DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

21 October 1999

Thursday, 21 October 1999

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The Assembly met at 10.30 am.

(Quorum formed)

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

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Ms Tucker**, from 954 residents, requesting that the Assembly not allow the proposed development to extend Templestowe Avenue through the Conder Yellow Box/Red Gum Grassy Woodland site and to adopt the alternative proposal to join Templestowe Avenue to Tom Roberts Avenue by the shortest possible route.

The terms of this petition will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Grassy Woodland Site

The petition read as follows:

> To the Speaker and Members of the Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that there is a proposed development to extend Templestowe Ave through the Conder Yellow Box/Red Gum Grassy Woodland site, listed as Block 35, Section 136, Conder. There is an alternative proposal by the undersigned, namely that Templestowe Ave be joined to Tom Roberts Ave by the shortest possible route.
>
> The site, also known as Conder 4A, is very special for many reasons. It is recognised as an endangered ecological community of "high conservation value" in Environment ACT's Draft Action Plan 10, Yellow Box/Red Gum Grassy Woodland – an Endangered Ecological Community.

> The site is highly diverse, with over 125 plant species. It provides Tuggeranong residents and school students with access to a site which provides excellent educational, research, conservation and social opportunities.
>
> Given the huge land release planned for the Conder area, the lack of grassland sites in the area (notwithstanding the Eaglemont site which will be placed in reserve), and the national and local importance of the site, the proposed development is an act of unnecessary environmental destruction.
>
> The petition supports similar submissions made to the Minister by a number of community groups.
>
> Your petitioners therefore request the Assembly to not allow the proposed development and to adopt the alternative.

Petition received.

URBAN SERVICES - STANDING COMMITTEE
Reference - Out of Order Petition on Proposed Gungahlin Parkway Extension

Motion (by **Mr Hird**, by leave) agreed to:

> That the terms of an out of order petition relating to a proposed eastern extension of the Gungahlin Parkway be referred to the Standing Committee on Urban Services to inquire and report as part of its inquiry into the proposals for the Gungahlin Drive Extension.

TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL (NO 2) 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.34): Mr Speaker, I present the Territory Owned Corporations (Amendment) Bill (No 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill amends the Territory Owned Corporations Act 1990 by removing the existing restrictions to the number of issued non-voting shares permitted for a territory owned corporation; removing the duplication inherent in existing reporting requirements in relation to statements of corporate intent and territory budget processes; and updating the terminology so that the Act complies with recent amendments to the Commonwealth's Corporations Law.

Mr Speaker, the Territory Owned Corporations Act 1990, the TOC Act, as it stands, limits the number of issued shares in a corporation to three non-voting shares and two voting shares. This Bill seeks to amend the TOC Act in regard to the number of non voting shares a TOC may issue. I must stress that the Bill does not seek to amend the number of voting shares to be issued. Nor does it provide for shares to be held other than in trust for the Territory without the approval of the Legislative Assembly. Territory ownership of the TOCs will not be diminished in any way by this Bill. Having made that point clear, the Territory's ownership of the TOCs is not an issue here.

This Bill will provide significant benefits with regard to the financial management of the TOCs. Removing restrictions on non-voting shares will allow the transfer of capital between the TOCs and the Government. This enhancement to the current situation will enable more efficient and effective management of the Territory's capital. Under this Bill, the Treasurer will have the authority to request a TOC issue non-voting shares to a person authorised by the Treasurer to hold shares on behalf of the Territory. This will allow additional equity capital to be injected into individual TOCs where that is necessary for their future growth and development.

Mr Quinlan: Or taken out.

MR HUMPHRIES: Taken out, if that is what we want; if that is what the Assembly approves. Mr Speaker, the Treasurer will have the power to authorise a buy-back of non-voting shares by a TOC. TOCs are not authorised under this Bill to otherwise trade in their own shares and may only buy or issue back non-voting shares under authorisation from the Treasurer. I see this part of the Bill as an important step towards the way the Territory manages its assets and optimises the value of its investments in TOCs.

The second part of this Bill seeks to grant the Government greater discretion over the timing of preparation of a TOC's statement of corporate intent while ensuring that the SCI is produced at least annually. The TOC Act currently requires a draft SCI to be presented to the voting shareholders by 31 July each year, with the final SCI due by 30 September.

Two issues are raised in the current timing requirements. First, a TOC is three months into the financial year before its final SCI is presented to the shareholders. Clearly, it would be preferable for the TOC and the shareholders to agree on the direction of the TOC before it gets through the first quarter.

The second issue concerns the provision of information in conjunction with the budget papers. A great deal of information required for the budget is included in the SCI. The preparation of information for the budget and then updated information for the development of the SCI can result in unnecessary duplication and waste of resources for the TOCs. This second part of the amendment to the TOC Act seeks to remove the existing time constraints on the development of the SCI and grant authority to the Treasurer to request an SCI from the TOCs as required. In no way does this Bill alter the

content of the SCI. Nor does this Bill reduce the accountability of the TOCs to government or the Assembly. What this Bill does is reduce the amount of duplication currently required of the TOCs.

The final part of this Bill is technical, has no practical effect upon the operation of the TOC Act and merely incorporates recent changes to the Corporations Law, because it is a Commonwealth Act. The Company Law Review Act 1998, a Commonwealth Act, changed the rules in the Corporations Law regarding a company's constitution. The memorandum of association and the articles of association for companies formed prior to 1 July 1998 are now referred to as the company's constitution. The terms "memorandum of association" and "articles of association" are no longer used in corporation law. This Bill makes technical amendments to the Act by replacing reference to the memorandum and articles of association in the TOC Act with reference to the company's constitution.

The amendments to the TOC Act contained within this Bill add value to the existing legislation and provide for genuine improvements in the Government's management of the Territory's investment in territory owned corporations. I commend the Bill to the Assembly.

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

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999

MR SMYTH (Minister for Urban Services) (10.39): Mr Speaker, I present the Road Transport Safety and Traffic Management Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Government introduces in the Assembly today legislation that will facilitate the implementation in the ACT of further national road transport reforms. The Bill is presented today primarily to deal with the use of vehicles on roads and road related areas and includes such matters as vehicle registration, driver licensing and road rules. The ACT has been involved in the national road transport reform process since the early 1990s. Heads of government agreements were signed in 1991 and 1992 to implement uniform legislation for nationally agreed road transport reforms.

The National Road Transport Commission, NRTC, was established to assist in the development of uniform policies and legislation. The 1991 heavy vehicle agreement and the 1992 light vehicles agreement, endorsed by all jurisdictions, are incorporated as schedules in the National Road Transport Commission Act 1991, a Commonwealth Act.

To date, national reforms implemented in the ACT include heavy vehicle charges, transport of dangerous goods, vehicle standards and most aspects of vehicle operations. The legislation presented today will add vehicle registration, driver licensing and road rule reforms to the lists of these achievements.

The preparation of this draft legislation necessitated an overhaul of the ACT road transport legislative structure. The Government decided to model the restructure on the approach New South Wales adopted in implementing the national reforms. Using their legislation as a base for developing ACT law will ensure that the ACT also adopts the national requirements, as New South Wales closely mirrored the national transport reforms in its legislation. Other benefits from this approach include learning from New South Wales' experiences in implementing the national reforms and opportunities to reduce cross-border differences, making administration of transport law in the ACT more efficient.

Mr Speaker, the Government has taken further steps to make ACT roads safer by including in this reform package offences and other deterrents for those motorists who choose to speed or drive dangerously. These offences are located in the Road Transport (Safety and Traffic Management) Bill 1999 and include driving furiously, menacing driving (commonly known as road rage), two new forms of negligent driving, one of causing death and the other of causing grievous bodily harm, as well as a regulation power to provide for speed inhibitors in relation to certain proscribed offences under the Act.

The Government has also taken steps to combat the growing trade in stolen vehicles by providing police with additional powers. These powers are located in the Road Transport (General) Bill 1999. They include provision for police officers to enter motor vehicle repair premises under the authority of the Chief Police Officer at any time to inspect for stolen vehicles, trailers or parts, and for police officers to use tyre deflation devices under the authority of the Chief Police Officer in relation to the pursuit of a vehicle.

As the Motor Transport Act 1936 has been repealed by the introduction of the national initiatives, other local legislative amendments which would have been included in this Act have been included in the legislative package. These include Mr Osborne's private members Bill on drink driving and restricted special licences. The Government supports the initiative put forward by Mr Osborne. The legislation will provide for mandatory licence disqualification for drink drivers, preventing those who have had a restricted licence cancelled from applying for a further restricted licence and making repeat drink drivers ineligible for a restricted licence.

The Road Transport (General) Bill also provides that people disqualified from driving following convictions for other types of serious driving offences, for example, culpable, dangerous or menacing driving, are similarly ineligible for a restricted licence. Mr Speaker, implementation of the vehicle registration and driver licensing reforms by 1 December 1999 is a requirement for National Competition Council policy assessment. The Motor Traffic Act 1936 and the Traffic Act of 1937 and related regulations are to be repealed and replaced by the Bills presented today.

I now turn to the proposed legislation, to give an overview of the Bills. The first one I have presented is the Road Transport (Safety and Traffic Management) Bill 1999. This is a Bill to facilitate the adoption of nationally consistent road rules in the Territory, to make provision about other matters concerning safety and traffic management on roads and road related areas, and for other purposes. The objects of this Bill are to provide for a safety and traffic management system in the ACT that is consistent with the agreed schedule in the National Road Transport Commission Act 1991 and part of the uniform national road transport legislation envisaged by that Act and to re-enact with some changes certain provisions of the Motor Traffic Act 1936 about safety and traffic management, as well as to improve road safety and transport efficiency and reduce the cost of administering road transport.

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

ROAD TRANSPORT (GENERAL) BILL 1999

MR SMYTH (Minister for Urban Services) (10.45): Mr Speaker, I present the Road Transport General Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this is a Bill to provide for the administration and enforcement of road transport legislation; to provide for the review of decisions made under road transport legislation; to make further provisions about the use of vehicles on roads and road related areas and for other purposes.

The objects of the Act are to provide for the administration and enforcement of the road transport legislation. It provides for review of certain decisions made under the road transport legislation; the determination of fees, charges and other amounts payable under the road transport legislation. It does so consistent with the agreements scheduled in the National Road Transport Commission Act 1991.

The Act makes further provisions about vehicles, roads and road related areas. It re-enacts, with some changes, certain provisions of the Motor Traffic Act 1936 and improves road safety and transport efficiency, and reduces the costs of administering road transport.

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

ROAD TRANSPORT (DRIVER LICENSING) BILL 1999

MR SMYTH (Minister for Urban Services) (10.47): Mr Speaker, I present the Road Transport (Driver Licensing) Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

That this Bill be agreed to in principle.

Mr Speaker, this is a Bill to provide for the licensing of drivers and for related matters as part of the system for nationally consistent road transport law, to provide for additional matters about learner, probationary, provisional, public vehicle and restricted licences and for other purposes. The objects of the Bill are:

(a) to provide for a driving licensing system in the ACT that is –

(i) consistent with the agreements scheduled to the National Road Transport Commission Act 1991 (Commonwealth); and

(ii) part of the uniform national road transport legislation envisaged by the Act and the uniform national approach to drivers licensing; and

(iii) are designed to provide uniform licence classes for drivers of motor vehicles, and uniform eligibility criteria for those licence classes; and

(b) to define the responsibilities of people in relation to driver licensing; and

(c) to provide a way of authorising the driving of motor vehicles on roads and road related areas and of identifying people as licensed drivers of motor vehicles; and

(d) to facilitate the regulation of drivers of motor vehicles in the interests of road safety and transport efficiency and law enforcement generally; and

(e) to provide a way of enforcing road safety standards relating to driving motor vehicles on roads and related areas; and

(f) to facilitate –

(i) the recovery of expenses of administering the drivers licensing system; and

(ii) the collection of fees determined for this Act under the Road Transport (General) Act 1999; and

(g) to provide for other matters relating to learner, probationary, provisional, public vehicle and restricted licences; and

(h)to improve the road safety and transport efficiency, and reduce the costs of administering road transport.

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

ROAD TRANSPORT (VEHICLE REGISTRATION) BILL 1999

MR SMYTH (Minister for Urban Services) (10.49): Mr Speaker, I present the Road Transport (Vehicle Registration) Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

That this Bill be agreed to in principle.

Mr Speaker, the Road Transport (Vehicle Registration) Bill 1999 provides for the registration of vehicles and for related matters as part of the system for nationally consistent road transport law, and for other purposes. The objects of the Bill are –

(a) to provide for a vehicle registration system in the ACT that is:

(i) consistent with the agreements scheduled in the National Road Transport Commission Act 1991; and

(ii) part of the uniform national road transport legislation envisaged by that Act; and

(b) to improve road safety and transport efficiency, and reduce the costs of administering road transport.

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

ROAD TRANSPORT LEGISLATION (AMENDMENT) BILL 1999

MR SMYTH (Minister for Urban Services) (10.51): Mr Speaker, I present the Road Transport Legislation (Amendment) Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR SMYTH: I move:

That this Bill be agreed to in principle.

Mr Speaker, The Road Transport Legislation Amendment Bill 1999 is to amend various Acts and repeal certain Acts because of the enactment of the Road Transport (Driver Licensing) Act 1999, the Road Transport (General) Act 1999, the Road Transport (Safety and Traffic Management) Act 1999 and the Road Transport (Vehicle Registration) Act 1999, and for other purposes.

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

DRUGS IN SPORT BILL 1999

MR STEFANIAK (Minister for Education) (10.52): Mr Speaker, I present the Drugs in Sport Bill 1999, together with its explanatory memorandum and a copy of my speech.

Title read by Clerk.

MR STEFANIAK: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I have pleasure in presenting this Bill. The use of banned performance enhancing substances by athletes has received wide publicity and general condemnation in recent years. Internationally, this has resulted in most sports adopting laws, codes of practice, rules and sanctions covering their use.

Publicity is especially high in Olympic years and host nations are subject to particular scrutiny as to their drugs policies and practices. The need for a uniform national approach to drug testing in Australia prior to the 2000 Sydney Olympics is therefore essential. The Sport and Recreation Ministers Council (SRMC) agreed that there was a need for state and territory sport drug testing legislation to enable the Australian Sports Drug Agency (ASDA) to exercise drug testing functions on a wider group of athletes than was possible under the ASDA Act.

Most recent changes to international regulations have prompted changes to Commonwealth legislation, with the recently passed Australian Sports Drug Agency (Amendment) Act 1999, including amendments to enable state and territory complementary legislation to have effect. ASDA's role is to educate the sporting and general community on health and fair play issues related to drug use in sport and to carry out drug sampling and testing of sports people at sporting events, during training and out of competition.

ASDA was limited to testing of national level athletes who had been selected to compete as Australian representatives in international sporting competitions, or had been assessed as having the potential to represent Australia. The ACT Drugs in Sport Bill 1999, which I now present, recognises the need to carry out some testing on state level athletes, the future national elite, to spread the drug testing deterrent to a wider target. The Bill enables ASDA to conduct sports drug testing and associated functions in respect of defined categories of ACT athletes.

The Drugs in Sport Bill 1999 is complementary to the Commonwealth Australian Sports Drug Agency Act 1990 (ASDA Act). The Bill has been developed in line with the national framework on drugs in sport which ensures that athletes throughout Australia who are subject to testing programs are treated in a consistent manner. The framework aims for a coordinated national approach with commonality in legislation, particularly as to the definition of athletes liable to be tested and special considerations for the rights of children.

There has been substantial public consultation on the proposed policy and the mechanics of a local drug testing program over several years. Two major issues arising from this consultation are addressed in the Bill: The testing of children and the need for an agreement with ASDA on the necessary funding and operational arrangements for the testing program. ACT athletes currently eligible for testing as national level competitors include those competing, or training to compete, at international level competitions and competing in competitions such as national championships and national leagues.

This includes all of our ACT Academy of Sport athletes who receive full scholarships participating at national and international level. They are the target group for ASDA's drug testing and education programs in the ACT. ACT competitors are defined in this Bill as:

> persons (individuals or team members) who represent the ACT in an open age sporting competition (open to persons of any age who are competing either as individuals at the top level for a sport, or as members of the top team for a sport);
>
> persons who are included in a squad from which ACT representatives may be selected;
> individuals or team members receiving direct support under an ACT government sports assistance program; and
>
> any person whose name is entered on the national register of notifiable events and thus ineligible to represent the ACT in an open age sporting competition.

This is an expanded target group for ASDA's education and testing programs. To protect the new group of athletes affected by the legislation, athletes under 18 who are selected for testing may be only be requested to provide a sample with the consent of the athlete and the athlete's parent or legal guardian. All sampling, testing, recording and reporting procedures will be in accordance with the privacy guidelines specified in the ASDA Act 1990. ASDA will not be permitted to collect samples for any other purpose.

The proposed legislation will provide for ASDA to test ACT athletes anywhere in Australia. The functions which ASDA will be able to carry out in relation to an ACT drug sampling and testing program are:

to provide education programs and to disseminate information about sports drug use, effects, testing and penalties;

to select competitors who are to be requested to provide samples for testing, and to arrange for the sample-taking and testing in accordance with the provision in the Commonwealth's ASDA Act; and

to establish and maintain a register of competitors who return a positive test or who refuse to submit to testing, and to notify the athlete concerned, the athlete's sporting associations and the ACT Government's sports agency of inclusion in the register.

A formal agreement between the ACT Government and ASDA will be required before ASDA can carry out its functions in respect to ACT athletes. All States and Territories will enter into similar agreements with ASDA under their complementary legislation. This agreement will set out the necessary funding and operational arrangements. Testing of athletes under the agreement would be subject to conditions agreed by the ACT Government and ASDA. I commend the Bill to members.

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

MATERNAL HEALTH INFORMATION REGULATIONS

MR BERRY (10.58): Mr Speaker, I move:

That Subordinate Law No 15 of 1999 made under the Health Regulation (Maternal Health Information) Act 1998 be amended as follows:

Clause 3, page 1 -

Omit the definitions of "current pamphlet" and "pictorial material".

Clause 4, page 2 -

Omit the clause.

Clause 5, page 2 -

Omit the clause, substitute the following clause:

4 Approved material must be made available

The Minister must ensure that, as far as practicable, copies of a document that contains only the approved material are made available free of charge.

Schedule, page 3 -

Omit the Schedule.

In discussion with colleagues, it has been suggested that the motion may be clarified if it refers to Subordinate Law No. 23. I seek leave to amend the motion by inserting the words "as amended by Subordinate Law No. 23 of 1999" after "Subordinate Law No. 15 of 1999".

Leave granted.

MR BERRY: Again, we return to the issue of women's rights on termination being trampled by narrow moral views in this chamber. I make the point at the outset of this debate that the - - -

Mr Humphries: Mr Speaker, I rise on a point of order. Mr Berry has moved to disallow Subordinate Laws No. 15 and No. 23 of 1999. Members will recall that we had a debate only a few weeks ago in this place about Subordinate Law No. 15. Mr Berry now seeks to debate that and another subordinate law, one which, incidentally, I think he would say improves Subordinate Law No. 15. Standing order 136 says:

> The Speaker may disallow any motion or amendment which is the same in substance as any question which, during that calendar year, has been resolved in the affirmative or negative, unless the order, resolution or vote on such question or amendment has been rescinded.

Neither motion has been rescinded, Mr Speaker. The issue, I would argue, is substantially the same. In fact, as far as Subordinate Law No. 15 is concerned, it is extremely similar. The whole of the schedule is to be removed, according to Mr Berry's amendment, and substantial parts of the regulation that makes the schedule are also removed. Apart from just a couple of sentences, the effect of the motion is the same as the motion that Mr Berry moved back in June of this year. I would argue that this is in breach of standing order 136.

MR BERRY: Mr Speaker, can I respond to that?

MR SPEAKER: No. Mr Berry, just excuse me for a moment. It has been drawn to my attention that there may be a problem with this matter. It is up to me. It is at my discretion. I would just like to make a statement to the house.

Standing Order 136 does give me discretion to disallow any motion or amendment which is the same in substance as any question which, during the current calendar year, has been resolved in the affirmative or in the negative. The key question is whether the motion to amend the subordinate law would have a different effect to the previous motion if it had been agreed to. Should the Assembly agree to the amendment proposed by Mr Berry to the regulations, substantively, it would provide that the Minister must ensure that, as far as practicable, copies of documents containing only approved material are made available free of charge.

The issue of the application of the same question rule in this case is difficult to determine. However, in the circumstances I am prepared to use the discretion provided by standing order 136 to allow debate to proceed. You may proceed, Mr Berry.

MR BERRY: The point of order that Mr Humphries makes was certainly anticipated. This is clearly an amendment rather than an attempt to strike down the entire regulation. Mr Humphries might say that it goes to the same question. It certainly deals with that issue, but it allows the regulation to stand. It merely makes the provision of material free.

I accept with some regret that the law that gave rise to these regulations was passed in this chamber and that my earlier attempts to strike out the regulations failed. I intend at every opportunity to continue to raise this matter until one day a woman's right to choose, free of the restrictions of legislation, is recognised in the Australian Capital Territory. I guarantee that I will continue along that course.

Mr Speaker, you have said on the record here that you will not be voting on this issue anymore.

MR SPEAKER: That is correct.

MR BERRY: I expect that if it all follows the usual voting pattern this motion will go down 8:8. There is, therefore, a heavy onus on the self-declared pro-choice Chief Minister to consider her position on this issue very carefully. This has moved closer and closer to her. It is her decision.

The Chief Minister has said over and over again that she is pro-choice, but she does not want anybody to have a choice over this matter. The only choice that she wants women to be faced with in relation to the decision whether to terminate or not is the Chief Minister's choice. The Chief Minister has chosen a course which would force women to observe this information, if she is to have her way.

Mr Speaker, the regulations and the attached schedule are offensive to women and they are offensive to fair-thinking people. They reflect a narrow moral view on the issue of abortion. I respect members' rights to hold these narrow moral views, as I hope they would respect my right to hold views different to theirs. But I cannot stand idly by and allow these narrow moral views to be imposed on women in such a way.

This schedule was devised by extremists who have been involved in the debate to influence women in their decision, to use psychological pressure on them. It never had as its origin any commitment to the health of women - the mental health, physical health or any other aspect of the wellbeing of women. It has always been about imposing narrow moral views on women faced with this important decision.

Mr Speaker, there is also the question of whether or not it was within the power of the Ministers to make this legislation. I know that that has been raised before, but it needs to be raised again. This Assembly passed a law which gave a Minister power to make regulations. As I have mentioned before in this place, there is plenty of form where the courts have struck down regulations where the regulation maker sought to extend the intent of the original legislation.

Clearly, the Health Regulation (Maternal Health Information) Act, unnecessary as it was, set out a procedure for the establishment of a panel. It also set out a procedure for that panel to approve information to be provided to women in circumstances where they were considering the termination of a pregnancy. It sets out a scheme where forms have to be signed to demonstrate that the information has been provided. The panel is to consist of seven expert members - a specialist in obstetrics nominated by ACT Health, a specialist in neonatal medicine nominated by ACT Health, a specialist in obstetrics nominated by Calvary Hospital, a specialist in neonatal medicine nominated by Calvary Hospital, a specialist in psychiatry nominated by the territory branch of the relevant specialist college or institution, a registered nurse specialising in women's health issues and a registered nurse currently specialising in neonatal medicine. Reflecting on the debate about those issues, that was to involve ostensibly two groups of people - one from what might be considered by some members here to be on the pro-choice side of things and the other from an area which would might be considered anti-abortion.

The legislation was passed against the strident opposition of many members in this chamber. Subsequently, the expert panel came down with the decision, certainly based on their concerns about women's health, that the provision of pictures, an option which is provided for in the legislation, was unnecessary and counterproductive. My understanding of events was that members in this place were asked what they thought about this. Did they want pictures in, or did they think there would be pictures in? A number of members rose to the occasion and said that they thought there should be pictures. Not one of those who said that pictures should be forced on women was elected into this place as an expert in the field. Not one of them would have the level of expertise as spread throughout the panel I described.

The emergence of these regulations was a shameful usurping of the role of a panel of experts, many of whom I understand are upset by this decision. It was a most arrogant and shameful move. But we then found that it was full of errors and that the Ministers - as I have said all along, acting on their own narrow beliefs - were about to force women to view information which was inaccurate. The expert panel said it was unnecessary and possibly counterproductive. The two Ministers were prepared to have women forced to view inaccurate information. Embarrassed and humiliated by their mistake, off they went and drew up some more regulations and came back with another schedule, which is the issue that the motion I have moved here today seeks to deal with.

Mr Speaker, we should also consider what the scrutiny of Bills committee said. That committee is chaired by Mr Osborne, who has expressed persistent opposition to the availability of abortion for women. It made some comments in relation to this regulation. Referring to its own terms of reference, it asked:

> Does the use of this instrument contain matter which should properly be dealt with by an Act of the Legislative Assembly?

(Extension of time granted) The committee went on to say:

> On the basis that this regulation might be beyond the scope of or ultra vires the power of section 16 of the Act -

section 16, I remind members, is the regulation-making power of the Act -

> it could be argued that this instrument contains matter which should properly be dealt with in an Act.

It went on to say that if the subject matter were in the Act there would, of course, on this ground, be no basis for comment because it would be included in the Act. It also goes on to say that whether these regulations should appear in the Act or not was a matter of opinion.

I do not shy away from my original position that this Act was completely unnecessary, unwarranted and shameful, but it is clear that there are reservations about whether Ministers should extend the scope of legislation merely because it suits their moral views to do so. It also draws into question how members ought to vote. Do they want to extend the legislation, or would they rather see it done in a way that there is no question about the issue at all? Why then did the proponents of these regulations or other people not put forward an amendment to the Act to properly put that question to rest so that this legislature would make a very firm decision one way or another about whether women should have pictures thrust in their face? Incidentally, they are not pictures of their own foetus but pictures of somebody else's. That confirms the stupidity of the moves of these two Ministers.

I regard it as a sad and sorry chapter in the history of self-government that we would seek to impose this information on women. I have always expressed the view that the issue of abortion is a sensitive one and the fewer terminations that occur the better. But that does not remove me one iota from the view that it is a matter between women and their doctors how and when terminations should occur. It is not for politicians to interfere. This is the grossest form of interference in the role that medical practitioners play in delivering women's health and in the decision-making rights of women in the Australian Capital Territory.

This matter will not be put to rest until legislation is passed to decriminalise abortion in the ACT and until this decision is left with women and their medical practitioners. This is an infringement of very important principles and should not be supported by members in this place. If they really had the courage of their convictions on this matter and they thought they had made a mistake with the original legislation, you would think they would have been game to come back with an amendment rather than try to extend the scope of the law by doing a bit of law-making themselves outside of this Assembly.

What would the numbers have been? I do not know. Why were they fearful of that course? I do not know. It strikes me that the two Ministers would rather make a regulation and not have to face the music of putting up a piece of legislation which in some way dealt with the issue. Do they not have the right in the Liberal Cabinet to put up private members business as Mr Moore does? I do not know the answer to that. Whatever the answer is, to me this looks as though they have extended the scope of the legislation which was set up in the first place. They should have come back, if they were so serious about it, and amended the legislation. Overriding all of this is the very clear

understanding by the majority of the community that this is offensive subordinate legislation. It has its origins in offensive legislation. For those reasons this regulation should be amended in the form that I have proposed.

MR SPEAKER: Just before I call Mr Kaine, I would just like to make a point. It has been drawn to my attention, Mr Berry, that you may have indicated that I have stated that I would abstain from voting. If so, I am sure that was an inadvertent comment on your part. I want to make it quite clear to members. I can do this best by quoting from the original debate. I said:

> I will not support in this house any subsequent motions or legislation on this contentious issue from either side.

It is fairly clear that I will vote no, irrespective of what comes up on this particular issue from either side of the house in future. That applies to today's debate as well. I just wanted to clarify that in case members may have imagined I was going to abstain.

MR KAINE (11.21): I am quite concerned at being asked to debate and vote on this matter this morning. The first time I saw this motion was when I received the notice paper at about nine or 9.15 this morning. That means that, together with all the other material on this paper, I have not had an opportunity to go to Subordinate Law 15 and Subordinate Law 23, which I did not even know about until 10 minutes ago, to see what the effect of these amendments would be. I do not have copies of those documents here, and I do not know what the effect of the omission of clause 4 on page 2 will be. I do not know what the content of page 3 of the schedule which the motion seeks to omit contains. I am being asked to debate and vote on this matter completely in the dark. I think that is inappropriate. I would ask Mr Berry whether he would consider having the matter adjourned until another day so that we can at least acquaint ourselves with the documents and be fully informed on what it is that we are being asked to do. I would have moved an adjournment myself, but I thought Mr Berry should know that I am uncertain about what he is asking us to do. In my uncertainty, like you, Mr Speaker, I will vote no. I am not going to vote yes for something I do not understand the consequences of.

I was somewhat disturbed by the tone of Mr Berry's speech in introducing this motion. On a number of occasions he repeated the words "narrow moral view". I do not know whose view he is referring to. The supporters of the existing law, which he now purports to change, in my opinion, do not represent a narrow moral view at all. They represent a very widely held public view. It is very easy for Mr Berry or somebody else to get up in this place and discount or depreciate the value of somebody else's opinion when it does not coincide with your own.

To denigrate the people who support the current law in the way that Mr Berry did is quite unacceptable. I do not believe I represent a narrow moral view. In fact, I could almost argue that Mr Berry does, because he also linked those words with "extremists". I am no extremist on this or any other subject, but I do happen to have an opinion about it. I have noted in the debate on these issues that the extreme view very often comes from the side of the argument that Mr Berry represents. No compromise is acceptable. There is only one view, and it is the view that they adopt.

I do object to being referred to as somebody with a narrow moral view, which I do not believe is correct, and to being linked with extremists, which I am not. Of all of the people who have approached me on this matter over recent months, I would not put any of them in the category of being extremists. They are people with a very thoughtful, logical approach to the subject. I do not regard them as being extreme in any sense.

Mr Berry has put me in a bit of a quandary. I would like to consider carefully what he is proposing that we do. I do not have in front of me the information that allows me to give it the consideration which I am sure he would like me to give it. Perhaps you would be interested in seeking to have the debate adjourned so that we can all inform ourselves fully on the detail of what he is proposing. I repeat that if he does not wish to do that then I will certainly vote no when the time comes.

Mr Berry: I am happy for Mr Kaine to move to adjourn the debate.

MR SPEAKER: Just a moment. We might be able to resolve this.

Mr Humphries: I just make the observation, Mr Speaker, that Subordinate Law No. 23 was tabled last Thursday in the Assembly. Mr Berry gave notice of his motion on Thursday, and it has been on the notice papers for Tuesday and Wednesday. I am comfortable to debate it. I know what the issues are and I do not wish to adjourn the debate. I do not particularly mind, but I propose to give a speech on the subject, if I may, Mr Speaker.

Mr Berry: I am not going to twist Mr Kaine's arm up his back. If he wants more time, I am happy for him to have it.

Mr Kaine: I am happy for the debate to continue, but I just made my position clear.

MR SPEAKER: Can I have a motion then from somebody, please?

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.26): Mr Speaker, I wish to speak on this matter. I do not wish to speak for very long, because I do not think members need to repeat at length what they said less than two months ago on this very subject. On 2 September we had an extensive debate about these issues. I heard Mr Berry speak in the debate. I have heard nothing new from Mr Berry from the previous time this issue was debated. I do not think members need to hear me repeat my arguments any more than they need to have heard Mr Berry repeat his arguments or need to hear any other member repeat the things they said on the earlier occasion.

Subordinate Law No. 15 was debated extensively in the last session of the Assembly. It has been dealt with, and I think Mr Berry should accept the result. It is his prerogative to use standing orders by slightly modifying his motion each time and bringing forward a fresh consideration of the issue, but I hope members will tire of that process very quickly and refuse him the capacity to do so.

This subordinate legislation is about access to information. It is about giving women the right to be able to understand what is taking place in a very important procedure like an abortion. It is not about distorting the facts. It is not about portraying something otherwise than as it is. The information is accurate. The argument was put to me and to Mr Smyth, subsequent to the tabling of Subordinate Law No. 15, that there were some inaccuracies in the original pamphlet we had prepared. We accepted that argument and, in consultation with the Minister for Health and his department, made changes to the schedule to reflect concerns expressed by medical practitioners.

I hope that even Mr Berry would concede that the schedule that Subordinate Law No. 23 gives rise to is more accurate and more capable of creating an accurate impression of what goes on than was the case with the original legislation. That leaves us to ask why are we debating Subordinate Law No. 23 when it improves Subordinate Law No. 15 and Subordinate Law No. 15 has already been debated.

Mr Berry urges us to respect the views of the panel. I simply say to those who think that that is a persuasive argument: What would Mr Berry and other members who support his view in this place have said had the panel recommended the inclusion of pictures?

Mr Berry: We would have said they were wrong.

MR HUMPHRIES: Exactly. I welcome Mr Berry's interjection - only that one. He said that he would have said that they were wrong. Mr Berry is saying that we should support the views of the panel because they recommended against pictures. But had they said that we should have had pictures he would have been opposing the views of the panel. What Mr Berry has confirmed is that the views of the panel are irrelevant to that debate. The issue for us to decide here is: Should there be pictures or should there not?

Mr Berry argued that we should not allow these regulations to extend the scope of Mr Osborne's legislation passed by the Assembly. These regulations do not extend the scope of the legislation. They cannot extend the scope of the legislation, because subordinate laws may not enlarge the scope of what is provided for in the substantive law under which they are made. That is a matter of law. If a regulation does enlarge the scope of the legislation, it will be struck down.

Mr Berry says, "Leave it to women and their doctors". Mr Berry well knows that in previous debates he has exhibited considerable lack of trust in doctors. He has made many disparaging comments about doctors. On this occasion, selectively, he decides that doctors can be trusted to provide women with information about the consequences of an abortion. Women are entitled to written information which gives them a clear picture of what is facing them. I urge members to vote no to Mr Berry's motion.

MR SPEAKER: Before I call the next speaker, I would like to acknowledge the presence in the gallery of pupils from Saints Peter and Paul Primary School in Garran, who are here as part of their local government course. I welcome you to your Assembly.

MR MOORE (Minister for Health and Community Care) (11.31): I think it is great that students from Saints Peter and Paul are here. It is interesting for them to be here for a debate on the rather controversial matter of abortion. I have made my view on abortion very clear. I do not believe it should be governed by any law at all. Mr Berry and I agree on that matter. I recognise that some believe they are dealing with a life. I do not believe that. I believe that since nobody can tell us whether the foetus is a life or is not a life then the decision should be made by the woman who is affected.

However, legislation has passed through this Assembly, and I think it is important for us to respect the law. That is why I have produced the booklet required by this Assembly. On the other hand, I also respect Mr Berry's right to try to change that law. What is happening here this morning is an attempt to change that law to ensure that we do not have to produce booklets with pictures to be provided to women seeking to terminate their pregnancy.

Although I understand what Mr Berry is trying to achieve, I think we have reached the stage where it is tilting at windmills. Of course I will support the motion put up by Mr Berry.

Mr Berry: A last desperate gasp.

MR MOORE: Mr Berry admits that it is a last desperate gasp. It is worth a try. I presume that is the attitude he is taking. It is worth a try, because it is an attempt to protect the rights of women to make their own choice. I will be supporting the motion, but if it fails then I will continue, as I have done as the Minister responsible, to produce those booklets. We have produced them. My understanding is that they are almost ready for circulation or are ready for circulation. They should be circulated this week or within the next few days. That is how we will proceed.

I think that this motion is unlikely to pass. I hope that, whatever the outcome of this motion, this is the last time we have to deal with this issue in this Assembly. However, should the numbers in this Assembly change I will be looking forward to the time when I can combine with Mr Berry, Ms Tucker and others and remove the legislation that covers abortion and allow abortion to be dealt with in the proper place - by doctors following the appropriate medical procedure and with appropriate controls over medical practitioners.

MR STANHOPE (Leader of the Opposition) (11.34): I support the motion. I think it serves a very useful purpose in highlighting, as Mr Berry described them, some very sorry aspects of this proposal and the way it has been dealt with by the Assembly. I think the process has been flawed from the outset. I still insist that it is simply not appropriate for an executive, a government, to legislate on a conscience issue. That is a concept anathema to the operations of a parliament purporting to espouse all the doctrines of responsible government.

The matter we are dealing with here is regulations. Regulations can be made only by the Government. They can be made only by the Executive. I think we have a world first here, with an executive legislating on a conscience issue. It is unheard of in any parliamentary democracy in the world espousing Westminster principles. We need to

look at that. Mr Berry's motion today highlights the fact that here we have a government legislating on a conscience issue for the first time ever. I do not think it is appropriate. I do not think it should pass without some notice.

This matter was not dealt with in the appropriate way. It should have been dealt with as private members business. I respect the rights of anybody to bring this sort of issue before this place. But it should be done in accordance with our accepted conventions and procedures. It should have been done through private members business and should have been maintained as private members business. Regulations are not an expression of private members business. Regulations can be made only by the Executive. I cannot make a regulation. Mr Kaine cannot make a regulation. Ms Tucker cannot make a regulation. Only the Executive can make regulations. The Executive is the Government. The Government is here legislating on a conscience issue. That is a basic flaw in this process.

Mr Berry's motion, without repeating the pros and cons of the issue we are debating, seeks to bring some rigour back into the legislative process. I believe that in this instance regulations were made contrary to accepted practice. I believe that to some extent they were made ultra vires or outside the power of the Government. Even dismissing that particular argument, Mr Berry is drawing attention to the fact that the regulations exceed the power provided for within the parent Act for the making of regulations. Regulations should not in any way supersede the authority of the Act.

The Act sets out a scheme under which an expert committee is established to provide advice on the information that is to be made available to women seeking an abortion. That is the scheme set out in the Act, the parent document. It is simply not acceptable to use delegated legislation to put in place a scheme that exceeds the authority or the scope of a scheme anticipated by the legislation. That is the thrust of Mr Berry's motion. It is basically to restore to the legislature, to this parliament, its authority to determine how issues such as abortion are dealt with in this community.

To the extent that I believe this Executive has undermined the authority of the parliament by introducing regulations that go beyond the powers expressed by this legislature in the Act, it is simply not acceptable. Mr Berry's motion seeks to restore to this parliament the authority to make decisions about how these difficult and sensitive issues will be dealt with in our community. That power has been removed from the parliament, the legislature, and has been assumed by the Executive. The Executive has taken power away from this parliament in a way that I do not believe is acceptable. I doubt that it is authorised by the law.

That is what the motion does. It should be supported as a recognition of the primacy of the Act and the primacy of the role of the legislature. Mr Berry's amendments to the regulations should be supported for that reason. That is enough without going to the merits of a publication that requires women to look at pictures of foetuses. There is a very important principle at stake here. The amendments to the regulations should be supported.

MS TUCKER (11.40): I am not going to go through all the arguments I have put in this place on a couple of occasions about my concern about this particular piece of legislation and subsequent regulations. I totally support what Mr Jon Stanhope has just said in expressing concerns about the legality of this. I understand that it could well be subject to a court challenge. There is obviously an argument that these regulations are not consistent with the intention of the Act. The way some members of the Executive chose to overrule the clear intention of the parliament to give responsibility to an expert panel to determine what sort of information is appropriate to be given to women is totally unacceptable.

I take the opportunity at this point to say for the record what happened as a result of concerns I raised in the last debate about the accuracy of the pamphlet and the additional material to be added to the pamphlet - the pictorial information and accompanying information about weights and lengths of foetuses. This was another indication of how the process was not only quite concerning in terms of democratic processes but also concerning because of the sloppiness of it.

The original pamphlet that was foisted on us and on the ACT community said that at eight weeks the embryo is three centimetres long. That is now revised to 1.2 centimetres. It has gone from three centimetres to 1.2 centimetres. It has gone from 15 grams to no weight being specified at eight weeks. At 10 weeks, it has gone from 30 grams down to 15 grams and from six centimetres to three centimetres. At 12 weeks, it has gone from 45 grams to 30 grams and from 8.9 centimetres to six centimetres. At 14 weeks, it is now described as 8.9 centimetres, not 12 centimetres, and 45 grams, down from 100 grams. The pictures are the same, I see. I still think you can argue that they are misleading in the way they are presented. But obviously the officials in the Department of Health have allowed that to stay as it was.

The other reason I think it is quite useful to have this debate again is that there is an opportunity today for Mr Rugendyke to speak. I can remember very clearly that when we discussed this matter last time he said nothing. I heard that he wanted to keep his head down on this matter. Perhaps that is why he chose not to speak. I am saying that that is totally inappropriate. As an elected representative, he has a responsibility to tell the ACT community why he has voted as an absolutely critical number in this debate.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77.

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

> That so much of the standing and temporary orders be suspended as would prevent consideration of notices 2 and 3, Assembly business relating to the proposed amendments to the Maternal Health Information Regulations and the Food Regulations Amendment having precedence over Executive business in the ordinary routine of business this day notwithstanding any adjournment of debate of either notice until a later hour this day.

MS TUCKER: I think every member has a responsibility to explain their vote when it is a matter that is so contentious and is obviously of interest to the broader ACT community. This debate gives Mr Rugendyke an opportunity to speak on this matter. People in the community would appreciate having the benefit of understanding what his views are and why he is continuing to support what many of us in the community and this Assembly see as an undemocratic process and a matter of grave concern, for that reason, if no other.

In conclusion, I remain firm about my concerns about the nature of this legislation. I am very concerned to hear you say, Mr Speaker, that you will just vote no, no matter what the argument is. I cannot understand how that is a good argument for the ACT community. Just to say, "I will vote no", no matter what argument is put up, to me, is nonsensical. To abstain would be a different matter. That would be to say, "I abstain because I think there should be a referendum". As I remember it, that is what you said. There would some logic in that. But to say you will vote no does not make sense to me. That is another issue that I am concerned to hear raised today. Once again, I think the ACT community deserves better.

MR OSBORNE (11.46): Ms Tucker should worry about herself on this issue and not be overly concerned what the view of other members in this place is. It is quite clear that anyone who does not agree with Ms Tucker on this issue is a narrow-minded bigot.

Ms Tucker: I did not say that.

MR OSBORNE: You used that term in the first debate. I suggest that Ms Tucker just worry about herself on this issue. I am sure that over the last 12 months all members have been to different places and given this a lot of thought. I do not think anyone in this place has shirked their responsibility. I find it quite annoying that those who have views different to mine and views different to those of the majority of people in this place stand up and throw cheap shots.

I know that Mr Rugendyke has given this a lot of thought. He spoke on it when the legislation was debated last year. I think he said at the time he had no problem with pictures, and he has said that since. But it is really none of your business, Ms Tucker, whether anyone speaks on this issue today. Just worry about yourself.

Ms Tucker: I will tell the ACT community it is none of their business.

MR OSBORNE: Ms Tucker uses the word "community" all the time. Who is the community? You? The people who speak to you - that is your community. The community, to Ms Tucker, are the people she is concerned about.

The last 12 months have not been easy for me. I hope that this is the final time that we debate this matter. I have had time in the last few months to reflect on some of the things that have gone on in relation to this issue. Obviously, I am pleased that we are able to achieve something. The thing that has disappointed me about this whole issue has been the personal attacks, not only on me but on other members here who happen to believe in something.

I make no apologies for believing what I do on abortion. I have never hidden from that fact. Unfortunately, in a democracy people have different views. I believe that what I attempted to do and what other members attempted to do is going to save some lives. Yet when I tabled the Bill last year the vilification from some members in this place, from their cronies and from certain sections of the media was not easy. Yet on an issue such as safe injecting rooms, when Mr Moore says that he is attempting to save lives, he is painted by some people as a hero. The hypocrisy from certain sections makes me wonder.

Mr Speaker, it has been difficult for all of us on this issue. I am pleased that it is coming to an end. There have been some personal shots. I feel that I need to make an apology to Mr Stanhope. Last time we debated this in August or September, I did have a shot at Mr Stanhope, which is something that I have regretted. It was not a big thing but, to his credit, he has never made a personal shot at me. It was not a vicious one but it was one that I personally have not been comfortable with, so I would just like to apologise to him on that issue.

This Assembly, in the last six to 12 months, has gone down a couple of levels in relation to personal attacks. I think that many people here, Government and Opposition, have stepped over the mark. That is regrettable. I look back at some of the things said about Mrs Carnell in relation to Bruce Stadium and some of the things that have gone on in relation to abortion. The motion last week directed solely at Mr Stanhope in relation to the committee on contracts was just a cheap shot. I see Mr Berry grinning. Unfortunately, on this issue he has no conscience about personal attacks, but I am speaking perhaps for the rest of us. I think we do need to have a serious think about how far we push it. I will be voting against this motion. We have had this debate before and, as I said, I think all members should worry about themselves on this issue.

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

FOOD ACT - FOOD REGULATIONS AMENDMENT (SUBORDINATE LAW NO. 18 OF 1999)

MS TUCKER (11.53): I move:

> That the Food Regulations Amendment (Subordinate Law No. 18 of 1999) be amended by:
>
> (1) In subregulation 5(1) omitting “or proceeded”.
>
> (2) In subregulation 5(1) substituting “egg” with “eggs”.
>
> (3) Omitting subregulation 5(2) and substituting:
>
> “(2) For section 24B of the Act, the label containing a prescribed expression is conspicuous if the expression is -
>
> (a) in a prominent position on the highest horizontal surface of the packaging;

(b) in a standard type of at least 6mm;

(c) set against a contrasting background; and

(d) in the same direction as the majority of the other wording on that surface of the packaging.".

This motion relates to the legislation passed by this Assembly in 1997 to ban the production and sale in the ACT of eggs produced by hens kept in battery cages. The complementary part of this legislation was to require the labelling of egg cartons to indicate the conditions under which the hens that produce the eggs are kept. The labelling requirement seemed to be an important public awareness raising mechanism during the six-year phase-out period of battery eggs. The ban on the production and sale of battery cage eggs has not been able to be implemented due to a requirement in the legislation that an exemption under the Commonwealth Mutual Recognition Act needed to be obtained first.

Unfortunately, other States have not agreed to this exemption. However, the labelling requirement was not subject to gaining this exemption and legislation on the labelling requirement came into effect on 20 September 1999. To his credit, the responsible Minister, Mr Moore, proceeded with implementing the labelling requirement, even though other States did not support it. The result has been that the labelling requirement can only be applied to eggs produced in the ACT and not eggs imported from other States. However, given that the Bartter egg farm at Parkwood supplies about 80 per cent of the ACT's egg consumption, implementation of the egg labelling requirement will have a considerable impact on the ACT egg market.

The egg labelling requirement is a natural extension of the principle that consumers have a right to receive information from producers about the products they sell, so that consumers can make informed decisions about which product to buy. In fact, the Productivity Commission, in its report on the public benefit of banning the production and sale of battery cage eggs that was commissioned by the ACT Government, concluded that many consumers have a poor understanding of the animal welfare implications of the different egg production systems. Labelling of egg cartons to indicate the manner in which the eggs have been produced would benefit some of these consumers.

The extent of this benefit cannot be quantified. However, associated costs are likely to be negligible. The commission considers that the benefits of the legislative amendments relating to the labelling outweigh the costs. The commission commented that while some egg cartons are labelled with their mode of production, eg free-range eggs, free-range or barn, as a positive marketing feature, battery cage eggs are not labelled as such. These eggs are labelled as farm fresh eggs and some display drawings of happy looking hens which could imply non-cage production to some consumers. Obviously, battery egg producers do not want to publicise the fact that their eggs come from battery cage hens.

The commission also noted that surveys of consumer attitudes to egg production showed that many consumers were not aware that they were buying eggs from battery cage systems. In fact, surveys have shown that more people claim to buy free-range eggs than actual sales of free-range eggs. This indicates either that people feel guilty about buying battery cage eggs or that they are being misled by advertising or packaging of battery cage eggs. A later consumer survey commissioned by Animals Australian in 1998 also found that 40 per cent of battery egg buyers did not know that they were buying eggs from hens kept in cages.

The egg industry has always said in its opposition to the ban on battery cage eggs that it should be left up to consumers to choose which eggs to buy, and if they want to buy battery cage eggs then they should be allowed to. Of course, the obvious implication of this view is that consumers should also be getting the full information about where their eggs come from. But the egg industry is clearly reluctant to alter the traditional image of happy farmyard hens that it portrays on its packaging. I therefore believe that the introduction of egg labelling will provide a significant boost to consumer information about the eggs they are buying. This is why it is so important to ensure that the new egg labelling requirements are effective.

While I support the work that has been done in the regulation to define the different types of egg production, I am concerned that the key part of the labelling requirement - that the labels be conspicuous - has not been adequately addressed in the regulation. At present, all the regulation says is that a label is conspicuous if the prescribed expression is in the standard type of at least six millimetres. I do not think this is an adequate definition of conspicuous.

For example, there is not much benefit in having six-millimetre lettering if the label is on the back of the egg carton where nobody would see it because of the way the egg cartons are normally placed on supermarket shelves. Interestingly, this is exactly what Bartter had started doing with their labelling. You can see that from the carton here. Apparently I cannot table the carton. The Minister is a bit worried about the idea anyway. I will not seek to table the carton, but for the record I am holding up a carton which shows that the labelling is on the back.

MR SPEAKER: It would also be very difficult to incorporate in *Hansard*, Ms Tucker.

MS TUCKER: I notice that Mr Smyth has the same carton, which may be something he wants to wave around. Bartter obviously have a different view of what is conspicuous labelling, which reinforces my view that the regulation needs to be more prescriptive in this area. We do not want to leave decisions over whether a label is conspicuous or not for the courts to decide in a prosecution. We do not want to leave it to ad hoc randomness either, depending on which way the cartons are stacked and so on. This Assembly needs to give clear guidance to the egg industry and the regulators on what it expects of this labelling.

I therefore put up this motion to amend Mr Moore's Food Regulation Amendment. Given that the battery egg legislation was originally put up by the Greens, I am disappointed Mr Moore did not seek my views on our original intention with the labelling before he released this regulation. We might not of had to have had this debate.

Mr Moore: I did.

MS TUCKER: Mr Moore says he did. Mr Moore wrote me a letter saying he would consult me further about the regulations. So he did write me one letter, but he neglected to consult me further. He did contact me, I acknowledge that. My amendments to the regulations are straightforward. My first two amendments are more in the nature of editorial corrections to make the label more readable. The first amendment and its words in the regulation would have allowed the label to read, "egg, battery, cage", which I think most people would agree makes very little sense. The second amendment just aligns the label with the fact that eggs are always sold in groups and not individually.

The third amendment is just a standard part of my motion. It sets out clearly what would be regarded as a conspicuous label. Most of this wording was provided by Health Department officials I met with last week about the labelling. Due to the concerns raised by myself and animal welfare groups about the labelling when it was first announced, I understand that officials have been meeting with the various stakeholders and have been considering alternatives, waiting for the regulation. But it does seem to be an odd process to have this consultation after the regulation has been released.

I am therefore taking the opportunity, during the disallowance period for this regulation, to get the regulation right rather than waiting for the Minister to decide whether or not to put out another regulation some time down the track. Because we have done that other tidying up around the regulation, I imagine Mr Moore will find that useful as well. No-one could possibly argue with those two amendments. Just to clarify the "egg, battery, cage" - - -

Mr Moore : You watch.

MS TUCKER: Oh, we like, "egg, battery, cage", do we? Okay, Mr Moore is going to argue that is good.

I am therefore taking the opportunity during the disallowance period for this regulation to get the regulation right. I look forward to the Assembly's support for this motion. The Assembly agreed that it wanted egg labelling when it passed the original legislation. Mr Moore does speak so often and well - and I mean that genuinely - about the need for proper labelling. From the comments he has just made, it sounds as though I am not going to get the support. But I would like to see him support this, because it is really just tidying up something he normally would say he does support.

MR MOORE (Minister for Health and Community Care) (12.01): Ms Tucker is right that I am rising to oppose the amendments. Ms Tucker talked about the consultation process. I wonder if Ms Tucker could share with us what Bartter felt about the regulation. Did you consult, Ms Tucker? I wonder: Did you consult with Bartter when you put this regulation up? Did you consult with the egg manufacturer when you put this up? Mr Speaker, obviously I have to ask it as a rhetorical question.

Ms Tucker: Mr Speaker, on a point of order. I am quite happy to wrap it up in my closing remarks, but Mr Moore is addressing me directly across the chamber - - -

MR SPEAKER: He is asking a rhetorical question.

Ms Tucker: And I understand there is a standing order against that- - -

MR SPEAKER: You will have the opportunity - - -

Ms Tucker: I am quite happy for him to raise the question during debate.

MR SPEAKER: You will have the opportunity to respond.

MR MOORE: Thank you, Mr Speaker. Ms Tucker got distracted just at the wrong moment. I had actually just said this is a rhetorical question.

Ms Tucker: You were looking directly at me.

MR MOORE: I would expect you would talk about the consultation you did with Bartter when you wrap up. I understand exactly what Ms Tucker is trying to do. I do not disagree with what she is trying to achieve by this regulation. There are some pragmatic issues that lead me to oppose it. Have we done well enough at the moment with the prominence of the labelling? I think members only have to look at this egg carton to realise that in fact the manufacturer has cooperated.

I imagine Mr Corbell could read, "battery, cage", from where he is. It would be pretty close and it is quite an easily read label. There is no trickery about it. Perhaps it is more important to note that it also has on it not only the bar code but the expiry date. There are two things people do when they pick up a pack of eggs. The first one I do, and Mr Corbell does, is to open it to make sure there are no broken eggs in it. You then check the expiry date. The expiry date is there with the indication that they are battery cage eggs.

I am interested in labelling, Ms Tucker. I am interested in very effective labelling. But I am interested in providing information, not to try to enhance some sense of guilt. The information we ask for, for example, on genetically modified foods will be small print in the middle of a label. It will not be something that is incredibly prominent on the package. It will be prominent enough. That is the case here. It will be conspicuous enough. Your legislation requires that the label be conspicuous. Any ordinary person looking at the label on this egg carton would say that it is conspicuous. The regulation I drew up maintained that notion.

Your amendment would say it has to be in a prominent position on the highest horizontal surface. I think it would lead to some debate as to whether, if I stand it on the end like this, that would be considered the highest horizontal surface. Or whether, in fact, we stand it on another side and it actually is perhaps on the highest horizontal surface. I understand what you are saying, what your intention is. That would be the horizontal surface and that would be the highest in the way the pack normally sits. I doubt whether the regulation would actually achieve anyway what you set out to do. More importantly, it is not necessary.

The manufacturers around Australia, who probably do not want this kind of labelling or they would have put it on years ago, have agreed, cooperated, done the right thing and put a reasonably prominent label in a conspicuous position. There were two things the manufacturers told me when I consulted them.

Mr Smyth: Did you consult the manufacturers?

MR MOORE: Yes, I did consult the manufacturers. The machine they use is only designed to put a label in one place. They actually had to buy a new machine to put it in a different place. You can make a judgment about whether that is accurate or not. These machines are worth, as I recall, between $60,000 and $100,000 - a large sum of money. That is the first of the information given to me. The second is about the bar code. They are putting the two on one label. That is sensible. If they put the label in a certain position it presents no problem to a shop checkout scanner. But in another position the egg carton must be held upside down to be scanned, threatening breakage of eggs. The advantage of being aware of the pragmatic is that the egg manufacturers work with us.

As we develop these sorts of policies we will want to continue working with people rather than trying to make laws that hit them over the head. I do not know how many members have visited a battery hen farm. The one that I went to was not of the sort I had seen in the pictures. It was a very different situation. Although I do not like the notion of the chooks contained in any feed lot - and that is what battery farms are - it was not the disaster that it had been painted. Certainly the most unhealthy chooks I have seen within the range of systems were the ones on a free-range farm not far from Canberra.

The barn chooks I saw in Switzerland and the battery chooks I saw near Cootamundra were all very healthy looking. It is interesting that the free-range ones were the ones where the pecking order had been most noticeable. But what we are seeking to do is work with the manufacturer. There may be a point at which we are saying, “Instead of having six chooks in the cubic metre cage, we need a code of practice that says that we should have five or four”. Being able to work with people to get those codes of practice right is a much more effective way of doing it than just making laws without a proper consultative process.

While we understand exactly what Ms Tucker was trying to achieve, most of us looking at this labelling would say it is a reasonable label. There is another argument that says that, whether you look at barn eggs or free-range eggs, they have a big cardboard wrapper clearly identifying them. So it should be. The manufacturers sell the eggs for

another dollar per dozen. They wish to attract customers from a business perspective. So they should. The normal run of eggs we all see in the supermarkets that take up the biggest spot are battery cage eggs. Everybody knows that. We have now a little reminder for when we take it home or when we check the use-by date. We can see that these are battery eggs.

Mr Speaker, the regulation that is in place, consistent with the legislation that was put up by the Greens and carried through, requires conspicuous labelling. It delivers conspicuous labelling. We do not need to modify it. I first saw the legislation when it came out. I think it was Animal Liberation that complained that it was not conspicuous. I said at the time, "Well, if it is not, we will change the regulation and make sure it is conspicuous". That was before I had seen a carton with the label on it or talked to the manufacturers. Looking at it and reviewing it, the regulation itself seems fine. It does the job and does not need modification.

MR CORBELL (12.11): The Labor Opposition was instrumental in seeing the passage of the ACT's labelling laws and the laws relating to the eventual phase-out of battery cage production in the ACT. Without the Labor Party's amendments at that time, we would not have seen that legislation passed through the Assembly. This is an issue to which we have paid close attention. We believe it needs to be continued to be addressed through actions of the Assembly and in improving community understanding of the differences between forms of egg production and the impact they have on the animals involved. We supported the proposals to require labelling for the different types of egg production.

The Greens' amendments appear to address concerns that have been raised since the regulation was first made by the Minister, just over a month ago. However, to go back to when we initially looked at the amendments to the mother legislation, if you like, from which these regulations flow, we did endeavour to talk to the producers involved, primarily Parkwood, the only major producers of eggs in the ACT. One of the reasons why we brought about the amendments in 1997 was in response to, firstly, a concern about the time required for a phase-out of battery caged production; and, secondly, the limits imposed on us by national competition policy and the Mutual Recognition Act.

We believe that at that time we produced a regime which was workable; which provided for a phase-out at an appropriate time, consistent with the restraints imposed on us, but agreed to also, I must admit, by the Mutual Recognition Act. We accept on this occasion the arguments of the Government that there are constraints we still need to deal with. Mr Moore has highlighted why the proposals put forward by Ms Tucker are not workable.

I say that with some regret. I would like to see that labelling in a more prominent position so that, when someone got it off the shelf, they could see straight away that it was labelled a battery egg or a barn egg. However, we do have to try to bring the industry with us on this issue. Parkwood has been an organisation which, through their labelling to date, has indicated a willingness to go with the legislation and not to put up an enormous fight.

The debate about battery caged hens and battery egg production is a very difficult one in Australia. We have seen recalcitrance from many people on both sides of the debate to shift their ground. Recently, however, there have been some encouraging moves. We have seen the new Labor Tasmanian Minister for Primary Industries highlighting that his State is now prepared to move towards an eventual phase-out of battery cage production. Hopefully, my colleague in the new Victorian Labor Government will be doing likewise. We will have to wait and see.

Because we are seeing these shifts, I would prefer to see this issue continue to evolve, rather than try to put a more draconian requirement in relation to labelling. Mr Moore's arguments on the positioning of the label and the practical difficulties on the egg producer and in processing the carton through a checkout are legitimate. I am not comfortable with the notion of making a decision in the debate today that will require the producer to purchase a new machine.

That may, or may not, be an accurate statement from the producer. We all know that producers can tend to exaggerate the impact of regulatory requirements. But we have to, on this occasion, accept it at face value. We have to make an on-balance decision.

What has swayed me and my colleagues is that someone may not see the label when they purchase it. But when they take it home; take the carton out of the fridge or shopping bag, they are almost certainly going to see that it says, "battery egg". They are going to know what they purchased was a battery egg, an egg produced in a cage system.

That is an important element of consumer education. They would then have the opportunity to decide whether or not to continue to purchase battery eggs, or whether to seek alternative products - eggs not produced in the battery cage system. I admit it is not the optimum solution. But it is a step in the right direction. The labelling may not be in the most prominent location, but it is not hidden. It is quite clearly stated.

On balance, the Labor Opposition will not be able to support Ms Tucker's proposal. The amendment to sub-regulation 5(1) to omit the words "or proceeded" I do not think is necessary when you look at how Bartter are labelling their eggs. They are labelling it in a logical way, "battery cage". It is pretty clear what the egg is. You know it is a battery cage egg. What else could it be? So I do not think we need to worry about the wording "or proceeded".

In relation to changing subregulation 5(1) substituting "egg" with "eggs", I do not see why we need to be going through the whole amendment simply to deal with that small editorial change, which is really neither here nor there.

Finally, the new subregulation: I went earlier through the arguments about that. We have to achieve a labelling regime which is reasonable in terms of providing consumer information, and practical in terms of safe handling of the product during the purchase process.

So, on this occasion I regret we are not able to support Ms Tucker's motion. I agree with the intention, but it is simply not a practical process. We will continue to look closely at how this is implemented. If we do see a major attempt to get around or to undermine the intent of the legislation, we will certainly be prepared to reconsider it and take action. But at this stage I cannot see that happening. While it is not the perfect solution, it is a positive step and the most practical one in the current framework. So Labor will not be able to support the amendment today.

MR RUGENDYKE (12.21): I have examined the two boxes in the chamber and assessed the labelling on those boxes in light of what is proposed in this motion. I take Mr Moore's argument on point 2A, that the machinery involved is of the type that puts the label in a particular position rather than the top and in a standard type of six millimetres. I am not quite sure what that means. There are words on that label about half an inch tall; some about five or six millimetres tall. I do not know that that applies. Black certainly contrasts with white and yellow. On the boxes from the factory in the Riverina, the words do appear to be in the same direction.

Mr Speaker, I was privileged to be invited by management to have a look at Parkwood's operation, at how the chickens are housed, fed, cared for, without the hype that you see on TV when people chain themselves to the cages in the dead of night, frightening all the chickens in the buildings. It is quite different. They have a type of chook that is bred in a particular way. Because it does not fight as much; it is more suited to the battery operation. When you walk into the place you wear protective clothing so that you do not spread disease. You sterilise your gumboots. You do the sorts of things that animal liberationists do not do.

When you walk through into the buildings containing the chickens and hear the other side of the story, it is not as drastic as the TV footage shows. It is a very good operation, a very strong employer for Canberrans, the Parkwood eggs factory. It is a building and a set-up that appears to abide by regulations and best practice. I applaud Parkwood for the good work they do, the people they employ, the eggs they produce. Mr Speaker, when I see the buildings out there I see it as a good business.

Another aspect of the labelling appears to be so that people can distinguish battery eggs from barn laid or the other types of eggs. The labelling will help. But people are not stupid. They can tell by the price. If they want to buy eggs at a dollar a dozen dearer, they will buy the barn laid type. I do not see the need to support this motion, given my experience with eggs.

MS TUCKER (12.25), in reply: I am interested in Mr Moore's arguments around the cost of machinery being such a significant factor for him. It does make me wonder why he supported the original legislation which resulted in the majority of members here supporting the ban on such use of intensive farming. That obviously would have required Parkwood, if it had been supported within the Mutual Recognition Act parameters, to undergo huge expense - or a fair bit of expense - to modify how they were operating their egg production. Mr Moore was happy on the one hand to do that, but now he is claiming that machinery costs are a significant factor in his deliberations.

On the matter of consultation: In the previous Assembly there was consultation by the former member for the Greens, Ms Horodny, with the egg industry - I think it was Parkwood; I have not got the details here - including Parkwood. We have read their submissions. What has been obvious to us is that they have consistently and always strongly opposed what we have been proposing. I was offered a briefing in the last couple of days by Mr Moore's officials. We covered the sorts of concerns that had come more recently from Bartter - from the Parkwood people. So I am aware of the issues that Mr Moore raised today.

But we have been clear about the point of view we are representing here. We are very clear on what the egg industry thinks. It is restated very often. The question of machinery cannot be seen as major in light of our concerns about ensuring that the community is fully aware of what the product is that they are purchasing. Mr Corbell was saying they are doing the right thing. Well they are not. Under Mr Moore's regulation there should be the word "egg" on that label, and it is not there.

They did not do the right thing to begin with because it was three millimetres not six millimetres. So they are obviously still not at all happy working with this. They did not want it on the front because it would have clashed with their "12 farm fresh eggs". They are changing their packaging to take out the "12 farm fresh eggs". But they have got the picture of a very happy hen there, so I guess they do not want to have "battery cage eggs" put on top of that.

Mr Rugendyke: I saw happy hens.

Mr Moore: I saw happy hens in a cage.

MS TUCKER: I will answer Mr Rugendyke's comments. I am delighted that he has entered the debate. Mr Rugendyke said that he had been there and so he knows that they are happy hens.

Mr Rugendyke: That is why they lay an egg a day, because they are happy.

MS TUCKER: And that is why they lay an egg a day. Right. They are happy, says Mr Rugendyke. Well, he is obviously entitled to his view there. The Productivity Commission, not really known for its strong and constant statements on animal welfare, did say, after a careful analysis that was commissioned by the ACT Government, that there were animal welfare benefits in phasing out this kind of intensive farming. So there is another view. I think the Productivity Commission's work was a little more extensive than just visiting Parkwood.

There is the issue Mr Moore also raised that the worst kept hens he has seen were actually in a free-range situation. Animal husbandry is a critical factor in any method of farming. It is a bit of a furphy of an argument to say, "I went to one place once and I saw these really poorly looked-after hens". In any method of farming you can have appalling things happen. One family can keep an animal and be appalling. We have issues around how animals are kept and that is important. And it is very important that we do have very good regulation in our society so that we ensure that animals are kept properly, whether it is in a farming situation or not.

I do not want to misquote him here, but I think Mr Moore said he did not want to enhance a sense of guilt. If that was what he said - implying that support for our regulation and a changed positioning of the information would enhance guilt in the community - that is certainly not our intention. Our intention is about information.

People have a choice. They can choose to not do what they think they should do and feel guilty or they can choose to do something different. That is always a personal choice. But what Mr Moore seemed to be saying was that if we had our regulation supported there was more likelihood of that. Well, that just seems to say that it is going to be more effective after our regulation if we are having labels put in a different position. So I am not quite clear what his argument was there. I stress that it is not about guilt, it is about informing people so that it is really clear what they are buying.

Mr Moore said that is clear anyway; that we need not worry because it is next to the expiry date. I am sure some people look at the expiry date. Lots of people do not, Mr Moore. That is not necessarily an argument either. Anyway it is clear I am not getting support for this, but it was important that we put these arguments up and I thank members for the debate.

Question resolved in the negative.

Sitting suspended from 12.32 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Bruce Operations Pty Ltd

MR STANHOPE: My question is to the Chief Minister. Notes to the 1998-99 accounts for Bruce Operations Pty Ltd reveal for the first time the extent of Canberra ratepayers' commitments, in the form of revenue assurances, to major hirers - that is, the Raiders, Brumbies and Cosmos football clubs. The football clubs will get from the revenue assurances more than $7.1m over the next three to five years. The notes define revenue assurances as applicable to corporate suite sales, stadium memberships, advertising and naming rights. Can the Chief Minister confirm that the company, BOPL, is also committed to pay the major hirers a proportion of gate revenue? Can the Chief Minister tell the Assembly what is the potential quantum of that commitment over the next 10 years?

MS CARNELL: Mr Speaker, my understanding is that the $7.1m is the BOPL commitment.

MR STANHOPE: I have a supplementary question. Will the Chief Minister confirm that the Government, through BOPL, in 1998-99 has paid the hirers a total of $2.217m in revenue assurances and gate takings? After BOPL paid the hirers $888,000 in gate takings, what amount was left for BOPL and the Canberra community from gate takings? Can the Chief Minister tell us what proportion of the total of the revenue assurances - and the Chief Minister tells us that the revenue assurances also include gate takings - went to each of the major hirers?

MS CARNELL: The assurances to the hirers, as I understand it, are based upon gate takings and, of course, as well as that, food and beverage sales and so on to a particular level. That is the basis of our undertakings to the major codes. Members are very well aware of that. It has been discussed in this place before.

Mr Berry: Is this the same as SOCOG?

Mr Stanhope: We are not well aware of it at all.

Mr Wood: Not in detail.

MR SPEAKER: Just a moment, please. The Chief Minister is answering the question.

MS CARNELL: No, you are not aware of any of the details. That is true. Mr Speaker, the basis of our guarantees to the hirers, the Brumbies and the Raiders - not to the Cosmos because there are no guarantees at all - is that if they achieve a certain level of revenue, that is people through the gates and sales, then it is basically a break even. If they do not achieve the requirements for people through the gates and sales of food and beverage then the Government will underwrite the difference. That is the basis of the agreement. It is quite simple.

Business Incentive Scheme

MR QUINLAN: Mr Speaker, my question is to the Chief Minister. Can the Chief Minister advise the Assembly as to an approximate upper limit she would put on the purchase of a single job in cash, tax and land purchase discounts through the business incentive scheme? Is it the $24,000 which has been paid to that struggling little firm, Olivetti Australia Pty Ltd, for each of the three jobs that appear to have been created for $73,000, cash, paid so far out of a promised $90,000, cash? I am sure Olivetti does not really need any cash in advance. Is it the $150,000 plus that has been paid in cash to Coms 21 for zero jobs so far out of a promised 108 jobs? Is it the $100,000 that has been paid in cash to EMIAA, whoever they are, for zero jobs so far and for no specific promise of jobs? What system exists for payment according to achieved results, and what system exists to ensure the veracity of claims of additional jobs being created?

MS CARNELL: Mr Speaker, the basis of the business incentive scheme is to encourage companies and organisations to set up in Canberra and to expand in Canberra. It has been exceptionally successful, Mr Speaker. From memory, the average cost per job, shall we say, in our business incentive scheme is just over the $2,000 mark. I would have to say that that is money extremely well spent. I think it is $2,100, but I am happy to come back on that. We are certainly somewhere between $2,000 and $2,500.

Inevitably, in business incentive areas, there will be winners. There will be successes and areas where we were not successful. As members will know, the Coms 21 situation was subject to aggressive takeover and it has caused some significant problems for the Canberra operation. There is no doubt about that at all. But in many other areas the jobs that have been created have been quite stunning.

When you look at the facts, we now have an all time record number of jobs in the ACT - over 162,000 jobs. That is more than we have ever had before, Mr Speaker. As well as that, our unemployment rate is 5.6 per cent. That is lower than it ever was under those opposite ever, and it is the lowest it has been for some nine years. All of those dire predictions from those opposite, when the Commonwealth outsourced, about all of the jobs leaving Canberra have not happened. Why have they not happened? It is because we have given business incentives, certainly to companies that were not little, to encourage them to stay in Canberra, to employ in Canberra, and to ensure that outsourced jobs do not leave our city.

I have to say I am proud of that. It is something that this Government set out to achieve and it is something that has been extraordinarily successful. The fact is, Mr Speaker, that our unemployment rate is lower than that of any State in this country. Our growth rate, at 5.2 per cent, is one percentage point higher than the Australian average. Nobody can see that as being anything but a total success.

MR QUINLAN: I have a supplementary question, Mr Speaker. Is the Chief Minister happy to stand behind the $36.2m total tax breaks promised to EDS, an international firm with a turnover larger than the entire ACT, particularly as EDS would have had to increase its presence in the Territory to serve its Federal government contracts, particularly Taxation? She might, while she is on her feet, consider defending the 10-year payroll tax break for that little firm IBM Global Systems, or the $3.5m tax break to BHP IT, given that they also are involved in Federal government IT contracts.

MS CARNELL: Mr Speaker, those opposite cannot have it both ways, and they try to all the time. They have said to us, "Shock, horror, the Government has to do something to stop these jobs leaving Canberra". If EDS or BHP IT or CSR, or whoever, pick up government outsourced contracts, they can service them from anywhere in this country, or, potentially, anywhere in the world. They do not have to be here in the ACT. Most of these business incentive packages have gone to IT companies simply because, I suppose, they are so transportable. They can service from anywhere.

It is certainly true that when we started the business incentive scheme back at the beginning of our first term in government we did use cash grants. That has changed, Mr Speaker. Now, as members will be well aware because we have answered heaps of questions on it in estimates, the vast percentage of our business incentive grants is in the area of payroll tax exemptions, and companies do not get them unless they put on the staff. It is quite simple. If they do not put on the staff they do not get the tax break, and therefore it is absolutely a no lose situation for this city. In other words, we are saying to big companies, "Come to the ACT. We will reduce your employment costs for a limited period. We do not have buckets of money to give you like other States have been giving you, but we can reduce your employment costs. We can give you an opportunity to deal

with a government that is very keen to have you, and we have a single point of entry into all government areas to stop the difficulties of dealing with government that other State governments have". Mr Speaker, this has been extraordinarily successful.

If Mr Quinlan is looking at the figures and wondering why we have not got all the jobs yet, it is because these payroll tax exemptions, all of which are up to a certain amount of money, go for five or 10 years. It is quite simple, but how those opposite have the audacity to ask questions about jobs, Mr Speaker, escapes me.

Employment

MR HIRD: Mr Speaker, I heard an interjection - I think it came from Mr Berry - about national trends. It is a shame that those opposite cannot give credit where credit is due. This Government has excelled in the area of jobs. My question, sir, is to the Chief Minister. Can the Chief Minister tell the parliament what the growth rate has been in private sector employment in Canberra in past years? Can she also tell us what the ratio of public to private sector employment is in the ACT right now and how this compares with the situation when this Government came to office back in 1995?

MS CARNELL: Thank you very much, Mr Hird. What an appropriate question, considering Mr Quinlan's question just a few minutes ago. Mr Hird is right when he says that you very rarely hear the Labor Party saying anything positive about jobs in this city. We just saw a bit more of that a minute ago. I can understand why this is the case when you realise that under this Government we have achieved the lowest unemployment rate in nine years. It is 5.6 per cent, a rate that those opposite could only dream of. The lowest they ever got to in office, Mr Speaker, was 6.7 per cent, back in late 1991. So we are more than a percentage point below them. The rate of growth in private sector employment might not seem very important to some people in Canberra, but I suggest that it should be of importance to everyone, including those opposite.

When we came to government, Mr Speaker, you will remember we recognised early that this city's future depended on lessening our dependence on a single employer, the Commonwealth public sector. We needed a diversified business base so that we were not at the mercy of Federal governments in the future. Employment in the ACT was totally dominated by the public sector, which placed the Territory in a precarious position when Federal governments cut back on expenditure or downsized departments. It happened under both governments, Mr Speaker, and every time it happened the ACT economy suffered badly. We understood that we needed to change that forever.

Indeed, back in 1996 the folly of that approach was shown when the Commonwealth shed something in the order of 7,500 jobs from its agencies in Canberra over two years. What happened? It had a dramatic effect on our economy, on our property values, on our budget, and even on our quality of life.

This Government took the view that we could not totally rely on the Commonwealth in the future, so we set about engineering a fundamental shift of thinking in this area, and, of course, business incentive grants were very much part of that whole approach. We have worked hard to ensure that Canberra retains as much as possible of the Commonwealth work that was outsourced. We were roundly criticised when we took

that policy direction, and we saw that again in question time. We encouraged companies such as EDS and BHP IT to set up here in the ACT and to employ people. We heard that criticism again today.

Well, Mr Speaker, the jury has returned its verdict on each of these two approaches today. The Bureau of Statistics reported today that the ACT is currently leading the nation in private sector employment growth. I repeat, we are leading the nation. Mr Speaker, I brought in two copies of this so that Mr Quinlan will be able to read the good news as well. Between May 1998 and May 1999 the number of private sector wage and salary earners in Canberra grew by 22 per cent, or 15,300 people.

Mr Hird: Twenty-two per cent.

MS CARNELL: That is right; 22 per cent between May 1998 and May 1999. This compares with a rise of only 6.2 per cent across Australia. The next largest increase was in the Northern Territory, and that was 13 per cent.

Members interjected.

MR SPEAKER: Order, please! Excuse me, Chief Minister. I did not hear the last percentages that you quoted. Would you mind repeating them.

MS CARNELL: That is because those opposite were talking too much.

Mr Wood: Give us a balanced thing.

MR SPEAKER: If you keep interrupting I shall simply have to keep asking the Chief Minister to repeat things if I cannot hear them.

Mr Wood: We have about half the outsourced contracts. That is what it tells us.

MR SPEAKER: Just take your time, Chief Minister.

MS CARNELL: When they are quiet I will start again.

Mr Osborne: Incorporate it in *Hansard.*

MS CARNELL: I am pleased that Mr Osborne is here. I know he is interested in jobs and will want to listen. Mr Speaker, this compares to a rise of only 6.2 per cent across Australia. The next largest increase was the Northern Territory at 13 per cent. Ours was 22 per cent, Mr Speaker. Over the same period of a year there has been a fall of some three per cent, or 2,000, in the number of public sector workers. Overall, Mr Speaker, the total number of wage and salary earners in Canberra increased by nearly 10 per cent, or more than 13,000 positions, over a 12-month period. Across Australia the overall increase was less than five per cent. Put simply, our growth has been more than double the national average increase over the past year. That is clear evidence of the improvement in our economy. This Government is achieving real benefits for the people of Canberra. They have jobs.

Mr Speaker, that is not all. When we look at the ratio of private sector workers and public sector workers in the ABS figures, it makes for very interesting reading. Back in May 1995, shortly after we came to government, about 46 per cent of wage and salary earners were employed in the private sector. As I mentioned, under Labor, there was clear evidence of a work force dominated by the public sector, with more than 50 per cent of people in the public sector. Therefore, the ACT was really at the mercy of the Federal Government. In May 1999 there were more than 56 per cent of people employed in the private sector. In other words, there has been a massive turnaround over the last 4½ years under this Government, to the extent that less than half of our wage and salary earners are now public employees.

Mr Speaker, what is more, because the ABS statistics do not include self-employed persons in the private sector, the ratio will almost certainly be much more heavily tilted towards the private sector. So 56 per cent is just the wage and salary earners, not the self - employed people. Since we came to government there are now 20,000 more people working in the ACT private sector. That is an increase of 31 per cent. At the same time the number of public sector wage and salary earners has fallen by 7,400 in Canberra, or roughly the same number that was shed by the Howard Government.

If ever anyone needed proof that our policies were the right ones to follow in face of reduced Commonwealth spending, you need look no further than this particular ABS publication. Mr Speaker, according to this publication, or according to the ABS, between May 1992 and May 1995, roughly the time Labor was last in office, the total number of wage and salary earners in Canberra fell by 3,900. This was made up of a fall of 7,100 in the private sector and an increase of 3,200 in the public sector. So you can compare that with the situation under us where there are 20,000 more people working in the private sector, an increase of 30 per cent. Remember, under Labor, there was a decrease in the number of wage and salary earners in this city. This proves without any shadow of doubt that the efforts we have taken have produced greater diversity in our business base. The business incentive approach and the business marketing approach have reaped real dividends for Canberra.

Mr Corbell: What about Bruce Stadium?

MS CARNELL: And what about Bruce Stadium, Mr Speaker? Boy, it created lots of jobs.

Bruce Operations Pty Ltd

MR CORBELL: Chief Minister, that is not the only thing it created. Mr Speaker, my question is to the Chief Minister. Notes to the 1998-99 accounts for Bruce Operations Pty Ltd reveal that the company is facing claims, which it disputes, with a maximum possible liability of $1.2m. Can the Chief Minister tell the Assembly the nature of these claims and who has lodged them?

MS CARNELL: Mr Speaker, I think members are already aware of who lodged them. It is MGM. It is the marketing group. We have only paid them, as you know, $900,000 of their total contract, I think, so I would assume that the majority of that amount in dispute will be with the marketing group. There is obviously a smaller amount on top of that. In a major project there are usually some disputes over some smaller contracts.

Mr Corbell: Is $1.2m a small dispute?

MR SPEAKER: Mr Corbell, do you have a supplementary question?.

MR CORBELL: Yes, Mr Speaker. Will the Chief Minister confirm that should these claims succeed the real trading result for BOPL in 1998-99 will be a loss in the order of $3.6m rather than the $2.4m loss which has been reported, or a potential profit of more than $9m had the failed marketing campaign, for which BOPL paid $946,000, in fact worked as planned?

Mr Humphries: Mr Speaker, I take a point of order. That question is hypothetical.

MR CORBELL: Mr Speaker, I am very happy to rephrase the question if they do not want to answer that one.

MR SPEAKER: You will have to because the Treasurer was quite right.

MR CORBELL: All right. Chief Minister, what will be the real trading result for BOPL if this claim is successful?

MS CARNELL: It is still hypothetical.

Mr Humphries: Mr Speaker, it is still hypothetical.

MR SPEAKER: Yes, it is.

MR CORBELL: Well, add it up. You just add it up. You add $1.2m plus $2.4m.

MR SPEAKER: No, it is still hypothetical. You cannot make that statement because we do not know how much of the claims is outstanding.

MS CARNELL: Mr Speaker, I think it is appropriate to make a comment.

MR SPEAKER: No, it is not. This is question time.

Interstate Traders

MR OSBORNE: I can understand why the Government is struggling to find directors for that company, Mr Speaker. I would not want to put my hand up. My question is to the Minister for fair trading, Mr Humphries. Minister, from time to time complaints come forward to my office and I would imagine to other members' offices from both members of the public and local traders regarding interstate traders who come to Canberra for a short time and undercut local business. These interstate traders usually specialise in a certain type of product, such as carpets, clothing or office equipment. Many will rent an empty shop for a few days and trade or, as in the case with computers, simply visit the city for a day and participate in a semi-organised fair. Some of these traders visit Canberra a couple of times a year, others monthly, and still others on a weekly basis. It has recently been demonstrated to me how easy and prevalent it is to obtain goods in bulk, especially computer equipment, using fraudulent documentation in order to avoid paying sales tax. While few of us here would begrudge the Canberra community access to these cheap goods providing fair trading practices are followed, it appears that many times the principles of fair trading are being flouted at the expense of our local businesses. Minister, are you aware of such claims of sales tax avoidance? If so, will you make a commitment to investigate these claims in order to place greater emphasis on the bona fides of interstate traders and their goods, especially computers, in order to give our local small business outlets a fair go?

MR HUMPHRIES: Mr Speaker, I thank Mr Osborne for that question. Concerns about interstate traders have been raised with me over a number of years, and I confess to having some concern about the impact they have on the ACT economy. They do come here from outside the ACT. They advertise heavily. They trade. They advertise themselves as being cheaper than ACT retailers. In many cases you would imagine that they would be because they come here and only hire premises, such as the Albert Hall, for a few days. They do not have as many overheads, presumably, as permanent operators, and they leave and take their profits with them. So I do not pretend for one instant to be in favour of interstate traders.

I also do not believe that there are many more restrictions we can place on these people within the context of competition guidelines than we have already placed. For example, I have asked on a number of occasions for signage which those operators have used illegally on places like Canberra Avenue to be removed. That is one of the ways in which I feel we can give ACT traders a little bit of a level playing field.

Mr Speaker, I am concerned about references to interstate traders avoiding sales tax. I have not personally heard of any of those complaints, but it may be that the Consumer Affairs Bureau has. If they have, I will certainly ask them to pursue them aggressively. We would insist that anybody who comes into the ACT to trade temporarily obey all of the laws, State and Federal, which apply to them and pay all of their appropriate taxes. Any avoidance of taxes, particularly any evasion of taxes - there is a difference, of course - will be dealt with very harshly.

MR OSBORNE: I have a supplementary question. I understand, Minister, the principles and the philosophy behind Paul Keating's wonderful competition policy debacle and how we here cannot stop interstate traders. However, is it possible to consider things like requiring tax file numbers or ACN numbers of some of these people who do come into the Territory? Is that possible?

MR HUMPHRIES: Mr Speaker, it may be possible. I am interested in that suggestion. Obviously we would not be able to impose a condition on an interstate trader that we did not also impose on an ACT trader. Mr Speaker, I think the issues that Mr Osborne has raised are of concern. We want to work closely with other agencies, particularly Federal agencies, that are responsible for tax collection and so on, to make sure that no tax is being escaped in these circumstances. We will contact the Australian Taxation Office to make sure that any devices of that kind which can be employed within the context of the competition policies which were outlined and initiated by the former Federal Labor Government are put in place if that is appropriate, and if we can get cooperation for that to happen.

Feel The Power Campaign

MR BERRY: Mr Speaker, my question is to the Chief Minister. The Business Development and Tourism output report included in the annual report of the Chief Minister's Department reveals that the department failed to complete work on the hated and discredited Feel the Power marketing campaign because the market research results were delayed. Can the Chief Minister say who prepared the market research report, how much it cost, and what caused the delays?

MS CARNELL: Obviously I will have to take that on notice. I have not seen the final market report yet, Mr Speaker, so I have no idea.

MR BERRY: May I ask the Chief Minister in a supplementary question to get some further information? Will the Chief Minister table this report, which we understood was delivered in July this year?

MS CARNELL: I answered that. I said I have not seen a final report.

Mr Berry: Well, will you table it?

MS CARNELL: Mr Speaker, I understand that I am due to have a briefing on it at some stage in the near future, but I have to say I have not seen it at this stage, so I cannot table it.

Very Fast Train Project

MR KAINE: Mr Speaker, my question is to the Chief Minister and it relates to the very fast train project. Chief Minister, the head of one of the major companies involved in the Speedrail consortium which was the successful tenderer for the so-called proving up stage of the very high speed train project has been quoted in the national media in recent days as saying that the project is unlikely to proceed without special taxation assistance, especially with respect to long-term depreciation schedules. Some supportive noises for such a course of action have come from a member of the Government, Federal Transport Minister John Anderson, on radio today. Presumably the Speedrail consortium won the preferred tender competition on the basis of financial conditions that applied to all the tenderers at the time they were considered, which specifically did not include government financial assistance. In view of these statements now emanating from members of the Speedrail consortium, apparently with some sympathy from the Government, do you support the notion that the goal posts should be moved to the benefit of only one of the original very high speed train project proponents, that is, the preferred tenderer?

MS CARNELL: Mr Speaker, the tender did not go out at no cost to government. Those were not the words that were used. It was to be at no net cost to government, and net was a very important part of that because it meant that everybody was very well aware that there would be some government contribution to the whole project. This is a major project. There will also be some very real benefits to government as well. All of the tenderers who put in their tenders that I saw knew that because that is how they put their tenders together. So it was not as if they were unaware of this particular scenario.

Mr Speaker, I will support anything within the law that gets this fast train up between Canberra and Sydney. We will be doing whatever we can to ensure that we get this train up. I have to say I am very pleased of recent days to see Bob Carr coming much more definitely on board than we have seen before. Quite a number of Federal government people are coming on board as well. I hope that Mr Kaine, similarly, will get behind this project because efforts by some of the unsuccessful tenderers to, shall we say, derail the process can only cause us all a problem.

MR KAINE: I have a supplementary question. Mr Speaker, noting that I was behind this project for five years before the Chief Minister ever came into this place, I think that that is a rather condescending comment that she just made. My supplementary question is this: Should the Commonwealth Government move the financial goal posts after the tenders have been closed to suit the Speedrail consortium's new bid for the very high speed train project; and, given that the thing was supposed to be on a level playing field, will you, Chief Minister, recommend to the Commonwealth and the New South Wales governments that the project competition should be re-opened to give all of the contenders, not just one, an opportunity to bid again on a fair and equitable basis?

MR SPEAKER: Chief Minister, just a moment, please. That is a hypothetical question.

Ms Carnell: And the answer is no, I will not.

MR KAINE: Mr Speaker, I will rephrase it. When the Government does that, will she support an open competition?

MR SPEAKER: It is still hypothetical.

Ms Carnell: And the answer is no.

MR KAINE: Mr Speaker, it is not hypothetical at all.

MR SPEAKER: It is, Mr Kaine. You are asking the Chief Minister to comment on - - -

MR KAINE: Mr Speaker, I have already indicated in my original question that a Federal government Minister has already publicly indicated some sympathy and support for this proposal. It is by no means hypothetical.

MR SPEAKER: I am not aware of that, Mr Kaine.

MR KAINE: Well, I have told you. Are you rejecting my question on the information that I am giving you?

MR SPEAKER: I am not sure that the Chief Minister is aware of it either.

MR KAINE: I think your ruling is quite out of order, Mr Speaker.

MR SPEAKER: Well, I am afraid that I regard this as hypothetical. That is all there is to it.

Marketing Expenditure

MR WOOD: Mr Speaker, my question is to the Chief Minister. The consolidated accounts in the Chief Minister's Department's financial statements indicate the expenditure last year of $1.594m on marketing. Given that $946,000 of that amount went to pay the failed Bruce Stadium marketing consortium, can you detail the department's marketing expenditure of the remaining $655,000?

MS CARNELL: Thank you very much. I can give you a more detailed rundown of all the marketing efforts put in place in my department, but there are a number and they run right across the Chief Minister's Department. In the business development area, we have a very successful marketing campaign to lift the profile of Canberra as a good place to do business. After seeing the information that I put on the table today, Mr Speaker, I think members will see that it has been very successful.

The basis of the marketing project that we have put in place is to identify companies that may be interested in relocating or expanding into the ACT and then to follow up with them directly. We have two publications, which I am more than happy to give members opposite copies of, that are sent to the people on our mailing list on a semi-regular basis. We follow up with them regularly, giving them rundowns of what is happening in Canberra, what our economy looks like, what the opportunities are, and

what sort of capacity there is for them to grow in the ACT. I think this sort of marketing is absolutely essential if we are to change many people's views that Canberra is not a business city. We know that it must be, and we believe it is, but we have to market that.

MR WOOD: I have a supplementary question. The Chief Minister indicated that she would give us a breakdown of that figure, and I would appreciate that. She might do the same for these other items I mention. Can you tell us, at least in broad terms again, the nature of other expenditure in the department's financial statements, specifically the $596,000 spent on donations, sponsorships and contributions, and the $471,000 spent on a payment to SOCOG?

MS CARNELL: Mr Speaker, we know about the SOCOG payments because they have all been spoken about on many occasions. As we know, the guarantee to SOCOG is payable over, I think, three years, or maybe it is over two years. All of those figures have been on the table for a very long period.

With regard to donations and other things, there are a large number that are entered into by the Government, as you would know, Mr Speaker, over a period of 12 months. I am more than happy to provide that information, but, as you can see, it is a very small part of the ACT Government's overall budget, but an important part.

Management of Nature Reserves

MS TUCKER: My question is to the Minister for Urban Services and it relates to the announcement yesterday that 100 hectares of woodland would be added to the Territory's nature conservation reserve. Minister, I am sure you will agree that such an area will require management to prevent disturbance by weeds and human activity, so could you advise what resources you are adding to the Parks and Conservation Service to manage this additional responsibility?

MR SMYTH: Mr Speaker, as detailed in the action plans, it is quite clear what we will do. It is very important that people understand the work of the conservator in coming up with strategies. It fits very neatly with his work as the head of Environment ACT. The resources that are required will be looked at and we will make sure that what we do is done in conjunction with the community. Members might not be aware that the Conservation Council next week, in conjunction with Environment ACT, is having an information night to put out the information on all 24 action plans, but in particular the 11 that I released yesterday, so that people know exactly what will happen now in regard to them.

Mr Moore: Dr Adrian is doing a great job.

MR SMYTH: He is doing an excellent job.

MS TUCKER: I have a supplementary question, Mr Speaker. Minister, is it true that the Parks and Conservation Service has been asked in recent weeks to make cuts to its operational budget this financial year by about a third? Could you explain this? Is there some other way of getting these efficiencies in order to ensure the management?

MR SMYTH: Mr Speaker, I am not aware of any section of my department that has been asked to cut its operational budget by a third, or anywhere in the government, for that matter.

Olympic Games

MR HARGREAVES: Mr Speaker, my question is to the Chief Minister. Documents released to the Opposition under freedom of information legislation reveal that on 7 April 1998 the Chief Minister wrote to the CEO of SOCOG complaining that SOCOG had announced the designation of the Canberra Parkroyal Hotel as the Official Olympic Village for next year's Olympic soccer matches in Canberra without reference to the ACT Government or Project 2000. What was SOCOG's explanation in relation to your complaint? Did SOCOG offer any information about how it chose the Parkroyal, and did it offer any comparison of competing bids?

MS CARNELL: The answer to that is: Not to my knowledge. SOCOG, of course, had every right to do that because they are paying for it, but we believe it was important to keep the ACT Government and Project 2000 in the loop of decision-making that SOCOG was engaging in in the ACT so that we would not all stand on each other's feet, basically, and so that we all knew what each other was doing.

MR HARGREAVES: I have a supplementary question, Mr Speaker. Did I hear the Chief Minister say that SOCOG was paying for it? The Chief Minister's letter also reveals that the ACT will be responsible for the cost of the village. Can she say how much it will cost? Has SOCOG made any other decisions affecting the ACT's obligations under the memorandum of understanding without reference to the Government?

MS CARNELL: Mr Speaker, my understanding is that the cost of accommodation is part of the fee that is paid to SOCOG. SOCOG then pays for accommodation on behalf of athletes. So it does come from SOCOG, but via our fee to them. That fee, by the way, is capped, so it cannot be more than a certain amount of money. If SOCOG pays too much for accommodation, that is their problem, because our total exposure is capped.

Federation Square and Gold Creek

MR RUGENDYKE: My question is to Mr Smyth, the Urban Services Minister. Minister, traders in the Federation Square and Gold Creek area at Ginninderra are concerned about information that they have heard about a multi-million dollar development in the area of Gold Creek which has the potential to impact adversely on their businesses. Is the Minister aware of any plans for a major development in that area? If so, what are the details?

MR SMYTH: Mr Speaker, many ideas for furthering commerce in the ACT float around. I am aware that there has been talk over a considerable period of time about possible further development in the Federation Square and Gold Creek area. I am not

aware that any formal applications have been lodged. Until such time, they are simply ideas. Once an application is lodged it is assessed. A PA may be required. A DA would certainly be required and public notification would ensue.

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

STANDING ORDER 117(h) - ANSWERS TO QUESTIONS WITHOUT NOTICE
Statement by Speaker

MR SPEAKER: Members, during questions without notice on Tuesday, 20 October I undertook to check a matter following a question asked by Mr Kaine of the Chief Minister. I also indicated yesterday that I would reply no later than today. The issue relates to standing order 177 (h), the provisions of which are:

> A question fully answered cannot be renewed.

On 14 October Mr Kaine, during questions without notice, asked a supplementary question of the Chief Minister, part of which queried whether she would table all resolutions of Bruce Operations Pty Ltd concerning specified matters. In her answer to the supplementary question, the Chief Minister stated that she had already answered the question, repeated part of her answer to Mr Kaine's initial question and made certain other comments.

On 19 October, in another supplementary question, Mr Kaine asked whether the Chief Minister would table all resolutions of Bruce Operations Pty Ltd related to the remuneration of its members in any respect. It was then proposed that the question was out of order and I undertook to check the matter.

Mr Kaine's supplementary questions were in very specific and very similar terms. Having examined the proof *Hansard* and re-examined terms of the relevant questions and the answers given, I cannot conclude that the question was fully answered as the Chief Minister did not indicate whether or not she would table the resolutions sought.

Mr Kaine's supplementary question on Tuesday was in order. However, I remind members that our practice, based on that of the House of Representatives, is that Ministers cannot be required to answer questions. Answers must also meet the requirements of standing order 118 and other relevant standing orders. I thank members.

QUESTIONS WITHOUT NOTICE

Bruce Operations Pty Ltd

MS CARNELL: Mr Speaker, based on your decision there, I can answer Mr Kaine's supplementary question. There has been no resolution. There are zero resolutions. That is what I have been trying to tell you the whole time, but you were not listening to me.

Bruce Operations Pty Ltd

MS CARNELL: Mr Speaker, in question time today, in answer to Mr Stanhope, I hope I did not indicate in any way to members that there was no government support to Cosmos. There obviously is government support to the Cosmos, and that has been on the record, although the Cosmos does not have the sort of revenue-based guarantee contract with the Government that the Raiders and the Brumbies have.

COOOL Houses in Macquarie

MR MOORE: Mr Speaker, yesterday Mr Stanhope presented a minute dated 14 October 1999 which informed staff at the Macquarie COOOL houses that ACT Community Care had been given a two-year contract to provide accommodation support to residents at the COOOL houses. At the same time I was telling the Assembly that this was not the case. Mr Speaker, I undertook to come back to you within the day.

I wish to assure members that ACT Community Care has not been given a two-year contract. The minute Mr Stanhope received was an internal minute from line managers to Macquarie staff based on a misinterpretation of a recommendation, not a decision, that ACT Community Care be given a two-year contract.

Mr Berry: Oh, the old misinterpretation.

MR MOORE: Mr Berry, if you would listen you would understand the pressures that some of our good public servants work under, and perhaps you would have some empathy with their position. In their wish to see some stability for residents and staff and lacking a full understanding of the review process, the ACT Community Care line managers were anxious for the staff to be fully informed of the situation, particularly in regard to their employment rights. I know that does not worry you, Mr Berry, but it does worry a lot of other people. They wished to offer existing casual staff the opportunity for permanent positions with the disability programs should the contract be offered.

All staff from both Macquarie houses were invited to a meeting held by Disability Programs, Belconnen region, on 14 October 1999. During this meeting a minute was handed to staff. That was the minute that Mr Stanhope presented yesterday. This minute failed to mention that the recommendation to award ACT Community Care the contract was subject to review. This omission was verbally corrected at the meeting and all staff present were clearly informed that the recommendation was subject to review. A further minute correcting the omission will be sent to all staff immediately. I believe that clarifies the status of the minute that Mr Stanhope presented yesterday.

There has been a question of whether CHOM agreed to a review by Mr David Butt, the chief executive of the Department of Health and Community Care. I can categorically state that this means of review was suggested as part of the overall process to two members of the CHOM executive, Mr Malcolm Campbell, the President, and Mr Jamie Bryant, the Treasurer, and Mr Bryant later agreed to the written minutes of the meeting. He did not disagree that this would be a reasonable level of review, and I have looked at those minutes.

Yesterday Mr Stanhope asked whether the independence of the review would be comprised by the ACT Community Care minute. The review will be carried out by Mr Butt. The minute emanated from the middle ranks of ACT Community Care, a separate statutory authority. Certainly, if ACT Community Care was conducting the review, there would be a justifiable claim of conflict of interest. Mr Butt does not have any legal, administrative or managerial responsibility for ACT Community Care. There are, of course, additional administrative decision review mechanisms available if they are not happy with the outcome of this review process.

Returning to the matter of the minute, ACT Community Care assumed the provision of care to Macquarie houses under difficult circumstances in July last year, and many members will remember those circumstances. We have extended its contract a number of times so that CHOM could develop its proposal to manage services. This has been a difficult time for residents and staff at Macquarie as neither were sure as to who would be providing services at Macquarie in the longer term.

Mr Speaker, I do want to pay tribute to the managers and staff of disability programs involved in service provision at Macquarie. They are committed to providing the best quality care for residents at Macquarie and they have done so under quite difficult conditions. I also respect the decision residents and their guardians made to develop a proposal to manage their own care. The Government not only provided $5,000 to assist the process, but departmental officers also met frequently with CHOM and its executive to guide this process. It was with no pleasure that the department accepted the recommendation from the panel that CHOM's proposal not be accepted. I do not wish to say more as this matter will be under review.

In conclusion, I wish to assure members that, consistent with my advice last week, ACT Community Care has not been offered a two-year contract to manage services for the Macquarie houses. The minute presented by Mr Stanhope was the result of a genuine misinterpretation by staff seeking a resolution after a long period of temporary service provision. CHOM's review will be heard and responded to, and only if it fails will another party be offered a contract. When and if that happens, that party will consult with residents to ensure the hopes and wishes they had for CHOM can be reflected in the service it provides for them.

PERSONAL EXPLANATION

MR BERRY: Mr Speaker, I seek leave to make a statement pursuant to standing order 46.

MR SPEAKER: Proceed.

MR BERRY: Thank you Mr Speaker. I feel that I have been Gary-ed by Mr Moore.

Mr Humphries: Mr Speaker, standing order 46 confers a right for members to make a personal explanation.

MR SPEAKER: Correct.

Mr Humphries: It has been widely held before that it is not to be used to launch attacks on other members.

MR SPEAKER: Withdraw it, Mr Berry, and just get on with your personal explanation.

MR BERRY: Mr Speaker, I will get on with it.

MR SPEAKER: Did you withdraw it?

Mr Moore: Mr Speaker, that was completely ignoring the Chair and, I think, disrespectful.

MR BERRY: Withdraw what?

MR SPEAKER: The "Gary" comment, please.

MR BERRY: Mr Speaker---

MR SPEAKER: Sit down, please. You have refused to make a personal explanation.

MR BERRY: Thank you, Mr Speaker. Well, you can throw me out, then. Why do you not try that one on?

MR SPEAKER: If you are going to abuse standing orders - - -

MR BERRY: No, I want to make a statement concerning the Assembly being misled.

MR SPEAKER: Then withdraw.

MR BERRY: I withdraw it. I withdraw it, Mr Speaker.

MR SPEAKER: Thank you. Now you have permission.

MR BERRY: But I will do it under protest because it was not unparliamentary.

Mr Moore: On a point of order, Mr Speaker: Mr Berry has sought leave from the Speaker under that standing order. Leave of the Speaker was given, but you then indicated to Mr Berry that he had lost leave of the Speaker. We have often seen him simply ignoring the ruling of the Speaker. I think you should abide by your ruling. You have not given him leave.

MR SPEAKER: You then proceeded to abuse my permission, but now that you have withdrawn the "Gary" statement I will give you permission to make a statement under standing order 46.

MR BERRY: Thank you. Mr Moore said that he knew that I did not care about the job prospects of certain workers, or words to that effect. There would be nothing that I have ever done in this place that would give Mr Moore or anybody else that impression. In fact, Mr Speaker, almost everything I do in relation to jobs and the job prospects of workers relates to my concern about them. For Mr Moore to say he knows that I would not be concerned about it would be based on a false premise, and I would be happy to see the information upon which he bases his false claim.

MR SPEAKER: You have made your point, Mr Berry.

ANNUAL REPORT
Paper and Ministerial Statement

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the financial statements for 1998-99 for the Superannuation and Insurance Provision Unit, Territorial Account, due to the omission of three pages of the statements in Volume 2 of the Chief Minister's Department Annual Report 1998-99. I ask for leave to make a brief statement.

Leave granted.

MS CARNELL: Mr Speaker, I wish to table the financial statements for the year ended 30 June 1999, and I apologise to members for them not being part of the annual report. The Statement of Performance and Statement of Appropriation (three pages) were missing from the statements included in Volume 2 of the Chief Minister's Department Annual Report 1998-99 tabled on 14 October this year. This omission occurred in the process of consolidating Volume 2. A revised copy of Volume 2 has been distributed to members. Nonetheless I regret any inconvenience that may have been caused.

REPORT OF THE REVIEW OF GOVERNANCE - SELECT COMMITTEE
Report - Government Response

MS CARNELL (Chief Minister) (3.25): Mr Speaker, for the information of members, I present the Government's response to the report of the Select Committee on the Report of the Review of the Governance of the ACT. The report was presented to the Assembly on 30 June 1999. I move:

> That the Assembly takes note of the paper.

Mr Speaker, I am pleased to table the government response to the report of the Select Committee on the Report of the Review of Governance of the ACT. I would like to thank all involved in the review of the governance of the ACT for their efforts in this important exercise.

The review of the governance of the ACT has been a very important opportunity for the people of Canberra to have their say on the workings of self-government in the ACT. Pleasingly, a wide range of people within the community seized this opportunity and

there was a very good response to the working party on the review of the governance of the ACT, chaired by Professor Pettit. As I believe I have mentioned before, the working party completed its consultation work in an exceptional manner, and it has given both the Government and the select committee much to consider.

The members of the select committee have taken on the challenges of the Pettit Report and I would like to thank the select committee for their careful consideration of the issues raised by the Pettit Report. In general terms, the Government is comfortable with the majority of the committee's recommendations and has in fact already moved to implement some of them.

In July, I announced that the Government had agreed to trial a new budget process for the next financial year. The new budget process would see the Legislative Assembly's five standing committees directly involved in the development of the budget for the first time since self-government.

The Government is keen to develop a more cooperative and inclusive approach to financial management among all Assembly members and the trialling of a draft budget process is a significant step towards achieving this goal. I hope that all members from the crossbenches and the Opposition will embrace this initiative. The Government is confident that it will lead to a better understanding among all MLAs of the financial challenges that the Territory faces, and also better outcomes for the Canberra community.

The Government is not able to accept the committee's recommendations concerning the term of the Assembly and the number of members. The committee's report concludes:

> While self-government is now more generally accepted by the people of Canberra, it is still unpopular with some. To increase the number of local politicians at this stage of self-government will only increase the cynicism and opposition.

The Government cannot accept this cowering and backward-looking view. The important issue is that the people of the ACT have an effective Assembly. The Government is of the view that maintaining the current small number of members in the Assembly as the ACT population continues to grow will not facilitate effective representation. We need to look to the future needs of the ACT now, rather than shying away from dealing with issues because of a past perception that is already changing in any event.

The Assembly needs to have a positive and visionary approach to these matters. I look forward to continuing dialogue with all members of the Assembly as we continue to progress with implementation of the review of the governance of the ACT recommendations. This entire process has offered us an exciting opportunity to improve the way we conduct the business of governing the Territory. I am confident that the Assembly will meet the challenges of seizing this opportunity and make a real difference to the lives of all Canberrans into the new millennium.

Mr Speaker, I would like to make one other comment with regard to this paper. In terms of all of the recommendations here, the only real way forward in all of these difficult areas is on the basis of consensus. There must be consensus within this place on the direction we go, and with the general consensus of the people of Canberra. There is no point in one part of this Assembly getting out in front of other parts of the Assembly, or of the Canberra community. We do need to have pride in this place, Mr Speaker. It is a good government. It is a good system of government, and it is one that is very participatory.

Question resolved in the affirmative.

ACTEW CORPORATION LTD
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members and pursuant to subsection 19(3) of the Territory Owned Corporations Act 1990, I present the statement of corporate intent for 1999-00 to 2002-03 for ACTEW Corporation Ltd.

PAPERS

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members, I present the following papers pursuant to section 6 of the Subordinate Laws Act 1989:

> Nature Conservation Act – Action Plans - Instrument No. 244 of 1999 (S60, dated 19 October 1999) –
>
> No. 10 – Yellow Box/Red Gum Grassy Woodland.
> No. 15 – Hooded Robin (*Melanodryas cucullata*).
> No. 16 – Swift Parrot (*Lathamus discolor*).
> No. 17 – Superb Parrot (*Polytelis swainsonii*).
> No. 18 – Brown Treecreeper (*Climacteris picumnus*).
> No. 19 – Painted Honeyeater (*Grantiella picta*).
> No. 20 – Regent Honeyeater (*Xanthomyza phrygia*).
> No. 21 – Perunga Grasshopper (*Perunga ochracea*).
> No. 22 – Brush-tailed Rock-wallaby (*Petrogale penicillata*).
> No. 23 – Smoky Mouse (*Pseudomys fumeus*).
> No. 24 – Tuggeranong Lignum (*Muehlenbeckia tuggeranong*).

I also present the following miscellaneous paper:

> Hepatitis C – Lookback program and financial assistance scheme – Report as at 30 September 1999.

CHIEF MINISTER'S PORTFOLIO – STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 7 of 1998 – Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.31): Mr Speaker, for the information of members, I present the Government's response to Standing Committee for the Chief Minister's Portfolio Public Accounts Committee Report No. 20 entitled "Review of Auditor-General's Report No. 7, 1998 - Magistrates Court Bail Processes". The report was presented to the Assembly on 1 July 1999. I move:

That the Assembly takes note of the paper.

Mr Speaker, I table the Government's response to Report No. 20 of the Standing Committee for the Chief Minister's Portfolio , "Review of Auditor-General's Report No. 7, 1998 – Magistrates Court Bail Processes". I do not propose to repeat what is in the Government's response, but I just want to briefly summarise its position.

The Auditor-General's report on bail processes in the ACT Magistrates Court identified two key procedural deficiencies. These were procedural deficiencies in recovery of bail which is forfeited where a defendant fails to attend the Magistrates Court as required, and inefficiencies and delays in the process for issuing warrants of apprehension for defendants who fail to attend court in breach of a bail undertaking.

The Auditor-General made a number of suggestions for improving the court's performance in these areas. The Government has already advised the committee that it has responded to the concerns and suggestions of the Auditor-General. Specifically, the Government has acknowledged the procedural shortcomings identified by the Auditor-General; implemented new measures to improve recovery of forfeited bail and ensure the timely issue of warrants of apprehension for persons who fail to appear at court; and undertaken to consider the Auditor-General's report in conjunction with the report on the Bail Act being undertaken by the Law Reform Commission. The Government has clearly taken action to improve procedural arrangements for recovery of forfeited bail.

Nonetheless, the committee has expressed its concerns that "the court's bail processes are rather meaningless" and has made two recommendations. The first is that the Government establish regulatory processes which ensure that, where bail and surety conditions are breached, appropriate bail forfeitures apply. The second recommendation is that the Attorney-General, after 12 months' experience with the procedural changes initiated by the Magistrates Court, following the audit, inform the Assembly of the extent to which those procedures have been beneficial in improving the recovery of forfeited bail monies. As the Government's response indicates, the second recommendation is supported. As to the first of the committee's recommendations, the Government has had some concerns that its wording is somewhat ambiguous.

However, as the response explains, to the extent that the committee is supporting the Auditor-General's call for efficient administrative procedures to enforce bail forfeiture orders, the Government agrees with the recommendation. Mr Speaker, I table the Government's response for the information of members.

Question resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) ACT – LEASES
Paper and Ministerial Statement

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present the schedule of lease variations and change of use charges for the period 1 April 1999 to 30 September 1999 and the schedule of leases granted for the same period pursuant to the Land (Planning and Environment) Act 1991. I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining: details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value, and leases granted over public land. The schedule I now table covers leases granted for the period 1 April 1999 to 30 September 1999. I am also tabling two other schedules in relation to variations approved, and change of use charges for the same period.

Mr Speaker, in September 1997, my colleague Mr Gary Humphries, then Minister for the Environment, Land and Planning, tabled in the Assembly a disallowable instrument, No. 228 of 1997, for the direct grant of land for any or all of commercial, residential, tourism, and industrial purposes. In the tabling statement Mr Humphries indicated that a copy of the lease and a statement setting out why the lease was sold would then be tabled in the Assembly.

Mr Speaker, the Assembly was notified of a direct grant of block 25, section 12, Fyshwick, on 22 April 1999. However, the schedule transposed the block and section identifiers and neither a copy of the lease nor a statement on why the lease was granted was tabled. Therefore, I am now tabling a copy of the lease, and a statement notifying the Assembly of the reason for the direct sale of the block. Mr Speaker, the lease in question is the result of an application lodged for a direct grant of land under disallowable instrument 228 of 1997. The instrument determines the criteria for the direct grant of a lease, and requires the Executive to be satisfied that it is in the public interest to grant the lease.

The grant of the lease and subsequent development of both blocks 9 and 25 is estimated to provide benefits to the Territory through expanding business in Fyshwick. This will increase employment in the construction industry during the building phase, create additional job opportunities, reduce the Territory's maintenance costs for the upkeep of block 25 as unleased territory land. There will also be an improvement in the Canberra

Avenue streetscape, which is a main approach route to the city, as a condition of development approval by the National Capital Authority, and it will provide a reasonable return to the Territory for otherwise unsaleable land. The lease was granted at a current market value of $45,000 based on the following conditions: Use of the land is restricted by existing easements. No building can be erected on the site. The land is to be used for car parking, landscaping and vehicular access only, and the land is non-transferable and cannot be sold independent of block 9.

Mr Speaker, the Government believes that this application was processed in accordance with the criteria set out in disallowable instrument No. 228 of 1997, and complies with the Government's policy for direct grants. A record of all new leases and applications to vary Crown leases is available for public inspection at my department's shop front at Dame Pattie Menzies House, 16 Challis Street in Dickson.

NATIONAL ROAD TRANSPORT COMMISSION
Paper

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present the National Road Transport Commission report and financial statements, including the Auditor-General's report, for 1998-99, in accordance with the Commonwealth's National Road Transport Commission Act 1991.

DOMESTIC ANIMALS LEGISLATION – EXPOSURE DRAFTS
Papers

MR SMYTH (Minister for Urban Services) (3.38): Mr Speaker, for the information of members, I present an exposure draft of the domestic animals legislation which includes a draft explanatory memorandum, draft charters of responsible dog and cat ownerships, a draft code of practice for the sale of animals in the ACT and a draft regulation under the legislation. I move:

That the Assembly takes note of the papers.

Mr Speaker, I am pleased to announce today the Government's strategic companion animal management package or, as I prefer to call it, SCAMP. I believe that SCAMP is a truly comprehensive and innovative approach to the care and management of domestic animals in the interests of the animals themselves, their owners and the broader community.

The key elements of this package are: The exposure draft Domestic Animals Bill 1999, together with the Government's draft ACT urban cat management strategy. But wait, there is more! To complement the major documentation I am also pleased to table the draft charter for responsible dog ownership, the draft charter for responsible cat ownership and the draft code of practice for the sale of animals in the ACT.

I would also like to take this opportunity to announce proposed changes to the Animal Welfare Act 1992 that relate to domestic animals. So, Mr Speaker, I beg the indulgence of the Assembly whilst I put on my dog-collar and start by preaching about the inadequacies of the current dog-eared legislation that is administered in the Territory.

Mr Stefaniak: It is a dog eat dog world, though.

MR SMYTH: It is tough out there. At present, dogs are registered and controlled under the Dog Control Act 1975, animal nuisances are administered under the Animal Nuisance Control Act 1975 and cats are not specifically covered by legislation other than issues arising from nuisance or welfare concerns. The Dog Control Act 1975 has been heavily criticised over its apparent inability to effectively penalise dog owners who disregard the law. Registration numbers for the dog population of the ACT remain quite low. It is estimated that approximately two-thirds of owned dogs within the Territory are not registered. Dog owners continue to allow their pets to defecate in public areas without taking appropriate measures to clear up after them. In both these cases the dog owners are breaking the law, but enforcement is difficult under the law as it stands.

The Animal Nuisance Control Act 1975 has also been criticised for its inability to solve the problems it is meant to deal with. Under the current legislation, a decision by the Magistrates Court on application by the Registrar of Dogs is required to issue an order to direct the nuisance to cease. This is a time-consuming and expensive procedure and relatively few applications are made under the Act. Over the last four years only four cases have been brought to court.

Mr Speaker, the draft Domestic Animals Bill updates the law relating to dogs in the ACT and introduces requirements relating to cats, as well as delivering new and streamlined procedures for dealing with animal nuisance within the urban environment. The draft ACT urban cat management strategy complements the reforms in the Domestic Animals Bill and sets out the Government's approach to managing cats in urban areas. Mr Speaker, members may recall that in December 1997 Mr Gary Humphries, as Minister for the Environment, Land and Planning, released the public discussion paper entitled "ACT Cat Management: Discussion Paper for Community Comment".

Mr Speaker, the draft ACT urban cat management strategy incorporates the community comments received in response to the discussion paper. The strategy also had substantial input from a working group composed of Mr Colin Bates from the Pet Industry Joint Advisory Council, Ms Joanne Duffy from Capital Cats Inc., Dr Michael Hayward from the Australian Veterinary Association, Mr Keith Lockwood from the Conservation Council of the South East Region and Canberra, Ms Frankie Seymour from Animal Liberation ACT and Ms Paula Shinerock from the RSPCA (ACT). Mr Speaker, I wish to put on the public record the Government's appreciation of the work of these people and the organisations that they represent.

Although the proposals I am tabling today are largely about companion pets, I must emphasise that the issues covered by both the Domestic Animals Bill and the draft ACT urban cat management strategy can be crucial to people's enjoyment of our unique natural environment. Barking, crowing, caterwauling and squawking can all interfere with the amenity that people expect while they are at home.

There are measures within the Domestic Animals Bill that address the odious form of littering. Nobody enjoys the knowledge of the number of unwanted animals that are euthanased each year by vets, the RSPCA, as well as the ACT Government Pound. For the financial year ending June 1998, over 3,160 dogs and cats were euthanased, either due to behavioural or nuisance problems, or for the purpose of culling an unwanted litter.

Mr Speaker, the Bill proposes that dogs and cats are compulsorily required to be de-sexed. Exemptions will be available for owners of dogs and cats who wish that their animals remain sexually entire. This will require the owner to seek a permit from the Registrar. Nobody enjoys being harassed by dogs whilst walking through the suburbs. Nobody enjoys the unique singing abilities of "tom cats" that have not been de-sexed. Nobody enjoys the stress that can come from living near animals that are creating a nuisance.

Such problems may appear to be insignificant when considering some other items that are on the Assembly's current legislative program, but these problems can represent serious neighbourhood issues. It has been known for animal nuisance to inflame tensions to the point that restraining orders between the aggrieved parties have been sought and granted by the courts. I have probably received letters from the majority of members of this place highlighting specific issues that their constituents bring to their attention.

Mr Speaker, the exposure draft Bill contains a number of improvements and modifications to the current legislation that will enable problems concerning animals to be efficiently and effectively dealt with by Domestic Animal Services, which was formerly known as the Dog Control Unit. These include changes relating to: registration requirements for dogs; compulsory identification of dogs by microchip implant at eight weeks of age or point of sale; licensing procedures for keeping four or more dogs or a dangerous dog; dog attacks; the right of access to all public places for people with disabilities who are accompanied by a trained assistance animal; the issuing of nuisance notices for a nuisance caused by an animal and possible on-the-spot fines for ignoring a nuisance notice; powers of authorised officers to seize and in some cases destroy stray, attacking or nuisance domestic animals.

These changes address longstanding concerns within the community that have been expressed to the Government. Mr Speaker, to complement the Bill, I am pleased to also table the draft charter for responsible dog ownership. This charter condenses the major requirements of the Domestic Animals Bill as well as the requirements of both the Animal Welfare Act of 1992 and the code of practice for the welfare of dogs in the ACT.

This brings me to the next part of the package, the draft ACT urban cat management strategy. Cats, love them or loathe them, almost everyone has an opinion about them, and almost everyone agrees that something should be in place to manage them. The draft ACT urban cat management strategy has addressed the problems that members of the community raised within their comments on the ACT cat management discussion paper. The majority of problems have flowed from the inadequate standards of care, responsibility and hygiene applied by some cat owners. These, in turn, cause animal welfare concerns, nuisance problems and wildlife predation.

As part of the draft ACT urban cat management strategy, the Government is incorporating requirements within the Domestic Animals Bill to give effect to three key policies in the strategy. Firstly, as mentioned previously, the Government believes that de-sexing of cats should now be compulsory, with exemptions for a limited number of purposes, such as breeding. Secondly, the Government believes that identification of cats should also be compulsory. This can be done cheaply and painlessly by a microchip implant.

Finally, the Government believes there are circumstances where a Minister should have the power to declare certain areas to be areas where a cat must be confined to its owner's premises, perhaps at night, or perhaps at all times, because of a particular and serious nature conservation threat. This would be a power to be used rarely, but it might, for example, apply in streets adjoining a nature reserve containing an endangered species of animal that is vulnerable to cat predation.

Mr Speaker, I draw the attention of the members of the Assembly to the fact that the implementation of the strategy will focus on promoting community acceptance of a voluntary charter for responsible cat ownership. This charter, like the one for dogs, is in exposure draft form at this point. I am releasing the draft charter with this package to encourage community debate right across the spectrum of domestic animal issues.

Mr Speaker, I mentioned at the beginning of my speech that I am also tabling a draft code of practice for the sale of animals in the ACT. This draft code has been prepared by the Animal Welfare Advisory Committee, and I believe it is significant in tying together many loose ends of community concern regarding companion animals in the ACT. Mr Speaker, this document is a revision of the gazetted code of practice for pet shops in the ACT. However, it is now far more wide reaching and innovative in its scope.

This code of practice is establishing the minimum standards for the sale of not just companion animals in the ACT, but also for food animals and produce animals. In fact this code of practice sets the standards for the sale of any live animal, with the exception of those animals which are covered by the code of practice for saleyards. Mr Speaker, normally a code of practice under the Animal Welfare Act 1992 would be subject to direct stakeholder consultation. In this case, however, I believe it is important to table the draft code of practice as part of the strategy companion animal management package for broader public consultation.

The proposed amendments to the Animal Welfare Act will make illegal a currently accepted animal husbandry practice within the dog breeding community, namely tail docking. Currently under the Act, any person can cut the tail off a puppy within 10 days of the puppy's birth. The amendments to the Animal Welfare Act will prohibit anyone from removing the tail from a puppy unless they are a veterinarian and there is a therapeutic reason for doing so.

The proposed amendments to the Animal Welfare Act will also prohibit the carriage of dogs on the back of open trucks or utilities, unless the dog is secured on a lead short enough to prevent it from reaching the sides of the vehicle, or the dog is contained within a secured cage. The injuries that can be received by dogs that accidentally fall off the back of a moving vehicle can be both horrific and fatal.

Mr Speaker, I believe that this package will provide the Government with the means, at last, to address issues that have been an ongoing source of concern to many members of our community for some considerable time. These reforms are about responsible pet ownership, animal welfare, public safety and urban amenity. That is quite a range of outcomes to balance, and I welcome the community debate on the balance that we have struck in this package.

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

PRESCHOOLS – DRAFT THREE YEAR STRATEGIC PLAN
Paper and Reference to Standing Committee on Education

MR STEFANIAK (Minister for Education) (3.50): Mr Speaker, today I table the draft three-year strategic plan for preschools in the ACT in the context of Early Childhood Services, Partners in Learning for Living, and I move:

> That the paper entitled "Draft Three Year Strategic Plan for Preschools in the ACT" be referred to the Standing Committee on Education for inquiry and report by 28 April 2000.

Today I would like to table that report, the draft strategic plan for preschools in the context of Early Childhood Services, Partners in Learning for Living. This draft strategic plan reflects a considerable amount of effort of many interest groups and individuals, in preparing the document for discussion and review, prior to implementation of the final plan. It proposes a direction from my department for the next three years. It builds on the strengths of our current preschool system and takes account of the changes that are occurring for children and families, and for the ACT Community.

It also fulfils one of the recommendations the standing committee made last year in relation to its preschool inquiry. The goals expressed in the draft for preschools and early childhood services for the next three years are to introduce a continuous quality of improvement program through a zero to eight curriculum framework; professional development; to improve communication with staff and parents; to improve opportunities for disadvantaged children and those with special needs; to improve transitions between early childhood settings; and to develop a planning system which provides equitable access.

The plan also proposes that the current criteria for viability of preschools be retained with an expansion of those criteria to include changing demographics, impact of relocation policies and condition of buildings. A range of models are included in the draft plan. The Government is now seeking community input by referring the plan to the Standing Committee for Education.

MR SPEAKER: There is nothing on my sheet to give a closing date for the report to come back to the Assembly.

MR STEFANIAK: Well, that is what I would like to do.

Mr Moore: That is what he moved.

MR STEFANIAK: That is what I moved, yes.

Ms Tucker: The committee has discussed this and we have been quite prepared to look at the draft preschool strategic plan. I do not have a problem with that. I have a big problem with suddenly being told about the date that is being imposed on the committee. I reserve judgment on that. I think the committee needs an opportunity to look at that. I was given no notice at all. I am happy to accept the referral and I think that we have already done that. Can I ask that we amend this motion so that we take the date out?

MR STEFANIAK: Delete the date at this stage. The reason they have that date is that everyone wanted to do this as quickly as possible. When I wrote to Ms Tucker in May, and she did accept it, she then wrote back to me in June and said the committee could not report until the first sitting day in October. So that was a four-month period. This dates from today, which is now a six-month period. I accept that there is Christmas in between. So I do not think it is unreasonable. I am happy to move the motion, and refer it to the committee. I would like that date but, if there is a problem, perhaps we can settle on the date in the next sittings.

MR SPEAKER: Just a moment, please. Are you prepared to delete the date?

MR STEFANIAK: I am prepared to delete the date at this stage. I seek leave to amend the motion.

Leave granted.

MR STEFANIAK: The motion will now read:

> That the paper ... be referred to the Standing Committee on Education for inquiry and report.

Perhaps we can agree on a reporting date before the next sitting and put it in then.

Original question, as amended, resolved in the affirmative.

PAPERS

MR MOORE (Minister for Health and Community Care): Mr Speaker, for the information of members, I present the following papers:

> The Canberra Hospital ownership reports for July and August 1999.
>
> Calvary Public Hospital – external information bulletin relating to hospital activity, Medicare return and specialty table – August 1999.
>
> The Canberra Hospital – Information bulletin – patient activity data – August 1999.
>
> Department of Health and Community Care – activity report – financial year: 1998-99 for the Canberra Hospital, Calvary Hospital ACT Inc. and ACT Community Care, dated September 1999.
>
> Health and Community Care Services Act 1996, pursuant to subsection 13 (4) - direction of the Board of the Australian Capital Territory Health and Community Care Service, dated 19 October 1999, including copies of:
>
> Covering letter from Michael Moore, Minister for Health and Community Care to Chair, ACT Health and Community Care Service Board, dated 19 October 1999;and
>
> Letter of response from Chair, ACT Health and Community Care Service Board to Mr Michael Moore MLA, Minister for Health and Community Care, dated 20 October 1999.

HEALTH AND COMMUNITY CARE - STANDING COMMITTEE
Report on Men's Health Services – Government Response

MR MOORE (Minister for Health and Community Care) (3.56): Mr Speaker, for the information of members, I also present the Government's response to the Standing Committee on Health and Community Care's Report No. 2 entitled "Men's Health Services". The report was presented to the Assembly on 24 August 1999. I move:

That the Assembly takes note of the paper.

Mr Speaker, the Government has now had the opportunity to consider the report and recommendations of the Standing Committee on Health and Community Care into men's health services in the ACT. I am therefore pleased to be able to table the Government's response today. The ACT Government welcomes the standing committee's report on men's health services and acknowledges that a gender-based approach to health is important. The Government appreciates the wide range of community consultation that has been undertaken by the committee, as this is a crucial starting point in policy development in any emerging health area.

The Government supports the committee's view that men's unwillingness to access health services seems to underpin the problems associated with men's health. The Government therefore believes that any improvement in men's health must tackle the issue of men's social behaviour as the primary determinant to accessing health services and possible solutions to breaking down this barrier. The Government acknowledges the importance of well-trained and understanding general practitioners who are familiar with men's health issues and have the ability to communicate with their male clients successfully.

The ACT Department of Health and Community Care is currently finalising arrangements through the ACT Division of General Practice for the implementation of various aspects of the Victorian men's health awareness network model which targets men and encourages them to take responsibility for their health. It directs men to existing health services, in particular, general practitioners.

This program will continue the skilling of general practitioners and health professionals about the needs of men. It will also contribute to projects which use a health promotion approach to facilitate access by men from all age groups to existing services. The Government will work with the Commonwealth, men's health experts, existing service providers, and the community to develop and implement a community awareness and education program for men's health. The Government is also committed to continuing existing men's health services, such as the Belconnen community service program, the Tuggeranong HIM program, the Service Against Male Sexual Assault (SAMSA) program, provision of the Murringu initiative, and support for the ACT Men's Health and Wellbeing Association, amongst others.

Members should note that while the Government supports the majority of the report's recommendations, it does not support the request for endorsement of a national prostate cancer screening program, as this recommendation is not in line with current medical research findings and best practice as identified by the National Health and Medical Research Council (NHMRC). The Australian Health Technology Advisory Committee of the NHMRC has evaluated the benefits, risks and costs of screening for prostate cancer, and after careful consideration has concluded:

> there is no evidence at this time to show that screening for prostate cancer makes any difference to how long a man will live, nor that early detection and treatment of prostate cancer will result in improved quality of life.

The Government acknowledges that prostate cancer is an issue of high importance in men's health, and has highlighted this area for priority program development in its ACT cancer services plan. It is proposed that a seamless service program be developed to address the issue of prostate cancer, encompassing services from prevention to palliative care. It is proposed that the highly successful women's breast cancer care model will be used as a starting point for the development of this program. The Government has taken very seriously the recommendation of the committee, even though we have not been able to agree on the particular approach.

Prostalk, a community support group of men with prostate cancer, has been involved in the negotiation and development of this program. The report's recommendation regarding sleep apnoea and its treatment by the acquisition of continuous positive airway pressure (CPAP) machines is also not supported by the Government, due to its inconsistency with current medical best practice.

The first line of treatment of sleep apnoea is to encourage sufferers to deal with the underlying condition, which is usually obesity. Other less costly and less complex methods of treatments form the second line of treatment, such as tongue and nasal clips. The use of continuous positive airway pressure machines is considered a last resort. Mr Speaker, I would like to thank the standing committee for its report on this matter. As I am sure members will agree, substantive work on the issue of men's health is long overdue in the ACT, and I think that most of us would recognise that there is still more work to be done. I commend the Government's response to the Assembly.

MR WOOD (4.00): Mr Speaker, I will respond quickly. I thank the Minister for his response. I express my disappointment, not to him, but to the national authorities on the policy stance they have taken in respect to prostate cancer. Earlier we had some inside information that led us to believe that there would be support for national screening. Subsequently that has not eventuated, so Mr Moore had no other option. It is an area that we should all continue to work through with considerable energy, and I also look forward to the implementation of the MAN model in the ACT and we might be able to track down the details of that.

Question resolved in the affirmative.

HERITAGE - NGUN(N)AWAL TO NASA
Ministerial Statement and Paper

MR SMYTH (Minister for Urban Services) (4.01): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement on heritage.

Leave granted.

Mr Speaker, contrary to what most Australians think, the history of Canberra did not begin with the opening of the interim Parliament House in 1927. Nor with the selection of the site for the national capital in 1908. Nor with the arrival of the first European settlers in this region in 1820. Long before all of these events - important and significant

as they are to the heritage and history of the ACT and the nation - indigenous people lived in and nurtured all the land around us. We are very fortunate that Canberra has such an outstanding natural environment, but also has a rich and diverse heritage which includes its indigenous history, its rural history, and all that flows from its unique position as the national capital for the last 92 years.

As we approach the centenary of Federation of our country, it is most timely to examine the way we manage, protect and promote our heritage. To date, heritage management in the ACT has focused on the legislative protection of places and objects for current and future generations. Mr Speaker, our aims have been to put them out of danger from development, to encourage adaptive reuse where possible, and to provide a level of certainty in planning for the future.

We have spent a lot of time and money researching and documenting and protecting our natural, Aboriginal and built heritage. This is important and will continue to be so. The Heritage Council have done an excellent job in providing leadership, often under intense pressure, to protect our precincts. In recognising this heritage we also need to celebrate our heritage. We are so lucky in the ACT to have not only a wide range of heritage, covering many eras, but to also have truly accessible heritage. We have many Aboriginal rock art and axe grinding sites within one hour's drive, and many scarred trees and other sites which exist compatibly within urban areas.

Natural sites are also close by. The geological anticline is in the shadow of new Parliament House and is probably passed every day by tens of thousands of commuters without many recognising the site's importance. Our historic and built sites are also our early homes, our churches, places for our weekend excursions, and even our Civic merry-go-round. And yet, when our interstate family and friends or international visitors come to Canberra, do we show them this heritage? I believe we need to better promote these aspects of our heritage environment that we are proud of.

Mr Deputy Speaker, recently we have seen some significant changes. We now have the wonderful facility of the Canberra Museum and Gallery. This is one of our newest facilities and, because of its high-quality presentation and professional approach, it is attracting both visitors and locals alike.

Mr Deputy Speaker, the challenge for all of us is to do more. Recently we reviewed the Government's heritage function to better define a strategic direction for heritage in the ACT, and to assess the roles, responsibilities and services provided by the Heritage Unit. The review supported and clarified the core functions and roles of the ACT Heritage Council and the ACT Heritage Unit. It supported the Heritage Council's role as an independent expert advisory body to the Minister and the Government, and the retention of a specialist public sector group to support the council - the Heritage Unit - which is contained within Environment ACT.

Mr Deputy Speaker, the Government has been encouraged by the results of this review, and will put in place a range of positive changes. A major part of this will be the heritage discovery program. This will assist residents and visitors alike in finding our special places. Many are well known and loved, such as the national attractions and

those within a short distance from Civic, but other sites are in private ownership and are not generally accessible to the public. Many objects are also housed away from their significant sites in art galleries, house museums or public museums.

The program will be developed in the next few months and will consider various options such as developing a heritage trail of Canberra, building on the various walking and touring brochures already available; clearly identifying heritage precincts to visitors, possibly through road signage; providing more information about significant heritage sites on the web; supporting the development of activities which promote awareness of Aboriginal heritage; and developing new ways to promote our rich natural heritage.

In addition, I have made available a further $100,000 per year to the Heritage Unit to support heritage education and promotions and to support Aboriginal heritage. From this additional funding, extra resources will be allocated to the process of ensuring protection of Aboriginal sites and objects in the ACT by their placement on the Heritage Register. A review of heritage legislation will be undertaken to ensure the best level of protection is available for our heritage and that our processes for protection are streamlined. The community will be invited to participate in this review to ensure the best outcome for heritage in the ACT.

A Heritage Advisory Service will be piloted. Its role will be to provide development and refurbishment advice to the owners of heritage sites, and to assist them to design sympathetic adaptations and extensions in accordance with planning guidelines. The 2000 ACT Heritage Festival will build upon the success of this year's festival. It will highlight the Olympic sporting theme and the end of the twentieth century. I would also like to see much more integration with the many national institutions such as Screensound Australia and Old Parliament House, but also not losing the marvellous contribution by local groups conducting many local events.

One major achievement will be the development of a heritage celebration strategy for the ACT. This will be developed by the Government, in conjunction with major stakeholders, to help focus our role in heritage education and promotion. It will also enable us to work towards a comprehensive approach of increasing public awareness and the respectful interpretation of heritage, enhanced cultural heritage in tourism, and support for the heritage industry.

Mr Deputy Speaker, this year's grants program has brought forward a number of interesting and valuable projects that will assist the work of the ACT Government to protect heritage, raise awareness of appreciation, and encourage partnerships between the community and government. The program is the major source of government funding to the community for heritage activity in the ACT. It has had a substantial impact on the preservation, maintenance, and interpretation of major heritage places and objects.

For example, the grant funding to the National Trust in the ACT has seen the development of a high-quality journal which documents the ACT's heritage and is an invaluable resource for our community. Another fine example is Matthew Higgins'

work in the mountainous region of the ACT, which has resulted in the research and documentation of the ACT border survey markers, again funded through the heritage grants.

Many grants have also been provided to do much-needed repairs and conservation work on sites of significance and I will take opportunities throughout the coming years to report to the Assembly on the progress of these grants and their application. This round of grants closed in June, with a total of 49 applications received by the closing date. These applications demonstrated the strong interest in heritage by the community and individuals. The grants were assessed in terms of how they benefit the heritage of the ACT, the ACT community as a whole, as well as the urgency of the proposed projects, its achievability and whether it was value for money.

A total of $155,464 was granted to the community for some 23 heritage projects, and additional funding was allocated to the Heritage Festival following the highly successful 1999 festival. These initiatives and the expanded grants program serve to reinforce the support that this Government has for Canberra's heritage. The heritage discovery program, the advisory service and the development of the celebration strategy will assist us to share our pride in our heritage.

A greater emphasis on Aboriginal heritage will also serve to ensure that we can share a common pride in our diverse histories. Mr Deputy Speaker, it may be an oxymoron but the future is bright for Canberra's heritage.

MR DEPUTY SPEAKER: Mr Smyth, will you present the paper?

MR SMYTH: Yes. I move:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE
Scrutiny Report No. 13 of 1999 and Statement

MR OSBORNE: I present Scrutiny Report No. 13 of 1999 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee, and I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 13 of 1999 contains the committee's comments on one Bill. That Bill, Mr Deputy Speaker, is the Mental Health (Treatment and Care) Amendment Bill (No. 2) 1999. I commend the report to the Assembly.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Report on the Establishment of an ACT Prison

MR OSBORNE (4.11): I present Report No. 4 of the Standing Committee on Justice and Community Safety, the second interim report in the prison series, entitled "The Proposed ACT Prison Facility: Philosophy and Principles", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

The establishment of a prison in the ACT is a matter of considerable importance to the Canberra community in terms of the financial cost and social impacts of the project. Members will recall that the committee has initiated a high degree of involvement in all aspects of the prison and that we are releasing a series of interim reports as our inquiry progresses. The committee intends to monitor the prison through to construction and we expect to release our final report just prior to the prison being opened, hopefully, in 2001.

This is the second interim report of the committee and covers the philosophical framework and guiding principles for the prison; public and private models of financing, ownership, construction and management of the prison; accountability; criteria for the evaluation of contract specifications; and coordination and planning for the effective management of prisoners.

The committee has gone to considerable effort to produce what I believe is a very thorough report. To date, we have visited nine prisons around the country, received 50 written submissions, and held three public hearings. The response by the Canberra community to this inquiry and their willingness to come forward with their well-informed views have greatly assisted the committee in preparing this report. This is a unanimous report containing 46 recommendations and a comprehensive checklist for the calling, evaluation and handling of tenders for the prison.

The first step in determining all aspects of the prison is to consider the characteristics and needs of expected prisoners. The average number of ACT prisoners in the New South Wales prison system has risen over the last three years from 110 to 125. Sample data shows that over 90 per cent of our prisoners are male, only 6 per cent are Aboriginals or Torres Strait Islanders, their average age is 31 years and their average length of sentence is eight years.

Committee members noted five common characteristics which greatly influenced our inquiry. They were that just over half our prisoners had not completed their secondary education, 56 per cent had a juvenile record, a third had previously been imprisoned as adults, 73 per cent were unemployed and 77 per cent had a history of drug and alcohol abuse. Despite the range of data which is already available on past and present prisoners, the committee identified significant gaps in the sort of detailed information which prospective bidders would require for a well-planned facility.

The committee has recommended that the prison accommodate all security levels of prisoners - minimum, medium and maximum; both men and women; sentenced and remand prisoners; regional prisoners, after negotiation with New South Wales; and prisoners with psychiatric conditions and significant drug abuse problems. As such, it is vital to have as much data available as possible throughout the planning and construction process.

The ACT has the lowest per capita rate of imprisonment in the country, yet has followed the general upward trend in prison population. In fact, we had the second highest increase in the imprisonment rate in Australia in the last two years, a figure I found very surprising. Concern was expressed to the committee by those who felt that building a correctional facility in the ACT would make imprisonment a more attractive sentencing option for our courts. In the current climate, I think that this will not be a particularly serious consideration. If the Government is able to provide realistic alternatives, such as home-based detention, drug rehabilitation and early intervention for juvenile offenders, we should not see a significant rise in prisoner numbers.

The ACT has the opportunity to develop a new prison culture right from the outset. Recent overseas research has shown that the most effective prison programs target factors which trigger change in the key areas of anti-social attitudes of prisoners, the lack of control which they have over critical areas of their civilian lives and substance abuse. The committee has recommended that the guiding philosophy of the prison be directed towards rehabilitation, restorative justice, and the reintegration of prisoners into society. To achieve those goals, the committee further recommended that all prisoners and detainees should have individual case management plans. These plans would set out a clear path to achieve rehabilitation based on the development of employment, education and social skills before the prisoner is released. This approach is a far cry from the old-fashioned notion of simply warehousing prisoners.

Whilst there are several interrelating factors as to why people are initially sent to prison, the committee believes that one of the goals for each prisoner must be to give a true sense of hope for their future. For many, that will be based largely on providing basic education and employment skills. The committee also believes that prison managers should look to developing opportunities for victim-offender reparation during the term of the offender's sentence. We believe that the effects of that would be twofold: Firstly, it would greatly assist a prisoner's reintegration into society. Secondly, it would also benefit victims as they deal with the consequences of the offence.

Other factors which were considered by the committee to be important in prisoner rehabilitation were contact with their families and educating the Canberra community with a realistic view of the majority of prisoners. Most prisoners are not dangerous, nor are they life threatening; rather they are most often people who are simply reaping the consequences of poor choices which have been made over a period.

Evidence provided to the committee has shown that the quality of prison staff is one of the most significant factors in the success of a prison. This point was further brought home to the committee through first-hand observation. A common argument put

forward by private prison operators is that their staff are superior to those employed by the public sector, but the committee observed high-quality staff at both privately and publicly managed prisons during its travels.

The committee was impressed with the innovative case management strategies which are used in some prisons. That entails a prison officer taking responsibility for a number of prisoners, dealing with inquiries, providing assistance and handling most of their day-to-day affairs. This approach seemed to provide more job satisfaction for staff and improve prisoner attitudes and outcomes.

We also received evidence that staff training should cover things such as drug and alcohol issues, eating disorders, mental health, sexual assault, grief, self-harming behaviour and racism. To this end, the committee has recommended that staff selection, quality and training be among the key criteria when evaluating tenders for management of the prison. We also recommended that legislation be developed which sets out the minimum training requirements of prison officers.

The committee received several submissions regarding work programs for prisoners. In its travels, the committee observed both good and bad examples of day-to-day prison life and confirmed that boredom is one of the major problems in prisons. On the other hand, innovative educational and work programs can greatly encourage rehabilitation. The Australian Institute of Criminology pointed out that few prison programs have been formally evaluated as to their impact and effectiveness and could cite only three instances where that had happened. As it turned out, none of the three met even basic criteria.

One of the challenges for those designing programs was to accommodate prisoners with short sentences - less than a year - most of which are drug related. The importance of well-organised work opportunities for prisoners cannot be underestimated as a major contributing factor in both the success of a prison and success for prisoners reintegrating into society upon release.

It was pointed out to the committee that prison industries operate under the principle of competitive neutrality as they involve the use of subsidised labour and, as such, need to be careful about taking away jobs and profit from outside industries. The level of remuneration for prisoners' work was an issue for some who gave evidence to the committee. Across Australia, the amount paid to prisoners for work ranges from $5.50 a day to $50 a week. The committee did not make a recommendation on the level of remuneration which should be paid to prisoners. However, we did note that this is a matter for further community debate.

Given the prevalence of drug and alcohol abuse amongst ACT prisoners, the committee spent considerable time on the topic of prisoner health. The suicide rate in Australian prisons has trebled since the late 1970s, with half of all suicide victims being held on remand at the time. Whilst a prison should be designed with features that limit suicide opportunities, research has shown that safe cells should not be constructed at the expense of a human environment, as a cell that is clinical in appearance is more likely to reinforce the prisoner's sense of isolation and depression. The committee noted the role that the style of management played in suicide prevention and believes that the

responsibility model, which involves a different relationship between staff and prisoners, rather than the control model of the traditional prison would be more suited to the type of prison the ACT community and this committee have in mind.

The committee has included in the report six recommendations regarding what it considers to be the best practice for taking care of the health needs of prisoners. These focus on the individual health needs of each prisoner and include drug detoxification and rehabilitation facilities within the facility. As already mentioned, over three-quarters of our expected prison population will have a history of drug and alcohol abuse. It was also reported that over half of the Belconnen Remand Centre detainees use heroin. There is a need for the Government to establish very clear drug policies for the prison.

The committee noted that such notions as the provision of drug-taking equipment for prisoners and supervised injecting rooms within the facility require further community debate. We also identified a number of associated legal issue which will need to be addressed, such as the legal liability of the Government in the case of a prisoner contracting HIV from another prisoner. The committee believes that drug policies in prisons should reflect the drug policies of the outside community and that drug rehabilitation programs should be a high priority and well resourced.

One of the other major justifications for establishing the ACT prison is that families can more easily visit prisoners. Because of that, the committee believes that the Government must ensure that adequate public transport is available for visitors and that the prison operator will need to ensure that visiting facilities are comfortable and appropriately designed. There should be play areas for children and facilities for babies and young children. The committee believes that prisoners who are parents should be given wide access to visits from their children, which would benefit the whole community. The committee considered other aspects of prison life for female prisoners, indigenous prisoners and those with special needs, such as the elderly, repeat offenders and those with non-English backgrounds, and made recommendations accordingly.

One topic covered by the report which is of lesser importance but which will probably attract the most attention by the media and Assembly members is the question of public or private financing, ownership, construction and management of the facility. The committee visited both privately and publicly managed prisons and found that both models can successfully operate in Australia. The question is commonly framed as a simple choice between a public or a private prison. However, there are many combinations of public/private ownership and management. Whilst it is not necessary, obviously private sector companies strongly favour having their hands on the reins from the beginning of the project. Some members of the committee could see the sense in this. However, a mix of private and public involvement is achievable with good results.

The Government has not been able to provide sufficient evidence to the committee which would justify excluding a publicly managed prison. Equally, the arguments against private prisons were not strong enough to justify excluding this option. The number of privately managed prisons is steadily rising in Australia and is expected to top 25 per cent next year. The committee was made aware of a number of perceived advantages common to privately managed prisons, such as reduced costs, efficiency, quality of service and innovation.

The core argument against a privately managed prison is the level of accountability or, rather, the perceived lack of accountability. The committee believes that, if the Government were to put in place a strong accountability and monitoring framework, a privately managed prison should not be a problem in the ACT. The Government stated clearly to the committee that it intends the facility to be the most open, transparent and accountable prison system in the country. The committee notes and welcomes this intention and the Government's commitment to provide a legislative framework for monitoring the prison's operator.

The committee has made suggestions about how best to achieve a high degree of accountability, such as no commercial confidentiality from day one, an on-site government monitoring presence, extensive reporting and transparency of information. The committee expects the Government to finalise the details of the accountability arrangements and come back to us with their proposals.

The key recommendations on public and private ownership and management are Nos 27 and 29. No. 27 recommends that a decision on ownership of the prison be deferred until detailed comparative costs are available. We have asked for a cost-benefit analysis which compares the social and economic costs of public and private financing. We have asked for this analysis so that we will know with a degree of certainty whether the Government should place an in-house bid for the management of the prison.

The committee has not accepted the Government's argument that a public prison would necessarily be worse in terms of quality outcomes than a private prison. However, we accept that we may not be able to have a public prison on the grounds of cost and practicality, such as a lack of experience, but it is still up to the Government to substantiate that with hard evidence.

A rigorous cost-benefit analysis which identifies the social costs and benefits of public management should settle the matter. This extra work should not hold up the process as the Government can also immediately call for tenders for the expert consultant project direction team and manage the tender process. I understand that this cost-benefit analysis would take about six weeks, and they have already had a two-week head-start. Accordingly, recommendation No. 29 suggests that the Government proceed with calling for expressions of interest and inviting bids for the financing, design, construction and management of the prison through a transparent competitive tendering process. *(Extension of time granted)* The final pages of the report contain a comprehensive checklist which covers important aspects of the tender management process.

In my short time here I have been involved in a number of inquiries and I have to say that I think that this is one of the most detailed and thorough reports that I have been involved in. I would like to thank the other members of the committee - Mr Kaine, Mr Hargreaves and Mr Hird - for their input to this report. When members read it, I think that they will be impressed with the work and the recommendations that have come out of it. I would like especially to thank our secretary, Fiona Clapin, for the work that she has done in compiling this report. It has been difficult. We have had to overcome some major hurdles and delays in the receiving of information, but I think the

end result is pleasing. I must admit to being a little disappointed that we were not able to make a recommendation on public versus private ownership and management, but do hope to make that recommendation in the near future. I commend the report to the Assembly.

MR HARGREAVES (4.28): I would like to echo Mr Osborne's comments about the service we receive from Fiona Clapin; it was nothing short of remarkable. In my 30 years of dealing with such reports, I think that this is probably the best one that I have seen in a long time and I congratulate her on that. I would also like to express my appreciation of the work of the other members of the committee. At one stage we had ideological differences about whether to go public or private and we were able to work through them in what I considered to be a very professional and amicable fashion. In the process, we have actually come to a particular position which, I would suggest, none of us ever thought we would be able to.

This report is the second interim report in the prison series. Members will note that the committee has a watching brief over the whole project. If I were a betting man, I would bet that our final report will be presented about a month after the prison is opened so that we can continue the process.

When we look at these sorts of reports, sometimes things pop out that we wish we had actually spoken about before. I would just like to draw attention to a couple of those, for the Government's information. They have only come to light recently and are not covered in the report, but I would like to share them with the Government anyway. One is about what we actually do with certain people who are sentenced to incarceration for a considerable length of time, for what is termed "at the governor's pleasure". It is something which was pointed out to me by a very near and dear friend, Tim Hall, who is sitting in the gallery at the moment, and I am grateful for that.

I refer to those people who have been, if you like, sentenced to a long period of incarceration somewhere, but not within a gaol system - within a mental institution, for example. The Government needs to consider how many of those sorts of people we have and how we will deal with them in the future. The Government also needs to consider how we will deal with people whose families are in the ACT, but who are themselves incarcerated in an interstate gaol and whose rehabilitation would be most ably served if they were transferred here. Given that we have only 125 inmates in New South Wales gaols at the moment and the Government intends to build an emporium of about 300 beds, I suggest that there will be room for that to be taken into consideration.

I turn to the report, Mr Temporary Deputy Speaker. The report actually does criticise the Government for its piecemeal approach to program development. Also, it says that the Government has not provided a vision statement, that one has not yet been released. I think that that is a shame. We are talking about a facility which will have an incredible social impact and will cost an enormous amount of money. In fact, if my memory serves me correctly, it will cost about half as much as a football stadium out at Bruce. That is a heck of a lot of money. Would it not have been a good idea to work out what you wanted before you actually started looking at where you are going build it, how much it is going to cost and who is going to run it? But such was not the case.

So far, we have seen from this Government prison workshops on strategies for reducing self-harm in custody, prison industries and corrections health. I congratulate the Government for doing those things. However, it would have been nice to see those things conducted in the context of a total package.

The Government has commissioned research of the literature. The research should have been conducted more than two years before a committee was actually given the task of doing it. The Government has said that it intends to commission research on rehabilitation and prisoners with special needs. Again, the comment I make is that it should have been done by now. As Mr Osborne has said, we have recommended that the Government appoint a project director to pull together all the program definitions, program evaluations, targets, costings and resource implications and call for expressions of interest in order that the difference between public and private sector program delivery can be compared and we can get on with the project. I wanted to reinforce the call for that to happen because I think that we have just gone dead in the water about this sort of thing and insufficient progress is being made.

Mr Temporary Deputy Speaker, as you well know, we have gone around the country like a troupe of travelling players and we have seen all manner of gaols. We have seen the really good example at Mount Gambier in South Australia. I would like to acknowledge the presence in the gallery of Mr Roger Holding, the general manager of that institution. That facility is for people with medium and low classifications. A quick scan of the classifications of the people we have in prison in New South Wales at the moment will show that we have real problems. We have a problem with economies of scale as we have, say, only 130 people there, plus another 40 or 50 people on remand, and a 300-bed facility, yet we have to take care of the different types of people in it. It will be a real challenge.

As Mr Osborne has indicated, currently we have 118 men and seven women in New South Wales prisons. In fact, providing a facility for only that number of people is going to be a difficult challenge. We have 15 people being held in maximum security, 24 in medium security and 86 in low security, but we also have 17 being held in prison farms. We have not addressed how to approach the sentencing of people to prison farms. That is not in the report, but I raise the issue now for the Government to give some thought to it. Frankly, I do not have a solution, unless the Government builds a prison at Symonston and buys Callum Brae and - blam! - it has got itself a prison farm. Apart from that, I do not offer any suggestions.

I note from a response to a question on notice I asked of the Minister for Justice and Community Safety that, even though the report says that the average length of sentence is eight years, there is generally a quite low level of sentencing in the sense that 76.8 per cent of the prisoners are serving two years or less. That will have a direct impact on the manner of the programs that you provide for these people, the types of programs, the success rates and the length of time that you have to devote to these people. Talking about those programs, it is going to be a very interesting prison. I concur with Mr Humphries in hoping that we will have the best one in the world, as it happens, with best practice.

We have to provide a remand facility and a mainstream facility and we have to have a detoxification centre in it. We have to cater for ethnic separations and females. For example, we have to have facilities for an inmate to bear a child in prison. We will have prison industries relating to the workforce of the ACT. We will have all of that in the context of only 300 beds or 400 beds. The imagination of the prison's architect is going to be stretched to the limit, I would suggest.

The report expresses disappointment that we were not able to receive the comparative data to make a recommendation on the public versus private models. I am not terribly disappointed that we were not able to make that recommendation. I do not share the disappointment of the chairman because I have been an advocate for taking this concept just a little bit more slowly. I think we can concentrate on the programs and worry about this bit later. But I have to express disappointment that the Government has not yet been able to give the comparative financial data. We have been considering the prison issue for almost 18 months - no doubt, it has been a consideration of part of the bureaucracy for a lot longer than that - but the comparative data has not been forthcoming.

The comparative data relating to English prisons was not regarded by me as being terribly relevant and I am sure that other members of the committee were of the same view. But it was interesting that the Government was not able to provide it for the reason that the information was commercial-in-confidence and it could not get hold of it. I would have thought that, government to government, it could have got hold of the public information. That would have been, I would have thought, a piece of cake. Certainly, I have not seen any evidence that this Government has even tried to obtain the information from the private contractors, noting some of the difficulties that people in Victoria have been having in getting hold of information.

But the Melbourne *Age* did not have so much trouble in its freedom of information tack. In fact, probably 50 per cent of the information that we would need as a committee was published in the Melbourne *Age*. Those figures have been reprinted in the report. I find the reason given to the committee by the Government that it cannot get the information for the committee because it is commercial-in-confidence to be spurious in the extreme. I do not accept that for one minute. Either incompetence is running rampant here or there is something to hide. I might mention that Professor Biles, the criminologist, said in evidence to the committee that the cost differences are pretty marginal. The Victorian Auditor-General said in a report of his that evidence has not been produced to show that the projected savings have been realised. There is a considerable amount of doubt out there about whether that is true.

Mr Osborne mentioned that we have delayed our thinking on ownership while waiting for the Government to give us more information. I have no difficulty with that. I firmly believe that the institution ought to be in public hands. How it comes to be in public hands is really a matter for financial considerations, in my view. I think we probably have the money in the kitty to buy the thing outright. Who manages it depends on who is best at providing the programs. We could buy it from a consortium of a building construction company and a private management company. We could just buy it on hire-purchase, borrowing the money on our AAA credit rating. But this Government has not been able to say to us how it is going to be cheaper to do it through the private sector, giving it to them lock, stock and barrel.

The Government has projected a cost of $35m and a saving of $4.5m over 20 years - the massive amount of $225,000 a year or the cost of two judges, which is not much in my view. But there is no proof for that. How they dreamed up this magic figure of $4.5m in savings is absolutely beyond me. There is information in the *Age* figures that should have been provided to the committee but was not. I am very tempted to suggest that it has been deliberately withheld, but I will try to control myself.

The Government talks of the ongoing recurrent costs. I suppose that is where the magic $4.5m of savings will come from. Let us look at a couple of examples. At Port Phillip prison the annual accommodation fee is $8m, the annual corrections fee is $14.2m, the annual performance fee is $1.6m, the start-up fee is $4.3m and the local council concessions are $2.4m. That is a heck of a lot of money, even though it is a 600-bed, male only, principally maximum security prison.

The Deer Park prison for women has 150 people in it, but there is the same story again. The annual accommodation is $2.9m, the annual corrections fee is $5.2m, and the annual performance fee is $700,000. They are significant figures in anybody's money. If this Government can portray a saving of $4.5m, it ought not to insult this standing committee by suggesting that it does not know the figures. I might ask my office to subscribe further to the Melbourne *Age* and share it with the committee so that we can find out how much it costs because, clearly, they have better sources of investigation than this Government. I have to express severe disappointment with that.

I commend the report to the Assembly for the detail with which it attacks how we should be looking at some of the programs in it and how we should be avoiding deaths in custody. Only recently a young Aboriginal detainee at the Belconnen Remand Centre was in the process of inflicting harm on himself and he was prevented from doing so when officers discovered him with a noose in his cell. If people think that this exercise is largely academic, that the instances of people topping themselves in gaol are limited to Port Phillip prison, I have some sad news for them.

We know that 60 or 70 per cent of the people who are going to try to kill themselves will do so in the remand facility because that is where they go through the most significant crisis. We need to be absolutely sure that we get it right with this new prison and make sure that we have leadership in that prison which will not only prevent this sort of thing happening, but also prevent even the slightest suggestion of it.

One thing I must echo about what Mr Osborne said is that this report goes away from the warehousing concept and embraces the restorative justice philosophy. I could not support this concept more. The rehabilitation of prisoners is merely one element of restorative justice. For those who do not know what that is or cannot figure out what that is, we talk about restoring the person to the community and we talk about restoring the community after the damage that these people have done. We are talking about the total continuum of justice from sentencing through to full restoration, and the prison system has a vital role to play in that. *(Extension of time granted)*

We make comment in the report about the treatment of indigenous prisoners and those with special needs, and I echo Mr Osborne's words there. Do not think for one moment that suicide and self-harm are restricted to indigenous people because they are not, but they have provided us with the best example of what to do about it through the Royal Commission into Aboriginal Deaths in Custody. We should make sure that we adopt all of those recommendations.

I concur particularly strongly with the committee's thoughts on the need for the prison operator to have some responsibility for post-release transition and the rates of recidivism. It is my view that if we are going to embrace the continuum of justice and the restorative justice system we have to have a hands-on involvement by the prison system in the post-release programs. Also, if this Government, or any other government for that matter, is absolutely committed to a decent justice system, it will realise that the prison system itself is only one part of the restorative justice element in the post-release perspective. We need to make sure that the support services - the drug and alcohol support service and the anger management support - and bodies such as Prisoners Aid which have a valuable contribution to make to resettlement are adequately resourced. If they are not, we will perpetuate the 60-odd per cent recidivism rate in this Territory.

I would like to cast some doubt on the possibility of the prison costing $35m to build. If we look at the cost of the three private prisons in Victoria, we find that the 600-bed multifaceted prison at Port Phillip cost $54m, the 600-bed one at Fulham cost $54m, and the one for 150 women at Deer Park cost $16.5m. Economies of scale come into the cost of $54m and you do not just double the cost when you double the numbers. I would suggest that the Government should give some real thought to putting up its estimate. I would also suggest from the travels that we have done and the evidence that we have received that the number of remand prisoners be increased from the 50 originally envisaged to about 70. I think that it is important to do that. I also think that we ought to be putting into the prison a total bed capacity of 400, not 300. That, of course, would have an impact on the cost.

The Government may be dead right in saying that, from all of the numbers that it has stuck away in a filing cabinet somewhere and is not going to share with anybody, it will be a cheaper facility; but, heck, they would not be paying for it. They want to get the private sector to build, own and operate it and they want to abrogate totally their responsibilities for these people. Heck, they will not be paying for it, so what does it matter? They can ask for any number of beds if they like. In fact, they could even sell the spare capacity to New South Wales to cover Cooma, Queanbeyan and Bungendore. We know how many horrible little people live in those places! We should be able to fill it up quick smart! I think there is a good grab-for-cash possibility here, Mr Minister for Justice! You would be remiss in your duties if you did not cash in on that one!

The report touches on accountability and transparency. The Victorian Auditor-General, in looking into the state of the Port Phillip prison, revealed that he had the power to look into anything he liked, but did not have any power to tell anybody about it. That is wonderful! He was prevented from telling even the Victorian Parliament about it. We have to make sure that that does not happen by introducing specific legislation prohibiting the use of commercial-in-confidence protections for any government

contract. I do not think that it is acceptable just to whack it in as a clause of the contract for the work. I think it is necessary to bring forward legislation. If this Government does not do so in a wee while, I will bring it forward in private members business.

I think it is worth while recording what the Auditor-General of Victoria said about the private model. This Government has said, "The private model can give you more innovative programs. That is wonderful. We will go with it". We had a look around the countryside and found that it was true that the private sector's entree into the market had jacked up the high-jump bar in the way of standards - spot on - but what has happened since is that a lot of the public sector ones have risen to the challenge and are now introducing some innovative programs that are really crash hot, so that idea is a bit out-of-date. The Victorian Auditor-General said that some provisions currently work against the delivery of high-quality services within a competitive environment. We need to be particularly careful that that does not happen in the ACT.

Mr Temporary Deputy Speaker, the one thing that the committee was absolutely agreed on - I know you, sir, were absolutely in favour of this particular recommendation - is that whatever system was managing the prison there would be a government on-site manager located within the fair walls of that prison.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Similar to the South Australian model.

MR HARGREAVES: Indeed. If that was done more by luck than judgment, so be it; it is wonderful. We need to make sure that that is so. We need to make sure that the community accepts responsibility for its prisoners and that these people who are in gaol still feel part of the community when they are under punishment. However, if we do go private, the only way that we can make sure that we maintain our responsibility is by having that on-site monitor.

Mr Temporary Deputy Speaker, I conclude by saying that I think that this report is a brilliant report. It give us a good indication of where to go next and it encourages the Government to get on with it and do the thing properly.

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

MATERNAL HEALTH INFORMATION REGULATIONS

Debate resumed.

MR SMYTH (Minister for Urban Services) (4.51): Just before lunchtime, when Ms Tucker was speaking on the labelling of egg cartons, she referred to something that Mr Moore said. The comment was that this was not about guilt but about information. This morning, we heard Mr Berry talking about people with views different to his. He has often mentioned that he does not agree with us but he is almost saying that we do not have the right to have a view. All we seek to do here is establish more information.

It would be interesting to see whether Ms Tucker wishes to live by her previous comments that it is not about guilt but about information and vote against what Mr Berry is moving here.

MR OSBORNE: Mr Temporary Deputy Speaker, I seek leave to speak again.

Leave granted.

MR OSBORNE: Earlier today I accused Ms Tucker of using the word "bigot" in the debates we had last year. I would like to apologise because it appears that it was I who used the word "bigot". I knew the word had been used, but I was not quite sure who had used it. I do apologise to Ms Tucker. It is quite interesting to read the *Hansard* from 2.30 that morning. I would suggest members read it. I do apologise to Ms Tucker for that slur on her, and I hope that she finds it in her heart to forgive me.

MR BERRY (4.53), in reply: I will deal with Mr Smyth's brief comments first. I think you may have misheard what I said, Mr Smyth. In fact, I am not at all critical of your right to have narrow moral views on this issue, but what I do object to strenuously is that you would impose them on women. You are quite entitled to have these views. They are your views. But what I say is that you should keep them to yourself.

Mr Kaine and Mr Osborne talked at length about what they regarded as personal attacks on this issue. Mr Osborne also referred to some personal attacks on the Chief Minister. You have to expect people to get passionate about these issues, especially when - - -

Mr Smyth: Passionate personal attacks?

MR BERRY: I do not agree that they were personal attacks. You have to expect people to get passionate about these issues when the views of individual legislators in this Assembly are so repugnant to around 80 per cent of the community. It is not surprising that people express those views, both inside and outside of this place. Voters express those views to members of this place. That is not surprising at all, because this is an infringement of the liberty of women in one way or another. It is an infringement of their rights. That is what you set out to do.

It is not surprising at all that there are heated reactions to the approaches that have been taken. If these heated reactions had not occurred in response to what was earlier attempted in this debate, where would we be now? The right to seek a termination in the ACT may well have evaporated if there had not been a heated community reaction and a passionate debate about these issues. If people expect me not to be passionate about this because they are confronted by it, do not hold your breath. This is something that I have been committed to since the day I walked into this place and will be committed to until the day I walk out of it and thereafter.

The rights of women to make their own choices about these issues are a matter worthy of passion because it has been going on for eons. It is not about encouraging abortion or promoting abortion in any way. It is about making sure that women have the ultimate

decision. That is why I have moved to amend this regulation. It infringes not only on the rights of women but also on the rights of medical practitioners to practise their ethics. This is the only piece of legislation which so infringes.

I heard Ms Tucker express some concern that Mr Rugendyke had not made any comment in this debate. I too express concerns about that. He is an Independent in this place. I suppose - I have no reason to think otherwise - that he will vote against my motion, but I would like to have heard him say it before we go to the vote. I suspect this is because of the arrangement he and Mr Osborne made before the last election. I accept that. That is part of the nature of politics sometimes, but it is a disappointment to me. I had hoped that it might be the debate that would convince him rather than some other arrangement he has.

Mr Speaker, you expressed a view which you referred to this morning during the debate. I will just repeat it. On 2 September you said:

> I will not support in this house any subsequent motions or legislation on this contentious issue from either side.

Mr Speaker, I assumed that that meant that you would oppose the subordinate legislation put forward by Mr Humphries. The only way that you can oppose part of the subordinate legislation that has been put forward by Mr Humphries is to support the motion that I have put forward to amend it. It strikes me that what you said then is a wee bit hollow.

I would like to have heard Mr Osborne comment on his committee report in relation to how this regulation might be beyond the scope of the power of section 16 of the Act. I know this is not a court and we cannot make decisions as a court would, but we have had a debate in the last few days about whether things are lawful or unlawful and Mr Osborne has expressed a view and been fairly consistent on the issue of whether things are lawful or not lawful. As the chair of the committee, I had hoped that he might deal with that matter. I am disappointed on that score as well.

This motion that I have put forward today, on the face of it, will fail.

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.

MR BERRY: I would also like to have heard again from the Chief Minister, though I can see how, with her stated pro-choice views, she might be embarrassed with the position she will ultimately adopt in respect of this motion. That has been a continuing disappointment to me and a continuing disappointment to a large proportion of the ACT community. As legislators, we are expected to try to reflect the views of our constituency and to behave in a way which we have said in the past that we would . Ms Carnell's standing has suffered on this particular issue, but that is her choice, I suppose. I just wish she would allow women to express their choice freely on this issue.

Mr Speaker, unlike you, whenever the opportunity presents itself to expand and improve women's rights on the issue of abortion, I will vote for it. I will stand up in this place and argue passionately for it, and I will use all of the devices which the standing orders allow to convince other members to support it, even if they feel a little confronted by the way I deal with it. It is an issue worthy of passion. I understand how people who oppose abortion also deal with it with passion. I do not mind defending my views and I do not mind my views being attacked. I am perfectly able to parry the charge from the other side on this issue.

This issue will stay with us, I suspect, for many years to come. As I have said before, it is my aim that one day it will not be a criminal offence in the ACT for a woman to terminate a pregnancy and her decision will not be encumbered by the moral views of other people imposed on her as a result of regulations like this one.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

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

Debate resumed from 19 October 1999, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR WOOD (5.07): Mr Speaker, the Opposition will be supporting these amendments. Mr Moore has described their technical and corrective nature, saying that they ensure that the Act is able to be implemented as it is intended in every circumstance. It is my understanding that the Act has now been operating for about three weeks. I would hope that it is going along well. We will support these measures to remove some of the glitches that were there in the first instance.

With the indulgence of the house, I might briefly diverge to recommend to members a book that was launched in Canberra yesterday called *What's Daniel Doing*. It is the biographical story of a schizophrenic. At the launch at lunchtime yesterday it was said that it was compelling reading. The doctor who launched it, Dr Les Drew, said that he had read it pretty much at one sitting. I have read it. Members might have noticed me sitting here reading it. I read in a day. It gives a very good insight into the difficulties faced by a schizophrenic and faced by his family and all with whom the schizophrenic comes in contact. It gives a very good insight so that members can ponder the problems and the difficulties. I would encourage members to buy the book and read it.

MR MOORE (Minister for Health and Community Care) (5.09), in reply: As Mr Wood said, these amendments are largely technical, so I can understand members not wishing to spend a huge amount of time on this Bill. However, this is an opportunity to remind members that it is Mental Health Week this week. There have been a number of functions that I have seen other members at, Mr Wood in particular. The support that we have had in this Assembly for a coordinated approach to mental health issues bodes well for all members of the Assembly and for our future in dealing with this very difficult task.

It is now recorded that one in five Australians will suffer mental illness within their lifetime, so every person is likely to be touched by mental health issues in one way or another. The cooperative approach that we have taken across this legislation is welcomed by the Government. I think that all members of the Assembly can be proud of it.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CHILDREN AND YOUNG PEOPLE BILL 1999

[COGNATE BILL:

CHILDREN AND YOUNG PEOPLE (CONSEQUENTIAL AMENDMENTS) BILL 1999]

Detail Stage

Proposed new clause 241A

Debate resumed from 19 October 1999.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 3, Executive business, 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. 2 they may also address their remarks to order of the day No. 3, Executive business, Children and Young People (Consequential Amendments) Bill 1999.

MS TUCKER (5.11): I seek leave to withdraw amendment No. 2 on the green sheet and move my amendment on the pink sheet.

Leave granted.

MS TUCKER: I move:

> That the following new clause be inserted in the Bill: Page 106, line 28:
>
> "**241A 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 terms of reference for the review are to be as agreed between the Minister and the Legislative Assembly Standing Committee whose functions include examination of matters related to the care and protection of children and young people in need.
>
> **(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.

This redrafted amendment requires the Minister to review the first 12 months of operation of the Children and Young People Act specifically in relation to therapeutic protection orders. The broad purpose of this review is to evaluate this section of the Act to determine whether therapeutic protection is being provided in appropriate cases and appropriate ways. In deference to the Minister, I have removed from my amendment the parts which specified the terms of reference of this review, and thus we have a revised amendment. Instead, I have specified that the terms of reference for the review are to be agreed between the Minister and the appropriate Legislative Assembly standing committee.

While I have removed the terms of reference in deference to the Minister, although I understand he is not going to support my amendment anyway, I have been advised that it is highly unlikely that the objections the Minister raised are valid - that is, that this section of the Act would have been subject to scrutiny by any court. The only likely instance when it may be subject to some form of scrutiny is if the public official, in this case the Minister, responsible for ensuring the review is undertaken does not undertake

the review. I understand that the Minister would then be subject to a writ of mandamus which, if successful, would force him/her to do the job he/she is supposed to do under the Act.

It is only in these circumstances that our terms of reference for a review specified in our original amendment would have been subject to the scrutiny of the court. In this situation, if the terms of reference had been supported by the Assembly, then any criticism of them would have been highly defensible. It is a circular argument. If the Assembly had supported it, then the basis for the legal challenge just would not have been there, unless there had been clear points of law affecting that amendment. The Minister could not specify exactly how our original amendment was at fault at law, so we can only assume it was not at fault.

I believe it is absolutely essential that this section of the Act be reviewed. The Act is going into new and uncharted territory in legislating for therapeutic protection. It may be appropriate to consider this move into therapeutic protection almost as a trial or as an experiment. The community sector, the legal profession and all those people who work with children and young people who are at risk to themselves or other people are concerned, and there is some division about this particular initiative.

Their concerns centre around a whole lot of issues. They centre 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. This is a very broad and loose definition that is open to many interpretations. Some in the sector believe it should be tightened up, that broad principles contained at the beginning of the Bill should be reinforced in the Bill and in particular that it should be possible to use this form of order only as an order of last resort.

There are also concerns about whether it is appropriate to detain children in a secure facility and to deny them their liberty if they have neither committed a crime nor been diagnosed with a mental illness. The concerns also centre around specific clauses of the Bill, such as clause 238, which allows the court to restrict the contact a young person subject to a therapeutic protection order can have with other people. This clause can allow a young person to be isolated from family and friends for 12 hours at a stretch for days on end. This is a provision that would clearly need scrutiny and reviewing.

In my last speech on this Bill I mentioned concerns that were raised in my inquiry into services for children at risk. I will not repeat them. I have also raised concerns about resourcing. We have seen no indication of the financial implications of this Bill and, in particular, the financial implications of therapeutic protection. It was the former executive director of the Children's, Youth and Family Services Bureau, Michael White, who in the public hearings for the children at risk inquiry acknowledged the enormous cost of existing programs for very disturbed young people, with one particular program for one young person costing in excess of $300,000.

In April the Community Advocate reported a research project she conducted into substitute care services provided for children at Marlow Cottage. She included the family services policies and procedures manual, chapter 9, page 21, which says:

> The emergency nature [of Marlow Cottage] means that it is a transitional facility, and it is expected that the young person might be reintegrated to the family, be placed in appropriate foster care, moved to a residential facility or, when on bail, await the outcome of criminal court decisions.

Yet the Community Advocate says that the results of her research into the number and length of admissions and the legal status of the children in the facility were "concerning issues". The Community Advocate found that, in 1996, 20 per cent of admissions were for longer than 20 days, 9 per cent of children spent more than 60 days at Marlow and one child spent 248 days there. In 1997, 12 per cent of children spent more than 60 days at Marlow Cottage, with one child spending 112 days at Marlow. In 1998, 8 per cent of children spent more than 60 days at Marlow Cottage, with one child spending 116 days there.

Remember, this is supposed to be a transitional facility. The obvious question is: Why is this happening? It seems to be happening because for some of the children who go through Marlow there is nowhere else for them to go once they leave. The Community Advocate wrote that "representatives of Family Services noted that there was no need for such a project" and that it "would not contribute to the development of a solution to any of the current problems regarding substitute care services for children at Marlow". She went on to write:

> Additionally Family Services acknowledged breaches in their own written standards of service for children in Marlow Cottage.

So we have clear breaches of Family Services guidelines acknowledged by Family Services. Why are these breaches occurring? With the best will in the world, no government agency can deliver services without resources. There is clearly a resourcing issue. This Government keeps telling us to have faith, saying, "Everything will be fine. Do not worry about it. We will look at it in three years. There will be a new government in three years. This Government has to be held accountable".

The Government is taking us down this whole new path of treatment for children and young people at risk of hurting themselves or other people, without financial commitments and without indicating what impact this will have on other services provided for these children. A 12-month review of these orders needs to look at these resourcing issues and other issues. If we are to see any real commitment to monitoring and scrutiny, I am hoping to receive support from other members of this Assembly. We cannot wait for three years until the whole Act is reviewed. It must occur after 12 months. As I said, in three years we will have a new government and a new Minister. It is this Government that has enacted this new piece of legislation and a response at the crisis end of children in care. It is this Government that is telling us that there are no problems with resources in the ACT in this area. It is this Government that says, "Everyone always wants more money. Have faith in us. We will manage this well". I do not have faith in this Government in this area. The evidence has been set down by the Community Advocate.

Mr Humphries: Yes, we have noticed, Kerrie.

MS TUCKER: Mr Humphries says he has noticed. I am talking about evidence. I have just given you evidence, Mr Humphries, that children at risk, vulnerable children, are not being properly supported. You have just introduced an initiative which obviously has resource implications which you are not choosing to acknowledge.

MR RUGENDYKE: (5.20): Mr Speaker, I take the advice of the department, the Minister and the Chief Magistrate on radio the other day. Their belief is that there will be a small number of children on therapeutic orders. I believe that might be the case. In that context I agree that clause 414, the provision for a review of the Act within three years of its commencement, is appropriate to assess a small number of children. I therefore will not be supporting this amendment.

MR KAINE (5.21): Contrary to the position taken by Mr Rugendyke, I do support this amendment. I am not too certain whether what Ms Tucker said about a new government in three years is right or not. I will take my chance on that. But I do think that, given the characteristics of the children we are talking about here and the introduction of the new system, we cannot afford to wait for three years to see whether the system is working or whether it is not. I think it is quite appropriate for the Assembly to ask that a review be done after a shorter period of time than that so that we can be satisfied that the system is working the way we intend it to work.

How will we know if we do not check it, and how will we require the Government to check it if we do not put it into the legislation now? I think that Mr Rugendyke's assessment, regrettably, is wrong. The Government does have to be held to account on a matter as serious as this - and it is a serious matter. I for one would simply want to be reassured that the system is working the way it is intended to work. I do not believe that I should have to wait for three years to find that out. The matter is too serious for that. I support Ms Tucker on this matter.

MR WOOD (5.23): Mr Speaker, I would ask the rest of the Assembly to support this amendment. I am pleased to see it come back in a much simpler form than that presented to us on Tuesday. In the 10 years I have been in this Assembly I have had experience from time to time of the children, the young people, who will likely be affected by these therapeutic orders. It requires enormous resources to see that their care is adequate. I remember the occasion when the government of the day acquired from ACT Housing a cottage at Ainslie and put two young people in it. There were one or two or three people there at various times, but there was always at least one person there. I forget the figures, but it cost something under $200,000 a year - and I could well be corrected on that - to maintain that place. You remember it, Mr Speaker.

MR SPEAKER: I do indeed.

MR WOOD: There are other circumstances. Someone at Quamby costs more than that, or could in these circumstances. The children we are talking about cost a great deal of money to maintain. It costs money to provide the programs. It was presented to me by one of the organisations that might well be involved in this that they needed a higher level of staff for counselling to run the programs as well as pay for the additional staff.

This is no cheap option that the Minister has put into his paper. It is an expensive option, albeit a very important and necessary one. It simply cannot be taken on trust.

I have not heard the Minister - or the Treasurer, who is with us at the moment - stand up in this debate and say, "I give you an absolute assurance that if there is a shortage of money we will fund it. We will go to the Treasurer's Advance or we will go somewhere else and find some new money for it". Do not forget that I have a continuing cynicism about the Minister, because these same agencies are struggling to maintain the high quality of their operations with the pressures imposed on them by the introduction of the SACS award. They are being squeezed already. There was a most difficult circumstance arising for them.

I have not spoken to the Chief Magistrate. Other members may have. I only heard him on the radio the other morning. That is my knowledge of what he said. He was very cautious and, sensibly, very guarded. My judgment on what he said is that he was keen for this to be introduced and he would use these provisions. It would seem to me that the one or two people a year I heard the Minister talk about at the round table will grow to rather more than that. It is pretty clear to me that there is a problem with financing.

I give Ms Tucker credit for raising the issue. There is a problem and I think we need a solution. For Ms Tucker, I think this is a second-best solution, but I will support it. I think it needs a quick review, a review in this timeframe, and I also want to hear the Minister give his assurances about new money if it is necessary. Believe me, it will be necessary.

MR OSBORNE (5.27): I agree that this is a serious issue. I think that three years is far too long before a review. If we are getting it wrong, a couple of months can do damage to these young people. So I will be supporting the amendment moved by Ms Tucker.

However, in my discussions with Ms Tucker I was not aware of the exact wording of the amendment. I have now had a look at the wording and I think proposed subsection (2) could result in a stalemate and no agreement between the Minister and the Assembly. I am proposing an amendment to that. I have not quite finished the wording. I will do that in a second. I would be comfortable with the Minister informing the Assembly of the terms of reference for the review prior to the review being undertaken. There could be delays and stalemates over negotiations between the committee and the Minister. Having the Minister inform us of what the terms of reference will be is probably a more sensible option and way forward. I will be supporting Ms Tucker's motion, with my amendment.

MR STEFANIAK (Minister for Education) (5.29): I sort of understand what Mr Osborne is doing. I can also count. Nine beats eight any time. Ms Tucker's new amendment is much better than the old one. I do not necessarily agree with some of the things she said, but I will not canvass that. This one is better worded. Mr Osborne's amendment is the only way we could do it. I suppose it is acceptable. I do not know whether I could change Mr Osborne's mind. I doubt whether I could change anyone else's mind.

This is a Bill with a lot of checks and balances in it. People talk about resourcing. Again, I remind them of paragraph 233(2)(d). The court has to 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. I reiterate what I have said earlier in this debate. Obviously, a responsible government would be looking at this and monitoring the situation as it progressed to see whether any new resources were needed. This Government has had a very good track record in allocating new resources where they are needed by people in care and need. My department has done that, and Mr Moore's department has done that.

On the radio, I mentioned mental health as an area where additional resources have been allocated. We have done that in the area of disabilities. I do not know whether we would ever have enough resources to satisfy Ms Tucker in any area, but we have had a very good track record of allocating resources from within the finite resources of this Government. I do not expect an opposition necessarily to comment favourably on that. Mr Wood probably realises what I mean.

These orders cannot be made without an order of the court. I do have a bit of concern here. Is Ms Tucker saying that she does not trust the magistrates to adequately scrutinise all the applications before them? Once the orders are made, the chief executive is subject to scrutiny too. There are a lot of checks and balances here. The chief executive is subject to scrutiny by the Community Advocate and the Official Visitor - that is not within 12 months or within three years; that is at any time, at short notice - in relation to the provision of therapeutic protection. Neither of those officers is backward in coming forward about any matter of concern, nor should they be, either in any particular case or in relation to system administration.

The Community Advocate is already charged under the Act with statutory responsibility for monitoring the provision of welfare services to children. That amply covers the issue of appropriateness of any therapeutic protection order. However, I think members have already agreed during this debate to give the Official Visitor the power to report to the Minister at any time on any matter. That clearly allows for reports on therapeutic protection not after 12 months but at any time, more frequently than annually, if so minded. The Minister, whoever it is - me or anyone else - has the option of asking the Children's Services Council to report on anything relating to the operation of the Act. This is precisely the type of subject that could be referred to that body too.

We have legislation in place already for a wide range of public authorities to report on their operations over each 12-month period, not just the first one. We have the Official Visitor; we have the Community Advocate; we have the chief executive; we have the Chief Magistrate; we have the courts. There is a whole range of things. Mr Rugendyke is quite right, and so are the people who drafted this Bill. Three years is a more appropriate time because it is feasible.

No-one will be under a therapeutic protection order in the first 12-month period. What will there be to report on? Will people then say, "We do not need it."? I hope people will not play politics with something as serious as this, but that is a distinct possibility.

Twelve months may well be a short period of time. Quite clearly, some experts in our community, including the magistrates, including the Chief Magistrate, who was had extensive experience in the children's jurisdiction, are very much in favour of this.

Mr Wood: Is this such a problem?

MR STEFANIAK: Not if people are sensible. I just leave that with members. We have all these people looking at this and the Minister has the ability to do certain things. Do we need an extra impost on the department to do this, when you have all these other agencies doing this almost on a weekly basis? I do not think is necessary, but I can count. I will support Mr Osborne's amendment. It is preferable to the revised amendment as moved by Ms Tucker.

MR SPEAKER: Mr Osborne, would you like to move your amendment?

MR OSBORNE (5.34): I seek leave to move the amendment circulated in my name.

Leave granted.

MR OSBORNE: I move:

> Paragraph (2), omit the paragraph, substitute the following paragraph:
> "**(2)** The Minister inform the Assembly of the terms of reference for the review.".

MR SPEAKER: You may speak to your amendment if you wish.

MR OSBORNE: I have said enough, Mr Speaker.

MS TUCKER (5.35): I need to correct something Mr Stefaniak said. He totally misrepresented what I said when he said that I had said that I did not trust the Chief Magistrate. I did not say that. I said that I did not trust the Government when they tell me everything is okay. I have just read out statistics to show that they are failing.

Mr Stefaniak: I did not say you did not trust him. I asked it as a question.

MS TUCKER: He asked it as a question. I am not calling into question the integrity of the Chief Magistrate. I would like to make it clear that if there were no children in these circumstances a review would not be necessary, because there would be nothing to review. That seems pretty obvious. I thank members for their support. I think it is an important mechanism of accountability, and I look forward to working with the Government in ensuring that these sorts of initiatives provide good outcomes right across the sector.

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

Proposed new clause, as amended, agreed to.

Clauses 242 to 405, by leave, taken together and agreed to.

Clause 406

MR RUGENDYKE (5.37): I move:

> Page 181, line 24, omit "cares for, but does not have parental responsibility for,", substitute "provides care, whether regular and substantial care or otherwise, for".

This amendment alters clause 406 to reflect the definition of "carers". It opens the clause up to other people who are charged with taking care of children to safeguard or promote the care, the welfare and development of the child or young person. It increases the number of people who can do that.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 407 to 419, by leave, taken together and agreed to.

Proposed new clause 419A

MR RUGENDYKE (5.39): I move:

> That the following new clause be inserted in the Bill: Page 186, line 12:
>
> "**419A Childrens Court Magistrate**
>
> Until the Chief Magistrate declares a magistrate to be the Childrens Court Magistrate under section 49, the Chief Magistrate is the Childrens Court Magistrate.".

This is simply a transitional provision for the Children's Court Magistrate until the Chief Magistrate declares a magistrate to be the Children's Court Magistrate under clause 49, which we passed the other day. The Chief Magistrate is in fact the Children's Court Magistrate.

Proposed new clause agreed to.

Clauses 420 to 441, by leave, taken together and agreed to.

Schedule 1

MR RUGENDYKE (5.40): Mr Speaker, I move:

> Page 194, item 6, column 3, after "responsibility;" insert "the chief executive;".

This is a consequential amendment.

Amendment agreed to.

Schedule, as amended, agreed to.

Schedule 2

MR SPEAKER: I would like to make a statement in relation to the provisions of standing order 180. I note that the Children and Young People Bill contains a dictionary after Schedule 2. I understand that the inclusion of a dictionary in the Bill is a new drafting practice. As such, it is not covered by standing order 180, which sets out the order for considering a Bill in the detail stage. Clearly, the dictionary is part of the Bill. With the agreement of the Assembly, I propose to call on its consideration following consideration of the schedules. This is a practice I will follow in future. In due course we will need to consider appropriate amendments to standing order 180 to cover this and possibly other drafting changes.

Schedule agreed to.

Dictionary

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

> Page 198, line 26, after the definition of ***care plan***, insert the following definition:
>
> "***carer*** —see section 4A.".

MR STEFANIAK (Minister for Education) (5.41): I have some further tidying up amendments in relation to things that are covered in the Interpretation Act. They are for consistency. I seek leave to move government amendments 12 to 19 together.

Leave granted.

MR STEFANIAK: I move:

> Page 198, line 27, definitions of ***chief executive*** and ***Chief Magistrate***, omit the definitions.
>
> Page 199, line 15, definition of ***community advocate***, omit the definition.
>
> Page 200, line 3, definition of ***doctor***, omit the definition.

Page 200, line 5, definition of ***domestic order violence***, omit the definition, substitute the following definition:

"***domestic violence order*** means an order under Part 2 of the *Domestic Violence Act 1986*.".

Page 200, line 17, definition of ***entity***, omit the definition.

Page 201, line 19, definition of ***lawyer***, omit the definition.

Page 202, line 24, after the definition of ***police officer***, insert the following new definition:

"***probation order***—see section 102.".

Page 203, line 1, after the definition of ***residence order***, insert the following new definition:

"***residential order***—see section 112.".

Amendments agreed to.

Dictionary, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

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 RUGENDYKE (5.42): Mr Speaker, nothing needed to be said here on the consequential amendments Bill. That follows on from the original Bill obviously.

MR STEFANIAK (Minister for Education) (5.43), in reply: Mr Speaker, I think these are just amendments to again tidy up some things.

MR SPEAKER: Yes, and they will be coming up shortly.

MR STEFANIAK: Especially, as you can see from the explanatory memorandum, as the amendments provide that domestic violence orders can be made, on application, in care and protection proceedings.

MR SPEAKER: They can only be foreshadowed anyway. We have not agreed to the Bill in principle yet.

MR STEFANIAK: I do not intend speaking to them, Mr Speaker. I think there is agreement on them. They also to provide some tidying up in relation to restraining orders in relation to the Magistrates Court Act 1930.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MS TUCKER (5.45): I seek leave to move a revised amendment to the schedule.

Leave granted.

MS TUCKER: I move:

> Schedule 2, page 5, line 36, after the amendment of the *Adoption Act 1993*, insert the following new amendment:
>
> *"**Annual Reports (Government Agencies Act 1995***
>
> **Section 4 (definition of *public authority*, paragraph (b))—**
>
> Omit the paragraph, substitute the following paragraph:
>
> '(a) a statutory office holder declared by the Minister in writing to be a public authority for this paragraph or mentioned in the Schedule; or'.
>
> **Section 4 (definition of *reporting period*)—**
>
> Omit the definition, substitute the following definition:
>
> '***reporting period means—***
>
> (a) for a public authority that is required to present a report under subsection 8 (1), paragraph 8 (5) (a) or subsection 8 (5A) and for which a direction under section 10 is in force—the period stated in the direction; or
>
> (b) for—
>
> (i) a public authority that is required to present a report under subsection 8 (1), paragraph 8 (5) (a) or subsection 8 (5A) and for which there is no direction under section 10 in force; or
>
> (ii) a public authority that is required to provide information under paragraph 8 (5) (b); or
>
> (iii) an administrative unit;
>
> that commences operations during a financial year—that part of the financial year during which the public authority or administrative unit operates; or

(c) for any other case—a financial year.".

Section 8—

After subsection (5), insert the following subsection:

'(5A) A public authority mentioned in the Schedule must, within the prescribed time after the end of each reporting period of the authority, present to the responsible Minister a report relating to the operations of the authority in that reporting period.'.

Subsection 8 (6)—

'(6) A report under paragraph (5) (a) or subsection (5A) must—

(a) be in the form; and

(b) include the information;

that the Minister directs in writing.'.

Subsection 8 (8)—

Omit the subsection, substitute the following subsection;

'(8) A public authority to which a direction is given under subsection (5) or (6) must comply with the direction.'.

Section 10—

Omit the section, substitute the following section:

'10 **Reporting period other than financial year—public authorities**

The Minister may, in writing, direct a public authority to present a report under subsection 8 (1), paragraph 8 (5) (a) or subsection 8 (5A) for a period other than a financial year.'.

Section 11–

Omit the section, substitute the following section:

'11 **Time for lodging annual reports by public authorities**

'(1) The Minister must, in writing, fix a time after the end of each reporting period of a public authority within which the public authority is to present a report, or provide information, relating to that reporting period under subsection 8 (1), paragraph 8 (5) (a) or (b) or subsection 8 (5A).

'(2) The time fixed under subsection (1) must not be more than 10 weeks.'.

Subsections 12 (1) and (2)—

Omit 'or paragraph 8 (5) (a) or (b)', substitute ', paragraph 8 (5) (a) or (b) or subsection 8 (5A)'.

Subsection 14 (2)—

Omit the subsection, substitute the following subsection:

'(2) The responsible Minister must present a copy of each report presented to him or her under section 7, paragraph 8 (5) (a) or subsection 8 (5A) to the Legislative Assembly within 6 sitting days after the day on which he or she receives the report.'.

New Schedule—

After section 16, insert the following Schedule:

'**SCHEDULE**

(See section 4)

PUBLIC AUTHORITIES

1. The official visitor under the *Children and Young People Act (1999*) (see dictionary).'.".

This amendment ensures that the Official Visitor is required to table an annual report as required under the Annual Reports (Government Agencies) Act 1995. On the face of it, it is a simple amendment, but not so simple when you realise that currently the Chief Minister has the discretion to determine which public authorities, other than those already prescribed in the Act, are required to table annual reports. This discretion has led to a questionable anomaly in the reporting requirements of the Official Visitor. This anomaly was identified during the public hearings of the Estimates Committee this year.

To take you back to the Justice and Community Safety hearings, there was a perception among some of those who spoke, including the Minister for Justice and Community Safety, that the Official Visitor was required to present annual reports to the Minister for his/her activities, both at Belconnen Remand Centre and at Quamby. This proved inaccurate as the hearings progressed and it became clear that, while the Official Visitor was required to provide annual reports to the Minister on his/her activities at Quamby, this was not occurring for Belconnen Remand Centre. The ACT Discrimination Commissioner, when questioned during the estimates hearings about this anomaly, said:

> I would be quite interested to look at it because if there is a difference in the rights of juveniles in detention as compared to adults in detention, that is something that could raise issues under the Discrimination Act.

Prisons, like shelters and other institutions, are very close to public scrutiny. People incarcerated and denied liberty require support, advocacy and certainty. But, where necessary, their concerns can reach a broader forum with the aid of an advocate. In a democracy, that broader forum is clearly the Legislative Assembly. This is surely a fundamental human right in a democracy that has to be defended vigilantly.

The Official Visitor, along with the Ombudsman and the Community Advocate, provide components of that scrutiny and advocacy and a degree of transparency in very closed systems.

My amendment ensures that the responsibility of the Official Visitor to present annual reports to the Minister for tabling in the Assembly are not left to a discretionary determination by the Minister, by ensuring that the Official Visitor must provide an annual report to the Minister, who must then table that annual report in the Assembly. I am ensuring that the Official Visitor can fulfil all of his/her responsibilities.

Those responsibilities are, in relation to children, to ensure protection of their rights, wellbeing and interests; to promote their protection from abuse and exploitation; to advocate for them, particularly those in the child protection system. What value is an advocacy in a protection role if, when the occasion requires, the Official Visitor cannot through his/her annual reports draw to the attention of the broader community fundamental problems with the child protection system, abuses within particular services?

These responsibilities are particularly critical, given the therapeutic protection orders specified in the Children and Young People Bill. The substantive parts of my amendment are in subsection 8 (5A) and the schedule at the end of the amendment headed "public authorities", which lists the Official Visitor under the Children and Young People Act 1999. Subsection 8(5A) makes it a requirement that the public authority mentioned in the schedule conforms to the annual reporting requirements of the Annual Reports (Government Agencies) Act 1995.

All other sections and subsections in this amendment are either consequential to these provisions or updates on drafting language. I have been advised that amending the annual reports Act is the neatest, most efficient way to give effect to our amendments. While it does not address whether the Official Visitor is required to table his/her annual reports for Belconnen Remand Centre, it ensures that the Official Visitor as described in the Children and Young People Act 1999 is required to present a report to the Minister. This report is then tabled by the Minister in the Assembly. This ensures the requirement is not left to the discretion of the Minister, but is entrenched in legislation.

MR STEFANIAK (Minister for Education) (5.49): Mr Speaker, I was not sure what the effect of this was, so I did take advice, to be properly informed. There are real problems with this. The Government already declares the Official Visitor to be a person who is bound by the annual reporting legislation. The Chief Minister does that by instrument and will continue to do so by instrument.

Also, under the Children and Young People Act, which has just been passed, the Official Visitor may report at any time to the Minister and the chief executive pursuant to subsection 41(4). That is a report not just annually, but at any time. I do not think there would be anyone having qualms about saying that the concern about the Official Visitor is that they will do that. They have done their job very well.

No-one can doubt that. Under subsection 5A, the public authority must within the prescribed time after the end of each reporting period of the authority present to the responsible Minister a report relating to the operations of the authority in that reporting period.

That effectively says all public authorities must report to their responsible Minister about their functions during the year. At present, under the annual reports Act, all reports go to the CEOs who include them in their own annual reports, which are then tabled. Administratively that is a much more sensible way of doing things. This will go back to a situation where every public authority will do an individual report to their individual Minister. That would be basically against the decision of this Assembly in terms of passing the annual reports Act.

It would mean all reports would then go to Ministers individually, rather than what occurs at present. The Official Visitor is a public authority by declaration of the Chief Minister. Ms Tucker would override what occurs under the Annual Reports (Government Agencies) Act 1995. That is the effect of this. I do not think that is a very sensible way of going about this, especially when you have provisions such as 41(4) in relation to the Official Visitor. Maybe she did not quite perceive that would be the effect; that this would be completely counter to what the annual reports Act is all about. It would substantially increase the volume of reports and cause all sorts of problems that the Annual Reports (Government Agencies) Act overcame. I do not think anyone has had any problems in terms of the operation of that Act.

MR WOOD (5.52): Mr Speaker, I certainly support the notion that the reports of the Official Visitor should be incorporated into the annual reports of the departments. I am happy to let that continue. But I do not understand the complexity of this amendment, I am afraid. Ms Tucker explained well the need for the Official Visitor's report to be presented. But I do not comprehend the mechanism she has used to do that. I understand at the moment the process is that the Chief Minister gives a list of those annual reports that have to be put down.

In my inquiry into this I was assisted by some good advice. We found, as we have seen in the documents in the annual reports, that the Official Visitor's annual report on Quamby was included in the Department of Education and Community Services' annual report. It was there. That was, no doubt, as a result of the listing by the Chief Minister. But the Official Visitor's report on the Belconnen Remand Centre was not found. It may be there somewhere, but it was not found in the list. So maybe that slipped through.

Now that Quamby has gone over to Justice and Community Safety, I want to be assured - and I am sorry the Minister is not here - that the Official Visitor's reports on the annual basis are to be so included. But I will not go down the path of insisting on that. I will wait for the Chief Minister or I will check if necessary with the Chief Minister that the Official Visitor's annual reports will be incorporated into Justice and Community Safety. The process in place ought to be sufficient.

If I have not been able to find where the report on the Belconnen Remand Centre is, maybe I should look a little more diligently. I have to say I have not seen it in the Justice Minister's annual reports. We will be more alert to that now and see that it does turn up. So I want them there, but I will not support this process.

MS TUCKER (5.54): May I just clarify something? I was confused by something the Minister said. I think he might have been actually looking at the original amendment. This is a different amendment, on the buff coloured sheet. If you look at section 8, we have subsection (5A) which states:

> A public authority mentioned in the schedule must ...

We did not have that before. So that might clarify it for you. It is a fairly significant change. It is what is in the schedule, which is just this particular Official Visitor's report. The Minister was saying it is going to change it for everyone, but this is just the Official Visitor. That is the only one in the schedule.

MR STEFANIAK (Minister for Education) (5.55): It does assist to an extent, Mr Speaker, but I understand there is still a duplication there in relation to the Official Visitor, so I make that point.

Amendment negatived.

MR STEFANIAK (Minister for Education) (5.56): I seek leave to move government amendments 1 to 4 together circulated in my name. I have already mentioned them briefly in the in-principle stage.

Leave granted.

MR STEFANIAK: I move:

> Schedule 2 -
>
> Page 10, line 8, after the amendment of the *Discrimination Act 1991*, insert the following new amendments:
>
> *"**Domestic Violence Act 1986***
>
> **Section 5—**
>
> After subsection (1), insert the following subsection:
>
> '(1A) The court may make a protection order on an application for a care and protection order under the *Children and Young People Act 1999* (Chapter 7, Children and young people in need of care and protection) as if—
>
> (a) the applicant for the care and protection order were an applicant for the protection order; and
>
> (b) the applicant had properly applied for the protection order under this Act.'.

Section 5—

After subsection (2), insert the following subsection:

'(2A) The court may not vary or revoke a protection order mentioned in subsection (1A) unless the chief executive for Chapter 7 (Children and young people in need of care and protection) of the *Children and Young People Act 1999* has been served with a copy of the application for the variation or revocation.'.

Section 7—

At the end of the section, add the following subsection:

'(4) The court must, on application by the chief executive who has been served with a copy of an application mentioned in subsection 5 (2A), make the chief executive a party to the proceedings to which the application relates.'.

Page 11, line 18, proposed amendment of the ***Imperial Acts (Substituted Provisions) Act 1986***, omit the proposed amendment.

Page 11, line 27, proposed amendment of the *Interpretation Act 1967*, omit '**Subsection 14 (1)**', substitute '**Dictionary**'.

Page 12, line 15, proposed new amendment of the *Law Reform (Miscellaneous Provisions) Act 1955*, after the amendment of the *Juries Act 1967*, insert the following new amendment:

Law Reform (Miscellaneous Provisions) Act 1955

Paragraph 36 (2) (a)—

Omit the paragraph, substitute the following paragraph:

'(a) the chief executive responsible for administering Chapter 2 (General objects, principles and parental responsibility) of the *Children and Young People Act 1999* when he or she has parental responsibility for the long-term care, welfare and development of a child because of that Act; or'.".

I present the explanatory memorandum

MR SPEAKER: Would you like to speak to the amendments, Mr Stefaniak?

MR STEFANIAK: No. I think the explanatory memorandum is self-explanatory.

Amendments agreed to.

MR RUGENDYKE (5.57): Mr Speaker, I move:

Schedule 2, page 12, line 16, proposed amendment of the *Magistrates Court Act 1930*, insert the following new amendment:

"**Subsection 10G (2)—**

Omit the subsection.".

MR SPEAKER: Do you want to speak to the amendment, Mr Rugendyke?

MR RUGENDYKE: There is no need to speak, Mr Speaker. It is consequential and relates to machinery bits and pieces to do with the workings of the court. It removes subsection (10)G (2) from the Magistrates Court Act 1930.

Amendment agreed to.

MR STEFANIAK (Minister for Education) (5.58): Mr Speaker, I move:

> Schedule 2, page 12, line 17, proposed amendment of the *Magistrates Court Act 1930*, before the amendment of subparagraph 248C (2) (c) (iii), insert the following new amendments:
>
> "**New section 198A—**
>
> After section 198, insert the following section:
>
> '198A **Powers exercisable in care and protection proceedings**
>
> The court's power to make an order under this Part may be exercised on an application for a care and protection order under the *Children and Young People Act 1999* (Chapter 7, Children and young people in need of care and protection) as if—
>
> (a) the applicant for the care and protection order were an applicant for the order under this Part; and
>
> (b) the applicant had properly applied for that order under this Part.'.
>
> **Subsection 206J (2)—**
>
> Omit the subsection, substitute the following subsections:
>
> '(2) The registrar must cause a copy of the application to be served personally on—
>
> (a) each other party to the proceedings; and
>
> (b) if section 198A applies—the chief executive for Chapter 7 (Children and young people in need of care and protection) of the *Children and Young People Act 1999*.
>
> '(2A) The court must, on application by the chief executive served under paragraph (2) (b), make the chief executive a party to the proceedings.'.".

This amendment deals with the Magistrates Court Act 1930, section 198A, relating to restraining orders and care and protection proceedings; also section 206J which relates to varying, revoking, restraining or other orders and service upon the chief executive.

MR RUGENDYKE (5.59): Mr Speaker, I wish to congratulate the Government for picking up on conversations that myself and my legal adviser had with representatives of the Government on this matter.

Amendment agreed to.

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

Bill, as amended, agreed to.

ANIMAL DISEASES AMENDMENT BILL 1999

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

That this Bill be agreed to in principle.

MR CORBELL (6.00): Mr Speaker, the Labor Opposition will be supporting this Bill this afternoon. This Bill is purely a machinery Bill that is designed to ensure that the regulations to be made under the Animal Diseases Act are consistent with the Act itself and to ensure that diseases contracted by bees and spread by bees can be appropriately controlled and managed. It provides powers for premises to be inspected, either with the consent of an occupier or by warrant, if necessary, and it provides for the Government to take appropriate action to protect the bee-keeping industry in the ACT. It is a straightforward Bill and I am pleased to provide the Labor Opposition's support for it.

MR SMYTH (Minister for Urban Services) (6.01), in reply: Mr Speaker, I thank the Assembly for its support for this Bill. It is a machinery Bill which gives effect to the Animal Diseases Act 1993.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

LAW REFORM (MISCELLANEOUS PROVISIONS) BILL 1999

Debate resumed from 2 September 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (6.02): Mr Speaker, the Australian Labor Party is proposing to support the Law Reform (Miscellaneous Provisions) Bill. It is an omnibus Bill that is designed to relocate some legislation to make it easier to find and to

use and to correct a range of errors. The Bill repeals a large number of New South Wales Acts that were in force in the ACT. It is an historical tour de force to some extent, and actually takes us through a history of the legislation that has from time to time applied in New South Wales and in the ACT.

The Bill lists the Acts to be repealed and, indirectly perhaps, makes clear which New South Wales Acts will continue to apply in the Territory. The Bill also repeals several UK laws that still have application in the ACT. It updates some legislation to reflect amended titles and organisation names. The Bill also amends the Interpretation Act to make the English plainer and the legislation easier to use.

As I said earlier, it is a housekeeping Bill, covering a whole range of enactments. It is a device used by governments from time to time to make what are always regarded as minor and technical amendments. We have looked at the Bill and it does seem from our examination that that is the case with this Bill. It is on that basis that the Labor Party has decided to support the Bill. The amendments range over many Acts. With our limited resources, we have not had the time to examine these Bills closely, but there still remains the element of trust that we extend to the Government in relation to omnibus Bills of this sort that the amendments are technical and minor in nature and do not make dramatic changes to the legislation affected.

It is in that context that the Labor Party is happy to support the Bill, which was introduced just a month or so ago. As I say, we accept that the Government, through this omnibus Bill, is only introducing technical and minor amendments. On that basis, we will not oppose it.

MR KAINE (6.03): I, too, support this Bill. It is pleasing to see our list of legislation being tidied up from time to time, and this Bill certainly, does that. In fact, I was most pleased to note that an Act passed in 1849, during the reign of Queen Victoria, which abolished deodands has now been done away with. I was most impressed with that. As they were abolished in New South Wales in 1849, I think it is about time we abolished them here.

MR BERRY (6.04): Mr Speaker, there is much in this legislation, which has been described as an historical tour de force. Some of the Acts that caught my eye are worth mentioning. I refer, firstly, to an Act of parliament passed in the tenth year of the reign of His Majesty King George IV entitled, "An Act for the relief of His Majesty's Roman Catholic subjects". Many of our forebears would have been Roman Catholic subjects and we should be very thankful to George for protecting them, otherwise we may not have been here. In this year of an important matter in relation to the monarchy it does raise the question whether Catholics in Australia still need protection from the monarchy. I think not. I will not say anything more about that debate. There was also "An Act to regulate the temporal affairs of the Religious Societies denominated Wesleyan Methodists Independents and Baptists", so the monarchy was very busy then with all sorts of protections.

I found it very interesting that there was an Act to amend the Scab Act. I thought that that might have something to do with industrial relations and was something I could probably comment on. There were Acts for several railway lines which have long since

closed. There was an Act about the Broken Hill Trades Hall site, which I visited once. There was an Act about the Goulburn to Crookwell railway line, which, as many would know, is not far away and is long since unused. There was an Act about the Prince Alfred Hospital, which I visited once and which is now a feature of a television program. The North Coast Railway Act gave rise to a train that I probably rode on at one time or another. The Royal Alexandra Hospital for Children Incorporation Amendment Act was about a hospital where my kids were treated. This is real history!

Mr Hargreaves: It is a potted history of Wayne Berry.

MR BERRY: And the whole lot. They were watching out for me all the way.

Mr Hird: This is your life**.**

MR BERRY: Mr Hird probably drove police vehicles across the Pyrmont Bridge. There was a Pyrmont Bridge Act and a Glebe Island Bridge Act. Neither is there now, so you will not get a chance to do that again. One that I found particular interest in and was sad to see go was the Fire Brigades Act 1909. I rather fear that that had something to do with a job that I once had in New South Wales. I thought that the provisions of that Act were rather harsh and unkind. I am glad that we are repealing it here and I will have some small part in that. The one that I was not sorry to see go - it probably went before I was able to imbibe - was the Early Closing Amendment Act.

Mr Speaker, it is quite interesting to see all of the things which applied here in the past and which will no longer apply. I do not think that there are many among us who will lament that.

MR RUGENDYKE (6.08): Mr Speaker, I wish to make a brief comment on the passing of this history lesson. We have come to the point where I think Mr Quinton has just about run out of things to repeal.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.09), in reply: Mr Speaker, as I came down this evening to close the debate on this Bill I was thinking that no-one would have read this Bill, all 146 pages of it, and here I have a host of comments from members of the chamber demonstrating that they have carefully trawled through its provisions and noted the obsolete bits of legislation that are being disposed of and approve or disapprove, as the case may be, of what those pieces of legislation are all about.

I thought that the Territorial Waters Jurisdiction Act 1878 was an interesting one for the ACT, Mr Speaker, and one perhaps we should have preserved for our rights, vis-a-vis the Commonwealth, over Lake Burley Griffin. Apart from that, Mr Speaker, I do not think that there is anything we could much argue with concerning the many pieces of legislation being amended there.

On a more contemporary note, a number of much more modern pieces of legislation are being amended in this package to provide for workable, up-to-date legislation in the ACT. I thank members for having indicated their support for the package of reforms.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with detail stage.

Bill agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Supercar Race

MR CORBELL (6.11): Mr Speaker, it has been drawn to my attention that the Australian Vee Eight Supercar Co. Pty Ltd, the governing body of V8 supercars in Australia, is a totally different company from AVESCO Pty Ltd, a deregistered company which I indicated was the company which would stage the Capital 100 motor racing event. Mr Speaker, I accept this and apologise to the Australian Vee Eight Supercar Co. Pty Ltd for any confusion caused by my statements. They arose as a result of various statements by the ACT Government that the party with which it was contracting was AVESCO. Mr Speaker, I seek leave to table a copy of my media statement on this matter. I apologise to the Assembly for any confusion caused.

Leave granted.

Death of Mr Mervyn Leo Adams

MR HIRD (6.12): Mr Speaker, today I had the solemn but proud responsibility of attending the funeral of a long-standing and very dear friend of my family and mine, Mr Mervyn Leo Adams. He was not just our friend; he was a friend to Canberra and to its community. Merv Adams, who passed away suddenly on Friday, 15 October, is survived by his wife, Dorothy, his two children, Jennifer and Stephen, and grandchildren, Tyler and Hayley. Merv was not born in Canberra. He was one of those people whose career brought them to this great city and he became one of those people who then dedicated their life to the betterment of the lives of others within our community.

Merv Adams was born in Armidale in New South Wales in 1926 and his background gave him his love of the bush. He was active in sport, representing the district in cricket, football and tennis, which became his greatly preferred sport. He originally planned to be a teacher, but he saw greater opportunities for career and travel in the oil industry.

After serving a cadetship with BHP in Newcastle, Merv worked with Caltex and later with Ampol. His work with Ampol brought him to Canberra in 1972 and that is when I first met him. He retired from that company in 1990.

Mr Speaker, Merv's love of sport and of his children soon found him working with the youth of the district. He was an active office-bearer in the scout movement and he was a prime mover in the development of the then new guide hall in Hawker. He made many friends through his natural role as a good Samaritan. I say "natural role" because Merv did not have to be prompted to help people; he just saw it as the natural thing to do.

Merv and Dorothy lived opposite my family in Weetangera and we became the closest of friends. Our children were like family to each other. In fact, a favourite watch of mine remains forever buried in the foundations of a neighbour's home, courtesy of our two sons. When Merv joined Belconnen Rotary in 1974, our friendship was further cemented. He served as president and was awarded two Paul Harris Fellowships for his diligence and care of all things in Rotary. Members may be aware that the Paul Harris Fellowship is a symbol of the highest level of recognition in Rotary.

Arguably the greatest service that Mervyn Leo Adams gave to Canberra was in the establishment of the trash and treasure market at Jamison in Belconnen. This Canberra institution has now celebrated its twenty-fifth anniversary and has distributed between $2½m and $3m to ACT charities and other worthy causes. Merv was a guiding light in bringing the idea of the trash and treasure market to fruition and he worked tirelessly to ensure its success.

Mr Speaker, I have no hesitation in suggesting that the ACT owes Merv the most sincere vote of thanks for his work in this area alone. In the years after his retirement, Merv took the opportunity to see more of his beloved country, but he never lost his love of God, his family and the people he chose to serve. Mr Speaker, I wish to read to members the motto and prayers which led Merv's life and which he has passed on to his family:

> Withhold no sacrifice
>
> Grudge no toil
>
> Seek no sordid gain
>
> Fear no foe
>
> All will be well.

Mr Speaker, the Territory will be a lesser place for the loss of Merv Adams. I would like to place on public record the sincerest condolences of the parliament to Dorothy and his family. I am sure that Merv has been called to a greater office with the Lord, being able to organise a trash and treasure market in heaven. Mate, thanks for the memories.

Supercar Race

Ms Gwen Laker - *Bloody Monday*

MR MOORE (Minister for Health and Community Care) (6.16): Mr Speaker, I must say that I was singularly impressed by Mr Corbell's contribution in apologising for a mistake. It is never easy for a member to do that and I think it is entirely appropriate to do so. It does help maintain the very high standard that we expect in this Assembly.

I rise this evening to talk about a book that I was fortunate enough to launch last Saturday. I refer to a book by Gwen Laker called *Bloody Monday*, which is a series of short stories, a very readable set of short stories. The thing that is most exciting about it in the International Year of the Older Person is that Gwen is over 80 years of age. She would not actually give her exact age, but she did say that that is the decade that she is in. She works vigorously on this project and says that it keeps her mind alive. I recommend that members get a copy of the book. It has been published by Ginninderra Press and is a series of easy-reading short stories that are really pithy. They touch a raw nerve of life. I think that the book is well worth reading. In the International Year of the Older Person, it is terrific to see an astute person with a sharp mind working like that.

The other part of it is that I think that it is a really positive thing to have Ginninderra Press working in the ACT on publishing books such as this to support the people who are writing them and to support the local community. It seems to me that it is the sort of publication in which there is never going to be much money but which is, on the other hand, making a great contribution. I hope I am wrong and that one of the bigger presses will look at it and say, "This is a great set of short stories. We are prepared to publish them".

Better still, I hope that the novel that Gwen has just about finished, of which I have not read a draft, will get published and hit the big time and will take with it a Canberra company. That would be terrific. But it is great to see that kind of contribution. I have to say that I would recommend to members that they get a copy of Gwen Laker's book of short stories and sit it next to the bed. The stories tend to be two or three pages long, provide easy reading before you nod off and are quite enjoyable.

Floriade

MR BERRY (6.18): Members will recall some reports in the *Canberra Times* recently referring to the activities of a clandestine organisation, the Floriade Liberation Army. The Floriade Liberation Army, by all reports, is involved in an underground operation to return Floriade to the people and get it out of the clutches of business. Mr Speaker, one of the reports that I saw referred to the placement of flowers and other protest devices, all important tools in the work of such an underground army, at the front of the Assembly.

These tools of war are important to the Floriade Liberation Army, as I understand it, in the campaign to get Floriade back to the people. I wonder whether the Government would be prepared to consider whether they were removed from the front of the Assembly with legal authority. If they were not, I guess that the Floriade Liberation

Army would give up its right to prosecute the Government if it got the flowers back. In any event, it strikes me that those tools for the return to the people of a thing as important as Floriade should be returned to those who owned them in the first place.

I am in no position to give you a contact because, as you will appreciate, it is a clandestine organisation that does not exactly give its address to anybody; but, if the Government were prepared to make a public statement, I am sure that the Floriade Liberation Army would make contact with them with an appropriate code number so that arrangements could be made for the return of these tools of war in the repatriation of Floriade.

Why did they ask me? They know that I am a great defender of Floriade and I would like to see it returned to the people as well. Mr Speaker, I urge the Government to make a statement that they are prepared to return those plastic flowers and buckets to the Floriade Liberation Army so that they can get on with the good work that they have done to repatriate Floriade to the people.

The other thing that one has to be concerned about is the willingness of the Government to assist on this score. I just hope that they will show the same haste in returning these buckets of flowers to the Floriade Liberation Army as they did in returning Mr Murphy's trailer.

Death of Mr Mervyn Leo Adams

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.21), in reply: Mr Speaker, I want briefly to endorse the comments of Mr Hird. I also knew Merv Adams and I would simply say that I think that the comments Mr Hird made were appropriate and I want to associate myself with them in respect of the loss to his family.

Question resolved in the affirmative.

Assembly adjourned at 6.22 pm until Tuesday, 16 November 1999, at 10.30 am.

QUESTIONS UPON NOTICE

Rural Leases
(Question No. 197)

Mr Corbell asked the Minister for Urban Services, upon notice, on 13 October 1999:

In relation to the Government's 99 year rural leases:

1) What is the process for the valuation of rural leases that are being considered for 99 year leases.

2) What information (such as carrying capacity) is supplied to the Australian Valuation Office (AVO) so that it can determine a value for a rural lease.

3) Which rural leases have been valued by the AVO for the purposes for providing 99 year leases.

4) What is the valuation of each rural lease.

Mr Smyth: The answers to the Member's questions are as follows:

1) For a lessee to obtain a further lease, an application must first be made for the grant of a further rural lease under section 171A of the *Land (Planning and Environment) Act 1991* (the Land Act). There will be a new disallowable instrument under section 171A that will have a maximum rural lease term map as a schedule. That map will identify those areas that will be able to have lease terms of 99 years. Not all rural lessees will be eligible for 99 year leases.

When a lessee submits an application for the grant of a further rural lease, which is in an area eligible for a 99 year rural lease, Planning and Land Management will obtain a pay out figure from its valuers, currently the Australian Valuation Office (AVO). The pay out figure will include the value of the land (using the appropriate formula that will be specified in the disallowable instrument) and any improvements required to be purchased as part of the grant of a further lease.

2) The AVO will be supplied with block and details of the current lease. The AVO will assess the carrying capacity and the value of any government owned improvements.

3) No rural leases have been valued by the AVO for the purposes of providing for a 99 year rural lease. Applications for 99 year leases cannot be made until the Assembly deals with the proposed amendments to the Land Act, and the new disallowable instrument under section 171 A of the Land Act is tabled, and the disallowance period is complete.

4) Nil.

Burnie Court - Redevelopment
(Question No. 198)

Mr Wood asked the Minister for Urban Services, upon notice:

In respect of the proposed redevelopment at Burnie Court:

(1) How far has planning progressed.

(2) Has any date been set for a start.

(3) What consultations are taking place with residents.

Mr Smyth: The answers to the Member's questions are as follows:

(1) A request for Expressions of Interest for the redevelopment of Burnie Court was advertised in the media on 30 October 1999. The company selected to carry out the redevelopment is expected to be known in April 2000. Sketch plans will then commence as the first step in obtaining Development Approval.

(2) No. The date for starting the redevelopment will be announced after development approval has been obtained for the project.

(3) Residents are being kept informed on the progress of the redevelopment project and any impact it may have on their current accommodation. Tenants were advised by a letterbox drop on 26 October 1999 about the commencement of the process. ACT Housing staff will be visiting Burnie Court weekly to answer residents questions. The Burnie Court Residents' Association will be kept informed of the progress of the redevelopment.

Lachlan Court – Proposed Sale
(Question No. 199)

Mr Wood asked the Minister for Urban Services, upon notice:

In respect of the proposed sale of Lachlan Court:

(1) Is this to proceed; if so, what is the timetable.

(2) What discussions are taking place with residents.

(3) What places are available for the relocation of residents.

Mr Smyth: The answers to the Member's questions are as follows:

(1) Yes. Marketing for the site commenced on 30 October 1999 and an auction is expected to take place on 9 December 1999.

(2) A relocation team consisting of two ACT Housing officers has been on site since 26 July 1999. This team has held extensive discussions with residents to assess their housing needs, to facilitate inspections of alternative accommodation and to arrange for the removal of their personal belongings and furniture.

(3) All residents have now accepted suitable accommodation within their entitlement. This accommodation includes bedsitters, one and two bedroom flats, and older peoples accommodation across Canberra, with the majority in inner Canberra to respond to residents choices. Residents are progressively being relocated with the last residents expected to move in November.

Housing – Single People
(Question No. 200)

Mr Wood asked the Minister for Urban Services, upon notice:

In view of the identified shortfall of accommodation for single people,

(1) What measures are continuing to increase this type of stock

Mr Smyth: The answer to the Member's question is as follows:

Positive action is being taken to ensure the public housing stock available for single persons is maintained at an adequate level.

As part of the current stock rejuvenation strategy, 45 dwellings for single people were purchased through the spot purchase and construction programs during 1998/99. A further 14 have been purchased or constructed in this financial year to 1 October 1999.

Current strategies to replace ageing stock with new stock include actively encouraging the property and building industries to develop multi-unit sites which include suitable flats for single persons for full or partial sale to ACT Housing.

Single person accommodation continues to be available at Burnie Court and Oaks Estate. Generally there is some single person accommodation always available.

Burnie Court will be redeveloped as recently announced.

ACT Housing is also providing 200 additional properties for aged people

Temporary Accommodation Allowance

(Question No. 203)

Mr Corbell asked the Chief Minister, upon notice:

What was the start and end date for temporary accommodation allowance as received by each of the following Executives in the ACT Public Service:

V. Bondfield, D. Butt, R. Clarke, R. Cusack, G. Ellis, M. Ford, R. Gilmour, L. Hawkins, A. Hughes, B. Johnston, T. Keady, G. Lee Koo, A. Lennon, M. Lilley, R. MacDiarmid, M. Murray, M. Ockwell, E. Rayment, J. Ryan, T. Spencer, A. Thompson, M. Tidball, P. Veenker, J. Walker and M. White.

Ms Carnell: The answer to the member's question is as follows:

Concluded			Continuing	
Name	**Start**	**Finish**	**Name**	**Start**
Bondfield, V	3/1/97	31/10/98	Clarke, R	10/12/96
Butt, D	11/3/96	15/12/96	Cusack, R	8/7/96
Lee Koo, G	26/6/96	25/9/96	Ford, M	27/9/99
Ellis, G	29/5/96	22/5/98	Keady, T	31/3/96
Gilmour, R	10/5/97	6/6/97	Lennon,A	3/3/97
Hawkins, L	5/1/98	5/1/99	Lilley, M	9/5/96
Hughes, A	4/12/95	24/12/96	Ockwell, M	27/7/96
Johnston,B	1/4/97	25/9/99	Ryan, J	20/1/97
Rayment, E	14/12/96	14/1/97		
Spencer, T	1/11/96	11/7/97		
Thompson, A	30/5/98	30/1/99		
Tidball, M	22/7/96	2/12/97		
Veenker, P	22/2/97	24/5/97		
Walker, J	8/1/96	28/3/98		
White, M	20/9/96	26/5/98		

Schools - Pest Control Chemical Monitoring and Regulation
(Question No. 204)

Ms Tucker asked the Minister for Urban Services, upon notice:

In relation to the documents you offered to provide to the Assembly during the debate on a Matter of Public Importance on 22 April 1999 *(Hansard p. 1197)* but have not yet done so - Could you provide all documents relating to Environment ACT's monitoring and regulation of pest plant and animal control in ACT preschools and schools since the beginning of 1998.

Mr Smyth: The answer to the Member's question is as follows:

- Please note that a copy of this information has been provided to the Member.

- Environment ACT has regulated and monitored the commercial use of agricultural and veterinary chemicals by means of an Environmental Authorisation since June 1998. I included CityScape Services authorisation as an example. This document represents the general content found in all pest control authorisations, of which a current list has been provided. Further information on the listed business authorisations is available should you wish to see them. Also provided were the Standard Conditions of Authorisation.

- The Agricultural and Veterinary Chemicals Coordination Network (AVCCN) has formalised processes by which Environment ACT and other ACT government stakeholder agencies, including the Department of Education, liaise regularly on pest control chemical use issues. I have provided a copy of the list of members of the Network, the terms of reference and work plan that were produced in the first meeting. Also provided are the network's minutes from 12 August 1999.

- I refer Ms Tucker to the provided copy of the Commissioner for the Environment's latest annual report 1998-99, page 25 - 45. Progress on Implementation of Recommendations from Special Reports - Investigation into the ACT Government's Use of Chemicals for Pest Control - May 1998, which includes the Government's response to the Commissioner's recommendations.

- Also provided for Ms Tucker's information were copies of general correspondence between Environment ACT and the Department of Education and Community Services relating to pest control chemicals within ACT schools.