DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

19 October 1999

Tuesday, 19 October 1999

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

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 12 of 1999 and Statement

MR OSBORNE: I present Scrutiny Report No 12 of 1999 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Mr Speaker, Scrutiny Report No. 12 of 1999 contains the committee's comments on three Bills, 57 subordinate laws and three government responses. There are a number of minor issues in there in relation to statutory appointments that I would hope that the Ministers would have a good look at.

As well, there are quite a few pages on the Children and Young People Bill which is to come before the Assembly today. There is a response from the Minister to some issues that this committee raised. Our legal adviser was quite comfortable with the response from the Government. However, he did make a point in relation to clause 14, which is an issue involving indigenous children, that, if the Government had related it to section 51c of the Bringing them home report, that may well have clarified the Government's position. There are some comments from the legal adviser on that. The legal adviser felt that the Minister's response was, in his words, polite, and he was very happy with it. Unfortunately I cannot say the same for the response from the Attorney-General, but that is contained in the report, Mr Speaker. I commend the report to the Assembly.

MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT BILL (NO 2) 1999

MR MOORE (Minister for Health and Community Care) (10.33): Mr Speaker, I present the Mental Health (Treatment and Care) Amendment Bill (No 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

The Mental Health (Treatment and Care) Amendment Bill (No 2) 1999 rectifies a number of anomalies in the amendments to the Mental Health Act 1994 which were passed in this place in June this year. I know that members appreciate the difficult and complex nature of mental health laws. The amendments which we passed in June were the result of two years of consultation and debate within the community, and were supported by all sides of the Assembly. However, in planning for the implementation of the amendments, a number of inconsistencies were noticed by persons within government and within the community. These anomalies need to be rectified as soon as possible to ensure that the amendments operate as intended.

There are five amendments in all. The first amendment will provide for the Care Coordinator to delegate his or her powers under the Act. The June amendments separated out the mental health orders for persons with a mental illness, called psychiatric treatment orders, and persons with a mental dysfunction, called community care orders. The Chief Psychiatrist is responsible for the implementation of psychiatric treatment orders and the Care Coordinator is responsible for the implementation of community care orders. The Act provides the capacity for the Chief Psychiatrist to delegate his or her powers under the Act, but does not provide this capacity for the Care Coordinator.

Both the Chief Psychiatrist and the Care Coordinator occupy senior positions with a variety of responsibilities. In almost every case they will need to delegate their responsibilities under the Mental Health Act to case managers who will be directly involved in providing the necessary services to persons subject to mental health orders. This was always the Government's intention, and I believe it was the Assembly's intention. The June amendments gave this capacity to the Chief Psychiatrist. This Bill will extend that capacity to the Care Coordinator.

The second amendment removes reference to the Care Coordinator from the first three subsections of section 32 of the Act. Section 32 refers to psychiatric treatment orders. The implementation of these orders is the responsibility of the Chief Psychiatrist. However, section 32 refers to both the Chief Psychiatrist and the Care Coordinator. This error was caused when references to custodians under the Act were replaced with references to the Chief Psychiatrist or Care Coordinator. This is appropriate in most cases. However, it does not apply to the references in section 32. While this change does not affect the operation of the Act, it is advisable to make this amendment now to clear up this anomaly while we are making other changes.

The third amendment rectifies an inconsistency in section 41 of the Act. As the Act currently stands a doctor may be required to detain a person on the advice of a mental health officer, even where the doctor is of the opinion that such a detention is unwarranted on health and safety grounds. This was not the intention of the amendments to the Act.

Subsection 37(2) of the Act provides the criteria for the apprehension of persons for emergency detention purposes. These criteria are the same for doctors or mental health officers. Unfortunately, these provisions were replicated at section 41 even though that

section refers only to the authorisation of involuntary detention, which is a matter for a medical practitioner to determine. The Bill removes the reference to mental health officers from section 41.

The fourth amendment changes section 43 of the Act. Section 43 of the Act requires a psychiatrist to conduct a "physical and psychiatric examination" of a person under emergency detention within 24 hours of the person's detention. The main aim of this section is to ensure that a person under emergency detention receives both a physical and psychiatric examination within 24 hours of their detention. It is appropriate in most cases that the physical examination be undertaken by a medical officer or a registrar, with the psychiatrist able to concentrate on performing the necessary psychiatric examination. This amendment provides for this approach.

Finally, the fifth amendment rectifies an anomaly in section 15. This section provides two sets of criteria which enable the referral of an alleged offender to the Mental Health Tribunal where the referring officer considers that the person may have allegedly committed an offence due to a mental illness or mental dysfunction. The criteria are, firstly, that an alleged offender must be at risk to their own or other's safety; secondly, that it is not appropriate to continue prosecution due to the mental condition of the alleged offender. However, section 15 does not state whether both criteria must be met, or if only one criterion must be satisfied for a referral. This is a drafting error. It was always the Government's intention that both criteria should be met before a referral takes place. The fifth amendment rectifies this anomaly by placing the word "and" between the two sets of criteria.

The proposed amendments do not change the direction or the nature of the Mental Health Act. The Bill simply removes a number of inconsistencies in the Act which was passed in June 1999.

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

ACT DRUG STRATEGY 1999 - *FROM HARM TO HOPE*
Paper

[COGNATE PAPER:

ILLICIT DRUG USE - NATIONAL APPROACH: COAG ILLICIT DRUGS DIVERSION INITIATIVE - Paper]

Debate resumed from 12 October 1999, on motion by **Ms Carnell**:

That the Assembly takes note of the paper.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No 2, Executive business, relating to the paper on the National Approach to Illicit Drug Use? 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, Executive business, relating to the paper on the National Approach to Illicit Drug Use.

MR HIRD (10.40): Mr Speaker, the ACT Drug Strategy 1999, entitled *From Harm to Hope*, signifies the first real attempt to look at the drug picture in the ACT in its entirety. It is a credit to the Chief Minister for the way in which she has nurtured this proposal and brought it to this chamber as it covers a full spectrum which I will detail further. Mr Speaker, the strategy looks at where we are now and how we got here, and sets goals as to where we should go from here.

Importantly, the document recognises that there is a real problem and does not attempt to hide it under the carpet. It develops plans and strategies as to how we can deal with this very serious problem. We have a duty as legislators to recognise the problem as outlined in the strategy and to seek the answers. The Chief Minister is to be congratulated for bringing together diverse groups, both within the government sector and from outside it, to participate in the development of this strategy document.

As I stated, Mr Speaker, this document provides the first real look at all of the issues, and it successfully attempts to identify the various target groups that need specific programs developed for them. The strategy has been developed to be consistent with the national drug strategic framework and this will ensure that, whilst we may be able to lead the way, our approach will be recognised in other jurisdictions.

Another important issue is the complementary nature of the strategy. It has been designed to work with many strategies, plans and items of legislation already on the statute books. It will not operate in isolation, but will require the goodwill and cooperation of many community and government organisations and individuals to work. It has been developed with their input and will operate similarly, I trust. I am a great believer, Mr Speaker, in the importance of education as a major strategy in the community's response to the drug issue. I am glad to see that the document also places great store in this aspect of the response to drug use and abuse.

Mr Speaker, members will be aware of my interest in this issue and I have read *From Harm to Hope* with great care and interest. However, whilst I congratulate the Chief Minister and all who have worked on this document, I cannot support its thrust entirely. I remain absolutely opposed to the proposition of establishing safe injecting rooms and the proposal for a heroin trial. Mr Speaker, how can you have a safe injecting room? Maybe you could have a less dangerous injecting room, but not a safe one. Surely the use of heroin in the general community is dangerous no matter where it is injected, and there are too many unknowns. Where does the heroin come from? What are the implications for the police and the legal system? Who can access the rooms? How are they vetted? More importantly, what sort of signal does this send when we are trying to educate people, in particular young people, about the dangers of drug use?

Mr Speaker, what of the heroin trials? There are too many alternatives. What about naltrexone? What about the naltrexone experiments and trials being undertaken in other jurisdictions of Australia and here in the ACT under the stewardship of the Minister for Health, Mr Moore? The literature suggests that earlier problems with this treatment have largely been overcome and that the trials in Australia and overseas are now operating with increasing degrees of success.

Mr Speaker, I cannot endorse shooting galleries and legalised heroin use operating with the support of this parliament. It is also important to note that on these particular issues we do not have the support of the States or the Commonwealth. We will be operating in isolation and making our youth the guinea pigs for some sort of social experiment. This is not supportable, and there are other members in the Government who share my views in respect to this matter. However, whilst I take issue on those matters, I still compliment the Chief Minister on the way that she and her other Ministers undertook to introduce *From Harm to Hope*. In her foreword of that document she said this:

> The ACT Government has a vision for Canberra as a "clever, caring community". With this in mind, the Government is committed to enhancing the health, well being and safety of the community. This includes reducing the harmful consequences associated with the use of all drugs.

She went on to say:

> The *ACT Drug Strategy 1999* outlines broad directions and provides a basis for coordinated action through drawing together the various initiatives to be undertaken in the areas of health, education, law enforcement, community safety and the environment.
>
> The strategy emphasises a partnership between government agencies, non-government agencies and the community in addressing the complex issues surrounding alcohol and other drug use.
>
> An important part of this partnership approach has been the comprehensive community and stakeholder consultation process, involving government and non-government agencies, community organisations and interested individuals, which has informed the directions of this strategy.

I think this is a step forward and it certainly is one that the Chief Minister and this legislature can be proud of. It seems to me to be a first in coming to grips with what is a very vexed and complex matter which is facing this chamber and other parliaments throughout Australia and the world. I commend the report to the house.

MR KAINE (10.47): I do not intend to speak at length on this subject, but I do wish to sound some warning about this document. I agree with Mr Hird, to a point. It is the first document that I have seen that covers comprehensively the range of problems associated with drug use in all its forms, and it does propose some useful courses of action to combat the problem of drugs in different ways; but I am not certain that it goes far enough in some areas, and in others it is a little deceptive. I would prefer to see some harsher words in parts of the report. For example, I was disturbed to see on page 34, under the heading "Illicit Drugs – Cannabis", that, instead of starting off with some fairly hard statement like "Cannabis is a dangerous drug and has harmful effects", it begins by saying:

> Small amounts of Cannabis can produce a feeling of well-being and a tendency to talk and laugh more than usual.

That is hardly an appropriate introductory paragraph to a document that purports to be doing something to reduce and prevent the use of cannabis. So I think the wording in parts leaves a lot to be desired, and I think there are some deficiencies and some gaps in the program.

I think the difficulty that I mostly have with the report, however, is that it tends to be deceptive, and I do not know whether that is deliberate or not. On page 27, under the headings "Harm Reduction" and "Activity", it includes a reference to:

> …ongoing consideration of a proposal to establish a safe injecting place, subject to Legislative Assembly approval;...

Well, ongoing consideration of the matter is a long way removed from what the Minister has said recently - that before this year is out there will be one. If it is the Government's intention to seek to have such a facility in place, essentially within three weeks from now, or within three months of the publication of this document, why does it not say that? Why does it try to obscure that and soften it by referring to "ongoing consideration of a proposal"? I think it could have been more honest. Of course, it does include "ongoing consideration of the feasibility of conducting a heroin trial", although I believe the Government's intent is more than that.

I do not believe that this document is entirely honest in expressing the Government's intentions. If the Government was as honest as it should be I think there would be more people out there saying, "Hang on a bit; we don't think that this is necessarily a good strategy". In fact, I was very tempted, Mr Speaker, in commenting on this report this morning, to move an amendment that says that the document be rejected rather than noted, principally because of this deception.

I said that the document does not go far enough in some quarters. On the same page, page 27, where it summarises activity under "Harm reduction" in connection with addressing drink/drug driving, I do not see too much reference in there to drug driving. There are a lot of references to drink driving, such as zero blood alcohol content for L and P drivers, maintenance and publicising of drink driving campaigns and random breath testing, but where is the activity related to detecting and preventing or at least reducing the incidence of driving under the influence of drugs? There is no program

there that I can see that would address that question. So, Mr Speaker, I believe that there are some deficiencies in the document and I cannot say that I endorse it in its totality. I do believe it has some good points. As you have often quoted, Mr Speaker, it is a bit like the curate's egg. It is well done in parts, but I think there are also parts in which it is not well done. There are some places where I think it is downright deceptive, and perhaps intended to be, so that it will not attract a strong wave of opposition from the community at large out there who will read the words, which are euphemistic, and not necessarily understand the intent behind them.

On page 5 the strategy talks about supply reduction strategies which "aim to disrupt both the supply of illicit drugs entering Australia and the production and distribution of illicit drugs". I do not see much in the way of that happening in the ACT. The Government is relying on Federal agencies to handle that. I do not know whether there are things that the ACT Government should be doing to complement and supplement what the Federal agencies, the Customs Service and the Australian Federal Police, are doing, but the paper is silent on that question. It merely assumes that what Commonwealth agencies are currently doing is adequate; yet you constantly hear criticism, including criticism from the advocates of going soft on drug use, that they are not being effective in reducing the supply. Therefore, they say we have to have these other alternatives open to us.

Well, if they are not being effective, what should we be doing to enhance their effectiveness? What is there that the ACT Government should be attempting to do to complement and supplement what those Federal agencies do? This report, this so-called strategy, is silent on that matter. If we are serious about this harm reduction by reducing the availability of drugs amongst our community, I would have thought that such an issue would have been dealt with to some degree.

I am not wholeheartedly in support of the strategy, Mr Speaker. It does have gaps, it does have deficiencies, and I would have hoped, after the years that we have been addressing this issue, that all of those gaps would have been filled in by now. However, since all we are being asked to do is to note the report, I guess we can let it run and see what happens in the next 12 months.

MR HARGREAVES (10.55): Like Mr Hird and Mr Kaine, I am quite happy with a lot of the provisions in this report. There are some that give me some concern, but since we are noting the report the Assembly might also note some of the comments that I make about it. I will address my remarks progressively while going through the report for the ease of people examining these comments later. On page 7 it talks about the partnership approach and it says:

> The Government will ensure that funds are used effectively and efficiently.

Well, Mr Speaker, it does not say how that is going to happen, and I have to say I have not got a lot of faith in how it has been used effectively and efficiently in the past. One of the ways in which I could demonstrate my lack of confidence in that is by referring to the mutterings and murmurings about the possibility that we might be trying to fund any safe injecting room trial through the Treasurer's Advance. I think that is a most inappropriate source of funding for that.

Ms Carnell: Where would you get it from?

MR HARGREAVES: A separate appropriation, Mr Speaker, I think is most appropriate. If the Chief Minister has the audacity to come into this chamber and suggest that the attack on the drug problem in the ACT is less important than a car race for which a separate appropriation was brought forward, then I think we all think a little better of her than for her to do that. The thinking about the safe injecting room has gone on for a long enough time now for the criteria for the trial to be developed and for the evaluation mechanisms to be developed, as well as who will do it. I am sure the Minister has a pretty clear idea about how that is going to work. I warn the Government that the provisions for the Treasurer's Advance about something being unforeseen are quite clear. We know that this is not unforeseen. I would urge the Minister to bring forward a separate appropriation because I sense a general acceptance within this chamber of the trial, although not total acceptance, and it would be sad if commitment to the trial were watered down by criticism of the method of funding it.

On that same page, Mr Speaker, the document also talks about the Government working in partnership with the private sector, the community and community organisations. I know that the Government works with community organisations, even though the level of funding is sometimes not quite enough. I do not know how the Government works with the community as such, and I certainly do not know how the Government works with the private sector. I would like to have seen some indication in this report of just how the Government intends to work with the private sector to attack the drug problem. I have no idea, Mr Speaker, how that would work, and later, when Mr Moore replies to this debate, he might let us know. I am, in a sense, quite happy to see the sort of multi-partnership that exists here. I would just like to know how it is going to work.

I think the Government ought to be congratulated on making good use of the former Watson Hostel premises to create the facility to be run by the Noffs Foundation. I note the item on page 13 which talks about the residential rehabilitation program for young folk and I applaud the approach that has been taken in this regard. A case management plan, I believe, is the only way to go about it, and what is going to happen at the former Watson Hostel premises is, I think, a magic thing. I think it is a great step forward and I congratulate the Government for that. I think everyone is a winner with that one.

On that same page, Mr Speaker, there is a very small item about methadone, and I was pleased to see that additional places will be provided through the establishment of a private stream as an adjunct to the existing system. But, yet again, there is nothing in this document that tells me how the establishment of the private stream would work. I am quite keen to see any sort of initiative that will increase people's access, under a controlled environment, to measures which will get them off the dreaded heroin, but

I would like to know how that system is going to work. In a sense, picking up what Mr Kaine was saying, it is just a statement and it does not mean much. I would like to see what it does mean because I think it has some future.

Mr Speaker, we have talked about the proposed safe injecting place. Like Mr Hird, originally I was not very keen on it at all. I have come around to embracing the concept of a trial, provided that it is not the birth of a facility which will continue for ever and a day. If we tackle a trial seriously and there is proper academic evaluation, and if there is a sunset clause so that there is no guarantee of its continuation if it is not successful, I am very happy to support that. But I am very conscious, Mr Speaker, that sometimes some of the language used by the proponents of a safe injecting place is a little bit emotive. Those opposing such a place also suffer from the same disease of using emotion in their argument.

In a paragraph on page 14 referring to the proposed safe injecting place there is a sentence which mentions reducing the harms associated with drug use, such as overdose deaths. I would be very interested to know how many deaths there have been so far this calendar year in the ACT and how many deaths there were in the last year. I suspect that the numbers are not overly great. I agree with what Mr Moore has said before, and I have used this language myself - that just one death is too many. I have no difficulty about that. But, of course, when you are evaluating a trial, you have to work out whether or not the resources we are applying are going to the right spot or whether this is just a political grab for attention, and I would hope that that is not the case.

In relation to all of the deaths that have occurred due to overdoses, I would like to know whether there are figures about the number of times the ambulances and the police have been called out. I would like to know how many of them occurred in Civic, in the Belconnen Town Centre, in the Woden Town Centre, in the Tuggeranong Town Centre and in the Weston Creek Town Centre. I think that would give us some sort of an idea on where this is going to go next.

Ms Carnell: We do not call the police out to those places.

MR HARGREAVES: I do not propose to engage in argument, conversation or debate across the chamber with the Chief Minister at this stage of the game.

Ms Carnell: I was just helping you.

MR HARGREAVES: If she wants to know what I want to know and possibly help out instead of being obstructionist, she can read it in *Hansard*.

Ms Carnell: We do not call police out for overdoses. Nor should we.

MR HARGREAVES: Mr Speaker, one of the things that really give people the irritations big time is when the Chief Minister says we do not call the police out every time. We know that. Everybody knows that. It is just stating the bleeding obvious, so please desist.

Mr Speaker, on page 14 also there is talk about law enforcement and community safety. The document mentions some of the programs linked to the goal of supply and reduction through law enforcement. I know what the AFP do about that. But it also says in here that there are programs funded by the Department of Justice and Community Safety and through the AFP. Well, we know about those. I have had a look at the annual report for 1998-99, Mr Speaker, and I can find nothing there but the odd cursory mention. There is nothing in there about what these programs are. So, instead of having bald statements saying, "We have these programs and they are funded by the department", how about letting us know what they are? If that is to be a meaningful report, then let us know about it.

Mr Speaker, on page 33 of this document it talks about the number of drivers charged by random breath test units. It says that in the year ended June 1996 there were 1,604 drivers charged. In 1997 the figure was down to 815, and in the year ended June 1998 it was back up to 1,018. *(Extension of time granted)* I thank members. I would be interested to see considered and qualified opinion on the role of the random breath testing unit in reducing the number of people charged. I would like to hope that it is directly attributable, but I do not think so.

The number charged was 1,600 in the year to June 1996 and then it dropped to 815. You would think, "Wow, that's a pretty dramatic thing. A 50 per cent reduction. That's pretty good". What happened was that the rate per 1,000 tests did not change because in the year ended 1998 it had been jacked up again by another 200 to over 1,000. I do not know whether we can attribute the success to random breath testing, or whether people are becoming more responsible about their driving generally. It is not explained to me in this report how come it has gone from 815 in 1997 to 1,018 in 1998. I guess the point, Mr Speaker, is that it does not explain it.

The final comment that I would make on this report, Mr Speaker, relates to the item on people in custody which starts on page 51 and goes to page 52. Interestingly, it opens up by saying:

> Harm minimisation will be the policy adopted in any ACT prison.

It goes on to say:

> … any prison policy will concentrate primarily on supply reduction and demand reduction.

I would have thought, Mr Speaker, that prison policy would start with trying to address the pain and suffering of people who are on drugs and are suffering addiction when they go in there. I understand that we need to stop the demand and we need to stop the supply and all that sort of stuff, but, Mr Speaker, we are talking about people here and I do not see that being recognised particularly well in this report. It says on page 52:

> Being an inmate of a correctional institution should not preclude a person from access to generally accepted standards of health care.

Mr Speaker, that should be a given. We lock people up as punishment. We do not lock them up for punishment. They are still human beings and they are still members of our community. That should be a given and I am glad to see that line in the report. I congratulate the Government for putting it in there. The only thing is that I would have highlighted it a bit more. If you have a look at the percentages, I think something like 70 or 80 per cent of the people have either had a drug problem or they got one when they went to gaol. Perhaps we ought to be saying that these people should be getting a greater access to drug programs.

What is not in this report, Mr Speaker, is a commitment to having a drug detoxification unit within the gaol walls. We talk about access to drug counselling and information, and access to appropriate rehabilitation and support services, and I am very glad to see that, but I can remember not being satisfied about this issue once before. The statement was made within consecutive days, Mr Speaker. The chief executive of the Department of Justice and Community Safety said to our committee that we could not necessarily afford a detox unit within the prison boundaries, yet the very night, at a community council meeting, the Minister said, "We've just got to have one". I think we have just got to have one. I do not want to enter into a political debate over this. I do not want to end up having this as a table tennis game. What I would like to see is a categorical statement on the part of the Government that it is going to happen. That is all I want, and I know that the people I talk to in the corrections industry want one as well.

Mr Speaker, in general terms I am happy with this report. I think it has many good things in it which commend it. There are a lot of problems with it in the sense that it does not have as much explanation as I would like, and I am sure the rest of the community would like. I think that its passage on services for people in custody only says that people ought to have access. It does not guarantee that they will. Mr Speaker, I would urge the Government, in the strongest possible terms, to come out publicly and guarantee it.

MS TUCKER (11.10): We also welcome this strategy for dealing with issues of drug abuse in our society. It is obviously something that the Greens have had a strong involvement with as well. Our support for a safe injecting place was dependent upon such a response being seated in a broad strategic approach to the issue of drug and substance abuse in our community. Some members have spoken with caution about the introduction of such a facility as a safe injecting place in the ACT. We will obviously have that debate when we debate the legislation, but I would like to say in this context that I think it is absolutely appropriate that it is part of a response from the community to drug issues.

The issue of blood-borne disease is one that should be of concern to everybody in the community, even those people in the community who have a rather uncharitable approach to drug issues and take the stance that if people choose to take drugs it is their own problem, and if they get sick it is their own problem. That is a fairly astounding approach in terms of its lack of compassion and humanity but, unfortunately, it is an approach that exists in our community, although I believe in only a small group of people. It is actually an incredibly ill-informed approach anyway because it does not understand the implications to general public health from blood-borne disease. It certainly goes much wider than a particular group of people who are injecting drugs. It also is an approach aimed at trying to address some of the overdose deaths which occur and which are such a tragedy, as I am sure everyone agrees.

Turning now to this strategy, I do wait, obviously, to see how it will be implemented and how it will be resourced. I have some concerns about the education aspect of the strategy, or more particularly about the draft drug education strategy, and I will talk about that a little bit later. I am also concerned because I have received in my office a number of complaints about what is actually happening in the alcohol and drug program and the so-called restructural reform there. I raised this matter in question time last week and I will be raising it again because I have received complaints, as other members have, and I am not quite sure what is going on there.

I am very pleased to see the introduction of the youth rehabilitation facility which community treatment groups who know the problems have called for for a number of years now in numerous submissions to government and in submissions to committee inquiries that I held in the last Assembly, particularly as chair of the Social Policy Committee. So I am delighted to see that this is going to be a feature of our response in the ACT. I am also glad to see that it seems to have been well received in our local community. There has been at least one public meeting and some *Chronicle* articles about this facility. There does not appear to be a backlash, which is really good because I think it shows that the majority of members of the ACT community do want to help our children who are struggling with these substance abuse issues and do want to see treatment options made available in their own suburb. It does not appear to be something that has got a particularly bad reaction at all. That is a real plus and is something that I am quite proud of.

I am also interested to see in this strategy - I think many people in the community are interested to see this as well - the work of the healthy cities program and strategies for building public health in a broad holistic sense, as stated in the rationale for activities. I am sorry, I do not have the page number, but it is one of the activities mentioned in the strategy. I am encouraged to have seen actions along these lines.

The *Canberra Times* of 4 September carried a notice about a healthy city citizens jury to enable informed community input to a strategic plan for Canberra as a healthy city. I congratulate Michael Moore for this initiative. It sounds as though it will develop some way towards a social plan which the Greens have been asking for for a long time, and also for the use of an innovative tool for deliberative democracy through the use of the citizens jury. So I am really pleased to see that and will watch with great interest how that progresses.

I am also pleased to see that the Government will ensure that there is accountability for funds spent. This is particularly important in the current context of purchaser-provider models for government services. We do need to know the circumstances of personal connections which are common in a city of this size and to ensure that external audits keep us in touch with what actually has happened. This is obviously important for everybody, including the personnel involved in these sorts of areas.

I also hope that this means that staff employed will be given strong and wide leadership on matters of conflict of interest. Dr Glenn Rosendahl's musings on the curious case of Alison Theobold in the *Canberra Times*, page C4 of 2 October 1999, certainly gave rise to concern about so-called soft tendering and how it is that the staff concerned, who gave special treatment to clients in their care, were not counselled against such actions by their supervisors. Where is the management direction that will ensure that the approach works, and where is the ministerial oversight and guidance from the Minister?

I am pleased that the Government will ensure that activities that offer new solutions are considered. I hope that this will mean we do not hear any more complaints about the alcohol and drug program management having knee-jerk reactions against innovative ways of working with clients, such as taking clients out of the institutional setting of the health building and running relapse groups in cafes, taking clients out on walks, and instilling new habits in a supportive setting. I hope that full consideration will be given also to issues such as meditation techniques, which have been found to be very effective in research into recidivism and which have met with great success as a tool for people to overcome drug and other problems. I hope that the implementation of this element of the strategy will give courage and leadership to those responsible for welcoming initiatives from the workers in the program as well.

The Greens agree that attention must be paid to coordination, collaboration and consultation. Once again I have to raise how the overhaul of the alcohol and drug program occurred in light of these commitments to coordination, collaboration and consultation. We have certainly been given the impression that the partnership approach was not adequate.

The problems that we have been hearing from the community were more to do with management of the programs that were already in place and working well rather than with any real problems with the student counsellor system as it existed. We have received, as I know other members of the Assembly have received, letters from clients of the program which have expressed these sorts of concerns.

The recent evaluation and restructure contracted from KPMG Consultants at a cost of $486,000 did not investigate the management, did not investigate any personality issues raised by the community and did not use evaluation up to assess from the workers' point of view what could be done to improve the service. I hope that the Government will now apply its commitment to evaluate its programs fully and will investigate the management of community services before leaping into new management fads for

solutions to its problems. I understand that there has been a call for a committee inquiry into some of these matters, so I will wait with interest to see whether that is forthcoming.

Turning to the draft education strategy that we were shown, I was concerned about how much responsibility was left to schools to develop their own education strategies. Obviously, while a strategy like this has to have ownership from the school community, as the draft drugs strategy was printed it seems to be incredibly broad in terms of zero tolerance right through to harm minimisation. How individual school boards and communities interpret that document will be very interesting to see. I am very concerned to see where the resources are going to be to actually support schools in developing those strategies. I understand that the ACT Alcohol and Drug Programs Health Promotions Unit, which used to be a much valued community resource, is no longer working as a unit or as a particular expert group. *(Extension of time granted)*

The specialists who used to be employed in this unit were available to develop programs and to visit schools and community groups such as the Trades and Labour Council and parents groups. They held information stalls in Civic about the effects of cannabis, and they developed award winning poster education campaigns and visited government agencies such as the AFP. I wonder who is going to provide the resources to schools now that this group, this health promotion unit, is no longer functioning.

I was interested to see the AFP's drug education document which apparently they take around to schools. There is a very strong health focus in that, so maybe the AFP has been given the responsibility of health promotion, which is interesting in itself. I would have thought they had plenty to do already, but at least they are picking up the work.

Mr Rugendyke: They are good at it, too.

MS TUCKER: "They are good at it, too", Mr Rugendyke says. I am sure they are, Mr Rugendyke.

On the issue of treatment generally, ANU researcher, Gabriele Bammer, emphasises the importance of psychosocial supports in ongoing treatment for people with and moving away from drug addictions. One of the options which community and government treatment services have developed in the ACT is relapse prevention group sessions in which new habits are reinforced. It is a reference point for people seeking to move away from drugs in their lives. It is about getting people to get straight while they are on the streets and about support for the new attitudes, belief systems and habits - the very model of what the Minister for Health promoted as he indicated the real success of our programs in his response to the national approach to illicit drug use. I quote:

> …people … are kept alive and in the best possible health while they are making that decision; … are provided through rehabilitation with behavioural strategies to assist them to remain either drug free or to control their drug use; and are supported and given another chance to become drug free, whether they fail once or a dozen times in achieving that goal.

Yet resources for and commitment to these kinds of programs are not mentioned in the drug strategy.

The strategy makes much of accessibility and improved service provision, but it is still quite unclear how moving from a system where people could almost always see a counsellor that same day - I am talking now about the drug and alcohol unit - to one in which they can almost never see a counsellor that same day and instead have to go through a phone system is delivering a better service or is more accessible. I am not quite sure. Personal contact and timing are critical elements of this kind of service. It is strange that a single point of entry is regarded as more important than making personal contact at a critical time. This does not seem to have been conceived or evaluated with the principles of accessibility or cultural appropriateness in mind.

The Greens, of course, have also consistently reminded the Assembly about the importance of addressing the complex underlying issues of drug use, and other members have raised this. How we are responding to young people who may have mental health problems is of concern. I am still concerned about the availability of such services for young people.

The methadone program is being extended by providing a parallel private stream. Though detail is not provided, we always have to be aware of issues of privacy and that the profit motive is taken into account in the user-pays system. We need to be sure that safeguards exist to ensure that the primary focus of the supply of methadone is to keep people healthy and alive and to support them to move off drugs, as is appropriate in each case.

The other thing I am concerned about that is missing from the strategy is recognition of the support needs of workers. This is a very difficult area to work in and people's lives are at stake. The clients being served can be hostile and demanding, and the issues are heart-wrenching. It is essential that workers be personally supported and well resourced in their work. While, as I said, I do welcome many elements of this strategy and the new crisis treatment places in particular, I am concerned to see that resources and commitment to follow through on the goals actually occurs.

There are general issues around why our young people are using drugs in the way that they are. If they are using them in a self-destructive way - I do not say that all drug use is destructive at all - they obviously have issues that need to be resolved. The Greens certainly support initiatives such as a safe injecting place. *(Further extension of time granted)* Some members do not like the use of the word "safe". The Parliamentary Group for Drug Law Reform, apparently people from New South Wales - some Liberal members actually - were more comfortable with a safe injecting place if it was not called "safe" but was called "medically supervised". That was interesting to me. If those sorts of problems exist, maybe some members here would find it more acceptable if it was medically supervised. I have heard some members here express concern about the

use of the word "safe". Anyway, the Greens do support these sorts of initiatives, just as we support a heroin trial, but we absolutely must see that there is equal commitment and resourcing to the prevention and treatment aspect of this.

Broader questions are obviously not just for government. They are for the community as a whole to determine why some of our young people are involving themselves in such self-destructive behaviour. There are all sorts of issues there that as a community we need to look at. I will not even start to talk about that today, except to acknowledge that it is also a really important part of this whole discussion.

MR RUGENDYKE (11.27): The first problem I see with this report relates to its title, *From Harm to Hope*. It should read, "From Harmful to Hopeless". In dealing with the drugs issue we are in a harmful stage. This has been conceded by the fact that we are locked into the so-called harm minimisation strategy. I say this because the strategy does not kick in until the harm has been well and truly done. The strategy is all about maintaining the level of harm and not getting people off their habits. The question must be asked: What hope does this document offer drug users to become drug free?

Mr Speaker, I speak on this subject with a degree of personal and practical experience. When I think of some people I have had contact with over the years who have, or have had, drug problems, I think of Sarah, Bruce, Anna, Michael, Tina, Margaret, Lisa, Ian, Rachel, Amanda, Rebecca, and the list goes on. These are real people who should have been offered a document which includes abstinence as a clear and achievable goal. While there are many positive aspects in this document, it is deficient in that there is no guidance for people who wish to become drug free. It is all about maintaining the habit and there is no recognition of the fact that abstinence is a realistic goal for some people.

For the industry there is no money in a reformed addict. Methadone suppliers would be out of work; needle dispensaries would be out of work, and so on. To endorse this document gives tacit consent to the implementation of shooting galleries and heroin trials. I am not prepared to do this. A shooting gallery does not have sufficient emphasis on getting users clean. It maintains the habit. Supporters of these shooting galleries say that regular contact with health workers in the shooting gallery will give users the opportunity to listen to counselling and advice that may persuade them to change their ways. But they get this sort of assistance now.

The counselling and support groups are provided by organisations such as the Drug Referral and Information Centre right now. Why do we need to duplicate the service? What is new? The people I really feel sorry for are honest Canberra taxpayers footing the bill for this. Not once but twice. They are the ones who would be funding this thing. They are being asked to pay for a shooting gallery that maintains the habit; then they are the ones that get their houses broken into and possessions stolen so that drug users can pay for their heroin habit. Mr Speaker, I looked to this document to try to find solutions to the problems associated with dual diagnosis.

It provides a sorry history. It recognises the inability for drug and alcohol and mental health personnel to cooperate for the benefit of their clients. But what solutions does it offer? I worry when I read the segment regarding people in custody and the harm minimisation strategy to be offered to prisoners. I would hope that the ACT's best

practice prison would be able to implement a program of rehabilitation for prisoners to leave gaol drug free. The rationale for providing sterilising solutions for detainees at Belconnen Remand Centre is that, and I quote, "Without more intrusive search regimes, some drugs will still be brought into the centre by detainees using various means". Why do we not implement tighter search mechanisms? After all, these people are detainees. They are not on holidays. We should not be turning a blind eye to illegal drug use in the remand centre.

I note the Chief Minister's tabling speech for this strategy. She calls it the government strategy. I contend that this is Mr Moore's agenda. The Liberal Party is claiming ownership of this strategy. It is the same Liberal Party which has an unresolved motion before its ACT branch, proposing to send the issue to referendum. The Liberal Party is clearly divided on this issue and yet the Chief Minister is claiming it to be a government strategy. I think not, Mr Speaker.

Even more interesting is the Labor Party's move to stake a claim in the ownership of this strategy. Without the Labor Party the shooting gallery is a non-issue. Without the Labor Party the numbers just are not there. If this shooting gallery does go ahead, it will not be remembered as Michael Moore's shooting gallery; it will not be remembered as the Liberal Party's shooting gallery. It will be remembered as the Labor Party's shooting gallery. And it will be remembered as Stanhope's shooting-up shrine.

It is no secret, Mr Speaker, that the Labor Party is not united on this, either. I know there are members of the Labor Party who know that Mr Stanhope's insistence on imposing this on the Canberra community will be detrimental to their party. The bottom line is that the community at large does not want this. Mr Stanhope is not reading the community. I urge Mr Stanhope and the Labor Party to reconsider their position on this. The Labor Party must reconsider the direction that Mr Stanhope is taking them on this one.

Another topic I am passionate about, Mr Speaker, is heroin babies. I have mentioned this in the house before. Unless I am mistaken, I cannot find a mention of this special needs area in the drug strategy. I have had personal experience in this area. And how do the harm minimisation principles apply in this case? What about the harm to the baby? I have heard the piercing screams that come from these babies' little lungs, and it is like nothing I have heard before. I have had plenty of experience with babies. We have had five of our own, and I know what the cry of a baby should sound like. But, Mr Speaker, this baby was in sheer agony, needing constant comfort. It was hard to imagine what the baby was going through as we tried to wean him off his addiction to heroin and his addiction to morphine. You have not seen distress until you have seen a baby in that state.

The direction, the guidance and information made available to us at that time left a lot to be desired. It was a delicate situation but the contingencies that were in place were not thorough. There had not been enough work done or completed in policy areas to prepare

carers in the community for these types of situations. These concerns have not been addressed in this document. These are complicated situations, but not uncommon. The number of babies born as drug addicts is increasing as society's tolerance of drugs is increasing.

My attitude to decriminalised cannabis laws has been clearly voiced. I am disappointed at the lack of attention paid to this in the drug strategy. Appendix 1 in the strategy, relating to alcohol and other drug-related harm, devotes two paragraphs to cannabis. The description of the drug is certainly not as strong as Mrs Carnell spoke about it in the Assembly, back in 1992 I think it was, when cannabis was decriminalised. *(Extension of time granted)* At the time, the Chief Minister said:

> In summary, not only have members in support of this Bill underestimated the toxicity and the addictive properties of cannabis, they have also badly underestimated the signal that this will send out to encourage the use of cannabis, particularly among young people. The Liberal Party has not underestimated these effects.

Seven years later, Mrs Carnell and the Liberal Party have gone soft on cannabis. The Government tells us that the decriminalised cannabis laws are working. Well, they are clearly not.

In answer to a question on notice, Mr Humphries advised that 47 per cent of simple cannabis offence notices had not been paid since the decriminalisation of cannabis in 1992. Of the 1,275 on-the-spot fines for possession or cultivation of cannabis to 30 July this year, only 667 had been paid. The statistics are dismal and a clear indication that the system is not working. What is the point of issuing fines that are ignored? Almost half the fines have been ignored and this shows that the system is being treated with contempt by offenders. There is no consequence with this system and there is no education in the process.

The talk on the street is that only dumb offenders pay and this is reflected in these figures. When you do not pay, nothing happens. The simple cannabis offence notices system, SCONS, has to be scrapped. It serves no purpose and it is a worthless exercise. This system has never been reviewed and cannabis continues to be the ignored problem of our community. The Government's endorsement of a system where almost half the fines have gone unchecked just perpetuates the myth that cannabis is harmless.

There is also a perception that marijuana is legal. The only thing this impotent SCONS has achieved in practice is making cannabis quasi-legal. In the ministerial statement on the national approach to illicit drug use, Mr Moore tells us:

> The Commonwealth, States and Territories have agreed to work together to better manage the issue of illicit drugs, and this means carefully drawn, explicit and practical links between education, law enforcement and treatment efforts at all levels of government and in the wider community.

There is no evidence of this cooperation or collaboration with the cannabis laws, apart from a united call from the Government that decriminalised pot laws are working. Mr Speaker, the statistics are conclusive proof that the approach is failing.

In summary, the community is not with the Government on this drugs reform agenda. I certainly object to the initiatives this soft-on-drugs Government, Mr Moore and now Mr Stanhope, are trying to impose on our community. I see nothing in this document offering hope for people who wish to become drug free. To endorse this document offers more of the same soft approach that has been demonstrated by this Government since the addition of Mr Moore to the Cabinet.

MR MOORE (Minister for Health and Community Care) (11.41): I rise to give a little credit to Mr Kaine, who spoke in a previous debate on drugs and pointed out that the Government did not have an over-arching drug strategy; rather a series of interlinked strategies. That comment came at the same time that we were discussing the issue of having an over-arching drug strategy. It was the final catalyst to say, "Yes, we should do it, and immediately".

I am very pleased to rise to support it. I have listened to a range of issues raised by members today and I will deal with some of those individually. Mrs Carnell in her reply will probably also deal with some of the issues. The title, contrary to what Mr Rugendyke says, is perfect for this drug strategy, because we are trying to create a sense of hope from the harm that that has created in our society. And I would have thought, Mr Rugendyke, from whatever perspective you have on how we should go about it, we would all agree that the current situation is not good enough; that there is harm occurring. We do want to get to a point where we can provide hope.

I can understand your criticising the way we go about it; you would go about it in a different way. But we believe that a very broad strategy that has appropriate policing, has appropriate education, has appropriate rehabilitation, has appropriate harm minimisation strategies, is the approach that will best give us the opportunity to deliver something that simply will not be resolved - and has never been resolved anywhere in the world - by a simple hard line.

That just does not work. The most glaring example of it is the United States, which uses its power and standing internationally to try to push a prohibitionist approach on all others. If we look at the outcomes from their sort of approach to drug strategy and that pushed by General McCaffrey, who will be coming to Australia in the next couple of weeks to tell us how wonderful their solution is, their solution is about putting people in prisons. They incarcerate at a rate 10 or 15 times higher than in the ACT.

Do they get better results from that? No. Their usage rates are still about the same. It is not a solution that we should look at. What we should have is a very, very broad solution, as is presented here in *From Harm to Hope*. I notice Mr Hird in his comments,

when he began the response to the Chief Minister's speech, talked about education issues and, indeed, drug education, and set it out for our consideration. He hopes that as a subsection of this strategy we will have an education strategy, and others.

It is very important and I am looking forward to my colleague Mr Stefaniak presenting that strategy. He also mentioned the naltrexone trial. I thought I would respond to that as it falls into my area of jurisdiction. We are part of a coordinated range of trials on naltrexone around Australia. Contrary to what was originally presented, that naltrexone was the answer - and it started, by the way, when there was a debate about the heroin trial; "You do not need a heroin trial; what you actually need is naltrexone because naltrexone will be the answer for everything" – well, sorry, the trials have not shown that at all.

What the trials have shown is that naltrexone is another useful drug in our approach as part of a broad strategy. In a very short while, Professor Nick Glasgow, Professor of General Practice, will be presenting findings from the trials he has been running on naltrexone to an academic audience - I think in the next couple of weeks. At that time I hope to be able to make those results public. Certainly, I hope Professor Glasgow will do that.

But as I said at the beginning - and now that Mr Kaine is here, I will reiterate it in case he did not hear it - his comments in a previous debate were a catalyst in making sure that we did do a broad ranging strategy. I do not know if he recalls making those comments, but he did. We had been discussing at the time that perhaps we should and it was just that final "oomph" that moved us that way. But, Mr Kaine, I have to say to you that there is no attempt at all to be deceptive in this strategy.

With regard to the issue of the ongoing consideration of heroin trials and a safe injecting room, the reason it is worded that way is that the matter is still before the Assembly. Contrary to trying to be deceptive, we are trying to be exactly the opposite. To say, "We will deliver a medically supervised injecting room", would be deceptive. Or to say, "We will deliver a heroin trial", would also be deceptive.

That is important. But Mr Kaine also mentioned what we are doing about supply reduction. We were quite keen not to talk about specific police operational procedures. On the other hand, it was also important for us to get the general direction and it should be in a broad strategy like this. You will see at point 16 on page 20, Mr Kaine, that targeting major suppliers and distributors of illicit drugs using intelligence-driven police strategies is there. And this is an important part of what goes on. Even under the most liberal approach to drug policy, we would still be looking at policing - at an approach to make sure that the regulated availability would work.

I would like to comment on a couple of things that Mr Hargreaves mentioned. He asked me the question: How many deaths have occurred in the last year? I am able to provide that information. Last year, Mr Hargreaves, in 1998, 14 people died from overdoses. At October this year the number is four - a greatly reduced number. Unfortunately in a small jurisdiction, I do not think we can draw a statistical analysis from that; other than to say, hopefully, that some of the efforts we have been putting in do identify for people that there are issues about purity; that warnings could help stave off some deaths.

But also there is a growing change in attitude to somebody who has overdosed. I mentioned in an adjournment debate the other day that I saw somebody rush to the side of a person who was overdosed. That reflects a changing attitude that we are dealing with people and these people have families. These people are individuals who have lives. We should do what we can to protect those lives; to save lives, even if we happen to disagree with the approach.

Mr Hargreaves also made a comment about preventative programs funded by Justice and Community Service. The first example off the top of my head is Neighbourhood Watch. There is a whole range of them though. That range of preventative programs is what makes this policy important. It is a very broad strategy. On the other hand, Mr Speaker, it was not ever designed to be the length of a bible. It is about a broad strategy that facilitates consistent strategies within other areas. When we talk about questions raised about the methadone stream, about rehabilitation and so forth, they are all in there. And we will be providing them. Mr Hargreaves drew our attention to - and I think it is very important – the fact that we should maintain our focus on people, individuals. That is a very important focus.

Ms Tucker raised a range of issues about the drug and alcohol program. There has been change there. There have been broad consultations. There has been huge consultation – a huge amount of effort into evaluation of what we are doing and what we are trying to achieve. Some disagree with the outcome. That does not mean to say consultation has not taken place. Apparently consultation is always good enough when you agree with the outcome, but if you disagree with the outcome then the consultation is not good enough. That is a very unfair approach. There has been a very broad consultation process by management. But we are seeking to make change. That means there will be some down-side. *(Extension of time granted)*

Another comment Ms Tucker made requires a response. She referred to an article in the *Canberra Times* and asked where is the ministerial oversight. Ms Tucker will be pleased to know that the people involved have been counselled about how close they get to clients and what is an appropriate distance for a health worker as normal, appropriate conduct of health professionals. Ms Tucker should understand that within a jurisdiction mistakes will happen. Ministerial oversight ensures that when a mistake is drawn to our attention, we do our very best to make sure that it does not happen again and that we have the appropriate policies in place to ensure that this sort of thing does not happen.

I was disappointed in Mr Rugendyke's attack on harm minimisation. There is nowhere in the world that Mr Rugendyke would be able to identify where a zero tolerance approach has actually worked. He may choose the Swedish system. The level of death that occurs under the Swedish system and the level of scrutiny that goes on in their system leave much to be desired. And if you read what the Swedish Government puts out, you would think that you have got a fairly good answer on that.

But if you were to have a look at some of the research behind that, you would question it - unlike this Government, Mr Rugendyke, which is very careful about everything that it puts out and makes sure that it is accurate and unquestionable. I know that you would never be tempted to question anything that comes out of our Government. It would be appropriate to question what comes out from their report and the approach they take to it. Mr Rugendyke, appropriate policing is part of a harm minimisation strategy. Appropriate rehabilitation is there.

If you look at, I think it is, item 3, abstinence is, of course, an important part. What we are focusing on is appropriate treatment for the appropriate people. Sometimes people will not be ready for abstinence and we have to maintain them until they are ready. This Government has always emphasised it is an important part. That is why we are involved today in the opening of the youth rehabilitation centre of which I know you have been very supportive.

We will continue to take that approach. My understanding is that this is the first time a government has put out a very broad drug strategy in Australia. I think it is a major step forward. It covers the full range of areas. Delivering on strategy is always the challenge. I am very pleased that members have not overly emphasised the two controversial issues that are still in there, but have recognised that the strategy itself goes much broader than that.

MR STANHOPE (Leader of the Opposition) (11.55): I have already indicated that the Labor Party welcomes and, generally speaking, supports the content of the ACT drug strategy *From Harm to Hope*. As I have indicated, the strategy does go a significant way to meeting some of the concerns that the Labor Party, and I know the Greens as well, have been expressing about the need for a comprehensive and coordinated across-government approach to the major challenge presented to the Canberra community by the abuse of all drugs, both licit and illicit.

One has to acknowledge that the strategy *From Harm to Hope* does attempt to deal with a whole range of initiatives across all the public sector operations in relation to the community response to the abuse of drugs. It does deal with initiatives in the area of health, in the area of education, law enforcement, community safety and the environment. It is the sort of encompassing approach to drug abuse and the problems engendered by drug abuse that the Labor Party supports. The document by its content acknowledges it is vital if we are to make some genuine inroads in all the problems we as a community face as a result of the abuse of drugs; not just the illicit drugs but also the abuse of the more commonly abused drugs, tobacco and alcohol.

It is vital in relation to the attack on the abuse of all drugs that there be this partnership between all sections of the community and that the Government, government and non-government agencies, the community sector, indeed families and individuals, all need to work together if we are to make inroads against the scourge of drug abuse. In that respect I and the Labor Party support, and we have expressed our support, the emphasis that this strategy gives to the partnership between all those agencies and the community and indeed with families and individuals within the community.

I have listened intently to the debate today. A number of points have been made drawing attention to some aspects of the strategy with which I agree. Ms Tucker, for instance, indicated how important and necessary it is that in a broad range of strategies such as this, we have - and my colleague John Hargreaves also drew attention to this - definitive evaluation criteria and mechanisms for allocation of resources and priorities. As Ms Tucker said, a credible auditing process allows us, through implementation of different strategies on drug abuse, to determine whether or not a particular strategy is working, how it has worked and whether all identified target groups have benefited.

The document, as I have said, which the Labor Party supports, is in some parts quite strong on rhetoric. The challenge always is for governments to ensure that rhetoric is matched by action. A further challenge for governments is to ensure that the action they claim to follow from the strategy is appropriately audited and evaluated so that we can determine whether or not the initiatives do have the impact we would hope for on drug abuse.

Perhaps at this point it is not appropriate or possible to go through each of the initiatives. It is a comprehensive report to the extent that it does seek to detail the whole raft of initiatives that a community might pursue in relation to the range of used drugs. We could possibly, Mr Speaker, generate, support and sustain a debate on each and every one of the initiatives and a whole range of assumptions in the report; for instance, about particular target groups and particular needs of all target groups.

These are issues that are raised in the Assembly from time to time. We do identify target groups. We do identify indigenous people and people addicted to alcohol. We do identify a whole range of other people deserving of specific initiatives. Not only do we specify women, and women with children, as a group of people with special needs, but in this particular strategy, for instance, men are identified as a class of people with special needs. We do need some analysis of how assumptions on each of those classes of people were made; how they are going to be monitored and assessed and the emphasis we give to injecting drug users over other drug abusers.

To that extent there are some deficiencies in the document, those identified or touched on by the speakers in relation to assessment of needs, setting priorities and unspoken aspects of any drug strategy. That is the extent to which resources will be applied to each of the so-called identified priorities or identified target groups.

They are issues we could debate in this place. To some extent opposition has been expressed by three speakers here today to those more controversial strategies. Two picked out this morning were the proposed drug injecting place and the possibility of a heroin trial. I regret the focus given to controversial initiatives on aspects that, as in all areas of politics, tend to distract us from the major issue.

For a number of years the ACT has been distracted by debate on issues such as the heroin trial and injecting places. We have been distracted, perhaps unnecessarily at times, from some major issues. We have been distracted from the terrible problems that tobacco and alcohol and illicit drug use cause. But what the comments of Mr Hird, Mr Rugendyke and Mr Kaine indicate in relation to the debate about the injecting place is that, while we are engaged in considerable community debate on that issue, at this stage we do not know how much it is going to cost.

We have not had a debate about whether or not the cost to the community of an injecting place is the best use of very limited resources available to address issues of drug abuse. People say to me, in the context of the debate about the drug injection place, that they think a sobering-up shelter is a far more urgent need than a drug injecting place. That is the sort of comment that is probably made to each of us about a whole range of issues on which we are called upon to make decisions.

But these are legitimate issues and legitimate points put by the community. In developing a strategy in relation to anything, these are the hard issues, the hard questions. If you have got a million dollars are you better off putting it into a drug injecting place or are you better off putting it into a sobering-up shelter or indeed into something else? Those issues have been raised. That also discounts the fact that so many people within the community have such serious reservations about whether or not a drug injecting place is an appropriate initiative.

The Labor Party believes it is worth trialling as an initiative. We believe there are a whole range of reasons why we should trial a drug injecting place. We have been seeking to articulate those and will do so again when this place debates that particular initiative. There are a range of other points that have been made, but I think we really do need to sit back and ponder. Mr Rugendyke has actually raised those in relation to his concerns about the implementation of the on-the-spot cannabis legislation.

Mr Rugendyke does make some legitimate points in relation to the concerns that he believes exist in the way in which that legislation was implemented and the way in which it has been administered. I do not think the Labor Party would be supporting Mr Rugendyke's concerns. *(Extension of time is granted)* But I have great sympathy for some of the points Mr Rugendyke has made on that issue. I am not convinced about the community's expectations about how that change to the law would work, and whether it has been as rigorously administered as it should to achieve the outcomes claimed for it. I raise that now because I think there is a lesson for us in that particular issue for the drug injecting proposal.

We need to be transparent and very patent about what we are doing in relation to the possibility of trialling a drug injecting place in the ACT so that the community can have some faith in the adopted process and in our determination to trial this to see whether it does work; so that we can evaluate it; so that it can be audited; so that we can see at the end of the day whether or not it has made some real changes in a whole range of areas in relation to drug use and abuse. It is not just the health status of the individuals concerned, but also it relates to issues about the congregation of addicts in the streets and about crime rates and the extent to which we continue, as a community, to suffer burglaries and car thefts and other crime as a result of the activities of drug addicts.

I also have expressed some concern, as was raised today by Mr Rugendyke, about the actual status of this strategy. I raise that, Mr Speaker - and I know this is a point of interest to you - in light of the fact that three members of the Liberal Party do not support aspects of the drug strategy. Mr Hird, Mr Stefaniak and you, Mr Speaker, I understand, have advocated quite vocally against certain parts of the strategy.

That does raise concerns about whether or not a government, in relation to which a conscience vote has been given, can stand up and wave a document around, and say, "This is the Government's strategy". It is simply not possible, in any parliament professing to espouse the notions of responsible government, for a government to prepare a document which is not supported by its party room; which cannot be supported by the party room if a conscience vote has been given. When an issue has attracted or actually has attaching to it a conscience vote, it is simply not possible - it is inconceivable to me - for a government to stand up with a piece of paper and say, "This is the Government's policy, but we have a conscience vote on it". You cannot do it. Well, you have done it but it is a nonsense.

It is illegal and jurisdictional and political nonsense to say, "This here is our policy". It is an absolute opinion, it is an absolute belief that you cannot hold something up as government policy, and at the same time say, "This is the Government's policy, but all members of the party have a conscience vote on it". You cannot do it. Mrs Carnell seems to think you can and actually is quite bemused at the fact that I think that there is some sort of logical inconsistency in saying that you can actually distribute a document as the Government's policy while at the same time say, "But all of my members have a conscience vote on this, and one of my ministers - one of the members of my Cabinet indeed - not only is advocating against it but intends to vote against it". The notions of Cabinet responsibility and collective responsibility simply do not permit a member of Cabinet to vote against the government. The notions of collective responsibility, as expressed in *House of Representatives Practice* and every other document ever written on this, simply do not allow it. It has quite significant implications. *(Further extension of time granted)*

That is one aspect which Mr Rugendyke has also expressed concern about. I share Mr Rugendyke's concern in relation to that. We have here a document that is not supported by half of the Liberal party room. Had Mrs Carnell not swapped Mr Moore for Mr Kaine, it would not be supported by a majority of the Liberal party room. It is only that Mr Moore now occupies that seat within the Government that there is the majority. It is now four-three, but only because Mrs Carnell chose to exchange Mr Kaine for Mr Moore within the Liberal party room and Mr Moore now actually drives the Government's drug policy. As we all know, the Belconnen branch of the Liberal Party, Mr Hird's and Mr Stefaniak's branch, actually does have a motion for the Liberal Party's annual conference to require that the Liberals do certain things in relation to drugs - things I do not agree with, admittedly. But these are facts the community has a right to be aware of.

As I have said quite generously, it is a good document. It is the sort of document that the Labor Party has certainly been calling on the Government to deliver. It is very broad. We do have those couple of concerns about evaluation and monitoring. It will be interesting as we go along to see how the Government deals with those particular issues - five issues - and I have no doubt that it is something that Mr Moore's department will take on board or has on board. They are the comments I wish to make, Mr Speaker. The Labor Party is pleased to see this document. We do have concerns about its exact status. I do think this is an issue which we as an Assembly do need to explore**.**

Ms Carnell: There will be lots more.

MR STANHOPE: Mrs Carnell says they will be doing it a lot more times. But on two occasions now, particularly with the abortion regulations and again with this particular issue, we have a situation in which the Executive - the Cabinet - is actually making law which in every other parliament in Australia, and probably in the Westminster world, would be done through private members business; it is actually being done by the Executive. This is a significant departure from convention which does impact on accepted notions of responsible government. We have got Mr Humphries and Mrs Carnell over here scoffing at this, but these are significant departures from accepted process, accepted conventions within parliaments. Mrs Carnell is actually proud of that. As an Assembly we probably should look at these issues.

It did raise significant issues for us as a parliament, that we are now instituting this departure from conventions about Cabinet solidarity, Cabinet responsibility, and departure from those accepted conventions that governments do not introduce legislation on conscience issues. It is not done anywhere else. We are the only parliament I know of, Mr Speaker, in which the government legislates on conscience issues. In every other parliament in Australia, it is done through private members business. I suggest to you, Mr Speaker, particularly in your role as Speaker of this place, that does have significant implications for how we operate. It renders aspects of the *House of Representatives Practice* simply not relevant to this parliament. Those parts of the *House of Representatives Practice* dealing with the collective responsibility of Cabinet no longer apply to this parliament. There are serious implications for us in relation to that.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.15): Mr Speaker, I was not going to speak in this debate but the claptrap we have just heard from the Leader of the Opposition has to be responded to. First of all, there were a few misconceptions. Mr Moore does not sit in the Liberal party room. Mr Moore sits in the Cabinet and exercises a vote in Cabinet in those matters where he wishes to be part of a Cabinet deliberation. But where he cannot, pursuant to the agreement he has entered into with the Liberal Party, he separates himself from the Government.

Mr Moore also attends meetings where we discuss tactics for the coming sitting day - a whole-of-government meeting, a sort of a joint party room, if you like. But Mr Moore does not sit in the Liberal Party room. When the Liberal Party debates matters of policy,

Mr Moore is not present. What the ACT Liberal Government has done here has been a significant departure from convention. What Mr Stanhope needs to understand is that practice in parliaments is constantly changing conventions anyway. The conventions that operated 50 years ago in Australian parliaments have changed significantly in the last 50 years.

What is happening here is also a part of that process of change and it is not something to be frightened of and to run squealing from the house expressing concern about.

Mr Stanhope: Do not be afraid to debate it, then. Do it openly.

MR HUMPHRIES: We are debating it now.

Mr Stanhope: Yes, because I brought it up.

MR HUMPHRIES: But we have debated it plenty of times before and we have defended the position the Government has taken.

Mr Stanhope: You have not debated it plenty of times before. You've never debated it.

MR SPEAKER: Order, please! You have made your speech.

MR HUMPHRIES: You cannot have a debate when one person shouts down another party, Mr Stanhope. Let me make the point that we are happy to debate this system and to point out that it is an important way for government, particularly in the ACT context where minority governments are quite likely to be the order of the day, to be able to have a new approach to parliamentary practice.

Mr Moore: Watch how Victoria approaches it.

MR HUMPHRIES: Mr Moore reminds me that minority governments are increasingly becoming common across this country. Virtually every jurisdiction has experienced that at some point or another in the last few years. Minority governments are going to have to work out some better way of being able to deal with views other than the ones that are contained within their own party rooms. It might not be palatable for those parties concerned, but the fact is that transition is occurring in these matters and the Liberal Party in the ACT is proud to be experimenting with different ways of successfully approaching these matters.

Mr Moore has sat in the Liberal Party Government for over a year - close to a year and a half. The world has not ended. Good government has gone on in that time. Mr Moore has discharged his duties in the health portfolio with considerable achievement. He is now the longest serving state or territory Health Minister in Australia after Dean Brown.

And he has separated himself from government. Only last week, he stood with the Opposition and the crossbenchers, or some of them, and voted against the Government on the question of the Federal Golf Club redevelopment.

Life goes on. We are sitting back today. We are working on issues together. We went through Cabinet yesterday and we are achieving things. Mr Stanhope, who obviously cannot stand the heat of this argument, has rushed out of the chamber; he simply cannot understand how a different approach can be taken on such matters. But, of course, they can. I remind Mr Stanhope that the Labor Party in South Australia also exercises conscience votes on matters relating to drugs, I understand. Now, why is it that it is all right for the Labor Party in South Australia, but not the Liberal Party in the ACT? It is very hard to understand.

Mr Speaker, let me put the position perfectly clear on the table. The policy which has been tabled in the Assembly is a government policy. Members of the Liberal Party have the right to exercise a conscience vote. The policy, however, which has been tabled today, represents a substantial agreement between members of the Government on those issues. Specific issues not subject to agreement are those which members may depart from at future debates. So two issues, such as heroin trials and safe injecting places, are matters where certain members of the Liberal Party may exercise a different view to other members of the Liberal Party.

The world does not end. Parliamentary democracy does not collapse because that occurs. When votes come about on those issues, we will vote on the floor of the Assembly according to our consciences. When that is over we will go back to our party room and our Cabinet and continue with the process of delivering good government in the ACT. I think members opposite should not be afraid of that process. They should look to it as the way of the future. The idea of autocratic government exercising complete control over its members, not allowing them to exercise the dictates of their conscience - frankly, the days of that system are numbered.

MS CARNELL (Chief Minister) (12.20), in reply: In closing the debate, I thank members for their comments in this cognate debate. Nobody doubts that the drug issues, both legal and illegal, have health, economic, social, personal issues surrounding them. They are not just about health; they are not just about the law; they are not just about education; they are about all of those things. They are about who we are as a society. Mr Stanhope's comments reinforced to me why I am a Liberal. Many people have asked me that over the years. The reason is that we value and respect individual thought and belief.

Mr Speaker, you and I agree on probably 90 per cent of things and disagree on 10 per cent. I would suggest that is probably the case right across the party. Mature politics and good leadership are about allowing you, or me, or Mr Moore, to vote within our belief structures wherever possible. I cannot think of a reason why that would not be possible all of the time. There may be an occasional situation. But giving everybody an opportunity to express views on important things they believe are morally right or morally wrong is what good leadership is about, not bad leadership, as Mr Stanhope has said. It is certainly something that this party will continue to do; certainly as long as I am in this job. I think other members would agree with me totally.

There are many areas that are not actual Liberal Party policy on which we do not actually have policy statements put forward by conventions. If we do not have those directions, then in many cases we have a capacity to reflect directly our views and the views of our constituents. That is what Hare Clark is about, Mr Speaker. You know that; Mr Moore knows that; Mr Hird knows that. But those opposite do not. It is very interesting for members of the crossbench to listen to those comments from Mr Stanhope. What it shows is that there is no capacity within the Labor Party to bend, no capacity to work out ways that could be collaborative or collegiate in this place. The view is: "This is what we believe. This is what we'll all believe. Nobody will step outside that belief or policy structure, thank you very much, regardless of what you think".

That is just bad leadership and bad government but everybody to their own, Mr Speaker. We have got our views and I have to say they have been extremely successful.

Mr Stanhope: Your views are about trashy process. It is another process trashed.

MR SPEAKER: Order, please!

Mr Stanhope: Not too keen on process, Chief Minister.

MR SPEAKER: Order! Mr Stanhope, you have spoken already.

MS CARNELL: Mr Speaker, this drug strategy, *From Harm to Hope*, is something I know all members of this Government - you and Mr Hird and Mr Stefaniak - are all very proud of. There are actually only two issues that we do not all agree on.

Mr Stanhope: We will have a convenience vote.

MS CARNELL: This is actually an important area and it is unfortunate that Mr Stanhope does not think so. There are many strategies and this is - - -

MR SPEAKER: Order, Mr Stanhope! You have spoken already. In fact, you have spoken for 15 minutes. Let the Chief Minister, please, complete the debate.

MS CARNELL: Thank you, Mr Speaker. What we have got here is a strategy, not a piece of legislation, that for the first time brings together everything from housing; how we address accommodation issues for people with drug problems. It is not just people in the illicit drug end of the spectrum, it is people with alcohol problems, people with tobacco problems, all sorts of things - prescription drug problems. We are addressing everything from policing to housing, to education, to the health issues that are involved, plus the broader community issues, in one document that was heavily researched, consulted on, and brings together under its purview a significant number of other drug policies related to individual portfolio areas.

We are proud of the approach we have taken. It is broad. One of the most important things for our Government in this area is something that we are wedded to make a difference on. Every single one of us believes that this is a major, major issue in our society and that it is absolutely essential. As we say in our mission statement at the beginning, Mr Speaker, the ACT Government will, in partnership with stakeholders, adopt a compassionate and caring approach to reducing the impact of drug use in our community through reducing the supply of drugs, the demand for drugs, and the harm caused by drugs. The central element of this mission is to do what works best, based upon informed knowledge of the problems with respect to each of these goals and on evidence of best practice locally, interstate and overseas. I could not summarise the whole drug strategy better than in that mission statement.

I would like to finish by reading a letter, which shows the approach that this Government is taking and the fact that it is working. Many members may remember a number of months ago, I think it was Mr Osborne asked me a question about methadone availability, about a particular person who was having problems accessing our methadone program. This morning I got a letter - and I obviously will leave out the names involved - which says:

> Dear Ms Carnell
>
> I thought that I would write to you with a good news story since, like most of us, you probably only hear about things that go wrong.
>
> I wrote last on 30 March about my son who had a heroin habit and was unable to get a firm date for his entry into the methadone program.
>
> My son was admitted to the methadone program on 19 April. In the interim between my writing to you and his entry into the program he was buying -

and this is a real concern, Mr Speaker -

> 20 mls of methadone each day on the black market. While I did not condone this, it was a better and much cheaper, solution than buying heroin.
>
> When he entered the program, my son's methadone dose was steadily increased to 40 mls per day. He remained at this level for three months. His general health and demeanour improved and he has coped well with his studies. He also managed to find some part-time work and has been very co-operative and helpful at home.
>
> After three months, he decided that he would reduce his dose. He gradually reduced it, first by 5 mls per day, and then by 2.5 mls per day. Currently, he is taking 12.5 mls per day. He has passed all the

> urine tests and is now able to have take-aways for one day per week. After the next clear test, he will be able to have two take-aways per week.
>
> Today marks six months in the program for my son. He starts to pay. The cost is a total of $15 per week, a trivial amount compared with the amount he was paying each day for heroin. I think he is really pleased that he has gotten to the point where he does have to pay for his methadone.
>
> I know that the temptation to use is always present and that there are always opportunities to buy heroin. So I think my son has done a most remarkable thing - staying off heroin and keeping in the methadone program has taken great strength and he has found that strength. I am proud of him for really sticking at it.
>
> In two more weeks he will have completed his undergraduate studies. Then he has a couple of exams and his degree will be completed. I feel that he will be ready to find work with the confidence that he can manage his methadone doses and the demands of work.
>
> I would like to thank you for your public stance on drug taking. There should be strategies for all kinds of situations and individuals. I am not sure that the management model advocated by the medical profession is the best and certainly it is not the only method. (We do indeed owe a lot to Neil Blewett for his resistance to adopting the medical model alone as a means of dealing with HIV.)

And I have to say I agree with that very much. The letter continues:

> There is still little recognition of the demands placed on families and friends of those with drug habits. I well recall a counsellor telling me that I could choose not to support my son, and his habit, during those two dreadful months before 19 April.

(Extension of time granted)

> In the context of the past 8 months that still stands out in my memory as one of the great absurd statements. It absolutely denies the whole reality of drug taking and the way that those on drugs such as heroin are driven by the need for a fix. Leaving it to market forces leads to theft, prostitution and jail. Or death. None of which is acceptable to families. When I retire I will look to devote some time and energy to helping the families of those who take drugs.

> Thank you for your constant support for new strategies for dealing with drugs and drug taking in the ACT. I appreciate your willingness to look for solutions rather mouth the platitudes that others do so glibly.

That is the end of that letter. I think it shows categorically that the strategy approach we are taking, that embracing a broad range of different approaches, has the capacity to have very real outcomes. That is what this Government is about.

Question resolved in the affirmative.

ILLICIT DRUG USE – NATIONAL APPROACH: COAG ILLICIT DRUGS DIVERSION INITIATIVE
Paper

Debate resumed from 1 July 1999 on motion by Mr Moore:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

Sitting suspended from 12.32 to 2.30 pm

MINISTERIAL ARRANGEMENTS

MS CARNELL (Chief Minister): Mr Speaker, for the information of the Assembly, when Mr Moore leaves question time today I will take questions on his portfolio area.

QUESTIONS WITHOUT NOTICE

Bruce Stadium

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. Can the Chief Minister tell the Assembly what progress has been made in mediation between the Government and the Bruce Stadium marketing consortium that, despite a deal worth $1.8m, so spectacularly failed to deliver more than $190,000 of the $12m revenue its contract promised?

MS CARNELL: No, I cannot.

MR STANHOPE: I ask a supplementary question. Mr Speaker, it would be pleasing to know whether or not the Chief Minister has any intention of giving us the information requested in that question.

MR SPEAKER: Supplementary questions are asked without preamble, please.

MR STANHOPE: My question is: Can the Chief Minister explain why the Government took no action to remedy this appalling situation until 22 September this year, two days before she signed off her answer to my question on notice on this issue, which obviously nudged them about the fact that they had this disastrous result, and three months after the consortium's first-year contract expired?

MS CARNELL: The Government sought advice on what our legal position was and other things before taking any action. Mr Stanhope asked me whether I was aware of where the mediation process was up to. I answered it truthfully and exactly. I said no. You cannot take that on notice.

Bruce Stadium

MR QUINLAN: My question is to the Chief Minister. Can the Chief Minister provide the Assembly with the rationale behind a write-off of $14.4m from the plant and equipment at Bruce Stadium virtually immediately upon the completion of the works? Given the Chief Minister's keenness to employ the term "investment" in relation to moneys expended at Bruce and the claims of future value of all Bruce expenditure, could she not somehow convince the Auditor-General of the validity of her claims for the future and show the expenditure as an asset somewhere?

MS CARNELL: As I am sure that those opposite, Mr Quinlan and Mr Stanhope, do not know, under Australian accounting standards - AAS10, from memory - non-current assets must be revalued downwards when the carrying amount, the written-down value of the particular asset on the balance sheet, is assessed to be greater than the net amount that is expected to be received through cash inflows arising from the use of that asset. That is regarded as a RAT. For those opposite, that is a recoverable amounts test.

Mr Berry: Did you know that?

Mr Stanhope: Who wrote that brief?

MR SPEAKER: Order, please! The Chief Minister is answering the question, and I must say that the reply is sufficiently convoluted for me to believe that it is tax policy. Proceed.

MS CARNELL: The amount is analysed looking at what the inflows and outflows of cash would be, or what investment would be, against the initial investment, and that is the cost of the redeveloped stadium over the next 30 years, and calculating the net present value of these cash flows. That is the way RAT tests are done. The cash inflows included things like ticket sales for all events, up-front capital revenue from naming rights and sales of food and beverages. Cash outflows included the expense of running and maintaining the stadium.

Based on the analysis conducted, the net amount expected to be recovered through cash inflows and outflows arising from the future operation of the stadium was $14.4m less than the carrying amount for the stadium. Consequently, the carrying amount was written down by $14.4m. This reduction in the carrying value is reflected in the financial statements for the Bruce Property Trust. The calculation took a conservative analysis of the expected net position for the inflows, less outflows over the next 30 years, and was reviewed by the Auditor-General. However, as they were estimates that cover a 30-year period, the estimates were subjective and difficult to confirm through normal audit processes; hence the matter of emphasis is in those particular accounts.

The application of the recoverable amounts test applies to all entities, except those that are not for profit. All the entities that the Government has that are for profit or are not for profit, shall we say, fall into this particular bracket. Regardless of whether non-current assets are valued as at substantially the same date or on a progressive basis, the recoverable amounts test applies to non-current assets as at each reporting date.

Before those opposite say, "Shock, horror, this is a dreadful scenario", let me say that the recoverable assets test also allows for upward revaluation, an increment, when the net present value of the current cash inflows and outflows exceeds the current carrying amount recorded on the balance sheet.

It is probably appropriate to look at another example of where a RAT test has been used very recently on a stadium. Interestingly, the value of Australia's premier Olympic venue, Stadium Australia, has been slashed by $247m on the same basis. That meant that the facility's owner recorded a $111.2m loss for the 1998-99 financial year.

Additionally, it is interesting to note that Stadium Australia made an operating profit of $5.1m for a similar operating period as Bruce Stadium. The accounts of Bruce Stadium Pty Ltd showed an operating loss of $2.5m, which - given the number of revenue sources that, as we all know, were not achieved and the smaller events available compared to Stadium Australia - was not a bad effort. Look at what the scenario is in New South Wales. Stadium Australia is now valued at $165m.

Mr Kaine: I take a point of order, Mr Speaker. Will you rule on the question of relevance? I did not think the question was about Stadium Australia.

MR SPEAKER: No, but there is a comparison being made and it is in order.

MS CARNELL: The question was about the reason for the $14.4m write-down. I was explaining that Stadium Australia has been written down by $247m this financial year. It means that Stadium Australia is now valued at $165m. When you consider that the construction costs were approximately $690m, you will see that the situation for Bruce Stadium is very much in line with other stadiums around Australia, even those built by Labor governments.

MR SPEAKER: Are you clear on that, Mr Quinlan?

MR QUINLAN: Crystal clear, Mr Speaker. Might I be permitted a small preamble to my supplementary question for the benefit of other members? What was said was that we have blown $14.4m and we will not be getting it back.

Ms Carnell: I take a point of order, Mr Speaker. That is not what I said.

MR SPEAKER: Do you have a supplementary question?

MR QUINLAN: I certainly do.

MR SPEAKER: In that case, the Chief Minister will be able correct any misunderstanding.

MR QUINLAN: Will the Chief Minister table a supplementary - - -

Mr Humphries: Mr Speaker, I raise a point of order. Mr Quinlan asked a question and Ms Carnell answered it.

MR SPEAKER: He is asking a supplementary question. I will allow it. It is a technical matter.

MR QUINLAN: Will the Chief Minister table in this place the support documentation for the devaluation of the Bruce Stadium assets?

MS CARNELL: We tabled the Bruce Property Trust financial statements last week in this place. I have explained it to Mr Quinlan. I am very happy to take him aside and explain line by line, if he would like that, how RAT tests are applied to non-current assets that are for profit in government circles. If Mr Quinlan would like that explanation, I am more than happy to give it.

Seconded Public Service Officer

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Can the Chief Minister explain to the Assembly why the former director of the Office of Strategy and Public Administration in her department has been seconded to the Commonwealth Department of Immigration and Multicultural Affairs as an executive coordinator?

MS CARNELL: Mr Speaker, because we announced that we had done it. That particular job in the ACT Government no longer exists in the restructure. We believe it was a good outcome for both governments. The person involved is a very capable officer, and I think it is very appropriate that wherever possible we give our officers an opportunity for experience in other places.

MR CORBELL: I ask a supplementary question. Can the Chief Minister explain how the ACT Government can afford the luxury of providing an executive on a base salary of $175,000 per annum, continuing to be paid by the ACT, to the Commonwealth for up to 12 months, and what does the ACT ratepayer get for it?

MS CARNELL: Mr Speaker, if the officer involved was not working in the Commonwealth, she would have had a payout, because the job that she was in previously does not exist.

West Belconnen Temporary Resource Recovery Estate

MR HIRD: I will not denigrate people who work as servants of the Government or the people of the ACT. My question is to the Minister for Urban Services, Mr Smyth. Can you inform the parliament what the current situation is with the tenants at the minor industrial area located in a great electorate, that of Ginninderra, at the West Belconnen landfill? Are you, as it has been put to me, kicking out recycling business, Mr Minister?

MR SMYTH: Mr Speaker, I thank the member for his question. It is an important question, because the West Belconnen minor industrial area, which I am sure all members are familiar with, is situated on the land between the Belconnen tip and the New South Wales border. It was established some 20 years ago for a very important purpose and until recently has been managed by PALM. I am pleased to say that on 30 September this year the area was incorporated into the West Belconnen landfill lease. It will now be managed by ACT Waste and has been more appropriately renamed the West Belconnen temporary resource recovery estate.

ACT Waste are currently working on a management plan for the estate. That will include improvements to the area - tree plantings and generally tidying the area up. The area was originally established, I guess you would call it, as a business incubator. While it still operates successfully today, primarily the place was set up so that small businesses which otherwise might not have been able to secure an appropriate location somewhere else in Canberra could establish their operations legitimately. The minor industrial area of the Belconnen landfill offered many fledgling businesses the opportunity to get their feet on the ground, to set up, and then move on when it was reasonable.

Even today, with Canberra's main industrial areas expanding, the temporary resource recovery estate plays a key role in meeting that niche market. Over the years many businesses have come and gone. Some have moved on to bigger and better things, and some have decided that, given that they could not survive there, perhaps they were not meant to be in business, and that is very important.

Mr Speaker, several tenants have been there for some 20 years now. In the main the area provides short-term sites for businesses to get started. It provided accommodation for ranger operations, recycling, firewood, motor wrecking, worm farming and timber furniture recycling. It provides employment for about 50 full-time employees and about 14 part-time employees.

Mr Corbell: I raise a point of order, Mr Speaker. This is all very interesting, but Mr Hird's question related to whether or not businesses were being moved from the estate. The Minister has been going on for a couple of minutes now, and we are yet to get to the substance of Mr Hird's question. Perhaps you can rule on the issue of relevance and ask the Minister to get to the nub of the answer.

MR SPEAKER: There is no point of order. Ministers can answer questions as they see fit.

MR SMYTH: Mr Speaker, it is very important to set the scene. Contrary to what has been put about in public, the department tells me that we currently have 30 licences issued for small businesses operating at the estate, and all 30 are paying fair market value. All 30 licensees have also willingly taken up the offer from ACT Waste for a five-year licence arrangement, giving them more certainty about their arrangements at the estate. Mr Speaker, the lists are there. There is a very great range of activity. There are new clients; there are top clients from previous leases; there are clients who have regularised their leases.

In the time leading up to the transfer of the lease from PALM to ACT Waste, it was not possible to issue long-term leases. To ensure that businesses that we saw as appropriate, particularly recycling businesses, had not only some short-term leases until we could sort it out but had an incentive to stay, there was a peppercorn rent. Due to the inability to guarantee them longer term accommodation we put in their leases an interim arrangement that when the transfer of the lease to ACT Waste occurred they would go on to full commercial leases.

Some of these businesses were offered their sites for the interim period at the peppercorn rent of $1, in recognition of the need to provide them with some assistance to get on their feet. Some of these businesses did not get off the ground. Even with the assistance from ACT Waste, they chose to exit the estate, which is what incubators do. But others came in to follow it up.

However, all the licences issued during this period reflected the ability to have the leases extended in the future, and until such time as their leases expired they were all very much aware that they could either take a walk - there was no obligation to stay - or pay a fair and reasonable rent. It is something they all agreed to, because they all signed the leases.

Mr Speaker, you might recall that in the Assembly last week Mr Hargreaves brought up a business known as Aussie Junk. It is appropriate that people know a little bit about Aussie Junk. Aussie Junk is one of the recycling companies that, very generously, were offered the 12-month interim rental at $1 for the first year. That particular operator signed an agreement which clearly stated that the licence would expire after one year, on 30 September, at which time he could expect to have the rent raised to reflect true market value if he chose to extend the lease.

Aussie Junk made it clear that they did not wish to exercise that option for an extension with a fair and reasonable rent for the site when it became due. So they got the kick-off and then they left. They subsequently handed the site back on 30 September when their licence expired. Of course, that was their prerogative.

Mr Hargreaves seemed to be insinuating in his comments last week on WIN news that we were kicking out viable legitimate recycling businesses. I think Mr Hargreaves might like to know a little bit more about Aussie Junk, because he has clearly got the wrong details. This is a firm from Wagga. It is based in New South Wales. What were they doing at the West Belconnen site? They were storing material. They were using it as a storage area. Aussie Junk was not making maximum use of this site, as the site was not staffed full time. They were conducting minimal business on the site, despite the intention being that it would help businesses grow.

Where were the jobs? You have to ask whether this was a productive and effective use of this site. It is not surprising that Aussie Junk decided that, instead of paying a fair rent for the land they were occupying at West Belconnen, they would move on, having taken advantage of the site, which was considerably cheaper than commercial premises at, say, Fyshwick, Mitchell or Hume, or just putting their stuff in U-Stow-It.

Mr Speaker, as of 30 September this year five-year full commercial rate licence agreements were accepted by all existing tenants to whom offers were made, and similar agreements were negotiated with the other recycling tenants who had been on the 12-month peppercorn rent. Who did not make a new agreement? Aussie Junk was the only tenant who knocked it back.

We certainly are not kicking anyone out of the industrial estate with, as Mr Hargreaves would have people believe, massive unfair price hikes that discourage fledgling companies from making it on their own. We gave them the initial year at $1 peppercorn rent to get them going.

ACT Waste has additional applications from businesses eager to get on the site. I think something like 16 are on the list of people who want to get in. We have a waiting list. People are knocking on the door to get in, but we do not have enough sites for them at this time. Clearly these sites are much in demand, contrary to what Mr Hargreaves has said. All businesses should be willing to pay a fair and reasonable rent for the land. Clearly we have a lot of businesses keen to do that.

Mr Speaker, this is going a long way to helping create jobs, helping close the loop on recycling and helping to meet the no waste by 2010 strategy in the ACT. As always, Mr Hargreaves is just wrong.

MR HIRD: I ask a supplementary question. Would the Minister be good enough to table the list that he has referred to? I think that would assist those opposite as to who is there and who is not there. I find it very curious that Mr Hargreaves has got it wrong. Would this be the first time that he has got it wrong?

MR SPEAKER: Order! The second part of the question is out of order.

MR SMYTH: Mr Speaker, I have the list of details here if members want to pursue it, but it is certainly not the first time Mr Hargreaves has got it wrong. And right from the start - - -

MR SPEAKER: I said it is out of order.

MR SMYTH: Right from the start there has been this constant litany of mistakes from Mr Hargreaves.

Bruce Operations Pty Ltd

MR KAINE: Mr Speaker, my question, through you, is to the Chief Minister. I refer to the question that I asked the Chief Minister last week about Bruce Operations Pty Ltd. In her rather flip response - as often she does when she gives a flip response - she, presumably inadvertently, misled the house to the extent that later she had to write to me and to all the other members to correct her answer. I seek leave to incorporate that response in *Hansard*, Mr Speaker.

Leave granted.

The document read as follows:

> Mr Trevor Kaine MLA
> ACT Legislative Assembly
> London Circuit
> CANBERRA ACT 2601
>
> Dear Mr Kaine
>
> Earlier today, in answer to your question during Question Time regarding Bruce Operations Pty Ltd (BOPL), I stated that BOPL was registered in the ACT.
>
> My answer was based upon advice provided to me by the Department of Treasury and Infrastructure. However, I have now been informed that the registration is in fact still in Victoria.
>
> I am advised that the Department had already issued instructions to change the place of registration of BOPL to the ACT but that these instructions had not yet been complied with. However, the registration is in the process of being transferred.

I have copied this letter to all Members of the Assembly.

Yours sincerely

Kate Carnell MLA
Chief Minister
cc – Members of the Legislative Assembly

MR KAINE: I would not want a future reader of *Hansard* to believe that the Chief Minister had misled the Assembly, so I would like to correct the record. I come to the bottom line. In an exchange, Mrs Carnell said, "I can answer the question any way I like", and you, Mr Speaker, said, "Yes, you can". There is a qualification to that. She must answer it truthfully, and this is a case where she failed to do so.

Mr Smyth: Mr Speaker, I take a point of order. Mr Kaine is implying that the Chief Minister has misled the Assembly. He should withdraw.

MR SPEAKER: Withdraw, please.

MR KAINE: Mr Speaker, I am tabling a document with the Chief Minister's signature on the bottom which proves that she did.

MR SPEAKER: It is now corrected.

MR KAINE: Having incorporated that in *Hansard*, if the Chief Minister takes offence at being proven to have misled the house, I will withdraw it. But in the same question, Mr Speaker - - -

MR SPEAKER: The correction was made.

MR KAINE: But not in *Hansard*, Mr Speaker. I want *Hansard* corrected. That is why I incorporated that document. In answer to the question - and I was talking about the remuneration of directors - the Chief Minister said:

> I made it clear that the remuneration is nil. No travel has been reimbursed and no benefits have been paid. That is a very easy zero dollar figure.

My question is: Is that a zero dollar figure because no director has travelled, say, from Sydney to Canberra to attend any meeting and therefore there has been no cost, or is it because the costs are reimbursed not by BOPL but from some other source?

MS CARNELL: Mr Speaker, it is my advice that nothing has been paid to the people; that the two people involved have not received any recompense or any payment from any source.

MR KAINE: I ask a supplementary question. I come back to the question that I originally asked. Will the Chief Minister table all resolutions of the board of Bruce Operations Pty Ltd that relate to remuneration of its members in any respect?

MS CARNELL: Mr Speaker, that question was asked last week.

Mr Humphries: Mr Speaker, standing orders state that a question, once asked, cannot be asked again. It has been answered.

Mr Kaine: So the Chief Minister will not table the resolution? Is that the answer?

MR SPEAKER: I will check to see whether the question has been asked.

Public Service - Merit Selection Process

MR HARGREAVES: I thank the Minister for Urban Services for a smack and a chop with a wet lettuce, with absolutely no effect whatsoever, and I thank you, Mr Hird. Mr Speaker, my question is to the Chief Minister. On 6 August last the head of the Chief Minister's Department advised ACT government staff that Mr Mick Lilley had been appointed chief executive of the new Department of Treasury and Infrastructure.

Ms Carnell: Acting chief executive.

Mr Humphries: Oops, there goes his question.

MR HARGREAVES: Hang on a second. I will just wait till the rabble cease their rabblery. On 24 August, in answer to a question from Mr Stanhope about Mr Lilley's appointment, the Chief Minister told the Assembly:

> ... the person who is heading up the new department headed up the old area of OFM. It is the same job …The Government has total faith in the person involved. He has performed extraordinarily well over the last few years …

Given the subsequent advertisement of the job Mr Lilley currently holds, chief executive of the Department of Treasury and Infrastructure, can the Chief Minister say what has changed in the Government's attitude?

MS CARNELL: Absolutely nothing. As members would know, in situations like this the Government always advertises these positions. We always go through a merit selection process, but there is absolutely nothing to prevent the Government from acting people in roles, which is exactly what we did in this situation. Mr Lilley was the acting chief executive. That is what you will find in the documentation. He was brought across because we have faith in Mr Lilley in that the job of heading up OFM and the job of

heading up the new area are very similar. Certainly, there are some extra responsibilities. There is no doubt about that. This Government is committed to advertising and using merit selection for all of our job selections in this sort of area.

Floriade

MR BERRY: My question is to the Chief Minister. Chief Minister, when will you acknowledge that Floriade attendances are disturbingly down because of your fingerprints all over the management of the festival - things like last year's disastrous introduction of fees dropped on an unsuspecting public and tourism industry at the last moment, which hit tourism operators and Floriade's stallholders and affected attendances; then this year the eleventh-hour announcement that night sessions were cancelled, another blow to operators who had already booked tours with night sessions; and the doubts over the future of the festival expressed by you, Chief Minister, and your early refusal to guarantee the future of Floriade? Will you, Chief Minister, stop the campaign against Canberrans because they refuse to accept the Government's mismanagement of Floriade? Will you, Chief Minister, table in the Assembly today the attendance figures for this year's Floriade? Is it not about time you accepted the responsibility for the continuing demolition of Floriade?

MS CARNELL: I have not received the final figures from CTEC about the crowd numbers at Floriade, so it is impossible to table them. I do not have them. What I can say is that we certainly are expecting the numbers to be down on last year. There is a very good reason for this. Firstly, this year's Floriade fell victim to some pretty unseasonable weather.

Mr Berry: Spring - it happens here every year.

Mr Corbell: It is spring. It rains in spring every year.

MR SPEAKER: Continue, Chief Minister.

MS CARNELL: Not while Mr Corbell continues to interrupt. The weather bureau has - - -

Mr Corbell: That is what happens in spring.

Mr Quinlan: It is called spring rain.

MR SPEAKER: Order, please! If you want to have a discussion, go outside into the lobby while the Chief Minister is answering the question.

MS CARNELL: The weather bureau has advised that it rained on 16 of the 30 days that the festival was running. In other words, more than 50 per cent of the outdoor event was disrupted by rain. The wettest days of all occurred on the October long weekend, the three-day period when traditionally the largest number of visitors come to Floriade. I know Mr Berry believes that I can do all sorts of wonderful things - possibly walk on

water and control the weather - but unfortunately, apart from Mr Berry, everyone knows there is nothing I can do about the fact that we had some 80 millimetres, or more than three inches, of rain during Floriade.

Mr Speaker, this answer also gives me the opportunity to give a few answers to other urban myths that have been promoted by Mr Berry about Floriade. The first urban myth is that the Government has reduced funding to Floriade. This is simply wrong. The Government provides $1.1m directly to CTEC for this event. There has been no reduction whatsoever. Secondly, Mr Berry claims that Floriade has shown a loss only under this Government. Wrong again. Under Labor in 1994, the last year that Mr Berry was in government, Floriade showed an operating loss of $200,000.

Finally, there was Mr Berry's statement on television last night that this Government was trying to get rid of Floriade by deliberately running it down. This is wrong. Under this Government Floriade has actually been expanded to include a record number of flowers - more than a million bulbs and annuals. Floriade now costs in the order of $2.5m to stage every year.

I know Mr Berry does not like the entrance fee, and I would have to say that obviously other Canberrans do not either. This Government has a choice. We could get rid of the entry fee and $750,000 out of the budget. Do we make Floriade $750,000 less expensive - in fact, take $750,000 off the $2.5m budget - or do we take $750,000 out of health or education or police? There is nowhere else for it to come from. In this year's budget, as Mr Berry would know, entrance fees did account for some $750,000 of the $2.5m budget.

Mr Berry obviously believes that a $10 entry fee for an adult who is not a pensioner or a student is far too much. What about the $15 entry fee to the Melbourne International Flower and Garden Show or the £40 entry fee to the Chelsea Flower Show in London? What about the $12 entry fee to the Royal Canberra Show? What about the $12.50 it costs to go to the movies?

Mr Humphries: They must have flowers, too.

MS CARNELL: They must. This Government has increased our funding to Floriade. It is a bigger event, a better event. If you throw in the Chihuly glass exhibition that ran very successfully as part of the event this year, you can see this Government's commitment. I have made it clear that Floriade will run in Commonwealth Park next year and the year after, but the only real way forward for Floriade, in my view, is to find a permanent site.

MR BERRY: I ask a supplementary question. If the Government are doing such a great job, why are people staying away in droves? Why is it that yesterday you would not go out and defend Floriade? Why is it that you will not provide the figures? Why is it that you sent a glove puppet out to defend Floriade when you would not do it yourself?

MS CARNELL: Mr Speaker, I would hope that that was not a comment about a public servant.

MR SPEAKER: Chief Minister, you have answered the question about the figures.

MS CARNELL: Mr Speaker, I would suggest that the supplementary question is out of order in that it has an innuendo. In fact, it probably contravenes about three different standing orders.

MR SPEAKER: It came in four parts, as I recall, one of which had been answered. Another one certainly contained an innuendo.

MS CARNELL: Mr Speaker, I would like the question ruled out of order because it is out of order.

Mr Kaine: On that point of order, Mr Speaker: The Chief Minister seems to have a double standard. Following the document I just tabled, in which she had to correct an answer in *Hansard*, she attributed her error to a public servant in her department. It is okay for her to do it but not for Mr Berry.

MR SPEAKER: There is no point of order, Mr Kaine.

Mr Berry: And I have not referred to a public servant, Mr Speaker.

MR SPEAKER: You claimed.

Mr Berry: I said Mrs Carnell sent out a glove puppet, somebody to do her bidding. They do exactly what you want them to do.

MR SPEAKER: The question is out of order.

Security Cameras

MR OSBORNE: I will get Mr Berry to come over and put my kids to bed with that little glove.

MR SPEAKER: Do not encourage him, Mr Osborne. Ask your question.

MR OSBORNE: If you do come over, just hide that dial of yours. They will have nightmares if they see that before they go to sleep. My question is to the Attorney-General regarding the use of security cameras in public places in Canberra. Mr Humphries, based on information obtained through a series of questions on notice from me, over the past three years it appears that there has been quite a large rise in the number of security cameras used in public places in Canberra. In 1996 there were 213 security cameras operating in Canberra in 21 public locations. As at the beginning of this month, there are now over 366 cameras operating in 35 locations, with an undisclosed number operating at the Road User Services building in Dickson. This

represents an increase of about 75 per cent. In 1996 it was discovered that the majority of these cameras were not covered by signs which notified the public that they were under surveillance. Given that some of the answers to my last question on notice, No. 187, were incomplete and in light of stated government policy, can you give the Assembly an assurance that all government agencies have erected signs which effectively notify the public that they are under surveillance and that personnel who monitor the cameras have been properly trained? I refer you to *Hansard*, Attorney-General. In 1997 you said:

> We agree that any public place monitoring by CCTV should be undertaken by properly trained personnel. We agree that signs should be put in place to alert the public to the presence of CCTV monitoring in public places.

MR HUMPHRIES: I thank Mr Osborne for that question. I think the matter that I was discussing with respect to the training of personnel and the erection of signs was specifically in relation to the proposal to put cameras in Civic, but there is no reason why the comment should not also apply to cameras installed elsewhere. I do not think Mr Osborne was suggesting to the Assembly that all 366 cameras he referred to have been erected by the Government. I understand that some have been erected by others, including the Commonwealth Government, and perhaps private sector organisations – I am not sure. I cannot remember the details of the answer I gave him on that score.

Without checking, I cannot verify that all the cameras are accompanied with signs indicating that they are being used or that the personnel who operate them have been trained. What I can indicate is that that is the Government's view about the way in which cameras ought to operate in a trial of cameras in Civic, on which we have had much discussion in the past in this place. We should develop appropriate guidelines to cover the use of cameras, particularly in the public domain.

The Commonwealth Privacy Act, which applies in the ACT, has some impact on the way in which cameras are used by the private sector. If there are deficiencies in that Act - and I would not exclude the possibility that there could be deficiencies in it - it is open to us to consider expanding on the privacy regime that covers the use of cameras in shopping malls or shops and outside banks and places like that. It is not an easy matter. It is a Federal Act and whether we can supplement that or have a different set of arrangements in addition to those in the Commonwealth Act, which may be amended from time to time, is a matter we are going to have to look at very carefully.

I know members in this place have talked in the past about creating our own ACT privacy Act, but I am not sure whether that would be an appropriate response, given that the Commonwealth Privacy Act is comprehensive and there is a Commonwealth Privacy Commissioner who supplies the ACT with privacy commissioner services.

It is my intention later this week to table the protocols that the Government has developed in respect of the use of cameras in Civic. Members will have a chance to look at those and decide whether they are what they wish them to be and to give the Government their views on those things. In due course members may wish to consider whether that should be in the form of legislation. Given that we are trialling a concept in the Civic area, it is not appropriate to put that legislation just yet, since the idea will naturally change as we see what is actually used. We may find that it is better to leave the guidelines flexible and then come back and put them in legislation if that is what we collectively believe is appropriate.

Grassy Woodlands

MS TUCKER: My question to the Minister for Urban Services relates to the proposed development of the Conder 4A estate and the extension of Templestowe Avenue to join Charterisville Avenue in Conder. Minister, as you would know, this development will occur through an area of endangered grassy woodland that has been rated as high conservation value in the draft action plan for the grassy woodland endangered ecological community and has generated considerable community concern. I understand that a petition of over 900 names has been collected opposing this development. That petition will soon be presented to the Assembly. You would also be aware that a complaint has been lodged with the Commissioner for the Environment, who is currently discussing the matter with the complainants and your department. In light of the commissioner's investigation and the public concern, will you put a moratorium on this development until the commissioner has completed his inquiries and until the draft action plan for the grassy woodland endangered ecological community is finalised?

MR SMYTH: I am not aware that the Commissioner for the Environment is conducting an investigation. He is still considering whether or not he should, and I will await his answer.

MS TUCKER: I ask a supplementary question. Mr Smyth, you have been claiming that the proposed development reflects balance between conservation and development. Given that only 3 to 4 per cent of original woodlands are left and only 5 per cent of grasslands remain in moderate to good condition, will you admit that the balance is already well gone and will you still be arguing, when there is only one per cent left, that you should take out 0.5 per cent because it is about balance?

MR SMYTH: I do not have the exact figures here, so I rely on my memory. The yellow box and red gum communities around Australia are reduced to some 8 per cent of the original coverage.

Ms Tucker: I am talking about Canberra.

MR SMYTH: Please, let me be allowed to answer the question you asked. I will give it to you in perspective, unlike you do with many things. The ACT, I believe, has 32 per cent of its original yellow box and red gum communities still in existence. Of that 32 per cent, some 91 per cent is either in reserve or off reserve in areas where they

should be reasonably safe. They will be protected under land management agreements or they are protected through the Nature Conservation Act. That leaves 9 per cent of our 32 per cent in areas that will be considered for future use.

The important thing is that we get balance. If we want to say that it is appropriate to save everything, then everything stops in Canberra right now. It is about making sure that what we contain, what we save and what we concentrate our efforts and our resources on is making sure that we protect a full suite of the various sites that are necessary to maintain biodiversity; that we have a full suite and connectivity so that you have the corridors that allow the transit of animals and wildlife and birds from area to area; that we make sure that we contain the best of these sites. It is not necessary to save every single site.

Canberra is a diverse city. It is spread out, and we have specific areas already zoned residential, industrial or for whatever purpose. Some of these sites, as Ms Tucker points out, are covered by the draft plan. What the Government has to consider is how best to manage that reserve. This is the Government that shifted an entire town centre to save grasslands. They made the right decision. The former Minister for the Environment, Land and Planning is here. He made the right decision. The process that delivered that decision is the same process that delivers the decision that says it is appropriate to develop part of Conder 4A.

We do not get the full story here. We never get the full story. It is not acknowledged that in part of Eaglemont we have a beautiful knoll with two naturally occurring gullies on either side. This is a very high conservation site that will be saved. Some four hectares off the top will be put back into the reserve. A dozen hectares up on the Theodore saddle will have work done on it to try to return it to its natural condition.

What we have here is not, strictly speaking, a yellow box and red gum grassy woodland. It is an interesting grassland site. It is a modified site because it has had grazing over it. It is not necessarily in its original condition. On the advice the Government gets from its advisers it shifted an entire town centre, and according to everybody we got that right. Yet when the same advice says that it is acceptable to save some of this land yet allow the rest of the development to go ahead the Government gets it wrong. You cannot have it both ways. The process worked in Gungahlin and the process has worked at Conder.

SACS Award

MR WOOD: Mr Speaker, my question is to the Minister for Education. It refers to the longstanding and continuing difficulties around the implementation of the SACS award and it concerns your commitments to community agencies. The Minister will know that this goes back a long time and that the impacts appear to be increasing. Minister, if you test your memory here, at the time when the first stage of the award was implemented, did your agencies provide additional resources to the community bodies to help cover that first stage? Moving on, will further resources be provided to cover continuing

implementation and implementation at different levels? If you will provide additional resources, what might they be? To wrap it up, in such funding, if you do provide it, is there a commitment fully to cover the cost of the award? What were the principles behind such funding as you provided?

MR STEFANIAK: I thank the member for the question. The member may recall that the Government gave certain agencies the SACS award where that was necessary by legislation and the nature of those agencies. We made it quite plain then that implementing the SACS award across every single area of activity that we supported various non-government agencies in was not necessarily going to happen. We encouraged agencies and offered agencies assistance in how they would best provide services and take into account pressures, such as the SACS award, they were facing.

The Government made it quite plain that the implementation of the SACS award and the payment of salaries in line with the new award structure were the managerial responsibility of non-government organisations. The Government regards the provision of services by those organisations as crucial and has put service purchasing initiatives in place to clarify and strengthen that role. Service purchasing contracts that have recently been finalised with non-government organisations take into account such things as the services that are being provided to our community here in Canberra and the ability of non-government organisations to provide services that are inclusive of the costs of applicable industrial awards.

Since October 1995 boards of management have been strongly encouraged to consider various efficiency measures within their existing funding levels to meet any additional costs associated with the implementation of the award. Things they have done - and I think they have done them pretty successfully - include reviewing staffing and their operational structures, making quite significant attempts to achieve administrative efficiencies, undertaking robust negotiations in staff management and completing a reasonable translation of each position to the appropriate level under the SACS award. That is very important. Some of the agencies readjusted their levels in line with what was happening interstate, in line with what was more appropriate, and that assisted them immensely.

We provided the Chamber of Industry and Commerce with some funding so that they could provide information and provide assistance to non-government organisations to complete the translation process. Additionally, we funded ACTCOSS and also the ACT Youth Coalition to develop and deliver training programs for boards of management and service directors covering areas such as the implementation of the SACS award and, Mr Wood, you might be interested to know, in implementation of the Workplace Relations Act and implementation of service purchasing arrangements.

MR WOOD: I ask a supplementary question. We know what efficiency measures mean, do we not? It has become harder and harder. Minister, you might put your department on notice that at estimates time we will ask for the - - -

MR SPEAKER: Order! Ask your supplementary question.

MR WOOD: We will ask for the details of every dollar allocated. My supplementary question is: Minister, have a number of organisations been told by your department that they will not receive the supplementary funding for the pay and other increases they are legally required to pay and that instead they must fund the increases out of existing dollars by reducing staff hours worked and the level of service to clients and the community?

MR STEFANIAK: Mr Wood, I am interested in why you raise this now, unless you simply do not have too many questions that are worth asking and you are clutching at straws. There was a lot of consultation, a lot of assistance was given and a lot of reimplementation was done by agencies some time ago. It is interesting, Mr Wood, that this is not a particular problem which has been raised with government for many months.

One thing you might be interested in is that additional funding was available to purchase services at an increased cost in the substitute care area. The Government has a commitment to that under the Children's Services Act 1986. Accordingly, that was provided. You might recall that that was provided several budgets ago, Mr Wood. In areas of government where the SACS award was relevant, a range of things I have just gone through were put in place to assist agencies. The agencies have done a very good job in adjusting.

Safe Injecting Room

MR RUGENDYKE: My question is for the Health Minister, so I guess it is now for the Chief Minister. In regard to your proposed drug injecting room, what budget costings have been done, how much do you forecast it would cost the ACT taxpayers for the first year, and how much would it cost for a two-year period as proposed by Mr Stanhope?

MS CARNELL: My understanding is that the costs for the safe injecting place are about the half-million dollar mark, based upon the legislation put forward. As I am yet to be made totally aware of Mr Stanhope's recommendation or ideas, I simply cannot give you that information, but if Mr Moore can I am sure that he will.

MR RUGENDYKE: I ask a supplementary question. Chief Minister, how does the Government feel about Mr Stanhope and the Labor Party hijacking and taking over your drug injecting room agenda?

MS CARNELL: The Government is always happy to share good ideas.

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

Bruce Operations Pty Ltd

MS CARNELL: Mr Speaker, I would like to give some more information with regard to Mr Kaine's question. Within the CMD annual report the financial statements for BOPL are published. This report was tabled last week. I table a copy for the information of members. Mr Speaker, I refer you to note 4, "Remuneration and retirement benefits". This shows that no benefits were paid in the year ending 30 June 1999. Mr Kaine seems to believe that there is something strange going on with regard to remuneration. Quite simply, remuneration is not paid to members, and meetings are held when Ms Ford is available and in Canberra. No special trips are made back to Canberra for Ms Ford to attend these meetings. Benefits are not paid to Ms Ford in respect of her attendance at BOPL directors' meetings.

CityScape

MR SMYTH: I have some additional information in answer to Mr Hargreaves' question on disabled workers at CityScape. Three teams of workers from Koomarri are currently engaged in the horticulture section of CityScape. These teams were initially engaged on yearly contracts. However, these contracts expired six months ago, and they have been renewed on a monthly basis since then. The proportion of disabled workers in CityScape has increased over recent years from 4.9 per cent in 1997 to 7.1 per cent, and at present there is no intention to terminate the contract of these workers, provided the current level of work is maintained.

Section 56 - Tenders

MR HUMPHRIES: Mr Speaker, on 13 October I took a question from Mr Corbell about how many public comments have been received on the short list of tenderers for section 56 in Civic and what the criteria for assessing those tenders were. I table the answer.

PERSONAL EXPLANANTION

MR QUINLAN: I wish to make a personal explanation, Mr Speaker.

MR SPEAKER: Proceed.

MR QUINLAN: In debate on the last sitting day on the extension of the reporting date for the review of the Financial Management Act, Mr Humphries persistently claimed that Mr Stanhope and I had expressed outrage and concern regarding the Act. I think I should repeat a few quotes from Mr Humphries last Thursday. He said:

> … review of the operation of the Financial Management Act was, at the time it was moved in this place, a matter of great importance to the Opposition … Mr Quinlan and Mr Stanhope were adamant that the shortcomings and inadequacies in the Financial Management Act needed to be redressed.

… … …

> … a general concern about a number of aspects of the legislation.

… … …

> Given the intonations of outrage and concern from Mr Stanhope and Mr Quinlan from the table back in May of this year about how desperately important it was to get this review of the Financial Management Act under way ...

You were gravely concerned about what the Act was all about. Let me advise the Assembly that in debate on 6 May there were two speakers. One was Ms Tucker and one was Mrs Carnell. My involvement in the debate was limited to moving an amendment without a supporting statement. I would rather expect that Mr Humphries would recant and withdraw those florid statements made last Thursday. They were entirely incorrect. I would not have brought this topic up had it been an isolated incident, but it seems to be that we ought to bring into - - -

Ms Carnell: I take a point of order. This is no longer a personal explanation.

MR QUINLAN: I was personally explaining why I brought up a personal explanation. I really think that we should incorporate into the language "You have been Gary-ed" or something which means "thoroughly misrepresented and then beaten up". Feel free to use the term, members.

MR SPEAKER: You have more than finished your personal explanation.

STANDING ORDER 54 - OFFENSIVE WORDS
Statement by Speaker

MR SPEAKER: Last Wednesday, 13 October 1999, during debate on the Children's Services (Amendment) Bill (No. 2) 1999, I made a number of rulings in relation to standing order 54 following the raising of a point of order by the Attorney-General. Standing order 54 states that a member may not use offensive words against the Assembly or any member thereof or against any member of the judiciary.

House of Representatives Practice, Third Edition, states at page 479 that the practice of the House of Representatives is that reflections upon the conduct of a member of the judiciary cannot be made, unless discussion was based upon a substantive motion. However, *House of Representatives Practice* also states at page 430 that judges, by convention, are expected to refrain from politically partisan activities and to be careful

not to take sides in matters of political controversy, and that if a judge breaks this convention a member may feel under no obligation to remain mute on the matter in the House.

On Thursday of last week, Mr Osborne presented copies of a press release issued by the Chief Magistrate and a newspaper article relating to the passage of legislation by the Assembly relating to a Children's Court magistrate in which the Chief Magistrate expressed the hope that "resolution of the present debacle can be urgently attended to by those responsible". Ms Tucker also presented copies of letters written by magistrates on the matter.

Having considered the matter, I am prepared to allow debate to encompass the press statements and correspondence of the Chief Magistrate and magistrates circulated to members. However, in debating the matter, I call upon members to refrain from using offensive words or reflecting on the judiciary personally.

CANBERRA TOURISM AND EVENTS CORPORATION - BUSINESS PLAN FOR 1999-2000
Paper

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the Canberra Tourism and Events Corporation business plan for 1999-2000.

PAPERS

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): For the information of members, I present guidelines for the classification of publications, dated 23 July 1999, prepared in accordance with the Classification (Publications Films and Computer Games) Act 1995 of the Commonwealth.

I also present, pursuant to standing order 83A, an out-of-order petition lodged by Mr Hird, from 448 citizens, concerning a proposed eastern extension of the Gungahlin Parkway through O'Connor Ridge.

MAGISTRATES COURT AMENDMENT BILL (NO 2) 1999

Debate resumed from 26 August 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR BERRY (3.31): Mr Speaker, this Bill is one of the classic examples of catch-up legislation that have come to the notice of this place. This Bill arose out of the discovery by Labor of a period of inaction by the Attorney-General in relation to two other important pieces of legislation which have been endorsed in this place. I refer to the

Occupational Health and Safety Act and the Dangerous Goods Act, which, members will recall, were amended in this place with retrospective effect to deal with an omission, either deliberate or by incompetence, in relation to those - - -

Mr Humphries: Mr Speaker, I take a point of order. I think the suggestion that there may have been a deliberate omission in - - -

MR SPEAKER: It is quite offensive.

Mr Humphries: Yes, it is, and I think that it should be withdrawn.

MR SPEAKER: Yes, please, Mr Berry.

MR BERRY: Mr Speaker, offensive or not - - -

MR SPEAKER: No, Mr Berry, the suggestion is that it was deliberate.

MR BERRY: Okay. I would have to say that it was either deliberate or due to incompetence, whichever you like. You cannot - - -

MR SPEAKER: Look - - -

MR BERRY: What do you want me to do?

MR SPEAKER: Just withdraw the word "deliberate".

MR BERRY: Okay. Incompetence will do, then, okay.

MR SPEAKER: I do not know whether Mr Humphries is going to take offence at that.

MR BERRY: Mr Speaker, no action was taken in relation to this matter. We learnt about the result of this inaction when it was explained in the *Canberra Times* that, because of the limitation period prescribed in the Magistrates Court Act, people would not be able to be prosecuted under other Acts which did not have specific reference. In the case of the Occupational Health and Safety Act, it had not expired when the Attorney-General was first notified about it, but it did expire later. In the case of the Dangerous Goods Act, I think we managed to amend it before it expired.

In any event, there was much protest from the Attorney-General about the need for retrospective action in relation to one of those pieces of legislation, or both, to ensure that they applied. The remedy provided by the Labor Party in this case was what was intended in the legislation in the first place. The Attorney-General was deeply embarrassed about having been found out in relation to this inaction over something that

had been brought to his attention and bayed continually about the retrospective nature of what Labor was doing, which, of course, was aimed at fixing up the mess that he had created.

One of the things that emerged from that process, as I recall it, was a legislative program which included, mysteriously, the Magistrates Court Amendment Bill which we have before us now. The Magistrates Court Amendment Bill goes on to deal with a range of pieces of legislation which have been set out by the Minister. That is a good thing and I think that it is a positive outcome for something which initially was attacked by the Labor Party.

There is no doubt that this has been an embarrassing moment for the Attorney-General. Many of his peers were highly critical of the Attorney's inaction on this matter. The Attorney said that the reason that the Labor Party was doing this was that we had our sights on somebody high up the ladder. I think he even suggested at the time that it might have been the Chief Minister. By his own words, he was saying that he was trying to prevent the Chief Minister and others from being exposed to the elements of the occupational health and safety legislation which would have applied.

Mr Humphries: Mr Speaker, I rise to a point of order.

MR SPEAKER: Mr Berry, that is an offensive suggestion.

MR BERRY: What? No, it was Mr Humphries' suggestion. I did not make it in the first place. He said - - -

Mr Humphries: I made no such suggestion, Mr Speaker. I have not indicated anything at all affecting the Chief Minister in respect of that. I did not indicate what Mr Berry has just risen to say that I said and it is offensive.

MR BERRY: Okay. I will not withdraw it, Mr Speaker, because it is on the public record and I will dig it out later, if you would like.

Mr Humphries: It is not on the public record at all.

MR BERRY: Yes, it is, mate.

Mr Humphries: It is not.

MR BERRY: The ABC?

Mr Humphries: Mr Speaker, it is not on the public record and I ask Mr Berry to withdraw it.

MR SPEAKER: Yes. Please withdraw it, Mr Berry.

MR BERRY: Withdraw what and why?

Mr Humphries: What you just said.

MR BERRY: Offensiveness has never been a guide to withdrawing things here.

Mr Humphries: Yes, it has.

MR SPEAKER: Mr Berry, I suggest that you withdraw it because the position is that if you subsequently find that it is on the public record, and Mr Humphries indicates that it is not, you will have ample opportunity to bring it back. In the meantime, please withdraw it.

MR BERRY: I withdraw it, Mr Speaker, but I will say that Mr Humphries said that it was aimed at people in high places. He will recall that.

Mr Humphries: No.

MR BERRY: No? Okay, I withdraw that, too. Say it again, "I never said that". Say that again.

Mr Humphries: Mr Speaker, I have to clarify what is being said here for the sake of the record because Mr Berry is casting aspersions - - -

MR SPEAKER: I am getting very tired of this. We have a lot of work to do and you are continuing to provoke, Mr Berry. Just withdraw it. Let us get on with the Magistrates Court Amendment Bill and leave out the personal attacks.

MR BERRY: Mr Speaker, I object to that. This is not a personal attack. This is about an important part of the making of legislation in the Territory. I withdraw it.

MR SPEAKER: Thank you. Let us get on with it.

MR BERRY: Mr Speaker, it was an embarrassing moment for the Attorney-General, which has been highlighted by his bringing this Bill into the place to make it look as though he was doing something to repair the situation. I acknowledge and Labor acknowledges that his search has turned up a number of other pieces of legislation that might be affected were there to be some coronial inquiry, judicial inquiry, board of inquiry or royal commission and it was a long one. It would have been a good idea if the Attorney-General had used the same sort of logic when he was told that there were problems with the occupational health and safety legislation and the dangerous goods laws in the Territory, but he did nothing.

Mr Speaker, I am happy to have been a part of the debate to improve the legislative program in the ACT and to have goaded the Attorney-General into some action because it is clear that he has not been interested in doing so in the past in certain selective cases,

particularly so in relation to the coronial inquiry into the fatal implosion of the old Canberra Hospital. That was a disgraceful episode which I think brought the Government into disrepute - - -

MR SPEAKER: Relevance!

MR BERRY: It brought the Government into disrepute - - -

MR SPEAKER: Relevance! Magistrates Court Amendment Bill (No 2)!

MR BERRY: Mr Speaker, the fact that the Government failed to act on this important area of law-making was an indictment of its position in relation to these laws. Mr Speaker, we will be pleased to support this legislation, which will close an unfortunate chapter in the making of legislation in the ACT.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.40), in reply: Mr Speaker, in closing this debate, I am pleased that Mr Berry is prepared to support the legislation. Of course, with great respect, he has very little choice but to support it because it is almost identical to legislation that he brought forward in this place to amend the Occupational Health and Safety Act and the Dangerous Goods Act. But there is a crucial difference between this Bill and the Bill which was ultimately passed by the Assembly to amend the Occupational Health and Safety Act. The difference, Mr Speaker, is that that Bill was made retrospective and this Bill is not.

On the occasion of the last debate about this matter we had a long and rather convoluted argument as to why the traditionally hostile attitude of this place towards adverse retrospectivity, particularly in respect of criminal matters, ought to be suspended in relation to that Bill. In the past we had opposed the idea of criminalising or recriminalising the acts of others after they had committed those acts, whereas on that occasion it was felt appropriately important to suspend that principle and make retrospective the provisions of that piece of legislation. Strangely, today, when exactly the same piece of legislation comes forward, there is no amendment from the Opposition to provide for that retrospectivity.

Mr Berry has repeated the assertion that the Government was inactive; in particular, that I was inactive.

Mr Berry: Incompetent, too. Incompetent.

MR HUMPHRIES: You mentioned the word “inaction” about five times in your speech, Mr Berry. The word you used particularly was “inaction”, that there was inaction on the part of the Government when it came to producing the necessary legislation to fix that problem. If that was a problem then, the problem now is that the Opposition is inactive on precisely the same question of retrospectivity that it dined out on just a few short months ago. If it was so vitally important that the Occupational Health and Safety (Amendment) Bill 1999 contain a provision for retrospective operation of the Bill, why does this Bill not also contain the same provision?

Mr Speaker, the argument that the Government used on the last occasion was that adverse retrospectivity is anathema, particularly in respect of criminal matters, and should not without very good reason be proposed by the Assembly or passed by the Assembly. On that occasion, the view of the Government was ignored. The opportunity arises today to deal with the same issue and the members of the Labor Opposition choose not to take the approach they took on the occupational health and safety legislation.

What are we to conclude from that, Mr Speaker? Only that the bringing forward of the retrospective amendments to the legislation on the previous occasion was a stunt on behalf of the Opposition. It was all about suspending that important principle of parliamentary operations in order to get the Chief Minister and get various targets in respect of the Royal Canberra Hospital implosion. That is all it was about. Mr Berry's sly little smile across the way confirms that that is exactly what the Opposition was about on that occasion. So be it, Mr Speaker.

I would have thought that you would have covered yourselves a bit better, though, in the little game that you are playing by at least making a semblance of moving retrospective amendments to this Bill as well; but no, Mr Speaker. I think that even they realise that what they had done on the previous occasion with respect to retrospectivity and adverse retrospectivity being imposed on individuals for acts already committed was a pretty serious breach of good practice in terms of law-making and have decided that one commission of that kind in one year is enough.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR BERRY (3.45): Mr Humphries, in his speech at the in-principle stage, tried to make the point that there was some similarity between the laws that this legislation might affect and the legislation which was introduced by Labor earlier relating to the Occupational Health and Safety Act and the Dangerous Goods Act. Of course, it is quite different and the record needs to be made very clear in relation to this matter. No matter what honeyed words Mr Humphries seeks to use or what web of deception Mr Humphries seeks to create, the facts are quite different. If Mr Humphries has not had this burned into his psyche he should listen up. In the course of a coronial inquiry into one of the most tragic events in the ACT's history - a long inquiry, longer than any other inquiry of this nature has ever been, and it may well set a pattern for future inquiries - it was discovered that there was a problem with legislation which may well have directly affected those people who might be subject to prosecution under a couple of relevant laws. Those two laws were the Occupational Health and Safety Act - this is not

a mystery; these are facts - and the Dangerous Goods Act. The coronial process turned up a failure of the Government to deal with them. They were drawn to the attention of the Government first. I think the coroner wrote to the Attorney-General and said, "This is going to run out if you do not fix it".

Mr Humphries: He did not say that at all.

MR BERRY: He wrote to the Attorney-General and drew it to the attention of the Attorney-General. The Attorney-General did not take satisfactory remedial action to repair the situation - in fact, he just sat on his hands - and the option to prosecute under the occupational health and safety legislation ran out. No penalties were changed. Nothing was changed in respect of anybody who went into that inquiry. All it set out to do was to extend the time limitation; that is all it did. There was much argument about whether it was a procedural or retrospective change to the law. I argued that it was procedural. Mr Humphries argued that it was a retrospective change to the law which impinged upon the civil liberties of people. As it turned out, the Assembly voted in favour of the argument that Labor put, thankfully. I think members were very sensible in the approach that they took. Are you allowed to reflect positively on past votes?

MR SPEAKER: It would be most unusual.

MR BERRY: I just did. I just wondered whether I could get away with that one.

Mr Humphries: Why not try it anyway, as you usually do?

MR BERRY: It is always about testing the water, Mr Humphries, and that is, in fact, what happened here. The testing had to be done because it was an important issue that was raised by the coroner and brought to the attention of the Attorney-General, who did nothing. This minority Government then had to be held in check. The Assembly, in its wisdom, sorted out the matter and put the laws back to the original intention. That is not what is being done in the case of the current legislation. It does not take away from the propriety of this legislation. We think that it is a positive move. But do not try to re-create history because there is nothing in this legislation which has a history such as that which gave rise to the moves to fix up the mess that was created by the incompetence of the Government in relation to those other pieces of legislation, the occupational health and safety legislation and the dangerous goods legislation, which this Assembly, in its wisdom, passed.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.50): Mr Speaker, I am happy to respond to those issues. The issue that Mr Berry raised to distinguish the situation with the Occupational Health and Safety Bill and this Bill is, as far as I can work out, that in the case of the former the coroner raised the issue of the problem of the time period elapsing and, therefore, because the coroner had raised the issue, it was all right for the Assembly to legislate retrospectively, bearing in mind that the coroner raised the issue before it became retrospective - - -

Mr Berry: Yes, and you did nothing.

MR HUMPHRIES: Okay, your argument is that I did nothing. When the Assembly came to act as it did, it had to retrospectively reimpose those. The coroner did not ask for that. The coroner simply drew attention to the fact that the period of the capacity to launch any prosecutions was running towards its end. That is the only issue you raised. You did not ask the Assembly to legislate retrospectively. If the Assembly chooses, as Mr Berry does, to blame the Government or the Attorney-General for the fact that it was not done before the limitation period expired, it is, frankly, poor form to blame the coroner for a decision that Mr Berry and some of his colleagues made to legislate retrospectively in this place.

The second point I raise, Mr Speaker, is that if Mr Berry felt that the retrospectivity of this legislation earlier this year - - -

Mr Berry: Mr Speaker, I think the insinuation was that I blamed the coroner for this. I have been busy blaming the Government, but I did not blame the coroner.

MR HUMPHRIES: Mr Speaker, I argue that that is exactly what he has done now; he has said that the coroner's request was - - -

MR SPEAKER: This is a very esoteric debate between you two gentlemen.

Mr Berry: Thank you, Mr Speaker.

MR SPEAKER: I am wondering whether you should go outside and have it.

Mr Berry: No, you are not allowed to do that any more.

MR SPEAKER: Mr Humphries.

MR HUMPHRIES: I can understand Mr Berry's embarrassment here and why he would like to change the subject, but the fact is that the coroner was not responsible for the decision that the Assembly made to retrospectively recriminalise the acts of individuals associated with a particularly tragic incident in 1997. It was the Government's decision that that retrospectivity should not be adopted and the Assembly's view was other than that. That is fine, Mr Speaker, but where is the consistency?

Let me put this question to Mr Berry or, rhetorically, to the Assembly. If the coroner's expressing of a view before the matter was retrospective in nature was the critical element that justified the Assembly retrospectively taking away people's rights, why did not Mr Berry or any of the other members of the Labor Party, or any other supporters of this legislation, actually say that when it was going through the Assembly? None of the members of this place argued that that was the critical element for having retrospective legislation.

I have been through the *Hansard* to see what was said on the previous occasion and no-one made that point. Ex post facto, trying to distinguish that occasion from this occasion, they have come up with a formula which is vital, apparently, to the operation of retrospective legislation in this place, but which was not mentioned on the occasion it was actually used. It was not mentioned, Mr Speaker. The fact is that there is no distinction between these two occasions. If it was proper to retrospectively extend these rights or remove these rights earlier this year, in April, then it is equally proper to do so now. But those opposite have not got the guts to follow through on the iniquity of what they did last time round by doing so again, and the record will show their inconsistency on this matter.

I wish to make one last point, Mr Speaker. This is not the end of the issue about retrospectivity. I have written to Mr Stanhope and, I think, to others on the crossbench, at least others in this place who supported the retrospective amendment to the legislation in April, and pointed out that another issue of retrospectivity of exactly the same kind has arisen recently, that is, the potential prosecution of a number of people for sexual offences committed between, I think, 1976 and 1985. Prosecutions will not now go ahead unless members choose to retrospectively reimpose provisions which provided for expired limitation periods, that is, that they re-establish the criminal nature of those acts which, allegedly, were performed between 1976 and 1985. That is exactly the same issue, precisely the same issue, and I am yet to hear from any of the members I wrote to inviting them to consider whether they would retrospectively legislate in respect of that matter. Mr Speaker, it will not be the last matter where this arises. There will be other occasions as well and members ought to consider what kind of precedent they have set in respect of that matter.

MR BERRY (3.55): Humiliation has a lasting effect on Mr Humphries. He did write to Mr Stanhope, trying to goad him about ancient events and laws that were made before self-government. Mr Speaker, there is no way that history can be changed merely by a couple of speeches and a couple of protests by Mr Humphries in relation to this matter. If Mr Humphries believes that there is something which the Attorney-General, the first law officer of the ACT, should deal with in relation to those matters which he raised in correspondence, perhaps he will try to deal with them. Apparently, Mr Humphries has been deeply scarred by the events - - -

MR SPEAKER: I am sick and tired of this batting back and forth, playing the man not the ball. I want the Magistrates Court Amendment Bill (No 2) put to the Assembly.

MR BERRY: You will get the chance to vote for it in a minute, Mr Speaker. No matter how much you protest, it is not going to change history. It was discovered in the course of the inquiry - - -

MR SPEAKER: I am ruling this conversation out of order.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.56): Mr Speaker, I have to put on record a matter relating to the activities of the court at the moment. It is important that I do so.

MR SPEAKER: Very well.

MR HUMPHRIES: Mr Berry has suggested that the matters I have written to Mr Stanhope and others about are ancient history and not relevant because the acts occurred before self-government. I want to put on the record very clearly that the prosecutions I have referred to in that correspondence are prosecutions which are actually under way now or at least have been under way until recently - - -

Mr Berry: Why do you not do something about it?

MR HUMPHRIES: Because I do not believe that it is right to recriminalise, but you do.

Mr Berry: No, we do not.

MR SPEAKER: Order, please! I will not have debates across the chamber. I want this legislation put. Mr Humphries, you may do what you need to do in relation to the court and that is all.

MR HUMPHRIES: Thank you, Mr Speaker. I make it clear that the issues concerned with those prosecutions are not inactive, they are not ancient history; they are currently before our courts.

Bill, as a whole, agreed to.

Bill agreed to.

CHILDREN AND YOUNG PEOPLE BILL 1999

[COGNATE BILL:

> CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENTS) BILL 1999]

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

> 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 order of the day No. 5, Children and Young People (Consequential Amendments) Bill 1999? There being no objection, that course will be followed. I remind members that in debating order of the day No. 4 they may also address their remarks to order of the day No. 5, Children and Young People (Consequential Amendments) Bill 1999.

MR RUGENDYKE (3.59): I view this Bill as an extremely important step in the area of care and protection for children in our community. As my colleagues are aware, children's welfare is an issue in which I have a great deal of interest and I look forward to the implementation of this Bill. This Bill is a significant move in the advancement of child welfare matters in the spirit of best practice, with the paramount consideration being the best interests of the child.

Overall, I am supportive of the Bill. I am supportive of the intentions on the basis that this area has to be looked at, reviewed and updated to ensure that we have the best possible laws and procedures to protect our children, particularly children at risk. I view this Bill as a means of implementing flexible and responsive approaches to dealing with cases, rather than simply labelling and categorising children.

Mr Speaker, I will be looking with interest at several matters once this Bill is implemented, one of those matters being the distinction between 12- and 18-year-olds, which is dealt with in clause 7. I am told that 18-year-olds simply do not like to be called children. I will watch with interest how that clause is interpreted by others. I will be interested in seeing how the concept of parental responsibility pans out. Apparently, there are other new concepts, some of which are modelled on the Law Reform Act.

I foreshadow that I will be introducing amendments which refer to the role of carers in child welfare matters. The thrust of those amendments is twofold. The first part of my amendments mirrors the Children's Services (Amendment) Bill (No. 2) which was debated in the Assembly last week. These amendments relate to the provision of a children's magistrate. They are primarily administrative and are designed to give the court more flexibility in the day-to-day running of the children's magistrate cases. I believe that that will help us overcome the teething problems that have occurred in the introduction of the children's magistrate.

The second part of my amendments refers to carers. They define, enhance and clarify the role of carers in the context of the new Bill. The amendments recognise for the first time that the child welfare system is built around carers and carers are an integral part of the child-care system. In fact, in lots of ways the carers are the ones who make this system work. These amendments ensure that for the first time the status of carers is recognised.

I am also seeking to open up the ability of carers and other people with a significant role in the life of children to make applications to the court. That is possible under the existing Act. Under this Bill, that provision is being removed and only the chief executive of Family Services can make application orders. I propose to open up court access to give carers and other relevant parties the right to be heard, with the power remaining with the court to decide whether it is appropriate for such a person to intervene.

Mr Speaker, I must draw attention to the people that have worked on this Bill. The process has been a long one. There has been a lot of consultation and the provisions have been considered by many people. A number of people provided input on the Bill. I mention Jo King, who was involved early in the discussions, and Stephen Goggs, with whom I have had a great deal of negotiation in this matter. I mention also Julie Field of

the Parliamentary Counsel's Office, who is in the gallery. I congratulate Julie on the immense and difficult work that she has done for all of us in this chamber. Mr Speaker, I am certain that there are others who are equally deserving of congratulations. I apologise for not mentioning everybody, but there are other people who have worked particularly hard and given great assistance throughout the process for this Bill. Mr Speaker, I look forward to the passage of the amendments.

MR KAINE (4.05): Mr Speaker, the Minister for Education has brought the Children and Young People Bill before the Assembly for the best of reasons. I support those reasons and I support the Bill in principle. But I indicated to the Minister this morning that I would have some comments to make about his Bill and I will now launch into those.

My first comment is that it is a good thing that the Minister does not intend the Bill to be read by the people whose lives it sets out to regulate. The Bill is one of the most difficult pieces of legislation to read that I have seen for a long time. It reeks of political correctness. It is littered with abstruse expressions which may be stated with no less precision and a much higher readability score in half as many words of good, plain, clear, unambiguous English. It contains wonderful examples of bad grammar and there are some wonderful pieces of nonsense within its covers. I will come to some examples of each of those shortly.

I really feel deep sympathy for the people on whom this Bill imposes responsibilities - the police, the courts and the staff of welfare, child-care and health agencies to name but a few. The Bill is awash with instructions about the way all these categories of people and institutions are to discharge their responsibilities. You might believe, having read it, that it is a Bill that will create a new industry, that of protecting children and young people whose families cannot or will not care properly for them. I do not know that the Minister intended to turn that into an industry. The Bill will also create a new culture in which devotees will search their soul and offer up prayers for greater understanding of the differences between the myriad kinds of orders that may be made, of the rights and duties of parents and carers, and of the powers of the chief executive.

I do not say that these concepts are not within the ability of intelligent people to comprehend, but I do say that the Bill packages them in a web of caveats, cautions, options, exceptions and procedural niceties waiting to fatten the lawyers' purses from shepherding parents, children, carers and everybody else involved through the maze which the Bill is erecting. I think that we, as legislators, are at risk of allowing ourselves to be overwhelmed in situations such as the one into which this Bill puts us.

The Minister undoubtedly feels confident that no member of the Assembly will vote against the Bill because it declares and codifies the rights of children and young people, and he is probably right. But I hope that members will share my view that that codification could be better expressed than it is in this somewhat overweight Bill. It is

one thing for a Bill to aim to be user friendly, but when it chokes its users with detailed obligations, failure to fulfil any one of which has the potential to bring down an action for the benefit of a child, you have to ask yourself whether there is a better way to achieve an equivalent objective. I believe that a better way could be found and that the Minister should have the job of finding it.

Mr Speaker, to come to some of the examples that I mentioned earlier: I will not bore the Assembly with a complete catalogue of the style aspects of the Bill, which I found to be somewhat disconcerting. I will not list every clause which flags an exception by beginning a sentence with the word "however" or every example of the incorrect placement of the word "only" within a sentence. Those are basic matters of grammar and I found numerous cases of them. To some, these may sound like niggling complaints, but I submit that in a legislative document such as this they are not niggling and they are not minor. The drafters should be able to express a document such as this in correct English at least.

But there are some provisions which I cannot allow to go ahead without specific comment. For example, clause 104 limits the number of community service hours per week to 60. When an adult is required to work that many hours in a week penalty rates apply. To cap at 60 the number of hours for which a young person is required to provide community service without payment is, to me, quite disturbing. That works out at 8½ hours on every day of the week. Surely the Minister does not intend to expose young persons performing community service to such working conditions, which could easily be described as slavery. It would be so regarded anywhere else in our workplace.

I mentioned poor English. I would like the Minister to have subclause 107(6) rendered into correct English. It is incomprehensible at the moment because it is not written in English. If it gives him problems, I suggest that any English teacher from amongst the many that he employs can show him where the errors are and how to correct them.

I think that clause 155 is a real beauty. It says:

> In section 154, it does not matter whether conduct giving rise to the belief that a young person has been, is being or is likely to be, abused or neglected occurred wholly or partly outside the Territory.

Minister, I believe that it does matter in law, so the use of the words "it does not matter" is incorrect. It does indeed matter whether such conduct occurred inside the Territory or outside of it. The question is: Is the assertion made in that clause really what you meant to say? I suspect that it is not.

Subclause 196(3) reads:

> Despite subsection (1), the court may make a care and protection order if the person on whom the obligation is proposed to be imposed cannot, after reasonable inquiry, be found.

On the face of it, it sounds okay; but there are two things that I find disconcerting about it. First of all, "despite" is not the correct word. "Notwithstanding" probably is, but you cannot argue that "notwithstanding" and "despite" mean the same thing. They do not. But, more importantly, what is the value of an order that imposes an obligation on somebody who has done a runner? That is what that says; if you cannot find him, impose an order on him. I would have to ask the question: What benefit does the child or the young person get from that? It is quite obscure to me.

Those are just examples of the sorts of things that I referred to earlier when I said that I believe that the Bill is sometimes confused. It is certainly expressed in poor English. It has conditions in it which I believe are unacceptable and I believe that, if it is passed today, somebody will have a lot of work to do to turn it into a document that one can read and understand what it is intended to say.

Mr Speaker, I said that I agree in principle with the purposes for which the Minister brings the Bill forward, and I do. I think it is a worthy Bill. I do not believe that the comments that I have made are niggling. I think that they are significant and that somebody needs to have another look at the Bill and correct it, at least in a number of places. I hope that the Minister will take my remarks as seriously and in the same vein as I made them. The Bill is badly drafted. It imposes complex mechanisms that can and should be simplified. The best thing that could happen to it, I think, would be for the Minister to send it back and make it less tortuous, more genuinely user-friendly and more simple in its implementation, because as the Bill stands it presents a nightmare, no less for those it is intended to protect than for those who will have to give effect to it.

MS TUCKER (4.13): The Greens also will be supporting this Bill in principle, although we will be moving amendments. In volume 23 of the *British Journal of Social Work*, academics Robert Harris and Noel Timms analysed revisions of British legislation affecting children's services in the early 1990s. They wrote that this legislation:

> ...constitutes a rule book for a discretion-laden game played many times a day in agencies and courts throughout the land.

And:

> In this sense new legislation changes practice only so far. Players, resources, customs and cultures, common sense, theory, and the nature of the problems to be solved did not change radically on implementation day, and these pre-existing realities help construct the applied "meaning" of the legislation itself. Hence context is not a backdrop but a dynamic and interactive process. While it is true that new rules change crucial aspects of the game ... the new legislation remains situated in a social context strikingly similar to the one which pre-existed.

Those quotes can be applied equally to the debate in the Assembly today. This Bill is inseparable from the context in which it will work. That context has changed very little from the situation outlined in the 1997 report, *Services for Children at Risk in the ACT*, of the Standing Committee on Social Policy, which I chaired. There has been some tinkering at the edges and the development of a couple of very worthwhile programs. Family group conferencing as outlined in this Bill is one such worthwhile initiative. The focus on the best interests of the child is also worthy.

But poor resourcing, lack of services, lack of agency coordination, lack of broad social planning and lack of adequate preventative intervention are still features of this Government's social policies affecting children and young people and are fundamental to how the ACT provides for its most vulnerable citizens - children at risk and children in need. Those concerns have been raised with my office while we have been seeking views on this Bill from people working at the coalface of services for children and young people, those working in youth refuges and shelters, those working for substitute care agencies, those who work with children and young people in the court system and those working in the Aboriginal community.

As we debate this Bill, the Richmond Fellowship's Marlow Cottage, a so-called transition facility under the Children's Services Act providing emergency and short-term residential care, is permitted to take children and young people for a maximum of only 21 days at present, with the Bill reducing that to 14 days. In reality, it is taking children for months at a time, due to a lack of medium- and long-term accommodation and support services that meet the needs of these often very troubled individuals.

Mental health services for children and young people continue to be inadequate. Many children and young people who have experienced family violence and/or breakdown or who have been sexually abused and many of those in substitute care and those who have drug and alcohol problems cannot access appropriate counselling, support and/or rehabilitation services. Those are just some of the resourcing and policy issues which provide the context in which this Bill will operate.

Whilst the Government consulted widely with those working in the sector in developing the broad sweep of this Bill, many of those in the sector were taken aback by the final Bill. It appears that the Government has not closed the loop. The Government has not come back to those people who have a lot of experience to contribute to the debate on legislating for services for children and young people. It has not shown those people how it has responded to the consultation process and it has not shown people working in the sector what the final Bill would actually look like and asked for their input, which is important because it is the final Bill, subject to amendments, that service providers, police, courts, foster carers and advocacy agencies will have to work with. The service providers do have very legitimate concerns. Chief amongst those are the provisions relating to therapeutic protection orders, and I will come to those shortly. First, I will address some of the positives in the Bill.

Many of the aims, general objects and principles of the Bill reflect contemporary ideas about the best interests of the child and much of the language and tone of the United Nations Convention on the Rights of the Child. That is an important development in the legislation and it is to be commended. The test will be how those provisions are actually applied.

Clauses 13 and 14, relating to the indigenous and young people principle and the indigenous placement principle, incorporate into legislation some of the lessons learnt from and recommendations of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families and the Royal Commission into Aboriginal Deaths in Custody. This is also a very important development and goes some way towards ensuring that the grotesque policies of separation of indigenous children from their families over the last 100 years or so are not repeated.

But words and actions or, in this case, proposed legislation and current government policies and decisions can be quite separate things; so, yet again, these principles will be tested in their application. It is clear that, for indigenous organisations to exist and operate, the Government must resource the organisations so that at a bare minimum they can advocate effectively for indigenous children and young people case by case.

As I mentioned, the provisions relating to family group conferencing are an important development in this Bill, assisting families to resolve family conflict. I commend those provisions.

Another concern of service providers is the capacity for bureaucratic slowness to contribute to systems abuse, whereby children's lives are held in suspension while government agencies slowly make decisions for their so-called benefit. In this Bill there appears to be a significant tightening up of the timeframes in which decisions need to be made about the welfare, life situation and circumstances of children and young people. That is also a positive development in the Bill; but, once again, only if it is supported by appropriate resources. In fact, it could be damaging if that is not the case because we would see increased pressure for a speedy resolution of problems and the outcomes might not be thought through.

One very notable absence from the Bill is the lack of what could be called broad consumer participation or consumer advocacy in decision-making or policy development. Whilst the Bill provides children and young people with limited opportunities to articulate their individual needs in forums which are deciding their destiny, there is no explicit means by which consumers - in this case, children and young people - can collectively advocate for themselves and provide feedback to government and other organisations about government policies affecting them.

The Assembly committee inquiry in 1997 into services for children at risk was disappointed to discover that the ACT was the only mainland State or Territory which did not have a mechanism for consulting with children in care. It was one of the recommendations of the inquiry that the ACT Government ensure the establishment and resourcing of such a consumer advocacy group. It is clear that this has not occurred.

I turn to my main concern, which relates to Division 5 of the Bill - therapeutic protection orders. I will briefly raise my concerns now and then expand on them in the detail stage of the debate. I have lots of concerns with this division, ranging from resourcing issues to the intent of this section of the Bill - the powers to isolate children and young people. The explanatory memorandum does not provide any information on the issue of resourcing considerations. It is normal for government legislation to provide a broad estimate of the revenue implications of most new pieces of legislation.

Are we to assume that this section of the Bill is revenue neutral? Are we to assume that the new therapeutic protection measures, with all their detailed requirements for planned programs to be provided which include treatment, therapy or other services, will not be an additional expense? If these services are already there and occurring, one would wonder why we need to have this provision in there. Are we to see already extremely stretched service providers experience cuts in funding to ensure therapeutic protection orders are funded? The Minister and his advisers say that only one or two children a year will be subject to the provisions of Division 5, yet service providers are telling us that many of the children who come through their shelters and refuges could qualify for therapeutic protection. Also, I heard the Minister say this morning, when being questioned on ABC about the appropriateness of building a separate facility, that it was something that his Government would look at as the concept of these orders evolved, the implication being that the numbers will increase.

There must be revenue implications for other sections of this Bill as well. I refer in particular to clause 206, which relates to supervision orders. This section now requires resourcing commitments; in particular, the provision of educational, vocational or recreational activities. Once again, this is an improvement and we are glad to see this extra detail in the current legislation; but, yet again, no revenue consideration is foreshadowed in the explanatory memorandum.

On the issue of civil liberties, several organisations have raised concerns with me. Barnardos have said that they are "fundamentally opposed" to the locking up of children and young people for non-criminal reasons. They consider it to be a violation of civil rights. Others working closely with troubled and at risk children and young people have argued the same point and are opposed to any detention, and therapeutic protection can be, effectively, a form of detention. They argue that children and young people should not be detained except for criminal or mental health reasons and that these provisions are against the principles of the United Nations Convention on the Rights of the Child.

Other concerns expressed to me revolve around the loose definition of therapeutic protection. According to clause 230, therapeutic protection is care to protect the child or young person from serious harm. That is a very broad and loose definition that could be

open to abuse. Many in the sector believe that it should be tightened up, that the broad principles contained at the beginning of the Bill should be reinforced in this section of the Bill; in particular, that this form of order can be used only as an order of last resort.

Another concern expressed is that therapeutic protection orders are just a quick way of getting rid of problem kids. Rather than investing in social, capital and preventive intervention programs for families and children, the state picks up the kids who should have been picked up by good early intervention. These kids are seriously alienated from society, suicidal or violent towards other people. The need for such a facility or for such provisions in legislation is seen by some, quite rightly, as a failure of the system.

Many in the sector are also concerned about the provisions of the Bill which will allow children to be virtually isolated because these provisions could be a recipe for disaster, with the experience in the justice system showing that isolated inmates are more prone to depression and are more suicidal. On this issue, similar models for therapeutic care units in the United Kingdom put a lot of emphasis on social contact for children in secure units. These units, described in the journal *Community Care* of November 1990, put a strong emphasis on continuing relationships with friends and family. Social contact and communication are central to any rehabilitation of children held in these facilities, and supervision, where necessary, should be sensitive and unobtrusive. Surely there are resource implications there.

If we are going to take into account all these concerns and manage the confinement of children in a sensitive, appropriate, constructive and healing way there must be resource implications. This sector is already under stress and we cannot afford to have more cuts in other areas of service provision because we want to see this one properly resourced, and we will. It will be under the spotlight. This is a controversial measure to begin with and there is a real concern out there that, because the spotlight will be on these therapeutic protection orders, the resources will go there. We will be glad for those children if that occurs, but what will be the cost for other children in the ACT who are trying to access services and what will be the consequences for the people working in the field, who will become even more frustrated at the inadequate support that they are getting?

I have circulated a number of amendments to Division 5, as I have to the activities of the Official Visitor. I have also circulated a number of smaller amendments relating to ensuring children's rights and the rights of indigenous people are pre-eminent for those moving through the justice system. I will discuss those more in the detail stage of the debate.

MR WOOD (4.27): As we aim to do the best for some of our young people, those who are troubled, neglected or find themselves threatened, we find ourselves in difficult waters. It has never been easy, but I believe that this Bill goes a long way towards improving the circumstances in which we can help them. That help is essential. How best to provide it can sometimes provide different answers.

As I debate this Bill, I want to highlight one case that came to me recently because it was a case that concerned me. It is just one aspect of measures to provide care and one aspect that tells us how difficult it can sometimes be. I will not mention names, but I raise the case with the consent of the family. I was in contact regularly with the Minister's office at the time. I might say that I appreciate the assistance I got from the Minister's office then and I get on other occasions because there are difficulties - there is some reference to this in the Bill - in that there are very significant privacy

concerns. I do not believe that I should be told chapter and verse all the background of the families concerned, so the Minister's office and I tread in difficult areas as I seek briefings and assistance in pursuing cases. I think all members find themselves in these circumstances from time to time.

One day after school, this family found people at their doorstep, including, I believe, a policeman, who told them that two of their children had been taken into care and that had occurred earlier in the day, so this was some hours after the event. It followed an altercation in the house in the morning - an altercation that, on the best information I could glean, was not excessive. The daughter went to school and told teachers that she was afraid to go home as her father might punish her.

Action followed, but the action was pretty drastic. It remains a concern to me that there was no contact with the parents during the day to get their account of the incident and to get their account of how they had cared for their children in the past and might well do so in the future. There was no contact. In this case, the daughter's account was taken as gospel. I still believe that there should have been some balance to that, that the parents ought to have been afforded the opportunity to present their side of the story. But the authorities made the judgment that things were so serious that there had to be rapid and total removal of the daughter - and, as it subsequently turned out, of the son because he went with the daughter - from that house. Relationships have not been the same since.

There was, in fact, long evidence of care by the parents. Both children, in relation to health for one and sporting achievements for the other, had had a very considerable amount of support from their parents. Whilst there had been that altercation and a physical blow in the morning, the parents could point to their dedication to their children. But they were never able immediately to present their case. The parents believe to this day that the fact that the children were taken away with no chance to come back and mediate, no talking to the parents, was the reason that it went from bad to worse, that the children became less and less likely to want a reconciliation because the gap simply grew.

As it was, the two children went, let us say, to a youth refuge. The boy was dismissed subsequently because he was found to have alcohol in his possession - I think he was aged about 11 or 12 - at a place of care. I think that was acknowledged and that there were some drugs involved as well in a place of care. So, when the parents say to me, "Our home provided better care than this institution", I have to agree with them. But it was this matter of continuing estrangement that was the problem. Eventually, the boy came back home, but problems continued and he does run away from time to time.

I read in the Bill about family conferencing. That is fine; it looks good to me. But I believe that it happens now. Surely officers counsel families. That must happen. It is the nature of the job, is it not, that they be counselling families? Or do we simply remove children and allow to happen what happened? To the best of my knowledge, I am presenting a fair picture. Because of privacy considerations it is difficult; but, on information I have been given, I have no reason to believe that the family were such as to warrant having imposed upon them such a drastic removal of their children. I have no reason to believe that that was sufficient to remove their children.

I raise that because it remains a concern for me and because I am impressed with the provisions in the Bill about general objects and general principles. They read well to me. It is good to see in a Bill a continuing process whereby we look at principles and objectives. I like seeing them in the Bill, and they are fine.

The Opposition supports the Bill. Despite Mr Kaine's concerns about language or, should I say, notwithstanding Mr Kaine's references to the language of the Bill, we support it. I know that the difficulties will continue. The measures may be there, but the implementation of those measures is another matter and a difficult matter, as I have indicated. I acknowledge the long period of discussion that went on until as late as last evening when we sat around a table and discussed late amendments. The discussion papers were fine documents that went out some two years ago, I think. I have looked at those discussion papers and seen how they have progressed into the Bill.

I like the new concepts about parental responsibility, which replace some of the old-fashioned notions. I like the idea of family conferencing, which is good. I hope it happens not just because there is legislation there. I hope it happens as a matter of course where the circumstances require it.

Ms Tucker has understandable concerns about therapeutic protection laws. I think she is right. With a couple of exceptions, I find, as I move around, that community agencies are being heavily squeezed for two reasons. Agencies are being squeezed under the purchaser-provider arrangements. Efficiency is the word. I am all for efficiency, but we know what the word "efficiency" means very often.

Also, notwithstanding the Minister's answer to a question earlier today, the implementation of the SACS award is presenting great problems. Staffing costs are increasing and, for the most part, agencies have been told to cover them. As Ms Tucker points out, if they have children coming to them under therapeutic protection orders requiring a higher level of counselling, assistance or programming, some of these agencies may not be confident about their capacity to handle them as well as they should. They know about the squeeze they have had in the last few years and they are not sure that they can see there a sympathetic government that is willing to provide the resources that they think are necessary.

For example, some agencies believe that they will require a higher level of staffing to meet these demands, which means a higher level of pay to start with. Will they be funded for it? Not at the moment. Ms Tucker will be taking steps to see that they are. We were told that there may be one or two cases a year. I heard the Chief Magistrate speaking on the radio this morning and I would be very surprised if it was maintained at that level. On its record, we cannot be convinced that the Government will be providing the resources.

I am on Ms Tucker's side; but, as I have informed her, not to the extent that I would delay the implementation of the Bill. We will allow the Bill to go through with all parts, but I will be joining Ms Tucker and others in seeing that the resources provided under the therapeutic orders section are forthcoming. Whether Ms Tucker puts some other clauses in there or takes it through in another way, I will be joining her in seeing that the resources are provided because they do need to be. The Labor Party had some hesitation about this matter. We are on her side; but, because of the program facing committees over the next few months, we simply were not prepared to delay, for what might be a considerable time, the full implementation of this Bill.

I had some amendments that I was going to move in respect of the Official Visitor, but I have withdrawn them because the amendments being brought forward by the Minister cover what I had in mind. The discussion papers earlier proposed to change the status of the Official Visitor in respect of the Community Advocate. I was concerned about that and others were, too, as they have indicated, but the Minister has indicated that he will go back to the former position so that there is not a veto, in a sense, by one over the other. The proposal in the Bill was not well received in some quarters and I value the amendments brought froward by the Minister which have resulted in mine being withdrawn.

The Bill is a fair effort in a difficult area. We will look at the question of resources because the fair effort in words has to be translated into practice on the ground. Let us see that that happens and let us see that additional resources, if necessary, are brought forward for that purpose.

MS CARNELL (Chief Minister)(4.40): I welcome the reforms in a very critical area of law, affecting some of the most vulnerable members of our community - children and young people. Over the last two years - it might even be a bit longer than that - this Bill has been through exhaustive consultation carried out across a broad spectrum of the community, and I mean a broad spectrum. Since the community consultation papers were launched in 1997, we have had discussion, liaison and revision of the original proposals with government and non-government groups. In fact, we were so interested in ensuring that everybody had a say on this piece of legislation that about 12 months ago, maybe just under 12 months ago, we asked Ms Tucker whether her committee would like to look at it, and guess what?

Ms Tucker: At 200 pages of drafting instruction. The committee said no.

MS CARNELL: Obviously, Ms Tucker does not like hard work. If she did, she would have accepted that. Yes, it was a long Bill, but she said, "No, I am very happy with the process".

Mr Wood: Let us not go down that track.

MS CARNELL: Excuse me. Ms Tucker has amendments on the table referring this Bill to a committee. We have already offered - - -

Mr Wood: Michael Moore once offered me that choice and I rejected it on good grounds.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order, Mr Wood!

Mr Wood: I rejected it on good grounds.

MR TEMPORARY DEPUTY SPEAKER: Mr Wood, I call you to order. The Chief Minister has the call.

MS CARNELL: We asked the appropriate committee whether they wanted to look at it and they said no, because it was too big, there were too many pages, and they were, I understood, happy with the process. Any member of this Assembly has had any number of opportunities to offer input on this legislation. That does not mean that the end product necessarily would be supported by all members. But one thing you would not do is refer the Bill to a committee when the committee had already said that it did not want to look at it.

Ms Tucker commented that somehow the explanatory memorandum did not have costings in it. Mr Moore has been here for slightly longer than I have, but I do not think I have ever seen an explanatory memorandum with full costings in it. Maybe there have been once or twice, but I cannot think of them at this time. Legislation and explanatory memorandums do not have costings in them as a regular situation in this place, so that is not unusual. The reality is that a huge amount of time and effort have gone into this legislation. There has been a huge amount of consultation and there has been a very long gestation period, longer than many of us would have liked, but we believe very definitely that everybody should have an opportunity to put something into the Bill, whether it be in the area of indigenous children, interstate transfers, child-care services or the reasonably controversial issue of therapeutic detention or whatever we are calling it.

These things have been put in place to ensure that the rights of the child are paramount and that children in our community are appropriately protected. That is what the whole Bill is about. After such an extended and thoroughly monitored gestation period, I am confident that the community is well and truly ready for its arrival. This Assembly can be confident in passing this legislation that the community has had every opportunity to offer input on this important piece of legislation.

MR STEFANIAK (Minister for Education) (4.45), in reply: I thank members for their comments. Yes, there has been a very extensive effort in terms of consultation, and rightly so. The Bill has been in the pipeline for some 2½ years. It came about as a result of considerable concerns being expressed about the operation of the Children's Services Act, an Act which certainly advanced a number of things but, quite clearly, was in need of review. There was extensive community consultation; in fact, there were some 250 pages of consultation. I have a copy of the document here. It was put on the Internet and there were over 3,300 hits. Family Services put it out to numerous agencies and there was a good consultation process, as Mr Wood made reference to. We have ended up with this Bill as the final product.

The comments of members generally have been quite positive, which is exactly what I would have hoped for. I will make a few comments initially in relation to the remarks by individual members and then make some more generic comments by way of summing up the debate at the in-principle stage.

I thank Mr Rugendyke for his comments. Mr Rugendyke worked very hard on this Bill. It is about something that is very dear to his heart and he made a number of very helpful suggestions on how to improve what I think was already a pretty good Bill. He has circulated a number of amendments in relation to the Children's Court magistrate which are consistent with other legislation which has been introduced to rectify some problems there. He has also circulated a number of amendments in relation to carers. I indicate at this stage that the Government is supportive of his amendments and I thank him for them.

Also, I thank Mr Rugendyke for thanking the people involved in the drafting of this legislation. That was a nice gesture but a very important one, given that the process took 2½ years and a lot of work was put into it by a lot of people, including, obviously, the parliamentary counsel. I reiterate what Mr Rugendyke said and thank the people he has named. I will name a few others. I mention Jill Farrelly in relation to the child-care arrangements. I see that everyone is happy with those, which is excellent. Also, I mention Chris Healy and the Family Services managers in relation to their efforts. Mr Rugendyke has already mentioned Stephen Goggs, who spent an inordinate amount of time on this Bill, and I thank him for that.

I was interested to hear Mr Kaine's comments. I appreciate his support for the Bill and the reasons for it. I noted his comments in terms of the difficulty in reading the Bill. Mr Kaine is a very good wordsmith. After his speech I made a few inquiries in relation to some of the wording. Legal Bills can be difficult at times. I understand that some of it relates to a new style of drafting. Also, it was a Bill on which there was about 2½ years of consultation with various groups and the groups which will have to interpret it had a very big say on it and, fundamentally, are very happy with it. I refer to groups such as the police, the magistrates, the carers, and the workers in government departments who have responsibility for these areas.

Mr Kaine referred to the Bill as being a somewhat overweight Bill with an interesting drafting style. I wish to comment on a couple of the things he said. In relation to subsection 107(6), the 60-hour week provision was lifted directly from the old Children's Services Act and is, I think, consistent with a number of other provisions. It

is a maximum period. Indeed, I would point that out it is exactly what has been in the legislation for a number of years and it is simply being reiterated here. Mr Kaine made a number of other suggestions. Certainly, I am quite happy to have my people look at his comments. Indeed, if any improvements can be made, I would be pleased to see that occur.

Ms Tucker made a number of comments. I am appreciative of the supportive comments she made in relation to a number of areas. We certainly have disagreement in some areas. Of course, therapeutic protection is one such area. The Chief Minister made mention of the fact that the Bill was offered to Ms Tucker's committee to look at in November of last year. In the interest of members, I thought that it would be sensible and the Government thought that it would be sensible to give the committee the opportunity to look at it at a stage where a lot of work had been done. The drafting instructions had been prepared - here they are; they are quite detailed - and Ms Tucker's committee was asked whether it wished to consider them.

We did note, as you can see from my letter, which I will table if members are interested, that some of the proposals had been dealt with in a review previously which was the subject of consideration by the Social Policy Committee. Ms Tucker replied on behalf of her committee, stating, to quote the relevant part:

> The committee has carefully considered your proposed referral of the review proposals and is of the unanimous view that it would not be appropriate for the committee to undertake this task. The committee's reasons are:
>
> > the committee could not undertake the task thoroughly and with credibility without seeking input from the community -

that is fair enough, I suppose -

> > the task would result in duplication as the community has already been consulted extensively -

I think that was a valid comment -

> > the drafting instructions have already been referred to Parliamentary Counsel - any changes proposed by the committee would result in the drafter being required to redo work;
>
> > the community could see the committee's involvement as an unnecessary delay in having the bill presented to the Assembly as there is a community expectation that the next step in the process will be the introduction of the bill -

I think that is quite - - -

Mr Wood: Was the proposal on this occasion a review of the whole Bill or just one part of it?

Ms Tucker: The whole Bill - 200 pages.

MR STEFANIAK: Ms Tucker, I think that your committee has looked at a lot more than 200 pages in other areas. Ms Tucker also said that the task would involve an unrealistic amount of work in a short timeframe. I have no qualms with the response of that committee. I thought that it was understandable in the circumstances, especially the comment that the task would result in duplication as the community has already been consulted extensively and the comment that the community's expectation that the next step in the process would be the introduction of the Bill. I table those documents. I do not think I will bother to table the drafting instructions as that probably would cause a bit of an administrative problem.

Ms Tucker is proposing the referral of the therapeutic protection provisions to a committee. I have noted what other members have been saying and it would appear that she is not going to be successful on that. I do think that that is eminently sensible, given the extensive consultation we have had to date. I have also noted the secondary amendment she has foreshadowed in relation to that if the first one fails. Obviously, there are better ways of doing what she proposes than putting that in legislation.

I noted Mr Wood's comments in relation to keeping an eye on things such as resourcing. I think that that is a job that anyone in the Assembly who is interested in this area would want to be done just to see how it is operating, but putting that in legislation is a unique idea. It is something that I have not seen before. The operations of the Assembly clearly indicate that any concerns people might have can be met simply by way of monitoring how it all pans out. I would remind members who have concerns in relation to this matter of the terms of clause 414, as it is at this stage. I think that it will become section 414 because no-one seems to have a problem with it. It is the provision in relation to a review. Clause 414 says:

> The Minister must review the operation of this Act within 3 years after the commencement of this section.

So, there will be a provision in the Act in relation to a review. Being an issue of importance to some of the vulnerable people in our community, I would think that people in this Assembly will, rightfully, have an interest in it and will be monitoring how it operates. The Government certainly will be doing so. The Government certainly will be monitoring things such as resources.

Ms Tucker and Mr Wood talked about resources. Members may not be aware that at present the Government funds child protection and substitute care to the tune of $10.38m. Since 1997 an extra $1m has been put into funding for child protection and substitute care, a not insignificant amount at a time when the Government was facing considerable funding pressures. We are all aware of that as the Chief Minister and others in this place have reminded Assembly members of it. This is an area where needs

vary from year to year and the funding has been adapted to meet the particular needs of children and young people as they arise. That is something that will continue and that is something that not only members but also the Government will be monitoring to see what needs to be done in terms of funding. The Government has shown a real appreciation of the needs of the area and the vulnerability of the young people concerned by increasing the funding for this area in difficult times.

Mr Speaker, I will now move on to some of the other matters in the Bill. The Children's Services Act is currently limited to short statements allowing for the court and the Director of Family Services to do such things as they may properly do for the care and protection of children and to assist those with responsibilities for children to carry out those responsibilities. Of course, it is impossible to say what all those responsibilities are, but this Bill clarifies the situation by methodically identifying that primary responsibility for the care and protection of children and young people rests with families and parents. In that regard, high priority should be given to supporting them on a voluntary basis, but when they are unable or unwilling to act government has a duty to step in and assist vulnerable children and young people.

There is significant new terminology which reflects a conceptual shift in traditional thinking about this area. Whilst all people under 18 years of age will continue to attract the protection of the law, the Bill uses "children" or "young persons" throughout to reflect its application to those people as they develop from infancy to increasingly independent adolescence. Of course, it leaves the way open for "child" under other laws to continue to mean any person under 18 years. Someone made recent reference to that.

The general concept of parental responsibility has been introduced to replace concepts of custody, guardianship and wardship. This Bill also aligns court and other decision-making outcomes with developments in child welfare law in other States and with family law in Australia and overseas.

I have mentioned child care. The Bill attempts to describe inclusively rather than exhaustively the types of matters which may constitute responsibility for the day-to-day and long-term care, development and welfare of a child or young person, which is further explained in the explanatory memorandum.

We have introduced the concept of family conferencing, which I think will go quite a way towards overcoming some of the problems that Mr Wood alluded to in terms of a particular case that he mentioned, quite properly. He mentioned group conferencing and I think that the new dispute resolution concept may well have been in its formalised way a much better option in that case and we might have had a much more satisfactory result than the one that Mr Wood indicated. The Bill, and Mr Rugendyke's amendments thereto, provides for considerable improvements in relation to foster carers and their role in the system, too.

One further thing I would mention is the result of the inquiry by the Standing Committee on Justice and Community Safety. Mr Osborne's committee had some concerns in relation to clauses 11, 12, 13 and 14. In relation to clauses 11 and 12, the main criteria in legislation of this type are about the rights of the child. That is an issue of fundamental importance. In terms of indigenous young people, clauses 13 and 14 are very applicable, too. They list what it is desirable to do for indigenous young people who have problems and need to leave their immediate family. They set out a number of steps to be taken there.

Quite clearly, the situation may well arise where it is not possible to find indigenous carers. It may well be that the best interests of the child or young person, which should be of paramount consideration, do not necessarily rest with indigenous foster carers as they are simply not available. It might be that the best interests of the child would be served if the child actually had to go and reside with a non-indigenous carer. That is recognised by the Government. That is something on which I wrote back to Mr Osborne's committee.

Perhaps the best way of incorporating that in my comments here is by tabling Scrutiny Report No. 12 of 1999 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills committee, including my letter dated 5 October 1999 to Mr Osborne's committee and the comments made by his committee in relation to that. But I would reiterate that, if an appropriate indigenous foster placement were not available, then a non-indigenous one would have to apply there if that was in the best interests of the child. Practicalities are essential here.

As Ms Tucker indicates, clauses 13 and 14 very much take into account the recommendations of the *Bringing Them Home* report, which this scrutiny report also lists in detail. I make those comments because Mr Osborne did express a concern about that.

MR SPEAKER: It has been tabled already, Mr Minister.

MR STEFANIAK: That is fine. I have referred to those comments in my speech, Mr Speaker. At this point I will close the debate at the in-principle stage. Obviously, I will have more comments to make in relation to the amendments.

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.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

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

Proposed new clause 4A

MR RUGENDYKE (5.01): Mr Speaker, I move:

That the following new clause be inserted in the Bill:

Page 2, line 29:

"**4A Meaning of *carer***

(1) In this Act, other than Chapter 9 (Children's Services)—

carer, for a child or young person, includes a person who provides regular and substantial care for the child or young person.

(2) A person is not a ***carer***—

(a) only because the person provides care for a child or young person at a child care centre or under a family day care scheme; or

(b) if the person provides care on a casual basis and is not a relative of the child or young person being cared for.

(3) In this section—

care includes foster care, respite care and crisis care.".

Mr Speaker, this clause simply gives a definition of what a carer is. A carer for a child or young person includes a person who provides regular and substantial care for the child or young person. It was important to consider the degree of care which constitutes care for the purposes of the Bill and regular and substantial care is as described in the UK legislation which seemed most appropriate.

Mr Speaker, subclause (2) describes when a person is not a carer and that is to differentiate between carers caring for children at a day care centre or a person providing care on a casual basis who is not a relative of the child. Care includes foster care, respite care and crisis care.

Proposed new clause agreed to.

Clauses 5 to10, by leave, taken together and agreed to.

Clause 11

MS TUCKER (5.03): I move amendment No. 1 circulated in my name, which reads:

> Page 5, line 18, after paragraph (1) (d) insert the following new paragraph:
> "(da) the government should only intervene in the life of a child or young person (and his or her family) under this Act if the intervention is likely to improve the circumstances of the child or young person;".

This clause embeds in the general principles in the beginning of the Act an additional principle: The Government should only intervene in the life of the child or young person and his or her family under this Act, if intervention is likely to improve the circumstances of the child or young person.

While other principles in the section refer to least intrusive intervention in the life of the child or that the best interests of the child should be of paramount importance, the Greens' amendment here is saying something slightly different: that any state intervention should only improve the welfare and the circumstances of the child.

We have been advised by a number of organisations that this principle, while subtle, is absolutely necessary. The state has a long history of intervening in the lives of families, particularly indigenous families and poor families and those headed by single parents. This provision, along with other provisions, will protect families from unnecessary interventions.

MR STEFANIAK (Minister for Education) (5.04): While I can sympathise with what Ms Tucker is aiming at here, I would submit to the Assembly that subclauses (d) and (e) well and truly cover what is appropriate government intervention and covers the situation. Subclause (d) states that if the child or a young person is in need of care and protection and family members are unwilling or unable to provide the child or a young person with adequate care and protection, whether temporarily or permanently, it is the responsibility of government to share or take over their responsibility. Subclause (e) states if intervention by government in the life of the child or a young person, and his or her family, is appropriate, the intervention should be least intrusive consistent with the best interests of the child or young person.

That summarises what this whole Bill expects government intervention to be. It would go without saying that government intervention would, or be likely to, improve the circumstances of the child, or the government would not do so. But I do not know whether they would be concerned with perhaps some inadvertent consequences of Ms Tucker's amendment. I think it is probably best if it were not included here.

Question put:

That the amendment (**Ms Tucker's**) be agreed to.

The Assembly voted -

AYES, 1	*NOES, 12*
Ms Tucker	Mr Berry Mr Cornwell Mr Hargreaves Mr Hird Mr Humphries Mr Kaine Mr Osborne Mr Quinlan Mr Rugendyke Mr Smyth Mr Stefaniak Mr Wood

Question so resolved in the negative.

Clause agreed to.

Clauses 12 to 16, by leave, taken together and agreed to.

Clause 17

MR RUGENDYKE (5.08): I move:

Page 8, line 30, omit the clause, substitute the following clause:

"**17 Who has parental responsibility?**

(1) A person has parental responsibility for a child or young person if—

(a) the person is his or her parent; or

(b) a court order is in force in relation to the child or young person in favour of the person; and

(c) the person has parental responsibility for the child or young person because of section 221 (Parental responsibility following emergency action).

(2) A person, including a carer, may exercise parental responsibility on behalf of the chief executive in accordance with this Act.".

Mr Speaker, this amendment simply includes carers in the list of those who may have parental responsibility in relation to a child.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 18 to 26, by leave, taken together and agreed to.

Clauses 27 and 28, by leave, taken together

MR STEFANIAK (Minister for Education) (5.10): I seek leave to move government amendments 1 and 2 together.

Leave granted.

MR STEFANIAK: I move:

Clause 27, page 14, line 14, omit the clause, substitute the following clause:

"**27 Who can the chief executive get help from?**

(1) For this Act, the chief executive may request a Territory authority or statutory office holder to provide information, advice, guidance, assistance, documents, facilities or services relevant to the physical or emotional welfare of children and young people.

(2) If a request is made of an authority or office holder under this section, the authority or office holder must promptly comply with the request.".

Clause 28, page 14, line 28, omit the clause, substitute the following clause:

"**28 Power to give and receive information**

(1) The Minister or chief executive may—

(a) give a defined entity information relevant to the safety, welfare and well-being of children and young people; and

(b) give a person information held by the Minister or chief executive in relation to the person; and

(c) in relation to the chief executive only—ask a defined entity to give the chief executive information relevant to the safety, welfare and well being of children and young people.

(2) However, if the regulations regulate the way information is to be given or requested under this section, the Minister or chief executive may only act under subsection (1) in accordance with the regulations.

(3) If information is given in good faith and with reasonable care to or by a defined entity under subsection (1), the giving of the information is not—

(a) a breach of confidence, professional etiquette or ethics or a rule of professional conduct; or

(b) the publication of an actionable libel; or

(c) a ground for civil proceedings for malicious prosecution or conspiracy.

(4) This section does not limit any other power to give information.

(5) In this section—

defined entity means—

(a) for a child or young person—

(i) a person with parental responsibility for the child or young person; or

(ii) a carer of the child or young person; or

(b) a Minister; or

(c) a Territory authority or statutory office holder; or

(d) a body established under a law of a State or the Commonwealth; or

(e) the holder of an office established under a law of a State or the Commonwealth.".

As a result of the Privacy Commissioner's comments and also the scrutiny of Bills committee's comments, clause 27 clarifies how the chief executive gets information and assistance. Clause 28 clarifies how the Minister and chief executive can give information to the relevant people and bodies. As we took those two lots of comments into consideration, it was necessary to amend the original clauses, hence I do so. Privacy is an important principle. The Privacy Act is a Commonwealth Act. It is important to balance privacy and the need to give certain people relevant information in appropriate circumstances to protect young people. This is all part of the extensive consultation that was conducted and it identified the need to adjust the two broad statements about giving and receiving information that were in clauses 27 and 28.

Amendments agreed to.

Clauses, as amended, agreed to.

Clauses 29 to 34, by leave, taken together and agreed to.

Clause 35

MR RUGENDYKE (5.12): I move:

> Page 17, line 12, subclause (2), omit the subclause, substitute the following subclauses:
>
> "**(2)** The Minister must ensure that there is always at least 1 member of the council who represents the interests of carers.
>
> **(2A)** The Minister may appoint a person to the council only if satisfied that the person—
>
> (a) has expertise in relation to services for children or young people; or
>
> (b) represents the interests of carers.".

This amendment of mine recognises the importance of carers. Once again, in the sphere of children in care, it suggests that we would be entitled to a position on the Minister's council. It is an important inclusion. It is one for which I would encourage support.

MS TUCKER (5.13): I do not have a problem with foster parents being on the council. It is perfectly reasonable. But we have a lot of positions prescribed on the Children's Services Council in the current legislation. The Government moved away from that. They said it was not good, particularly because of the presence of particular bureaucrats and because they did not have as much flexibility as they would like.

So I was surprised last night to hear the Government supporting Mr Rugendyke's amendment to prescribe one position only. Mr Rugendyke has just said that they should be entitled to be there. Of course they should, but so should other people who have an equally important role in the discussion around substitute care and children. This Bill is a very broad piece of legislation. This also incorporates child care. It may well be appropriate to have a consumer of child-care services. The police may well be represented.

There is obviously a use in having Family Law Court expertise because of the interaction between welfare and Family Court matters. It is also very useful to have a consumer of the services - a young person who is in substitute care. There is a great range of people who need to be represented, who have an equally strong right to be heard. But we are seeing just one particular group prescribed - a very strange process.

It is obviously about the Government wanting to keep Mr Rugendyke's support. He wants his particular constituency prescribed in law. I have to ask the question: Where is the consistency here when we have heard from the Government that they do not want prescription. There are a number of other people who have as much of a legitimate voice on this council as the foster people. It is a very inconsistent decision.

MR WOOD (5.15): I am very happy to see always at least one member of the council who represents interested carers. I am happy to see that sort of person on the council. But I have argued many times, with Ms Tucker sometimes, that I am not in favour of representative councils in general. There are specific circumstances where that may be necessary. But, in general, I am not in favour of specifying what sort of person goes onto councils, boards or whatever bodies we nominate. In this case, as in others, it is up to the Minister to develop a good board, a good council, by appointing the right sort of people to it.

Mr Rugendyke indicated what this is about quite fairly when he said that "we" want someone on the council. We want someone. I do not see a problem. Mr Stefaniak, when he nominates to council, will have right at the top of the list someone representing the interests of carers - right at the head of the list, Mr Rugendyke. They would be right up there and I do not think we need this in the Bill in order to secure that. We have been consistent before that we should not specify.

Again, there are reservations. There are some circumstances where you might want that. The previous Bill had that list of specifications of who should be on it. That was removed. It is an anomaly, good though the intentions might be, to have just one person now specified as the only person. So the Opposition regretfully will not be supporting this amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 36 to 40, by leave, taken together and agreed to.

Ordered that clauses 41 to 228 be postponed.

Clauses 229 to 241, by leave, taken together

MS TUCKER (5.18): I effectively oppose the whole of Division 5 which concerns therapeutic protection orders. I really have spoken to this already in the in-principle stage. However, I would like to respond at this point, as it is on the same subject as some of the comments made. I was amused to see Mr Stefaniak so pleased with the letter the committee wrote, that he even sought to have it tabled. The Chief Minister seemed equally pleased with the point they thought they were scoring.

I thought I explained in the in-principle stage what I am concerned about. I have acknowledged the initial consultation. I have done that in the in-principle stage and publicly as well. What I am very concerned about is the fact that when we saw the legislation there was no statement about the financial implications or considerations from the Government. Mrs Carnell and Mr Moore are apparently not aware that that is

quite often the case in the explanatory memorandum. People in my office in five minutes found two pieces of legislation very quickly that had such information in the explanatory memorandum.

The first one is the Motor Traffic Amendment Bill. Financial implications are quite clearly outlined there. The second was the Land Planning and Environment (Amendment) Bill No 2 1999. The financial implications are in there as well. There are plenty of other pieces of legislation that have that. The reason I seek to have this referred to my committee is that there is grave concern in the community - and I have already outlined this - about the fact that we have not seen a strong commitment from the Government to acknowledge the resource implications of this particular piece of legislation, particularly the therapeutic protection orders.

I want to - I did state this before too - clarify something Mr Wood was saying. We probably will see these therapeutic protection orders supported by good treatment programs. As I said, they will be under the spotlight because this is controversial and there are civil liberty issues there. I have expressed concern on behalf of the community sector that there may not be appropriate resourcing; that there has not been adequate work done with the providers about how these therapeutic protection orders will be managed within existing facilities; and that the resources may come to the support of the therapeutic protection orders.

They will be at the expense of other areas in the sector. That is more likely. As I have already expressed very clearly in this place, in the in-principle debate and previously in the Assembly as a private member and as chair of the Social Policy Committee in the last Assembly, we do see the sector under stress. We do see inadequate support for workers and young people struggling in this area.

Mr Stefaniak and Mrs Carnell have misunderstood my concerns and why I am seeking to have it brought to the committee. I will not even bother responding to comments about me not liking to do hard work. I could suggest Mrs Carnell check *Hansard* over the last four years and see how many times I rose to speak and on how many subjects. I do take slight offence at that, not for my own part but because it is a reflection on the people with whom I work in my office. The work I do in this place is a reflection of the work they do in my office. I do not like to see it diminished or demeaned by the Chief Minister in an attempt to score political points.

It is perfectly legitimate to allow the community sector to have an opportunity to work with a committee to inform government of their concerns about these protection orders; what it will mean for them; what the resource implications are. Then we could have that discussion before the budget in an informed way. Hopefully we would see government respond positively to these concerns, because everybody wants to see this legislation work.

I am not entirely opposed to the concept of therapeutic protection orders. There is a place for them for particularly troubled children. Although I stand by my comments in the in-principle stage that it can be seen as a failure of the system that we get to the point where children have to be locked up before they have even committed a crime because they have got so dysfunctional and so chaotic in their own living skills, the

reality is that we are ending up with those children. So it is necessary to look at these sorts of proposals, but not if they are not properly resourced. This is a very, very serious issue. I ask members to support this because I think it is in our interest to keep this piece of legislation working properly.

MR WOOD (5.24): I am not going to support this, but I am going to support Ms Tucker. I was amazed that the Chief Minister and the Minister got stuck into Ms Tucker. I cannot see why. It is not so amazing that there was some dissembling going on at the same time to discredit Ms Tucker. It is not unusual in this chamber that members distort the facts - not that I would ever do that. But the fact is this: Ms Tucker is proposing to take aside one part of this Bill and look at the resources necessary to deal with it. She was not proposing to pull out the whole Bill and go through it clause by clause and go into a full community consultation. That was known. So why get stuck into her?

The committee I chair was once offered much the same opportunity with a Bill just as complex as this one, and said, "No, thank you, we don't see that as our role". It is also a different matter to present drafting instructions, as Ms Tucker was, as we were, as distinct from a Bill itself with the wording of a Bill. So to say that because Ms Tucker knocked back that opportunity, if that is the word, it was some indication she did not want to work is just nonsense.

This Assembly knows how hard we all work; certainly Ms Tucker no less than anybody else and a good deal more than anybody else, given she is one person who tries to cover a large field. I do not know why the attack was made. It was totally unnecessary. The point was a valid one, though I have indicated we are not supporting it. Do not get into personalities tonight. I do not think there is any need to.

MR STEFANIAK (Minister for Education) (5:26): I am not going to say anything more about the funding, apart from what I said before. I said how much we are spending and how we have actually increased it. It may be unlikely that it will be required for implementation of therapeutic protection orders, in that we have increased funding and we do actually at present spend a considerable amount. I have already said how this is an ongoing process in terms of the Government always looking to see if anything additional has to occur.

I do not have a crystal ball and cannot say definitely what might occur there. I can say that we have increased funding. We spend a considerable amount of resources already applied to services for exceptionally troubled and high-risk young people. Family Services provides funding for residential care and treatment. We are dealing with only a very small group of young people likely to be the subject of these orders.

The practice indicates that this could be estimated to be something between one and four per year. I notice the Chief Magistrate confirms small numbers again today. I think it would be wrong to apply these orders to large numbers of young people in this way.

Indeed, it would be very hard to convince a court of that. Under these orders too, because of the nature of what is proposed here, resources will be better able to be matched to services for this very small group of young people, rather than the rather ad hoc delivery of services we had before.

They are an important part of the Bill, albeit with a very small number of the most vulnerable young people. So it is an important area of the Bill. While I can understand there are probably some in the community who still have problems with this, that does not get away from the fact that we have had 2½ years of consultation. To take this section out of the Bill and hive it off for a further committee to look at is not the best way to go.

The services are most likely to be provided by existing providers, specifically Marymead, which has facilities. The services incorporate treatment. The cost currently, if we go into what has occurred in the past, is up to $45,000 for a period of eight weeks' care and therapy. That includes residential care, day programs and treatment. Given that members are generally agreeable that there is benefit from these orders, I am not going to go into that. But I would reiterate the stringent requirements for the orders.

The onus on the applicant for such an order is very stringent. The applicant must prove to the court firstly that the order is necessary to prevent the child or young person from behaving in a manner likely to cause physical harm to himself or herself or another child or young person. It has to be proved also that there is a planned program of treatment therapy or other services in place; that the program is likely to lead to a significant improvement in their circumstances; that the person or service providing this therapeutic protection is willing and able to implement it; also that less intrusive methods have been attempted and are insufficient. The stipulations are in clauses 232 and 233. A range of matters is stipulated there. If any one of them does not apply, then the court will not apply them.

Knowing our courts and the interest especially the Chief Magistrate has in this, I am sure that the courts will be very thorough in terms of assessing this. It is interesting in terms of people talking about resources. Clause 233(2) states:

> The court may not make, vary or extend a therapeutic protection order in relation to a child or young person unless satisfied that –
>
> (d) the person or administrative unit proposed to provide the therapeutic protection has indicated to the court a willingness and ability to allocate the resources necessary to implement the program ...

That is a very important factor. These orders will only be used for exceptionally troubled young persons for whom less intrusive options cannot be found. Members should note that orders can only be made if these conditions are in place and indeed funding is available.

I have read out that subsection. Members may not be aware that in New South Wales there has been recent radical reform to child protection laws that includes a very similar order called compulsory assistance orders. I will just make mention of that particular fact, Mr Speaker.

Mr Wood: We are not arguing about these sorts of things, Minister.

MR STEFANIAK: But it is interesting, Mr Wood, that they can be made for up to three months and extended one or more times. Ours is a bit different. We have got more restrictions, Mr Wood. We do not allow the chief executive to provide this without a court order at all. Our orders can only last for a maximum of eight weeks. New South Wales does not also add the additional provisions about a person being isolated for no more than 12 hours. What we are providing has a lot more restrictions and conditions on it than in New South Wales. It is important for members to realise that.

I do not think this is something that really needs to go to a committee. The community expects this to be put in place. All members are going to be very interested in how it operates. That is appropriate. Certainly the Government will not be supporting Ms Tucker here.

MR RUGENDYKE (5.32): I have spoken to some people Ms Tucker may have spoken to in relation to this matter. I also have heard concerns about resourcing. The debate today has put the onus on the Government to make sure that appropriate resourcing is provided for kids who end up in this therapeutic treatment order situation. Mr Speaker, I note also subclause 233(2)(d), where the court must be satisfied that:

> the person or administrative unit proposed to provide the therapeutic protection has indicated to the court a willingness and ability to allocate the resources necessary to implement the program ...

Once again, that resourcing issue is in the division. I am keen to see this Bill implemented. I take advice from the Minister and from the Chief Magistrate who have experience in these matters. On radio this morning, the Chief Magistrate said that the number of kids on therapeutic treatment orders will be small. I also believe it will be appropriate to review it - that is enshrined in the Bill as it stands - within three years. I do not support the referral of Division 5 to a committee which would further delay the implementation of that part of the Bill. This Bill has been consulted to death and I do not believe that part of it should be held up for something that may or may not be a problem. It may be assessed as we go.

MS TUCKER (5.35): I want to pick up on Mr Rugendyke's and Mr Stefaniak's responses because they are not responding to what I said. I said certainly the resourcing of the therapeutic protection orders is an issue and that it has been raised as a matter of concern by some of the providers. What I am concerned about is that because it may well be that these therapeutic treatment orders will be resourced, because they will be

under the spotlight for all the reasons I have outlined, we are talking about significant amounts of money. If we are talking about the one or two children we have already had in the system, we may be talking about hundreds of thousands of dollars.

I am concerned that we do not see any analysis of the cost implications of this from the Government. If the Government does properly resource these therapeutic orders - and as members have correctly pointed out, there are reasons that they should because it is in the law to a degree - where will the money come from? It could well be at the expense of other people in the sector. That is the point I am making. I want to make that quite clear. I am not only concerned about how well the actual protection orders are resourced; I am interested in the implications for the rest of the sector, even if they are done properly.

Question put:

That clauses 229 to 241 be agreed to.

The Assembly voted -

AYES, 12	*NOES, 1*
Mr Berry	Ms Tucker
Mr Cornwell	
Mr Hargreaves	
Mr Hird	
Mr Humphries	
Mr Kaine	
Mr Osborne	
Mr Quinlan	
Mr Rugendyke	
Mr Smyth	
Mr Stefaniak	
Mr Wood	

Question so resolved in the affirmative.

Clauses agreed to.

Postponed clause 41

MR STEFANIAK (Minister for Education) (5.41): I seek leave to move government amendments 3 to 5 together.

Leave granted.

MR STEFANIAK: I move:

Page 19 -

Line 1 paragraph (1) (d), omit "(Investigation of complaints by official visitor)", substitute "(No requirement to investigate complaint)".

Line 6, paragraph (1) (f), omit the paragraph.

Line 8, subclause (2), omit the subclause, substitute the following subclauses:

"**(2)** The official visitor may also provide a copy of the report, or part of it, to—

(a) the Minister; and

(b) the complainant.

(3) Before providing a copy of the report or part to the complainant, the official visitor may make minor alterations that the official visitor considers appropriate to protect the privacy and confidentiality of a person mentioned in the report.

(4) In addition to a report under subsection (1), the official visitor may, on his or her own initiative, provide a report (that may include a recommendation) to the Minister or chief executive, or both.".

I present the explanatory memorandum. Matters arose as a result of problems people had with the final draft. The Official Visitor's rights here are linked to that of the right of individuals, especially children and young people, to have complaints investigated.

The Bill as tabled, calls for the Official Visitor not to investigate if the Community Advocate was already doing so. That is in clause 43. It was not the intention of this Bill to make one officer superior to another. Hence, today the Government is moving to amend that issue to provide that the Official Visitor need not if he or she does not want to, but indeed may, if he or she wants to, investigate a complaint if it is covered by another official. That is the thrust of the Government's amendments.

Amendments agreed to.

Clause, as amended, agreed to.

Postponed clauses 42 to 48, by leave, taken together

MR STEFANIAK (Minister for Education) (5.43): I seek leave to move government amendments 6 to 9 together.

Leave granted.

MR STEFANIAK: I move:

Clauses 43 and 44 -

Page 19, line 19, omit the clauses, substitute the following clause:

"**43 No requirement to investigate complaint**

(1) The official visitor need not investigate a complaint if satisfied that the substance of it has been, is being or will be investigated by the community advocate or another appropriate entity.

(2) If subsection (1) applies, the official visitor may provide information about the complaint to the community advocate or other entity in relation to the investigation.".

Clause 45 -

Page 20 -

Line 17, subclause (3), omit the subclause.

Line 20, subclause (4), definition of *Territory entity*), omit the definition; substitute the following definition:

"***Territory entity*** means a Territory authority, or a statutory office holder, involved in providing welfare services for children and young people.".

New clause -

Page 20, line 22, after clause 45, insert the following new clause in the Bill:

"**45A Giving information protected**

If information is given in good faith and with reasonable care to, or by, the official visitor or community advocate under this Part, the giving of the information is not—

(a) a breach of confidence, professional etiquette or ethics or a rule of professional conduct; or

(b) the publication of an actionable libel; or

(c) a ground for a civil proceeding for malicious prosecution or conspiracy.".

They are, I think, technical amendments - definitions which appear elsewhere; which have been altered; other definitions. They are very much by way of tidying up drafting.

Amendments agreed to.

Postponed clauses, as amended, agreed to.

Postponed clauses 49 to 50, by leave, taken together

MR RUGENDYKE (5.44): I move:

Page 22, line 2, omit the clauses, substitute the following clauses:

"**49 Childrens Court Magistrates**

(1) The Chief Magistrate must, in writing, declare 1 magistrate to be the Childrens Court Magistrate for a stated term of up to 2 years.

(2) The Chief Magistrate must revoke the declaration on request in writing by the Childrens Court Magistrate.

(3) The Chief Magistrate may declare himself or herself to be the Childrens Court Magistrate.

50 Restriction on assignment to act as Childrens Court Magistrate

(1) The Chief Magistrate may assign a magistrate to act as Childrens Court Magistrate only if—

(a) there is no Childrens Court Magistrate; or

(b) the Childrens Court Magistrate—

(i) is absent from duty or from the Territory; or

(ii) for another reason, cannot carry out the duties of Childrens Court Magistrate.

(2) A magistrate assigned to act as Childrens Court Magistrate is the Childrens Court Magistrate for this Act and any other Act.

50A Arrangement of business of court

The Chief Magistrate is responsible for ensuring the orderly and prompt discharge of the business of the Childrens Court and accordingly may, subject to appropriate and practicable consultation with the magistrates, make arrangements as to the magistrate who is to constitute the Childrens Court.".

This particular amendment relates to the Children's Court magistrate. It is a mirror of the amendments we were debating last week, and takes precedence, I believe, over those amendments since they are mirrored in this new piece of legislation.

Amendment agreed to.

Clauses, as amended, agreed to.

Postponed clause 51 agreed to.

Postponed clause 52

Amendment (**Mr Rugendyke's**) agreed to:

Page 22, line 33, subclause (3), omit the subclause, substitute the following subclause:

"**(3)** Subsection (1) does not by implication preclude a magistrate other than the Childrens Court Magistrate from—

(a) exercising a power or performing a function conferred on a magistrate under a provision of this Act; or

(b) exercising a power conferred on a magistrate under a law of the Territory to admit a child or young person to bail in accordance with the Bail Act 1992 or to remand a child or young person in custody.".

Amendment agreed to.

Clause, as amended, agreed to.

Postponed clauses 53 to 74, by leave, taken together and agreed to.

Postponed clause 75

MR STEFANIAK (Minister for Education) (5.46): I move a tidying up amendment, which reads:

Page 33, line 14, paragraph (3) (b), omit "*Motor Traffic*", substitute "*Road Transport*".

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clause 76 agreed to.

Postponed clause 77

MS TUCKER (5.47): I move amendment No. 6, which reads:

Page 33, line 30, after subclause (1), insert the following subclause:

"**(1A)** If this section applies, a police officer may not interview a young person in respect of an offence or cause the young person to do anything in relation to the investigation of an offence unless the young

person has received legal advice from a lawyer acting for the young person or has had a reasonable opportunity to do so.".

The amendments I have made to clause 77 relate to enshrining in legislation, rather than leaving to the goodwill of interviewing police officers, the right of a young person who has committed a crime, or allegedly committed a crime, to access legal advice prior to being interviewed by police about the alleged offence. I have included this amendment on advice from those who represent young offenders in the legal system and who often find these offenders have not been offered the opportunity to access even basic legal advice before they submit to a police interview. I have been advised that young offenders should be able to quickly and cheaply access legal advice through ACT Legal Aid's 24-hour phone hotline. Without this provision, under the new Bill it is quite possible that basically the witness would be another policeman. I am concerned. That is not satisfactory. If that is the case, then at least they should first have had the opportunity to access some form of legal advice.

MR STEFANIAK (Minister for Education) (5.48): The Government has had a look at this and will be opposing it. Clause 77 is very similar to the clause in the Children's Services Act. It has stood the test of time. It has not been there for a huge amount of time. I think these provisions have probably applied for a little over 10 years. At present, we would certainly be saying the young people have all the relevant protection they need.

Ms Tucker's amendment, which we first saw yesterday, would add an extra dimension to it which I do not think would assist in any way. At present a young person under section 67 can have a parent or someone with parental responsibility present, or a relative or indeed, a legal practitioner. Many of them do. Last time I was in private practice, I was rung up a couple of times by clients who had been apprehended. On one occasion it was simply to ask my advice; on the other occasion wanting me to go to the police station. I think this is something that quite clearly occurs.

Having practised law since 1976, I am well aware that most young people know their rights, in Canberra more than most. Young people I deal with, indeed, young people who are classed as at risk whom I see on programs, seem to be very well aware of their rights. Youth centres, to their credit, make available to young persons information in terms of their rights if they are arrested. I think the section we have balances the rights of young people, of police, of society, of victims, of the court process. I do not think that would be served were Ms Tucker's amendment to get up.

Also, it is a bit confusing, in that she wants to put in, at page 33, at line 30, which would be immediately after sub-paragraph (i), her provision which more properly might go in at the end of line 33. I am not sure where she wants to put it. The Government certainly would be opposing this amendment.

Another reason given is that sometimes young people, according to Ms Tucker, admit to offences they did not do. I practised here for about nine years as a prosecutor, and in private practice for three or four years, and I am racking my head to think of a situation where that occurred. When people defend matters the facts might be in dispute, and a court might make a ruling in relation to that. But in terms of people pleading guilty to something they did not do, I cannot recall that happening for a younger person or indeed an older person.

Sometimes people plead guilty, and the court does not accept it because of technicalities. Our system is particularly well served by checks and balances. This would add an additional complication, which could cause more problems than it would solve. We have been well served by the current section, which has been reiterated in this new legislation.

MR RUGENDYKE (5.51): I had something scathing to say about this amendment, but since Ms Tucker asked us to be nice I shall refrain. I do not believe this clause adds anything of value. I note that the old section 30 of the Children's Services Act 1986 has been almost mirrored at clause 77 in the new Bill. This proposed amendment is something extra to the old section 30 and on top of the new section 77. Police practice is such that the provision that this proposed section implies is a matter of police procedure, one that happens in the normal course of police duties. I see no need for this section, and I will not be supporting it.

Amendment negatived.

MR STEFANIAK (Minister for Education) (5.53):I move a technical amendment, which reads:

> Page 33, line 39, subparagraph (2) (a) (iii), omit "legal practitioner", substitute "lawyer".

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clause 78

MS TUCKER (5.54): I move amendment No. 7, which reads:

> Page 34, line 35, after paragraph (a), insert the following paragraph:
>
> "(aa) if the young person is indigenous, take all reasonable steps to notify a relevant indigenous organisation; and".

This amendment ensures that, if a police officer detains an indigenous child or young person, the police officer notifies the relevant indigenous organisation. This is a gesture aimed at ensuring that the recommendations of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families and the Royal Commission into Aboriginal Deaths in Custody are inserted into crucial sections of this

Bill relating to youth justice issues. As we all know, indigenous people are grossly over-represented in juvenile and adult justice facilities. In the ACT, 20 per cent of residents in Quamby are indigenous.

This amendment is intended to ensure that indigenous offenders have support from a relevant indigenous organisation from the moment they are detained. While I realise the clauses of the Bill relating to young offenders has not been subject to review, we feel it is essential to ensure that the recommendations of these two inquiries are not just left as broad principles at the beginning of the Act, but fully incorporated into the working sections of the Act. I trust this will be the outcome of the review later, anyway.

MR STEFANIAK (Minister for Education) (5.55): I note that clause 78 ensures that a police officer who places a young person under restraint must promptly take all reasonable steps to cause a person with parental responsibility to notify whether the person lives in the Territory or not; also to notify an authorised officer. I note what Ms Tucker is trying to do. I understand with indigenous young people particular care is taken. While we certainly do not have perhaps the same concerns that the Government would have for her attempted amendment to clause 77, as she quite correctly says, this part of the Act has not been subject to review.

A few points were picked up as a result of two consultations. Some obvious, glaring needs were rectified in the juvenile justice area. But it was, and it remains, the intention of the Government that the juvenile justice parts of the Children's Services Act are to be reviewed, and reviewed separately. This would be a very logical suggestion in terms of this part to be considered in the review. I understand that a member of the Attorney-General's Department has expressed concern that perhaps a young person who is indigenous may not wish for privacy reasons to have a relative or indigenous organisation told about it; whereas the law as it stands would mean that young person's parents or people in loco parentis would have to be told. But, quite conceivably, the young person might not want anyone else necessarily to know.

That is a relevant consideration. What we have in practice serves us very well. I cannot see the need at this stage to put this in. It is something that should be properly more considered in a full review. To make more piecemeal amendments now without the benefit of a full review could lead to unwelcome results. This amendment is deserving of further consideration in terms of a full review of the juvenile justice parts of the Children's Services Act.

MS TUCKER (5.57): I take the Minister's point. It was not our intention that the person would be compelled to have that contact with the relevant indigenous organisation. Are you saying that it is the interpretation of AG's that what we are saying is that they are compelled?

Mr Stefaniak: That they may not wish the indigenous organisation to know.

MS TUCKER: I understand they may not wish to. It was not the intention of this amendment that they be compelled. If you are saying the interpretation is that our amendment in law says they are compelled, then I will not support this amendment. That is not the interpretation we put on it. That is obviously a legitimate concern.

Mr Stefaniak: I think "take all reasonable steps" is a problem, yes.

MS TUCKER: "Take all reasonable steps to ensure", yes. I take that point. I think we can leave that one then until the review.

Amendment negatived.

Postponed clause agreed to.

Postponed clauses 79 to 150, by leave, taken together and agreed to.

Postponed clause 151

MR RUGENDYKE (5.59): I move amendment No. 6, which reads:

> Page 74, line 21, paragraph (2) (b), omit "(other than for reward)".

This clause omits the words "other than for reward" which, in the context of carers, clarifies the position between foster carers, child-care workers and other scenarios.

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clauses 152 to 179, by leave, taken together and agreed to.

Postponed clause 180

MR RUGENDYKE (6.00): I move amendment No. 7, which reads:

> Page 85, line 20, paragraph (2) (b), omit the paragraph, substitute the following paragraph:
>
> "(b) the child or young person or a person acting on behalf of the child or young person; or".

Mr Speaker, this amendment includes a child or young person or a person acting on behalf of a child or young person to be able to enter negotiations for the making or ending of voluntary care agreements in relation to a child. Those people are to be included in the negotiations.

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clauses 181 to 192, by leave, taken together and agreed to.

Ordered that clause 193 be postponed.

Proposed new clause 193A.

MR RUGENDYKE (6.02): Mr Speaker, I move:

> Page 91, line 28, after clause 193, insert the following new clause in the Bill:
>
> "**193A Applications by other people**
>
> **(1)** If the chief executive has not made a care and protection application in relation to a child or young person, a person may, after consultation with the chief executive, seek the leave of the court to make an application in relation to the child or young person.
>
> **(2)** The court must hear the person and the chief executive and may make an order granting leave to the person to make the application.
>
> **(3)** If an application is made with the court's leave, a copy of it must be served on the chief executive and the community advocate and each may appear and be heard in the proceeding.".

This amendment, Mr Speaker, my new section 193A, enables a person to seek leave of the court to make an application in relation to the child or young person. It obliges the court to hear the person. If an application is made with the court's leave, a copy of it must be served on the chief executive and the Community Advocate and each may appear to be heard in the proceeding in that case.

MS TUCKER (6.03): We are not voting against it, but I do want to get on the record some concerns that have come to our office. The argument against this is that decisions affecting care agreements, orders, et cetera, should only be decisions between the state, the child and his/her parents. There is concern that you start getting other people having that role - a busybody element. This is in the current Act and it was not going to be in this Act and Mr Rugendyke is putting it back.

I did raise it as an issue at the round table. I did not understand why the Government had decided to take it out and why they are not happy to put it back in through Mr Rugendyke's amendment. There needs to be a watching brief on that because there are some fundamental issues about children and their birth parents. We would hate to see a situation arise where other people were able to intrude on these situations in an

inappropriate way. I understand Mr Rugendyke's arguments are that it would always be appropriate, but I want to get on the record that there have been some concerns expressed about that.

MR STEFANIAK (Minister for Education) (6.04): We will certainly, as we have indicated, be supporting Mr Rugendyke's amendment. I note Ms Tucker's concerns. But experience shows that the people who want to be involved in these types of matters are usually people who certainly feel they have the best interests of the child at heart. One particular group who occasionally do become carers in certain situations are grandparents. It might well be that appropriate grandparents who might wish to be able to care for the child could be such people here and certainly in my view they would fall within that definition. So, while we would certainly be looking at it, it is a very appropriate clause because of the types of persons involved.

Ms Tucker: So why did you take it out? Can you explain that?

MR STEFANIAK: The types of persons involved.

MR SPEAKER: Did you wish to speak, Mr Wood?

Mr Wood: No. I have reservations, but I am not fussed.

Proposed new clause agreed to.

Postponed clause 193.

MR RUGENDYKE (6.06): I move:

> Page 91, line 23, subclause 23, omit "The chief executive", substitute "Subject to section 193A, a person".

This clause simply facilitates the provisions of new clause 193A being implemented.

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clauses 194 to 196, by leave, taken together and agreed to.

Postponed clause 197

MR RUGENDYKE (6.07): I move:

> Page 92, line 17, omit the clause, substitute the following clause:
>
> "**197 Contents of care and protection applications**
>
> A care and protection application must specify the particular care and protection order sought and the ground on which it is sought.".

This simply facilitates clause 193A. It clarifies the role of carers in respect of new section 197.

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clauses 198 to 211, by leave, taken together and agreed to.

Postponed clause 212

MR RUGENDYKE (6.08)**:** I move:

> Page 97, line 29, omit the clause, substitute the following clause:
>
> "**212 Applications for assessment orders**
>
> **(1)** The chief executive may apply to the court for an assessment order in relation to a child or young person if the chief executive considers it appropriate to do so.
>
> **(2)** A person, other than the chief executive, may apply to the court for an assessment order in relation to a child or young person in accordance with section 193A only if the chief executive has not made a care and protection application in relation to the child or young person.
>
> **(3)** A person, including the chief executive, may make an application for an assessment order by telephone, fax or other electronic means in an urgent case.".

This alters clause 212 to enable a person other than the chief executive to apply to the court for an assessment order in relation to a child or young person in accordance with that new clause 193A. That occurs if the chief executive has not made a care and protection order in relation to the child or young person. It also allows the person or the chief executive to make application for an assessment order by phone, fax or other electronic means in an urgent case.

MS TUCKER (6.09): I want to restate concerns about this. The previous amendments are all similar. Unlike the Government's original provision which allowed only the chief executive to make these orders, it is yet again allowing outside people to do this. I am sorry that the Minister cannot explain why they have taken this change of position because it would have clarified it. Again I want to exercise my right to sound a word of caution and concern about this amendment.

MR STEFANIAK (Minister for Education) (6.10): One of the big problems in the past has been the number of people who actually can reply and who have interests in this, and who feel left out of the system. Again, it goes back to interests of the child. One has to give due credence to the ability of the court to ensure that there are not any improper or frivolous assessments. That is something we will monitor, but this is an important revision in terms of having someone other than just the chief executive. In terms of experience, there is a strong case for something such as this to be included. The Government is happy with Mr Rugendyke's amendment. We note members' concerns and we will be monitoring it, too.

MS TUCKER (6.11): I am trying to understand what the Minister has just said. He said he can see why this is necessary "from personal experience", or something like that. That must mean the chief executive making the orders is inadequate. Is it not working with just the chief executive making the orders? Why is there a need to bring in these opportunities for other people? That is what I would like you to explain.

MR RUGENDYKE (6.12): It is unfortunate that the credibility of the chief executive has been brought into consideration here.

Ms Tucker: I am just asking a question.

MR RUGENDYKE: This provision allows concerned people to at least be heard on a matter such as this. Following consultation with the chief executive, it may be that the chief executive does not wish to intervene or to seek orders. But someone else may wish to exercise that right, including a parent. I agree it should be monitored, if passed, and see where it takes us in light of this new amendment.

Amendment agreed to.

Postponed clause, as amended, agreed to.

Postponed clauses 213 to 228, by leave, taken together and agreed to.

Proposed new clause 214A

MS TUCKER (6.13): I move:

> That the following new clause be inserted in Division 5 of the Bill: Page 106, line 28:
>
> "**214A Review**
>
> **(1)** The Minister must review and evaluate the first 12 months of operation (the ***review period***) of this Act in relation to therapeutic protection, to determine whether therapeutic protection is being provided in appropriate cases and appropriate ways and to evaluate the effectiveness of therapeutic protection orders.
>
> **(2)** The review must include consideration of relevant feedback received from the community and from people involved in providing therapeutic protection and of the reportable information.

(3) The Minister must present a report of the review to the Legislative Assembly not later than the first sitting day after a 3 month consideration period commencing on the first day after the end of the review period.

(4) The report must include the reportable information for the review period.

(5) In this section, the following is ***reportable information*** for the review period:

(a) the number of children or young people who received therapeutic protection and the age and sex of each;

(b) the length of each period of therapeutic protection for each child or young person, including whether the child or young person has received therapeutic protection before;

(c) the kind of therapeutic protection provided for each child or young person, whether the provision has been successful and an explanation of why the provision has or has not been successful;

(d) an assessment of the adequacy of resources provided for therapeutic protection orders;

(e) whether there has been any unmet need in relation to the provision of therapeutic protection.".

This amendment is about ensuring that there is a review of the therapeutic protection orders after 12 months, in light of the fact that I was not successful with my other amendment. This, at least, is some mechanism put into the legislation to give us the opportunity to look at what has resulted from this piece of the legislation.

MR STEFANIAK (Minister for Education) (6.14): The Government will be opposing this, Mr Speaker. I draw members' attention again to new section 414 and the fact that members will be watching this legislation very carefully, as will the Government. This is a rather strange piece of drafting to put into legislation. I can see what Ms Tucker wants to do. It would be entirely appropriate she do that as a member of the Assembly or even in terms of chair of a committee which has an interest in this. It is obviously something that Mr Wood indicated he has got an interest in looking at, too, as anyone with responsibility in this area would. In terms of a set of ideas and principles of what members should look for, maybe it is not unreasonable. But to put it in legislation is incredibly difficult because in legislation it is up to a court to interpret it. There are some grave difficulties there. For example, subclause (2) states:

The review must include consideration of relevant feedback received from the community ...

What is "relevant"? There is nothing to assist us, and that may be difficult for a court. I have significant problems in terms of subclauses (5)(c), (d) and (e). Subclause (c) refers to:

> the kind of therapeutic protection provided for each child or young person, whether the provision has been successful and an explanation of why the provision has or has not been successful;

What is "success"? This is an incredibly difficult area. How are we meant to look at that? I have some grave problems there. What is "successful" meant to be? It is inevitably a very subjective term. The order is supposed to be made only where the program is likely to lead to significant improvement in the circumstances of the child or young person. I wonder what we can really make out of (c).

Subclause (d) refers to:

> an assessment of the adequacy of resources provided for therapeutic protection orders;

Again, that is incredibly subjective in terms of members of the Assembly. While members of the Assembly have every right to discuss adequacy of resources in a political context, to put that in legislation is quite extraordinary. I have not seen that in legislation before. Legislation necessitates actions, which cause resources to be expended. That is understood. But to have an assessment of the adequacy of resources provided for therapeutic protection orders - we might as well have a clause like that for the adequacy of resources provided for enforcing drink driving laws or enforcing police taking actions under the Crimes Act. I am sure they would love to see something like that in there. But it is not. The Defence Force would love to see "adequate resources" in the Constitution. You could put it in any form of endeavour of government. It is strange to have that in legislation. That is more a job of a legislature to actually look at in political terms as it sees how legislation actually operates. It is a political question, not a legal one.

Again, subclause (e) states:

> whether there has been any unmet need in relation to the provision of therapeutic protection.

That is very much of a political statement, entirely inappropriate in legislation. I have looked at this; it is very difficult even to amend it to give it some strength. A far better option, Mr Speaker, would be for members, as they said they would do, to see how this all goes, to monitor it, rather than to put, what I would submit, is some very strange provisions into legislation. I have not seen anything like this in legislation before. I think it would be a very dangerous step if this were followed. I am not criticising Ms Tucker for attempting it, but it is certainly not something one would expect to see in legislation. There are other, far more appropriate ways of doing it.

MR WOOD (6.18): Notwithstanding some reservations about the wording here, the Opposition is inclined to support this amendment. I hear Mr Stefaniak say it is very, very unusual. That may be. I would indicate support on the basis that I do not mind seeing a solid reference there to review what has happened. My reservations go to a tendency of the Greens sometimes to be so very, very specific. That is the reason I have not supported some of their other amendments today. They like to tie things down to the finest detail they can get. I am not sure that is always a necessary thing to do. So subclauses 5(a) to (e) do concern me a little because there is very excessive, detailed requirement placed in that. The Minister said the courts might have a problem with this and I did not understand that.

Mr Stefaniak: Well, the court has got to interpret legislation.

MR WOOD: Just where might the courts come into this? This is a job for the Minister and I do not see where the courts have a role. He might elaborate for me on that issue. Unless he can convince me there, the Opposition will be supporting this.

MR STEFANIAK (Minister for Education) (6.20): This is legislation and the body that interprets legislation is a court of law. It is not a motion, which the Assembly can interpret. This is actually legislation which becomes an Act and which a court would then have to interpret. It is inappropriate as an amendment to an Act. There are other ways for Ms Tucker to achieve the same aim without putting something like this in the legislation. It is quite extraordinary, and there are much better ways of doing it. You would be opening up some amazing precedents. As I pointed out, there are some very significant problems there in terms of what on earth a court, which ultimately is responsible for interpreting and indeed enforcing any breaches of this, would do.

MS TUCKER (6.21): I cannot say definitely whether or not the Minister is correct. I would like time to look at it. I am quite happy to rework this if in fact the Minister is correct so that we still will have a review after 12 months. The specific criteria or terms of reference would be developed, perhaps in consultation with the Standing Committee on Education, or something like that. We can talk about how that could work. To achieve that I would need leave from the Assembly to seek an adjournment of this debate until Thursday so that we could actually work to find a more acceptable approach.

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

ADJOURNMENT

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

> That the Assembly do now adjourn.

Rollerblade Incident at Floriade

MR BERRY (6.22): Mr Speaker, I want to draw an issue to the attention of the Assembly. A constituent has called me, he is a rollerblader. He contacted me by phone on 27 August. He had a fall at Floriade. He was rollerblading through Floriade and he says that the bike path was inundated with water. He had a serious fall, and has suffered quite serious injuries, which has involved medical treatment and laser treatment to repair quite serious abrasions and so on.

He had been in touch with CityScape and could not get any satisfaction from them in relation to his injuries. Shortly after this period Floriade was closed down, and declared an industrial site and off bounds for pedestrians, cyclists and rollerbladers. Mr Speaker, I have written to the Minister and urged the Minister's office to contact this gentleman and I have provided his address. He rang me yesterday and is still worried about obtaining satisfaction for what he claims were serious safety problems, which need to be responded to.

I think this gentleman should be given some satisfaction, he should be given the right of a contact by government officers. I know that the Minister would have passed this through to the department, and I know these issues are often difficult because they could involve legal action. I understand that this person is not keen to get involved in legal action, but he wishes to compromise and reach a satisfactory settlement with the Government, and he wants to discuss it.

I raise this matter, Mr Speaker, because the gentleman is quite upset about the way he has been treated. I ask the Minister to take early action to have his department contact this fellow and resolve the problems he is faced with, so that some form of settlement can be reached with the person; but, furthermore, that in future other pedestrians, cyclists and rollerbladers are not subjected to things that might infringe upon their safety.

Question resolved in the affirmative.

Assembly adjourned at 6.26 pm.