We had reported that to the Assembly; that it was no longer a proposal with a high degree of environmental innovation about it, but nonetheless it still had some benefits from a community point of view. It was, of course, about creating accommodation around local shops that would give those local shops a customer base to make them sustainable into the future, and that is the whole point of the Government's policy on local shops - to give those local shops a new lease on life through the development of housing in a way which encourages their continued operation.

Those objectives were still being met by this development at the end of the day. The name of the organisation or person wanting the lease had changed, but the legal advice to the Government from the Government Solicitor was clear: That we were not only entitled to deal with Tokich Homes, to offer them a lease which would fulfil the Government's objectives in respect of the development of local shops, but, moreover, we were actually compelled to deal with them if we were going to offer a lease at all.

Ms Tucker: Was that the oral advice?

MR HUMPHRIES: That was the oral advice. We could not offer the lease to somebody else. If a company called Eco-Land registered in the name of, say, one of these parties had come forward, we would not have been able to offer them that lease because at that point we had clearly dealt with Tokich Homes Pty Ltd. That is what I am told. I was not involved personally in any of these dealings. I have not dealt, as far as I am aware, with any of the individuals involved in Tokich Homes or Eco-Land. I have met at least some of the Tokich brothers in the past, but not in respect of this particular proposal. I do not know whether I have met any of the other people involved in Eco-Land as it was then characterised.

Mr Deputy Speaker, that is the advice I have received; that there was legal advice to the effect that we should deal with Tokich Homes Pty Ltd and, moreover, that granting a lease would meet the Government's objectives.

Ms Tucker: Trading under what name?

MR HUMPHRIES: Tokich Homes? I do not know. Tokich Homes Pty Ltd. I do not know what they were trading as.

Ms Tucker: Nouvelle Homes or Eco-Land?

MR HUMPHRIES: I do not know what they were trading as, Ms Tucker. What they are trading as does not matter. What they were calling themselves is not important; it is what they actually were. The lease cannot be issued in the name of Tokich Homes trading as the Flying Fruit Circus. It is about what they actually are, their legal identity, and the legal identity was Tokich Homes Pty Ltd. So, a lease has now been granted to them. They have, in effect, paid market value for that - - -

Mr Corbell: Discounted.

MR HUMPHRIES: No, not discounted. It has not been discounted. They have paid full market value except that the price has been reduced by the extent of their physical doing of work in respect of the McKellar shops.

Ms Tucker: So it is not with added community benefit.

MR HUMPHRIES: No, Mr Deputy Speaker, it has not been discounted. In a real sense it has not been discounted because Tokich Homes Pty Ltd is still going to part with a sum of money equal to the estimated value of that land according to the Australian Valuation Office.

Ms Tucker: Except you said that that was the community benefit yesterday, that they were offering. What is the community benefit?

MR HUMPHRIES: Ms Tucker takes exception to the fact that I have told the Assembly two different things. I have made clear to the Assembly that I did mislead the Assembly inadvertently on Tuesday and I have come back and corrected what I said yesterday. If Ms Tucker wants to flog me for that, that is fine, but my conscience is clear. I have made clear to the Assembly what was in error in my comments on Tuesday. I was surprised to discover that what I said on Tuesday was inaccurate. It reflects a misunderstanding on my part about what was going on with that matter, and that is why I have asked for the situation with respect to what constitutes an innovation or community benefit to be reviewed. Mr Deputy Speaker, that is the indication that I put to the Assembly.

As for the pressure on Ms Lenihan that Ms Tucker has referred to today, I have not heard about that before. I do not know what she is inferring. She did make reference to "making application on a fraudulent basis", I think.

Ms Tucker: She sent a fax to everyone a while ago.

MR HUMPHRIES: Well, I have not seen it. If she has sent it to me I have not seen it. So, Mr Deputy Speaker, I am not aware of that. If there is a matter there that Ms Tucker is concerned about, I would be grateful if she would refer it to me. I am happy to raise it with my department; if necessary, even to ask the police to investigate the matter if she believes that there is some kind of illegal behaviour involved. I have no hesitation in saying that that is what I am prepared to do. If there is a disagreement between Ms Lenihan and the Tokich brothers about the matter and they are exchanging heated phone calls, I am not sure that is a matter I need to get involved in.

Ms Tucker: No, except that yesterday you said everyone was happy. That is why I raised that today. Yesterday you said everyone was happy with what was happening. So, once again I am challenging what you have said.

MR HUMPHRIES: All right; it may not be the case that everyone is happy. Apparently Ms Lenihan is not happy, but I have not been advised about that before. That is a matter that I will take on board for Ms Tucker. I emphasise that there are two matters here. The Government is investigating the first matter. The second matter I think is a matter of process, and I think I would be prepared to defend that in respect of the way this has been handled today.

MR CORBELL (4.28): Mr Deputy Speaker, the Labor Opposition shares some fairly serious concerns about the process that has taken place here in relation to the direct grant of land at the McKellar shops. I am grateful to Ms Tucker for raising the matter of public importance today because this fundamentally comes down to this Government's continuing failure and, indeed, I would argue, incompetence in dealing with direct grants of land, or exclusive dealings, when it comes to territory land. It is not the first time that we have seen the Government embroiled in this sort of sloppy, messy process, and I am afraid that it probably will not be the last.

There are a couple of key issues that I would like to address. The first relates to process, the second to the criteria that the Government has used in addressing this matter. Then I would like to deal with some of the other matters concerning the Property Advisory Council's report on exclusive dealing and the issue of the payment for the land.

Turning first to the process issue, Ms Tucker raises what I believe to be some fairly valid criticisms. The application for this land was made in the name of Tokich Homes trading as Eco-Land Developments, but until last Friday that developer was not trading as Eco-Land Developments but rather as Nouvelle Homes, which was Tokich Homes' trading name. Eco-Land Developments was a registered business name owned by another person who was associated with the current developer when the original application was lodged.

I question how the Government could proceed to deal with Tokich Homes when the application for direct grant was under a business name not related to the principals. Indeed, as Ms Tucker pointed out in her comments earlier, one only has to look at the letter sent to an officer in, I presume, the Office of Asset Management from St George Bank outlining that Eco-Land had no status, as far as we could tell, and that the entity being dealt with was Tokich Homes trading as Nouvelle Homes.

Mr Deputy Speaker, I do not believe that this is a fundamental problem, but it does highlight the Government's inability to deal in any straightforward way with some fairly basic premises when you deal with a direct grant of land. It demonstrates shoddy business practice. It demonstrates a lack of attention to detail. I am afraid it is the type of approach that we are all too familiar with in this place.

When it comes to direct dealing on land, governments must make sure that absolutely everything is rigorous, is above board, is accurate, and is complete. On all of those counts, Mr Deputy Speaker, we have not seen that in relation to this matter. Public confidence in direct dealing on land, our most valuable asset, demands those sorts of standards. The Government has not met them.

Moving now to the issue of criteria, what criteria did the Government use in reaching this decision? In the *Hansard* for 24 August, Mr Humphries referred to "An investment of something like $100,000 in the sustainability of the McKellar shops". That was the criteria the Government itself is wanting to use and claims it was using in providing for the direct grant of land.

I ask you, Mr Deputy Speaker, is that the only criteria utilised by the Government to determine the direct grant of land to the developer in this case? Were there any others? I would be interested to know. I would be interested to know what criteria were used in assessing the direct grant, or was it purely the fact that there was $100,000 being put into public infrastructure at the McKellar shops? Certainly, environmental grounds were not part of the criteria considered in this matter. That, the Government itself has admitted. Indeed, as the Treasurer said on 24 August:

> When Eco-Land came to the Government initially they had hoped to include innovative environmental initiatives as part of their development. However, because of the small nature of these pilot projects, this is not possible.

Mr Speaker, I draw members' attention to the Property Advisory Council's report of June this year, "Appropriateness of Dealing with Developers Outside a Competitive Process". In the attachments at the back is the determination of criteria for direct grant of Crown leases relating to commercial, industrial, residential and tourism purposes. I assume that this is the most appropriate criteria for the direct grant of land. I may stand to be corrected there, but it would certainly appear to be the most appropriate. Mr Deputy Speaker, the types of criteria outlined here include benefit to the economy of the Territory or the region; contribute to environmental, social or cultural features; introduce new skills, technology or services; contribute to export earnings and import replacement of the Territory or the region. There is a range of criteria there, but the Government does not seem to have drawn on those in this direct grant of land. If they have, we have not heard their explanation as to that matter. I would be interested to know what their assessment was of criteria in that regard.

Mr Deputy Speaker, the Property Advisory Council report proposes to set a new standard in relation to direct dealing. We believe that this report, in itself, is a very good document. Certainly, on most matters, it addresses issues in a very thorough way, and it certainly deals with a range of very important issues to do with direct grant of land. That report highlights some of the matters that should be taken into account by government when contemplating direct dealing. They include a general threshold test in approving an exclusive dealing arrangement which is relevant to property transactions, and then, having regard to all the circumstances, the exclusive dealing will result in a benefit to the public. That public benefit test, Mr Deputy Speaker, includes an exceptional level of net public benefit, exceptional environmental amenity, and fostering of competition through the introduction of new industry participants. The report goes on to say that net public benefits should not just include financial and economic costs, but should also include a rigorous application of net benefit test beyond economic benefits.

Mr Deputy Speaker, in this case it would appear to me that the Treasurer is pointing to $100,000 in public works as the exceptional public benefit. I accept that this report was not available at the time that the direct grant was made. However, if we are coming down to public benefit, we cannot simply state that $100,000 is an exceptional public benefit, particularly when that cost, that benefit, has been subsidised by us. We discounted the value of the land. I know that Mr Humphries claimed something else in this place earlier in the debate, but we have effectively discounted the price of the land to get that public benefit. So who is paying? Not the developer. We are. The Territory is paying. The developer is bringing nothing exceptional to the proposal. As this Government would be aware, there is a strong demand for multi-unit development sites in this city, and I cannot understand why the Government would believe that a direct grant was appropriate in this case when, first, there is a considerable level of demand for multi-unit development sites, and, secondly, the public benefit is a subsidy provided by the Territory to the developer. There were no grounds, Mr Deputy Speaker, for a direct grant.

I was pleased to hear the Treasurer say that he is reviewing the matter of that discount on the market value of the lease. Unfortunately, Mr Deputy Speaker, it would appear that the horse has bolted on this matter. It is yet another case of sloppy, shoddy practice when it comes to direct dealings or exclusive dealings by this Government with developers and it will again cost the Territory a considerable amount of money, money that we could have otherwise used for useful purposes.

MR DEPUTY SPEAKER: The discussion is concluded.

GAMING AND RACING CONTROL BILL 1998

[COGNATE BILL:

GAMBLING AND RACING CONTROL (CONSEQUENTIAL PROVISIONS) BILL 1999]

Debate resumed.

Detail Stage

Clause 1

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.39): I move:

> Page 1, line 5, omit "*Gaming*", substitute "*Gambling*".

Amendment No. 1 is an excellent amendment of the Government.

Ms Tucker: I agree with you.

MR HUMPHRIES: If you agree with me, no more needs to be said.

MS TUCKER (4.40): I support Mr Humphries' amendment, which changes the title of the Bill from "Gaming" to "Gambling". I understand that we all support that.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 2 agreed to.

Clause 3

MS TUCKER (4.41): I move:

> Page 2, line 7, insert the following definition: " 'code of practice'—see section 14B;".

My first amendment seeks to insert in the preliminary section of the Bill that there be a code of practice. The details of the code of practice would be set out later in the Bill, but I will speak to them now to give Mr Humphries a bit of time to find his papers. This amendment is important because the Select Committee on Gambling received a lot of evidence supporting the need to have a mandatory code of practice. We received a lot of information about what should be in such a code of practice. It is really about giving the principle of informed consent particular force in the gambling industry. It is obviously of importance because the Productivity Commission said that the principle of informed consent should apply with particular force to the gambling industries, given the potential for consumer losses. The Productivity Commission found that there was a lack of even basic information about the price and nature of some gambling products, let alone the potential dangers from excessive consumption.

A number of concerns need to be addressed in relation to the code of practice. The code of practice may include, but is not limited to, guidelines about the items listed, which came from evidence to the committee. As I have said, the list is supported by the Productivity Commission, which is particularly interested in advertising, promotional practices and the offering of inducements, providing objective and accurate information about losing and winning, training staff to recognise and deal appropriately with people who are problem gamblers or are at risk, developing methods of dealing with staff or clients who are problem gamblers, the availability of cash and credit facilities, and self-exclusion arrangements. Basically, the proposal is really just about giving this legislation more detail, if you like, and giving the commission more detail and guidance through the legislation. It represents what has come to the bodies that have looked at these issues.

MR QUINLAN (4.44): Mr Deputy Speaker, had I thought that I could get the numbers, I probably would have moved an amendment to reduce this amendment to a single code of practice, but I do not think that would get currency today. I am concerned about this matter and give notice, if you like, that once this legislation is in place we will be seeking to ensure that the codes of practice that are decided upon by the commission across the various sectors of the gambling industry are consistent and are applied

consistently and that there are not sectors of the gambling industry that are particularly focused upon so that we do not have differential levels of regulation being imposed. We would expect and anticipate under the general clauses of the Act that the codes of practice would be, in fact, compiled in consultation with industry members, but at this stage we support the amendment.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.45): The Government supports the amendment.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.46): I move:

> Page 2, line 8, definition of "Commission", omit "Gaming", substitute "Gambling".

Amendment No. 2 is the same as amendment No. 1, in effect.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 4 agreed to.

Clause 5

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

> Page 3, line 24, subclause (1), omit "Gaming", substitute "Gambling".

Clause, as amended, agreed to.

Clause 6

MS TUCKER (4.47): I move:

> Page 4, line 5, subclause (1), omit the subclause, substitute the following subclause:
>
> "**(1)** The functions of the Commission are—
>
> (a) to administer the gaming laws;
>
> (b) to control, supervise and regulate gaming in the Territory; and

(c) to perform functions and exercise powers given to the Commission by this or any other Act.".

This amendment seeks to delete the development function of the commission. The Productivity Commission has argued that the principal operating criteria for regulatory bodies controlling gambling are consumer protection and the public interest. Given how far gambling has extended into the fabric of Australian life, there is no place for the Gaming and Racing Commission to have a role in developing gaming in the ACT. Specific industries, such as racing, already have built-in promotion and development functions. Basically, this amendment is the result of a recommendation of the select committee, and a very strong recommendation at that. It was thought to be appropriate by the majority of witnesses in evidence to the committee.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.48): Mr Deputy Speaker, in speaking in opposition to Ms Tucker's amendment, I suppose I am speaking in favour of my foreshadowed amendment. The issue here, as Ms Tucker has pointed out, is about the notion of developing the industry. The Government believes that there is a point in developing at least aspects of this industry in the ACT.

The industry is quite important. It represents the basis of employment for several thousand people in the ACT. I believe that it is appropriate to reflect in the terms of reference of the Gambling and Racing Commission that the Assembly sees a role for the development and promotion of the industry in a responsible way by the commission.

When I say "development", obviously I am thinking in an ideal sense of the development of the positive aspects of this industry, if I may use one term to describe what are, in fact, several different and diverse gaming and racing activities. There is much benefit in the industry. There are a large number of activities which I think it is appropriate for the commission to be developing in the sense of developing and providing advice on gambling and racing policy, assisting gambling and racing industries to comply with the regulatory framework and developing responsible approaches to the provision of gambling and racing-related services.

I think it is important to consider the context of this debate in the interpretation of the Act. Ms Tucker has put the view that we should not be developing the industry because it is an industry with, I think she would say, a number of pernicious side effects on the broader community. Gambling is a problem for some in the community. I think she would argue that the spending of very large amounts of money on gambling in the ACT is, per se, a bad thing, that the spending of such large amounts provides for the diversion of money from other things which might be considered more worth while. In that respect, she may have a point from one perspective. But we need to remember that behind that recreational activity there is a very significant number of jobs and there are other economic benefits to the ACT from the existence of those gambling and racing industries in the ACT.

Compare that with a provision that you might find in a hypothetical piece of legislation creating a tobacco commission to regulate the distribution and sale of tobacco in the ACT. Clearly, you would not say that the role of a tobacco commission would be to promote the consumption or sale of tobacco because tobacco is seen as a bad thing, notwithstanding the fact that there are jobs associated with the sale and distribution of tobacco. However, I do not think that we should see gaming and racing in the same mould. If people are able to go to racecourses or TABs or to clubs and play poker machines or engage in other sorts of gaming activities at moderate levels, well within their incomes, I think it is true to say that, despite different tastes that we might have in that kind of activity, it is a perfectly legitimate exercise to be engaged in. If it is legitimate, if it meets a legitimate recreational expectation of people in the ACT, then it is appropriate for it to be developed further.

There will be occasions when the commission will have to make decisions which could be seen either as developing or as hindering the growth of the industry. One example might be the incipient project to have Internet gambling in the ACT. We hope that one day a significant industry will be based around Internet gambling run by organisations registered or based in the ACT as gambling or gaming service providers. In moving to develop that kind of industry there are benefits for the ACT community, for the ACT taxpayer, and I think that it is appropriate for us to be promoting those sorts of things. The Government has made a decision to promote those sorts of things. It is an export earner for the ACT because we would expect at the end of the day that most of the clients of such Internet gaming services would actually live outside the ACT; in fact, quite often outside Australia altogether.

We will be, as a government, unashamedly promoting that kind of thing. It is true to say that the Gambling and Racing Commission would not be in the same position of promoting it as the Government, but it is also not out of the question for the commission to be in the position of giving appropriate support to the development of that industry. I am not sure that what Ms Tucker wants to do with the Bill, that is, remove any reference to development in that sense, is appropriate. She talks about having three functions - administering the gaming laws, controlling, supervising and regulating gaming and performing functions and exercising powers given to the commission by this or any other Act. That is a very mechanistic approach to it: "You will do what the law says you will do in respect of it".

I think that a commission like this one has to be aware of the antecedents to it as regulators of gambling activity. For example, bodies such as the old Racecourse Development Fund, I think it was called, had a brief to develop racecourse racing in the ACT. The new commission inherits that role. I think it is important for the commission to see itself as promoting and appropriately managing the development of that kind of activity, but not in a way detrimental to the community, if possible. Ms Tucker has other amendments for later today which will limit the way in which the industry is regulated and the commission acts to regulate the industry so as to take into account things like consumer protection, the possibility of criminal or unethical activity, and the risks and costs to the community of gambling.

They are very appropriate things and the Government will be supporting those amendments. But in acting to do that the commission should not be constrained by a view imposed on it by the Assembly that it should not at any stage develop gambling, gaming or racing in the ACT. I think we should allow the commission to do that, as appropriate, balanced against those things in the later amendments. That is the position of the Government and that is why I argue that we should not support this amendment of Ms Tucker's but support the foreshadowed amendment that the Government has on the table.

MR QUINLAN (4.56): The Opposition will support this amendment. Recent history and statistics have shown that gambling does not need any real developmental assistance from a government agency. The developing of the gambling industry does imply a promotional function and that may, from time to time, be at odds with what we see as the real job of this commission, that is, the regulation and control of gambling. As to Mr Humphries' example of Internet gambling, as far as I am concerned all we will need to do is to control and regulate it. There is no doubt that there are plenty of forces out there ready and willing to promote it. I think the same applies to virtually every other form of gambling, so we will support this amendment.

MR KAINE (4.57): I listened to what the Deputy Chief Minister said, but I have to come back to the basis on which Ms Tucker has put forward her amendment, which I support. The select committee looked at this matter quite closely. We took a good deal of evidence on just what the roles and functions of the gambling commission should be. There was some very strong evidence from a number of different sources to the effect that the development function should not be confused with the regulatory and other functions of the commission.

One of the strongest proponents of the separation of the two was, in fact, Professor Jan McMillen from the Australian Institute of Gambling Research, who was very strongly of the view that the commission ought to be a regulatory and licensing commission and ought not to be responsible also for the development of the industry. In fact, if the Government refers to its own report, the Allen report, it will find that that report did not support the inclusion of the developmental function within the role of the commission, either.

Strong evidence was put to the select committee that would suggest that the functions need to be separated. I do not necessarily agree wholeheartedly with Mr Quinlan's statement that the Government ought not to be in the business of developing the industry. I think that it is appropriate for the Government to be involved in certain aspects of developing the industry. The industry is, after all, a part of our economy. The industry is a significant contributor to the economy and there may well be reasons why the Government would wish to take positive action in some areas of the industry to lead to certain developments there. I do not object to that.

In our report, at recommendation 24, we suggested that the Government should retain a policy function within the Chief Minister's Department as opposed to within the commission and I would see it that any steps that the Government took to seek to develop the industry would be done through that policy organisation as part of the

Government's economic policy or something of that kind. I think that it is appropriate for the Government to have a role but not, on the basis of the evidence presented to us, through this commission.

I would also draw the Government's attention to the Productivity Commission's key findings. One of its key findings was that an ideal regulatory model should separate clearly the policy-making control and the enforcement functions. That, as I pointed out earlier today, is consistent with the recommendations in our report that the commission should be responsible for certain functions and a policy organisation within the Chief Minister's Department - or elsewhere; it may not be in the Chief Minister's Department - should handle the policy aspects. I support the amendment put forward by Ms Tucker on this matter because I think that there is overwhelming evidence to suggest that the proper course of action is to separate them.

At 5.00 pm the debate was interrupted in accordance with standing order 34; the motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS TUCKER (5.00): Mr Humphries might be interested in something that the Productivity Commission said in terms of his comments on the impact of gambling on our economy. I refer to the section headed "'Production-side' gains are limited", which reads:

> Perhaps reflecting the popular misconceptions about intangible goods, advocates for the gambling industries often underplay the gains to consumers from increased access to a valued or desired activity. Instead, they typically point to benefits in terms of the expenditure, incomes, jobs and trade associated with the industry, both directly and indirectly.
>
> But these "production side" benefits, in contrast to those from consumption, are largely illusory.
>
> The resources available to Australia's economy - its people, capital and land - are not stamped *For use only by the gambling industries*. If these industries did not exist, most of the resources would be employed in other uses, creating similar levels of income and jobs to gambling itself. For example, the skills required of personnel in gambling venues are very similar to those required in most entertainment and hospitality industries.
>
> Thus while there may be instances where additional jobs or income are generated - say in depressed regions - most of the resources in the gambling industries will have been diverted from other industries. The vocal opposition of retail traders to the expansion of gambling outlets is a visible sign of this underlying economic reality. By the same logic, however, that diversion should not, in itself, be of concern to policy-makers, unless it reduces aggregate economic benefits, rather than simply shuffling them.

I think that this report is very interesting in terms of a lot of those sorts of statements that have been made by people. That is why it is so important that we do have a thorough look at all these issues, including economic modelling, because it did come through to us when we were doing the inquiry that apart from, I think, Victoria there was little understanding of it and little analysis had been done of the impact on local economies of gambling and whether it did bring about huge net benefits, as is claimed.

Amendment agreed to**.**

MR DEPUTY SPEAKER: Mr Humphries, I expect you will not proceed with the amendment you foreshadowed.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.04): No, Mr Deputy Speaker. I move:

> Page 4, line 14, subparagraph (2) (a) (iv), after "racing" insert ", as provided in the *Racing Act 1999*".

The amendment is quite straightforward. It links the functions of the commission to those activities determined in the Racing Act 1999.

Amendment agreed to.

MS TUCKER (5.04): I move:

> Page 4, line 17, after paragraph (2) (b) insert the following paragraphs:
>
> " (ba) monitoring and researching the social effects of gambling and of problem gambling;
>
> (bb) providing education and counselling services;
>
> (bc) engaging in community consultation, as appropriate, on matters related to its functions;".

The wording of this amendment was changed in response to a concern that Mr Quinlan raised. We had "funding education" in the original amendment. We now have "providing education and counselling services". This amendment ensures that the relevant recommendations of the select committee are included in the Bill. It is vindicated by the Productivity Commission, which says that policy decisions on key gambling issues have, in many cases, lacked access to objective information and independent advice, including the likely social and economic impacts, and community consultation has been deficient. That relates particularly to paragraph (bc), which refers to engaging in community consultation. That is a really important aspect of this commission's role.

The Productivity Commission said that the broad community approach and attitude to gambling was not being reflected by governments and policy-makers around Australia, with 75 per cent believing that gambling does more harm than good and 92 per cent not wanting to see an increase in gaming machines. We are not seeing that reflected by governments and policy-makers, as I have said. That is why this consultation line is really important. It is there so that the community feels as though there is some interest, if you like, from governments in what the community thinks. It is interesting that in countries such as the United States and New Zealand there has been a very strong community reaction in this regard and community groups have been set up to deal with proposals they have not been consulted about for another gambling facility of some kind. I think the amendment is quite important.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.07): I move:

> Page 4, line 19, after paragraph (2) (c) insert the following paragraph:
>
> "(ca) monitoring, researching and funding activities relating to gaming and racing;".

This amendment recognises the functions of the ACT commission in research, data collection, monitoring, developing and funding initiatives relating to gaming and so on.

MS TUCKER (5.08): I seek clarification. I am not sure whether this amendment is actually overriding the one of mine that we have just passed. Is it different again?

Mr Humphries: It is about monitoring, researching and funding activities relating to gaming and racing.

MR DEPUTY SPEAKER: I do not see a conflict, Ms Tucker. You may have a point. The amendment refers to monitoring, researching and funding activities relating to gaming and racing. The advice I have received is that there is no difficulty with the amendments we have been looking at, Ms Tucker.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.09): I move:

> Page 4, line 27, paragraph (2) (f), omit the paragraph.

The amendment omits paragraph (2)(f) from clause 6 because the provision has been included in the revised functions of the commission as identified in amendment No. 5.

Amendment agreed to.

Clause, as amended, agreed to.

Proposed new clauses 6A and 6B

MS TUCKER (5.10): I move:

Page 4, line 37, insert:

"6A. How the Commission must perform its functions

The Commission must perform its functions in the way that best promotes the public interest, and in particular, as far as practicable—

(a) promotes consumer protection;

(b) minimises the possibility of criminal or unethical activity; and

(c) reduces the risks and costs, to the community and to the individuals concerned, of problem gambling.

6B. Community consultation

(1) In performing its functions of reviewing legislation and policies in order to make recommendations to the Minister, the Commission must engage in community consultation.

(2) The Commission's annual report must describe the processes of community consultation used by the Commission.".

Basically, the amendment outlines how the commission must perform its functions in a way that best promotes the public interest. In a way, some underlying principles are being set out here to guide the work of the commission. As I have already said, the Productivity Commission argued that this should be the underlying rationale for regulating the tax on gambling industries, due to the enormous impact that problem gambling has had on individuals.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.11): I do not actually oppose this amendment, but I do want to put on record a concern I have about this matter. I said before that I felt that it was important for the commission to encompass some idea of developing the industry within

the ACT. Ms Tucker's amendment makes it clearer that the primary role of the commission, very far from developing the industry, is to focus principally on the risks and costs associated with gambling, particularly problem gambling.

We have specific reference in clause 6A, in talking about how the commission will perform its functions, to a need for it to look at the negative aspects of gambling, if you like. It has to look at consumer protection, which is fair enough, and minimise the possibility of criminal or unethical activity and reduce the risks and costs to the community and to the individuals concerned of problem gambling. As I say, I do not oppose the provision, but it is a further shift of the commission's functions towards focusing on the negative side of gambling. It will have responsibility specifically for looking at reducing the risks associated with problem gambling.

One might ask what would happen if a proposal came before the commission which had both benefits and costs. Let us say that there was some new form of gambling that the commission was supposed to be examining or considering the extension of and it had both those benefits and those costs. Specifically, the commission is required to look at the risks and costs and it is not required to look at the benefits. A person who was aggrieved by the decision could argue in a court that if they gave greater weight to the benefits than to the costs they would actually be in breach of the terms of clause 6A and we can see the commission having to knock back things if there was any downside to them, any aspect of risk or cost.

That is something I put on the table as a matter of concern on the Government's part. We will probably have to suck this one and see. If it results in proposals being challenged on the part of the commission or the commission feeling that it has to reject some proposals on the basis that it has to focus more on risks and costs than on benefits, I think we would have to come back to the Assembly and reconsider what we are doing here. But, having put those concerns on the table, I am content to let the amendment go through.

MS TUCKER (5.14): I would like to respond to that. One thing I want to make quite clear to Mr Humphries is that this commission would not have a policy role. It would be advising the Government and, obviously, political decisions will be made. The reason that this provision is being put in - I will repeat it because it is relevant to this amendment - is that there has been very broad concern in the community that there has not been a focus on consumer protection and any real interest in the cost to society. The reasons that people get into it are pretty clear and the economic implications of those interests, as I have said before, still have not been analysed or understood in terms of the broader economy of a community. In fact, the term used in the United States is "the cannibalisation of the local economy".

Again, the Productivity Commission said in a key finding that the principal operating criteria of the key regulatory control body in each State should be consumer protection and the public interest. The public interest does take into account - and we have got it in there - an analysis of the benefit. I do not think there is a problem because you have within that the ability to look at the benefit if it is about the public interest. That is there in that phrase. Also, as I said, it is always ultimately going to be up to politicians to decide what happens with all this stuff in a society.

Proposed new clauses agreed to.

Clause 7 agreed to.

Clause 8

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.17): I move:

> Page 5, line 4, omit the clause, substitute the following clause:
>
> **"8. Delegation**
>
> The Commission may delegate any of its functions and powers, except this power of delegation.".

This amendment establishes the traditional delegation provisions, allowing the commission to delegate all of its powers and functions except the power of delegation. It is necessary, given the recommended change to the role of the chief executive as identified in the proposed amendments to clause 10 and Schedule 1.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 9 agreed to.

Clause 10

MR QUINLAN (5.17): I move:

> Page 5, line 20, subclause (1), omit the subclause, substitute the following subclause:
>
> "**(1)** The Commission shall consist of—
>
> (a) the Chief Executive;
>
> (b) four other ordinary members of whom one shall have knowledge, experience and qualifications related to providing counselling services to problem gamblers.".

In my speech earlier today in the in-principle stage I said that we did accept the major thrust of the Greens' amendments to this Bill, but we also recognised that this gambling commission will have to wrestle with some rather complex issues in relation to

gambling. Mr Humphries has hit on the topic of the moment - Internet gambling - and the impacts of it. I agree to some extent with Mr Humphries' comments in relation to the performance of functions amendments that were adopted in the last 5 or 10 minutes. There is a danger that we will make this commission far too negative and far too much of a monitoring - - -

Ms Tucker: Negative! Consumer protection is negative! Great, I will remember that one. That is really good. And best public interest is negative! Okay.

Mr Humphries: You have soiled your nest now, Mr Quinlan.

MR QUINLAN: I have been in trouble all week, Mr Humphries.

Mr Humphries: Hell hath no fury like a Green scorned.

MR QUINLAN: Yes, I understand. We are prepared to accept that one of the members of the commission would have experience and qualifications relating to counselling services for problem gambling because we do believe that we have quite a clear responsibility there. At the same time, as I said earlier, this commission will have to address some very complex issues. It will require predominance to a hard-headed approach to gambling and to probity and it will also require on that board a fairly clear understanding of gambling.

I am not much of a gambler, but I have tried to wrestle with the processes of gambling, the processes of sports betting and the processes that look like emerging in relation to Internet gambling and I do believe that for this commission to do its job properly it will require a complement of people who have an understanding of gambling. The reason we have expanded the board to five in this amendment is to ensure that not everybody has an association with gambling, that the hard-headed consciousness of probity issues might rest also with the board but be detached from the gambling industry. We hope to provide for all things, a commission for all seasons, one which includes the capacity to address problem gambling, an understanding of the gambling industry and a hard-headed and practical approach to issues so that they can be evaluated strictly on their merits. I commend the amendment to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.22): The Government is not comfortable with the notion of increasing the commission's size from, effectively, three to five. I am not sure that we need a commission as large as that to perform functions in this area. I note the comments Mr Quinlan makes about needing to get a range of interests onto the commission, but I am not sure that it should be so large as to provide for people to have seats at the table as if they are stakeholders. My view is very firm about this, Mr Speaker. The people who come to the commission must be people with perhaps a background in these things, perhaps with experience in some aspect of the industry or in providing counselling or support to problem gamblers, whatever it might be, but they should come with their experience, with their knowledge and with their sense of judgment and so on to perform their roles and the additional value of having five people over three is a bit hard to see.

I also note, Mr Speaker, that the cost is likely to be significant. Presently, non-chair members of the Casino Surveillance Authority are paid about $15,500 a year. We have to assume that, because this body will have a wider range of responsibilities, that fee would be larger - let us say $20,000 a year. That does not include travel costs, attendance at conferences and things like that. We are looking at somewhere between $40,000 and $50,000 a year extra for these two members. We are not in favour of that but, having said that, I acknowledge that the numbers are not with us on that.

However, of the two alternatives before us, Mr Quinlan's and Ms Tucker's, I would support Mr Quinlan's. I think that it is appropriate to have more flexibility than is provided for in Ms Tucker's amendment, so I will say that about it. There is one thing about the amendment which troubles me a little; I have only just noticed it. It is that Ms Tucker's amendment refers to a person having knowledge, experience or qualifications relating to providing counselling services to problem gamblers, and Mr Quinlan's amendment refers to having "knowledge, experience and qualifications related to providing counselling services to problem gamblers". I am a bit concerned that we might find it a little bit restrictive to find somebody with all of those things. If Mr Quinlan is - - -

Mr Quinlan: I am happy to change that to "or".

MR HUMPHRIES: That would be great, Mr Speaker.

MS TUCKER (5.24): I will be supporting this amendment because I think that it is better than what Mr Humphries would offer. Obviously, Mr Quinlan has found a place where we are all more comfortable than being at the other end of the spectrum. I take Mr Humphries' point on the number of members of the commission. The reason we thought it was good to have four or five members was that that enabled one representative of the industry to be there, which I understood the Government wanted at one stage. That is why we expanded the membership. However, as it is now, I still support having the greater number of people because of the unwillingness to be prescriptive.

I am just hoping that that will make it more likely that there will be a reasonable balance of world views, if you like, represented on this commission. If my last amendment does not get up, it is quite possible that we will end up with industry representatives on it anyway. The evidence that came through our committee really clearly and, once again, the Productivity Commission was that there should not be industry people on such a commission. As it is going to end up that we will have total discretion given to the Minister of the day, I think it is probably useful to have a greater number of people on it because we might get broader representation.

Mr Quinlan was concerned about industry expertise not being there. I remind members that a clause has been passed which requires consultation. Of course the commission would be required to consult with industry people and it would want to have the expertise of the industry. I would have thought that would be obvious. But there is a requirement in this legislation for that to occur, so you could easily hold them accountable if it did not occur.

Mr Quinlan did not mention it today, but he has said that one of the accountability mechanisms, if you like, for appointment to this commission is the fact that it would go through an Assembly committee. I would have to express concerns about how useful that is because whenever I have asked a quite polite question about who else was asked when a CV has not looked so amazing or how a position was publicised I have been abused roundly by government for daring to challenge an appointment in any way. In fact, I was accused of slandering the person concerned and told that no-one in their right mind would want to go on a board because people like me dare to ask questions. Obviously, it is not something that one is supposed to do here - in the eyes of this Government, anyway. Mr Quinlan may feel more comfortable about this matter because it is going to go through a committee, but I do not think that that will hold a lot of weight.

I have said, of course, that there is a strong desire in the community to have a regulatory authority in which they can have confidence. The make-up of the commission is very important to community confidence. That is why I have been representing what came to the committee. I am not quite sure whether that was put strongly to the Productivity Commission as I have not read that section of its report, but I know that very strong views were put to the select committee by the community that we should have representatives from the social justice and problem gambling areas as well as people with financial expertise and so on. That is why we did what we did, but I am obviously losing on that. I am happy to support Mr Quinlan's amendment as it will mean that we will see at least see one person on that commission with qualifications or experience. Mr Quinlan is to propose that amendment which, I agree with Mr Humphries, is useful. I will support Mr Quinlan.

MR QUINLAN (5.29): I understand, Mr Speaker, that I have to formally move that amendment to my amendment. I move:

> Omit "experience and qualifications", substitute "experience or qualifications".

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Clause, as amended, agreed to.

Clauses 11 to 14, by leave, taken together, and agreed to.

Proposed new Part IIA

MS TUCKER (5.30): I move:

> Page 6, line 3, insert:
>
> "**PART IIA—ROLE OF THE COMMISSION IN DEALING WITH THE SOCIAL EFFECTS OF GAMBLING**

Division 1—Monitoring and research

14A. Monitoring and research

(1) The Commission must monitor the social and economic effects of gambling and problem gambling in the Territory, including the need for counselling and other services.

(2) The Commission may conduct or sponsor research into the social and economic effects of gambling in the Territory.

(3) The Minister, or a resolution of the Assembly, may require the Commission to address particular matters when performing its functions under this section.

(4) The Commission must, at intervals of not less than 12 months, provide reports to the Minister on the results of its activities under his section.

(5) The Minister must cause a report under this section to be laid before the Assembly within 14 sittings days after receiving it.

Division 2—Dealing with social effects of gambling

14B. Code of practice

(1) The regulations may prescribe 1 or more ***codes of practice*** to apply to specified classes of persons who are licensed or otherwise authorised to do things under a gaming law.

(2) A code of practice may include, but is not limited to, guidelines about the following:

(a) advertising, promotional practices and the offering of inducements;

(b) providing objective and accurate information about losing and winning;

(c) limiting facilities that make it easy for a gambler to spend more than he or she originally intended, such as automatic teller machines, credit facilities and allowing persons to pay by cheque or credit card;

(d) providing mechanisms to allow problem gamblers to exclude themselves using a licensee's facilities for gambling;

(e) training staff to recognise and deal appropriately with people who are problem gamblers or are at risk;

(f) developing methods of dealing with staff or clients who are problem gamblers or are at risk.

(3) The Commission must, for each licence under a gaming law that permits the licensee to conduct gambling, develop and review a code of practice to apply to the licensees and make recommendations to the Minister for appropriate regulations.

14C. Education and counselling

(1) The Commission may carry out or sponsor—

(a) counselling for persons with gambling problems; or

(b) publicity and education programs—

(i) providing consumer information for different kinds of gambling; or

(ii) about the risks of gambling; or

(iii) about dealing with gambling problems.

(2) The Minister, or a resolution of the Assembly, may require the Commission to address particular matters when performing its functions under this section.".

I have already spoken to this amendment. It is about the code of practice and I spoke to that at the beginning. It is about putting in education and counselling as well as monitoring and research generally. I do not think I need to speak on that. Obviously, they were seen to be desirable functions of the commission.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.31): Mr Speaker, I indicate that I think that these provisions are reasonable. I note in particular that the codes of practice are still to be made in the usual way, that is, by way of regulations which will be made by the Minister and put on the table in the Assembly, with the possibility of disallowance or amendment by the Assembly. With the involvement here in a sense of the commission, the Government and the Assembly we should have a fairly reasonable basis on which to make provisions governing the things that are referred to in clause 14B(2).

MR KAINE (5.32): Mr Speaker, I wish to raise a minor point in connection with this amendment. I note a typographical error in section 14A(4). The second last word is "his" not "this". I presume that the legislative draftsman will pick that up and correct it.

MR SPEAKER: We would hope so. You have drawn attention to it, Mr Kaine, and we will make sure that that is picked up.

Proposed new Part agreed to.

Clauses 15 and 16, by leave, taken together, and agreed to.

Clause 17

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.33): I move:

> Page 7, line 35, subclause (5), omit "section 99 of the *Taxation (Administration) Act 1987* for the purposes of subsection 66 (5) of that Act", substitute "section 139 of the *Taxation Administration Act 1999* for the purposes of subsection 82 (5) of that Act".

The amendment replaces a reference to the Taxation (Administration) Act 1987 with the appropriate reference to the Taxation Administration Act 1999.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 18 to 25, by leave, taken together, and agreed to.

Proposed new clause 25A

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.34): Mr Speaker, I move:

> Page 11, line 14, insert:
>
> "**25A. Investigation of complaints**
>
> **(1)** A person may lodge a complaint with the Commission, in a form approved by the Commission, about compliance with a gaming law.
>
> **(2)** Where a complaint has been lodged under this section and investigated by the Commission, the Commission may give the complainant information about the results of the investigation if the Commission is satisfied that—

(a) the complainant has a legitimate interest in the information; and

(b) giving the information to the complainant would not unreasonably prejudice the privacy or other interests of another person.

(3) The Commission shall include in its annual report a statistical summary of complaints lodged under this section and the results of any investigations resulting from them.".

The amendment inserts clause 25A, which establishes the regime for the Gambling and Racing Commission to receive and consider complaints and provides for the commission to include in its annual report a summary of complaints lodged and the results of any investigations.

Proposed new clause agreed to.

Clauses 26 to 30, by leave, taken together, and agreed to.

Clause 31

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.35): Mr Speaker, I ask for leave to move together amendments 12, 13 and 14 circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

Page 12, line 39, paragraph (c), omit "or".

Page 13, line 14 -

Subparagraph (d) (viii), at the end of the subparagraph, add "or".

Add the following paragraph:

"(e) in accordance with section 25A.".

These amendments basically deal with drafting oversights and insert a provision for the authorised release of information in respect of a gambling or racing matter to a complainant who lodges a complaint under clause 25A.

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 32 to 41, by leave, taken together, and agreed to.

Clause 42

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.36): I ask for leave to move together amendments 15 and 16 circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

> Page 14 -
>
> Line 31, omit "*Taxation (Administration) Act 1987*, except for Parts II and VII", substitute "*Taxation Administration Act 1999*, except for Divisions 1, 2 and 3 of Part 9".
>
> Line 33, paragraph (a), omit "tax".

The effect of the first amendment is to replace references to the Taxation (Administration) Act 1987 with the new Tax Administration Act 1999 and the next one rectifies a drafting error.

Amendments agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.37): I might just ask Ms Tucker whether she is proceeding with her amendment.

Ms Tucker: Yes, I am. Is that happening now?

MR HUMPHRIES: No, not quite. I have one to do before that. I just wanted to check. I move:

> Schedule 1, page 17, line 15, paragraph 2 (3) (a), omit the paragraph, substitute the following paragraph:
>
> "(a) the person or the person's spouse has an interest in a business subject to a gaming law;".

The amendment has the effect of streamlining the ineligibility criteria for membership of the Gambling and Racing Commission.

MS TUCKER (5.38): I would not mind a bit more in explanation. Is that the one where you have taken out the words "an animal used for racing"?

Mr Humphries: Yes.

MS TUCKER: "Streamlining" is a lovely word, but I want a bit more detail.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.39): The amendment is in contradiction with your amendment on the green sheet. I can see why you are taking that position. The amendment removes the restriction that would render ineligible for appointment to the commission any person who has an interest or any person whose spouse has an interest in any animal used in racing. The retention of that restriction would overly limit the range of individuals who could be considered for appointment to the commission, denying the commission access to available expertise and experience. Mr Speaker, I think it is reasonable not to have on the commission a person who has a very direct interest in some activity of gaming, but including a person whose spouse has an interest in a greyhound might be an overly restrictive restriction on who might be properly on the commission.

MS TUCKER (5.40): I would argue against that because I think that this is getting once again to that key issue of whether the community is going to have confidence in this body. Confidence is at an all-time low in the community in terms of whether we have as policy-makers any real interest in these issues of consumer protection. I know that there are different views about what is appropriate for people in public positions, as demonstrated in this Assembly yesterday, but I believe that the community does want to see really clear and strict guidelines so that people cannot be seen to have some vested interest or conflict of interest in their very important public roles. That is why I think we need to be very clear that that will not be the case with this commission.

MR QUINLAN (5.41): Mr Speaker, I spent many years of my life wishing to become known as a well-known colourful racing identity. To that end, at one stage of my life I purchased, I think, a 2 per cent share in a racehorse, which I still have. I hardly think that that should disqualify me from sitting on this commission and making objective judgments. Ms Tucker may be surprised at just how many people in this town do have an interest in a racehorse or greyhound.. I would refer back to something I said earlier. I would hope that this commission will be populated, at least in part, by people who have a thorough understanding of what we are talking about. In particular, that may have to include people who have some interest in an animal used for racing. Obviously, someone who is steeped in the industry and dependent on it for income as well as a primary interest would be in a different position from me, but I think that this is being overly restrictive and I agree with Mr Humphries.

MS TUCKER: I seek leave to speak again to the amendment.

Leave granted.

MS TUCKER: Mr Quinlan is putting the argument that the reference to "an animal used for racing" is not fair to someone who has 2 per cent ownership of a horse that is worth $10; but, if we take it out, someone who owns five or 10 racehorses will be fine. I just think that is a real worry. But I have another amendment which - - -

Mr Humphries: You would not appoint someone in those circumstances, Kerrie.

MS TUCKER: You would not appoint someone like that - - -

Mr Humphries: Nobody would. No Minister would.

MS TUCKER: So that it is about ministerial discretion, and Mr Humphries is reassuring us that a Minister would not do that. I do not think that is right.

Amendment agreed to.

MS TUCKER (5.42): I seek leave to move amendment No. 7 circulated in my name.

Leave granted.

MS TUCKER: I move:

> Schedule 1, page 17, line 18, insert the following paragraph:
>
> "(aa) the person or the person's spouse has, within the previous 5 years—
>
> (i) held, or been a member of the governing body of a corporation that held, a licence under a gaming law; or
>
> (ii) been employed by a licensee under a gaming law to work on activities governed by the licence.".

Mr Quinlan keeps talking about how he wants expertise on this commission. I just want to say again that, of course, this commission will consult with people with expertise within the industry. I believe that the advantage of having expertise on that commission, which means having someone from the gambling industry, will be negated by the disadvantage in terms of community confidence in how this commission is operating. This amendment does makes quite clear what I think the select committee was saying and what I know the Productivity Commission was saying, that is, that these commissions should not have people from within the industry. This amendment makes quite clear that a person would not be eligible if the person or person's spouse has within the previous five years held or been a member of the governing body of a corporation that held a licence under a gaming law or been employed by a licensee under a gaming law to work on activities governed by the licence. In fact, it is strengthening what we are left with now that we have lost the reference to an interest in an animal used for racing. The amendment strengthens the first clause that we have been left with.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.44): Mr Speaker, I support the sentiment of what Ms Tucker is trying to do, but I think she goes way too far with the terms of the amendment. I am advised that it would have quite unintended consequences and would exclude anyone who, in their own right or because of what their spouse has done, has had a connection with an organisation which has been issued with a licence under a gaming law in the previous five years.

Gaming laws include a range of laws administering all sorts of things, right down to lotteries and trade promotion permits. Many people involved in charities, for example, take out permits on behalf of those charities to conduct a lottery. It is also done for their local school and for an organisation of which they are a member to conduct a lottery. If you were involved as the permit holder for a lottery at any time in the previous five years - goodness knows, some people would not even remember back that far whether they had put their name on a piece of paper to take out a lottery licence - or, for that matter, your spouse had been, you would not be eligible to take up a place on the commission.

Similarly, companies might be involved in trade promotions or, conceivably, taking lottery permits. If you have been a director of that company or your spouse has been a director of that company, you would be ineligible to take a place on the commission. It might be a very tenuous connection with a licence under a gaming law, but the breadth of the way in which this amendment is drafted would catch such a person. Mr Speaker, if we went ahead with this amendment, I think we would find people occasionally being caught unintentionally by those provisions. They might not have realised that 4½ years ago their wife had been the person who signed the form for the local school to take out a lottery permit for a raffle.

I think that the amendment is quite too broad. Obviously, if a person is involved in a relevant way with a corporation or, in their own right or their spouse's right, with gaming activities of some kind, they would be viewed for appointment very unfavourably by any government worth its salt. You would be very foolish, as a Minister, to appoint a person who had clear connections of some kind with an industry that would put him in conflict of interest with his job as a commissioner. Mr Speaker, things such as the Bowen declaration that members have to complete before they are appointed to such bodies are designed to pick up those sorts of connections and governments exercise discretion about them. I think, to be quite frank, we should let the discretion in those circumstances cover this situation, rather than try to prescribe it in the way that Ms Tucker has referred to.

Amendment negatived.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.46): Mr Speaker, I do not think that there are any further amendments other than my own. I have quite a few of them. I seek leave to move together the remaining amendments on the sheet circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

New clause -

Page 17, line 34, after clause 2 insert the following new clause in Schedule 1 to the Bill:

"2A. Appointment of chairperson

(1) The Minister shall appoint an ordinary member as chairperson of the Commission.

(2) The Minister may appoint another ordinary member to act as chairperson when the chairperson is for any reason unable or unavailable to act in that capacity.".

Amendments -

Schedule 1 -

Page 18, line 33, paragraph 6 (2) (a), omit "a member", substitute "the member".

Page 19, line 3, paragraph 6 (2) (b), omit "a member", substitute "the member".

Schedule 2 -

Clause 3, page 20, line 6, omit "Chief Executive", substitute "chairperson".

Clause 4, page 20, line 8, omit "Chief Executive", substitute "chairperson".

Page 20 -

Line 10, paragraph 5 (a), omit "Chief Executive and 1 other member", substitute "chairperson and 2 other members".

Line 13, paragraph 5 (c), omit "Chief Executive", substitute "chairperson".

Title, omit "**gaming**" and "**Gaming**", substitute "**gambling**" and "**Gambling**" respectively.

For the information of members, I table a supplementary explanatory memorandum which explains the basis for those amendments and for the Bill generally.

Amendments agreed to.

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

Bill, as amended, agreed to.

GAMBLING AND RACING CONTROL (CONSEQUENTIAL PROVISIONS) BILL 1999

Debate resumed from 24 August 1999, on motion by **Ms Carnell**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ENVIRONMENT PROTECTION (AMENDMENT) BILL 1999

Debate resumed from 1 July 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

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

BUILDING (AMENDMENT) BILL 1999

Debate resumed from 1 July 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

MR CORBELL (5.49): Mr Speaker, the Labor Opposition will be supporting this Bill. This Bill, as we understand it, provides for what is called a certificate of regularisation. That is an interesting word. Nevertheless, the Bill will allow for private buyers of buildings previously owned by the Commonwealth or the Territory governments to have some legal documentation that demonstrates they are in accordance with the Building Act.

Mr Speaker, we have seen in recent times moves, mostly by the Commonwealth Government, to sell substantial holdings of Commonwealth building stock in this town to the private sector. Perhaps the most notable of these are buildings such as the Edmund Barton building and the Foreign Affairs and Trade building in Barton. Quite clearly there is an interest amongst the private sector to ensure that they have the appropriate documentation that demonstrates that these buildings do comply with the relevant building standards. Because the past practice has been not to issue certificates of occupancy to Territory or Commonwealth owned buildings, they have not had the relevant documentation certificates of occupancy or use. For that reason, Mr Speaker, we are quite happy to support provisions that allow for a certificate of regularisation to be issued. Clearly, it is a sensible provision which allows for the appropriate transfer of these buildings from Territory or Commonwealth ownership to private sector ownership.

I note also that the Bill makes several other technical amendments. Amongst those are requirements in relation to the waste management plans for building waste at construction sites and the appropriate recycling of that material. I understand that Ms Tucker will be moving an amendment to the Bill at the detail stage, and I flag now that the Labor Party will be supporting that amendment. I understand that the Government also has no difficulty with it, primarily because it will ensure that there is consistency between the amendments proposed in this Bill and the changes to the Building Act that occurred last year in the Building (Amendment) Act 1998 proposed by Ms Tucker and passed by this Assembly.

MR SMYTH (Minister for Urban Services) (5.51), in reply: Mr Speaker, I thank the Assembly for supporting this Bill. It is important that the buildings that are being sold off by the Commonwealth do receive these certificates so that they can be occupied in the future. The Government also will support Ms Tucker's amendment to the waste management plans.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MS TUCKER (5.52): I move:

> Clause 7, page 3, line 11, paragraph (b), proposed new subsection 34 (3A), omit the subsection, substitute the following subsection:
>
> " '(3A) For paragraph (1) (fb), a waste management plan is adequate if -
>
> (a) where -
>
> (i) a facility exists in the Territory; or

(ii) the Minister has, in writing, specified a facility outside the Territory as being suitable;

for the reuse or recycling of materials of the kind described in the plan - the plan stipulates that the materials will be disposed of, where practicable, at such a facility; and

(b) the plan satisfies any other prescribed requirements.'; and".

Just to explain that amendment, part of this Bill reinstates in the Building Act 1972 those provisions relating to waste management plans which were inserted in the Act by the Building (Amendment) Act 1998. That was my Bill which set up a requirement for builders to provide a waste management plan with development applications that involved demolition or substantial modification of buildings. Until then, much building waste was just ending up in landfill, both in the ACT and in tips in New South Wales, when a lot of it could have been recycled. That Bill was supported unanimously in the Assembly as an important measure to reduce waste.

However, the provisions of my Bill were inadvertently overridden by the passage on the next day of the Building (Amendment) Bill (No. 2) 1998 which set up the new system of private certification of building approvals. That later Bill substituted sections amended by my Bill with whole new sections, and somehow no-one in the bureaucracy noticed that at the time. Since then I have asked the Minister on a number of occasions to fix up this problem, and I am glad that this is finally occurring in this Bill.

However, the proposed new subsection 34(3A) does not have the same intent as the previous equivalent subsection 33(1A) inserted by the Building (Amendment) Act 1998. The previous subsection 33(1A) stated that a waste management plan is adequate if the plan stipulated that waste materials were disposed of at a facility for recycling of materials whereas the new subsection 34(3A) only refers to a facility for disposal of materials. These words have different meanings, and if the current wording was accepted then a waste management plan need only specify that the waste was to be disposed in a landfill to be regarded as adequate. This was not the intention of the Building (Amendment) Act 1998 which had the objective of encouraging as much building waste to be recycled as practicable. This amendment therefore omits the current wording of proposed subsection 34(3A) in the Bill and substitutes the original wording from the Building (Amendment) Act 1998, with a slight modification to include reuse facility as well as recycling facility

I thank members for their support for this amendment.

Amendment agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Reconciliation Debate

MR BERRY:(5.55): Mr Speaker, this morning, during the reconciliation debate, I was pleased to hear that the members who spoke were making a positive contribution to reconciliation throughout Australia. This debate has attracted much attention recently, particularly in relation to the refusal of the Prime Minister to say he was sorry, but also some time ago as well. I was pleased to hear Mr Humphries taking a positive position in relation to the reconciliation debate, but I wonder now whether he regrets what he said about this matter in 1993 when he drew attention to a view that backyards in the ACT might be in danger. I see from the *Canberra Times* reports at the time that an opinion piece said this:

> Mr Humphries should take a long walk around Canberra's suburbs to see if there is any evidence of continuous Aboriginal attachment to the land. As he goes he should re-read Brennan's judgment, re-read the Self-Government Act and read that classic nursery rhyme about unnecessary fear which goes something like: "As I was going down the stair I met a man who wasn't there. He wasn't there again today. I wish that man would go away".

Mr Speaker, I am happy to see that Mr Humphries has come a long way in relation to reconciliation. In 1993 I was a critic of Mr Humphries' position because of the inflammatory nature of it. I know that Mr Humphries thinks that his view has probably been enshrined in some legislative method along the way; but, notwithstanding, nobody ever made those sorts of inflammatory remarks. I raise this merely to draw attention to the fact that people can change sometimes.

Mr Humphries is a man of some commitment to whatever his ideology is, and I am very pleased to have listened to his remarks this morning because I think they reflect probably a major turnaround in attitudes to this issue. At the time I recall being quite angry about his position, and others were as well. I suspect it caused some angst out in the community. At the end of the day we all have to come to grips with this quite pressing matter which I know is not going to be resolved in the near future, but it can only be helped when people grow to understand the issues, as I suspect Mr Humphries has.

Visiting Medical Officers
Celibacy

MR OSBORNE (5.58): I want to raise two things briefly, Mr Speaker. I have noticed during my time in Canberra, and especially in the Assembly, that various Health Ministers have had problems with the VMOs. Mr Berry, in particular, had a running battle with them. A friend of mine is a VMO and the one thing he keeps saying to me is:

"Whatever you do, please don't let Wayne Berry be Health Minister again". I take that to be a good sign. I was at this friend's house last night. In view of all the stories about the VMOs being paid too much and being greedy, I need to put on the record that I was at his house last night and went to his bathroom to wash my hands. I went to turn on the taps and his tap handles were made out of diamonds. He claimed that they were plastic, but I can honestly say that one VMO in Canberra has diamond tap handles. So those rumours that Mr Berry was spreading were true. He had a pool out the back, and I am told there are two or three tennis courts.

There is one thing I want to read out from today's *Canberra Times.* I will not comment on it, I will just read it. It is a story from Johannesburg, Mr Speaker. It says:

> South African Nicklass Amsterdam celebrated his 112th birthday, vowing that a life without sex had worked wonders for him.
>
> "I have never had a woman to give me a headache," Mr Amsterdam, who lives near Johannesburg, said. "That's how I got to live so long."

I have drastically downgraded my personal expectations of my life expectancy after reading that.

Question resolved in the affirmative.

Assembly adjourned at 6.00 pm until Tuesday, 31 August 1999, at 10.30 am.