DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

25 November 1999

Thursday, 25 November 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.

URBAN SERVICES – STANDING COMMITTEE
Alteration to Reporting Date

MR HIRD (10.32): Mr Speaker, I seek leave to move a motion to alter the reporting date for the Standing Committee on Urban Services inquiry into the Long Service Leave (Cleaning, Building and Property Services) Bill 1999.

Leave granted.

MR HIRD: I move:

> That the resolution of the Assembly of 1 September 1999, referring the Long Service Leave (Cleaning, Building and Property Services) Bill 1999 to the Standing Committee on Urban Services be amended by omitting ", by the last sitting day of November 1999" and substituting "by 7 December 1999".

Question resolved in the affirmative.

ACTION CORPORATION BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.35): I present the ACTION Corporation Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I seek leave to incorporate my presentation speech in *Hansard*.

Leave not granted.

MR HUMPHRIES: This makes for a late night.

MR SPEAKER: Indeed.

MR HUMPHRIES: Mr Speaker, this Bill provides for ACTION to be established as a statutory authority and seeks to build on the momentum of commercial reform taking place within ACTION to ensure its continuing value to the people of the Territory, including its provision of quality services to the community. Recently the ACT Government has implemented a number of measures to improve the public transport system in the Territory. The corporatisation of ACTION is another step in efficiently meeting the transport needs of Canberra residents.

The Bill seeks to turn ACTION into a customer focused organisation. ACTION, which currently operates as a business unit within the Department of Urban Services, will be established as a separate authority. ACTION Corporation will be managed by a board of directors with appropriate industry experience. By establishing ACTION as a corporation, the Bill enhances the clarity of objectives, management authority - - -

Mr Hird: I raise a point of order, Mr Speaker. The Minister is trying to read a very important speech to the house, and there seems to be too much discussion in the chamber. In light of what was not allowed by the Opposition, that is, the incorporation of the Minister's speech, they could at least pay him the decency of listening in quiet to what he was saying.

MR SPEAKER: I uphold the point of order, Mr Hird. There is far too much audible conversation in the chamber. I would have thought that, having refused leave for Mr Humphries to incorporate his speech in *Hansard*, members should listen to what he is reading.

MR HUMPHRIES: ACTION, which currently operates as a business unit within the Department of Urban Services, will be established as a separate authority. ACTION Corporation will be managed by a board of directors with appropriate industry experience. By establishing ACTION as a corporation, the Bill enhances clarity of objectives, management authority and accountability and effective performance monitoring by the Government.

The primary function of ACTION Corporation will be to provide an efficient and effective public passenger transport service to ACTION's customers, the people of Canberra. My colleague Mr Smyth, MLA, Minister for Urban Services, is presenting the Public Passenger Transport Bill 1999. The Public Passenger Transport Bill will provide the regulatory framework for the provision of public transport.

The establishment of ACTION Corporation will involve the transfer of staff, assets and liabilities from the existing ACTION business unit within the Department of Urban Services. Let me assure you that the interests of staff have been given a great deal of consideration in this process. Current employees of ACTION will be transferred to the

new authority on their existing terms and conditions. The employees' rights and obligations in future negotiations on employment conditions with ACTION Corporation will be protected by the relevant employment laws.

ACTION will continue to provide regular services throughout the transformation period. In conclusion, I would like to point out that the Bill imposes no overall additional regulatory or financial burden on the ACT Government or ACTION itself. This Bill represents a step towards a more effective and efficient public transport system for the people of the ACT. In short, this Bill will help bring out the "pluses of buses".

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

KINGSTON FORESHORE DEVELOPMENT AUTHORITY BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.40): Mr Speaker, I present the Kingston Foreshore Development Authority Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave not granted.

MR HUMPHRIES: I do not mind; I have got all day. Mr Speaker, the Kingston Foreshore is arguably Canberra's most ambitious and exciting urban redevelopment project. The Government is committed to the redevelopment of the area as a mixed use waterfront precinct with a strong arts, cultural, tourism and leisure theme, with the entire project being undertaken on the basis of environmentally sustainable development.

The initiative has been welcomed by the Canberra community, who have informed and shaped the master plan for the area, now incorporated in the variation to the Territory Plan. The key challenge is now to set in place an implementation mechanism which will ensure that the potential inherent in the master plan is realised. The Kingston Foreshore Development Authority Bill proposes the establishment of a statutory authority responsible for the promotion, coordination, development and management of the Kingston Foreshore. The establishment of the authority was foreshadowed in the 1999-2000 territory budget.

The Kingston Foreshore Development Authority Bill sets out the functions, powers, membership and staffing of the Authority. The Authority is required to perform its functions in accordance with prudent commercial principles in a manner which demonstrates social and environmental responsibility and in consultation with the residents of the Territory and the residents of Kingston, in particular.

A board of eight members including a public servant member and the chief executive officer will direct the activities of the authority. The membership will draw together the full range of skills necessary to ensure the successful implementation of the project. The authority will be authorised by the Executive to grant leases on its behalf in the declared Kingston Foreshore development area but will be subject to the provisions of the Territory Plan.

Other significant provisions deal with the financial accountability and reporting arrangements for the authority. The authority is subject to the Financial Management Act 1996, particularly Part VIII, which sets out financial provisions dealing with territory authorities. The Bill requires the authority to prepare annual business plans. I commend the Bill to the Assembly.

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

CRIMES AMENDMENT BILL (NO 3) 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.43): I present the Crimes Amendment Bill (No. 3) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill proposes amendments to the Crimes Act 1900 to include three offences specifically dealing with product contamination. The Bill provides for the offences of: contaminating goods with intent to cause public alarm or economic loss; threatening contamination of goods for such purposes; and making a false claim about contaminated goods with the intent to cause public harm or economic loss.

The need for such provisions was highlighted in 1997 when Arnott's biscuits were subjected to a food contamination threat. A threat was made that Monte Carlo biscuits would be contaminated if four New South Wales police officers did not undertake a lie detector test with regard to their evidence in a prior murder trial. Apart from the distress and disruption caused to consumers, Arnott's experienced both direct and indirect economic loss which exceeded $30m. In addition, over 300 staff were temporarily dismissed.

Extensive media coverage of the Arnott's contamination and the more recent threats to contaminate Sanitarium products have caused a public outcry. The growing awareness of consumer vulnerability to the threat of product contamination led the Standing Committee of Attorneys-General to task the Model Criminal Code Officers Committee with developing model product contamination offences. The Model Criminal Code Officers Committee produced model provisions in its report to the Standing Committee of Attorneys-General last year. The report acknowledged that the existing common law and statutory offences, such as blackmail, extortion, public nuisance and endangerment, are inadequate to deal with all cases of product contamination. In Arnott's case, the demand was not of a financial nature and, as such, may not amount to blackmail or extortion in all jurisdictions.

Product contamination is a specific type of offence which requires specific legislative provisions. The act or threat to contaminate a product is a serious one which can result in widespread public alarm and anxiety, economic loss and, most importantly, loss of life. The development of mass markets and mass distribution of goods means that one act of product contamination can affect a number of jurisdictions and, therefore, the general population simultaneously.

The Model Criminal Code Officers Committee report concluded that specific contamination offences are necessary to ensure that acts or threats to contaminate goods are per se capable of being prosecuted. The Model Criminal Code Officers Committee recommended that three offences be enacted in all Australian jurisdictions. The three offences are embodied in this Bill. They are: Firstly, contaminating goods with intent to cause public alarm or economic loss; secondly, threatening contamination of goods for such purposes; and, thirdly, making a false claim to have contaminated goods with the intent to cause public alarm or economic loss. Victoria, South Australia, Queensland and New South Wales have already established specific offences to deal with the act or threat to contaminate goods, and Western Australia is currently in the process of developing draft legislation.

The Model Criminal Code Officers Committee recommended that the offences be punishable by a maximum term of 10 years' imprisonment, a term which reflects the seriousness of the crime. Victoria, New South Wales and Queensland have also set the maximum term for such offences at 10 years' imprisonment while South Australia has set a maximum term of 15 years for a similar offence. In New South Wales where an act of product contamination is accompanied by a demand, the maximum penalty is increased to 14 years.

The ACT already has offences for making a demand accompanied by a threat which carries a penalty of up to 20 years where the threat is to kill or inflict grievous bodily harm or 10 years where the threat is a danger to the health, safety or wellbeing of a person. The recommended maximum penalty of 10 years for the new offences of product contamination is appropriate having regard to the gravity of these offences, their potential consequences and the penalties for existing offences. I commend the Bill to the Assembly.

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

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 2) 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.48): Mr Speaker, I present the Justice and Community Safety Legislation 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.

The Justice and Community Safety Legislation Amendment Bill (No. 2) 1999 makes a number of largely technical amendments to the law of the Territory, principally concerning ACT tribunals. With respect to tribunals, first of all, the Bill makes a further series of changes to legislation concerning a number of tribunals. This continues the task commenced in the Law Reform (Miscellaneous Provisions) Act 1999, providing for a common set of standard provisions dealing with the administration and membership of tribunals. This will foster greater efficiency in the way the tribunals function by removing pointless and confusing differences between the existing range of provisions. These changes simplify and standardise core provisions dealing with ACT tribunals.

The substantive law governing the operation of the several tribunals will not be greatly affected by the amendments. While large parts of the various Acts have been repealed, their provisions have been rearranged into a coherent and consistent order and replaced. The changes have also been made to ensure that terminology is used consistently between the Acts. There are also amendments dealing with the Interpretation Act of the Territory. A series of changes have been made to that Act, again, continuing the task commenced in the earlier Law Reform Act of bringing this law up to date.

In particular, I draw members' attention to revisions dealing with acting appointments. The existing provisions date to a time when officers of the imperial civil service were sent to take control of some far flung place in the empire. The existing sections are, in many cases, impenetrable. The new sections are cast in simple language. Examples are included. In addition, the changes are used to allow us to repeal other unnecessary and generally less than comprehensive sections dealing with acting appointments.

Amendments to the Juries Act 1967 replace earlier proposed changes to the Act in the light of comments by the Standing Committee on Justice and Community Safety. The amendments will permit a juror to disclose protected information to a legal practitioner for the purpose of obtaining advice where the jury deliberations are an issue, where information is sought by a legal practitioner or if a juror becomes involved in court proceedings, a criminal investigation or a royal commission. The Parole Orders (Transfer) Act 1983 is also amended to expressly permit a delegation of a ministerial power. I commend this Bill to the Assembly.

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

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.51): Mr Speaker, I present the Justice and Community Safety Legislation Amendment Bill (No. 3) 1999, together with its explanatory memorandum.

Title read by Clerk

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

As a consequence upon a recent reorganisation of fair trading functions within my department, the Department of Justice and Community Safety, the Government is proposing to make additional amendments to fair trading and associated legislation to facilitate these changed administrative arrangements. The intention is to integrate all responsibilities within the portfolio which relate to fair trading and to elevate overall management responsibility and statutory decision-making to the executive level, consistent with the importance of the role and administrative arrangements in other jurisdictions.

The Government proposes to replace the existing statutory position of Director of Fair Trading with the position of Commissioner for Fair Trading. The executive director will discharge this position. At the same time, however, it is proposed to retain the position of Director of Fair Trading in a non-statutory capacity to carry out the day-to-day operational management functions of the Office of Fair Trading.

The Government believes that, in this era of increased competition and deregulation, it is important that the regulatory and educational responsibilities of the Government in respect of fair trading matters are accorded the level of importance that they merit. The Government is confident that these administrative amendments will see an improved strategic focus for fair trading matters and a more integrated and efficient delivery of Government services. I commend the Bill to the Assembly.

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

PERIODIC DETENTION AMENDMENT BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.53): Mr Speaker, I present the Periodic Detention Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

That this Bill be agreed to in principle.

The Periodic Detention Amendment Bill 1999 makes two straightforward amendments to the Periodic Detention Act. Members will be aware that the Act sets out a scheme for the periodic detention of certain offenders. Detention periods are served on weekends, with detainees reporting on Friday evenings and being released from detention on Sunday afternoons. The amendments to the Bill are to clarify that, when a person who is subject to a periodic detention order is sentenced to a period of imprisonment of more than one year, the periodic detention order is cancelled. They provide that, where a periodic detainee is in custody and, as a result, is unable to serve a detention period, the detainee will be credited with having served the detention period.

These amendments recognise some practical realities. The first is that, if a person in respect of whom a periodic detention order is in force, is in custody, it is not possible for the person to serve his or her periodic detention. This may occur, for example, where a person is remanded in custody in respect of a further offence. The Bill provides that a person in custody for the duration of a detention period will be taken to have served that detention period. This is similar to the provision in corresponding New South Wales legislation dealing with detainees who are in custody.

However, the Government has declined to extend the operation of this new provision to detainees who spend only part of a detention period in custody. They will remain liable to serve the whole of the relevant detention period. To credit a detainee with having served a detention period where the detainee has been in custody for part of the detention period would be open to potential abuse. For example, a periodic detainee could go on a drinking binge on a Friday night, be detained in police custody and released on Saturday after sobering up, and be at large for the remainder of the weekend. Because the detainee would have been in custody for part of the detention period, he or she would be credited with serving the relevant detention period.

If a detainee who was in custody for the first part of his or her detention period turned up to serve the balance of the detention period after being released from custody, this would give rise to operational difficulties. ACT detention periods commence on Friday evenings and conclude on Sunday afternoons. All detainees are required to report on Friday evening. There is a nurse on duty when detainees report to ensure that detainees who may be ill or intoxicated are identified and appropriate action can be taken. There would be no such person available to examine detainees turning up at random times after release from custody. For these reasons, the Government will not be crediting detainees who have been in custody for part of a detention period with having served the relevant detention period.

The other change made by the Bill is that, where a periodic detainee is sentenced to a term of imprisonment exceeding one month, the periodic detention order in respect of the detainee will be automatically cancelled. This provision acknowledges that there is little point in a periodic detention order remaining in force where a person is sentenced to

a substantial imprisonment term. It also ensures that, where an offender on a periodic detention order reoffends in a way which warrants more than a very minor prison sentence, the offender will not return straight out of prison into periodic detention.

There are potential risks associated with mixing offenders who have been exposed to a prison environment with other offenders who have never been exposed to such an environment. The provisions enable the sentencing court to decide whether or not to cancel a periodic detention order where a detainee is sentenced to less than one month's imprisonment. If the detention order is not cancelled, a periodic detainee sentenced to less than one month's imprisonment will be taken to serve any detention period for which the detainee is in custody pursuant to the prison sentence. Once released, the detainee would not be liable to serve any outstanding detention periods under the periodic detention order. I commend this Bill to the house.

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

SUPERVISED INJECTING PLACE TRIAL BILL 1999

MR MOORE (Minister for Health and Community Care) (10.58): I present the Supervised Injecting Place Trial Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, members, the Bill I am introducing today substitutes the Drugs of Dependence (Amendment) Bill (No. 2) 1998 introduced last December. That Bill will be withdrawn. The new Bill becomes the enabling legislation for the Government's proposed supervised injecting place trial. I will return in a moment to outline the features of this Bill. However, I wish to outline the case for the scientific trial of a supervised injecting place and to explain exactly what the Government is proposing.

As many of you know, the ACT Government recently released *From Harm to Hope - ACT Drug Strategy 1999*, a comprehensive strategy incorporating actions from all agencies that deal with drug issues. The strategy emphasises the complex issues surrounding alcohol and other drug use across the continuum of care. *From Harm to Hope* brings together all the actions which government can take to address the abuse of illicit drugs.

The ACT Government's vision is one of a healthy society where the health and wellbeing of our citizens are maximised and health inequalities reduced. Ideally, we would all like to live in a society where illicit drugs are not an issue. The reality is, though, that drug misuse is continuing and, while we are working very hard to curb the misuse, distribution and uptake of drugs, particularly among our young people, there are current drug users in

our community who need our help now. The more we can reduce the harms associated with drug use, the more opportunities we will have to intervene and ultimately assist people to become free of their addictions.

The ACT Government recognises that a wide range of responses is needed for a wide range of victims of drug abuse. It means looking for new solutions. It means investigating things that might work even if we cannot be certain in advance. In a situation in which some of our citizens are dying, we should not sit hesitating in the face of demands for impossible guarantees of absolute success. A supervised injecting place is one such possible approach among a range of responses.

A supervised injecting place would provide a clean, protected and stable environment. It would be a place where clients could access clean injecting equipment, it would allow them to inject in a supervised environment and it would enable them to dispose of their used injecting equipment safely. Just as importantly though, a supervised injecting place would provide links, or indeed a gateway, to a range of services including health promotion, counselling and medical treatment, as well as referral to appropriate services such as housing or sexual assault services for further assistance. It would be an entry point for injecting drug users to access detoxification services or to be linked with methadone or other treatment programs.

This Government is the most consultative government in Australia and on this difficult issue the Government has led the community through a process of consultation and debate over more than a year. Earlier this year the Government hosted a public forum to discuss issues surrounding the proposed scientific trial of a supervised injecting place. At this forum a young injecting drug user shared his experience of "dropping" in a timed toilet cubicle in central Civic area. The young man had gone to the toilets to inject heroin. Shortly afterwards though he fell unconscious and later ceased breathing. Because of the nature of these toilets, the doors remain locked for up to 10 minutes before being flung open. After the young man going without oxygen for anywhere up to 10 minutes, a passer-by noticed the young man and began lifesaving resuscitation. While this young man was extremely lucky to be alive to tell his story, there are many more like him who are not so fortunate.

One of the key aspects of the supervised injecting facility would be the presence of qualified health workers at the facility. Staff would be present to administer help in the event of an overdose. In being available to help they can and almost certainly will save lives. Although only a small number of Australians inject dangerous drugs the public safety impact of this use is significant. It is particularly significant in regard to the spread of blood borne diseases and in regard to deaths caused by overdoses. Mr Speaker, nothing is more important than the saving of lives. A dead drug user cannot be persuaded into treatment. A dead drug user does not hear any messages.

The abuse of drugs also affects the wider community and the public space we all share. I am sure that all members will agree that there is considerable community concern about the use of public toilets and public places for injecting activities. The use of public toilets for drug injecting makes these facilities hazardous to all members of the public and, where injecting takes place in recreation areas such as parks, potential dangers to children are especially high.

By reshaping the circumstances under which a person injects, a supervised injecting facility would not only assist in the distribution of clean, sterile injecting equipment for users but would also assist to reduce the incidence of inappropriately discarded injecting equipment. As such, a supervised injecting place facility has the potential not only to improve the health of its clients but also to reduce the criminal, health and public nuisance impact on the wider community.

The Government does not condone illicit drug use. And, indeed, I think that we all have a responsibility to assist people to become free of their addictions. I believe the best way we can do this is by keeping injecting drug users alive as long as possible and as healthy as possible to give them the best chance to stop. Despite all that I have said about supervised injecting places, they have yet to prove their effects in practice. As members well know, the debate on supervised injecting places in the ACT, in New South Wales and in Victoria extends only to the running of evaluated trials.

The facilities in each jurisdiction will be limited to 18 or 24 months of operation and will be the subject of extensive research. We need to determine what we do not yet know. Will a supervised injecting place slow the spread of disease? Will it save lives? Will it improve the health of the community? Will it form one small but integral part of a comprehensive drug strategy?

Mr Speaker, the key features of the Government's proposal are the establishment of a single facility in the Civic area; the closure of that facility after two years of operation; the staffing of that facility with qualified health professionals; the provision at that facility of diversionary services, counselling, information or other treatments, chaplaincy, if appropriate; the evaluation of effects of the project by independent scientific researchers; and the adoption of legislation by this Assembly to address the legal issues involved in running the facility.

More information on the operational matters are set out in the folders provided to members a few weeks ago. All members will be aware of the extent to which I have gone to provide information on the government proposal. This information has been provided to supporters and opponents alike.

I will now discuss in more detail the legislation to support the project. Firstly, a number of elements of the original Drugs of Dependence (Amendment) Bill (No. 2) 1998 have been included and revised in the Supervised Injecting Place Trial Bill 1999. These include provisions enabling the Minister to choose a place and an operator for the facility, in clause 5; provisions aimed at removing any doubt that operators and staff of the facility are acting lawfully, that is, clause 6; provisions aimed at preventing civil claims which injecting drug using clients may otherwise be able to make against the operators and staff for harm suffered as a result of their use of the facility, clause 7; and the two-year expiry period for the trial, clause 11. This period would commence from the declaration of the facility. This allows a flexible time period for the set-up arrangements to be concluded without reducing the 24 months set aside for the trial to run.

In addition, four new elements have been included: An objects clause; a means of addressing client criminality by way of direction to the Director of Public Prosecutions, in clause 8; a power for the managers of the facility to exclude people from the facility when they need to, clause 9; and a regulation power.

The provisions protecting staff and limiting civil liability claims by clients have been considered extensively after the introduction of the original Bill and I do not propose to address them in detail today. I do wish to make more extensive comments on the issue of client action criminality. This is a complex legal issue and involves a variety of possible responses.

The Drugs of Dependence Act 1989 currently provides that several actions which would be undertaken by clients of the supervised injecting place would be criminal offences. These include possession of drugs of dependence or prohibited substances, self-administration, administering another person, allowing oneself to be administered by another person, and supply and sale. How are we to approach the problem of client criminality to ensure the best and most appropriate operation of the trial?

Firstly, let me stress that in regard to the offences of supply and sale, nothing in the proposed project would affect these crimes. The effects of the Bill and the discussion below are limited to the possession and drug use offences under sections 169 and 171 of the Drugs of Dependence Act.

It is also worth mentioning that the offences of self-administration now exist only in the ACT and New South Wales. Self-administration is a needless offence in the overall prohibition regime but it can actually inhibit people from seeking medical assistance in emergencies. For this reason all other jurisdictions have agreed to repeal these offences and, to date, all but New South Wales and the ACT have done so, except Queensland, of course, which never had those offences.

Members will be aware that a debate has taken place about the relative merits of a legislative approach as against a protocol approach. These are simple names, given the complex alternatives. Briefly, the choice is between making legislative changes to the application of the criminal law or choosing not to do so. If the latter course is chosen, the appropriate alternative is to give statutory directions to the Director of Public Prosecutions, which may be done under the Director of Public Prosecutions Act 1990. The Government, on legal advice and after extensive consultation with law enforcement agencies, preferred, and still prefers, the former approach.

The Opposition has insisted upon the latter approach. Given the state of the Assembly on this issue, the Government has conceded to this preference. Whilst not our preferred option, we are satisfied that it can be implemented in a successful way. The provision for this approach is set out at clause 8.

The Bill includes a power for the officers in charge of the facility to exclude persons from entering the facility, supported by an offence of failing to comply, clause 9. The capacity to exclude people, whether clients or other people, is an important operational matter which may be necessary to ensure the appropriate operation of the facility. Many

other operating rules will be specified through regulations or through contracts with operators. However, if this measure is to be supported by an offence and a penalty, it must be enacted by legislation.

In conclusion, I wish to finish my remarks with a plea for a very calm and careful debate within this Assembly. In the next few weeks we each face an important test of our beliefs and our responsibilities. In recent weeks I have tried to ensure that all members are fully empowered by access to information on this issue to allow them to make an informed decision. I hope the members appreciate what has been, I think, a very full and frank presentation of the Government's position. I renew my offer, already made in writing, for any member to seek through my office any relevant information that I might be able to provide. I commend this Bill to the Assembly.

Mr Kaine: Mr Speaker, I have a point of order on a procedural matter. This Bill is being presented under the heading of Executive Business. Given that the Liberal Party has recently enacted a policy on this matter and that certain members of the Government have indicated that they support that policy, then I cannot see how this can be Government Executive Business. Perhaps it should have been under the heading of Executive Members Business.

MR MOORE: Perhaps I can clarify, Mr Speaker. The Bill has passed through Cabinet, it has Cabinet approval, and it is Government Business.

Mr Kaine: My point is that those members who have publicly said that they will not enact this legislation without a referendum are acting contrary to that undertaking.

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

WATER RESOURCES AMENDMENT BILL 1999

MR SMYTH (Minister for Urban Services) (11.11): Mr Speaker, I present the Water Resources 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, members will recall that in the last budget the Government decided to introduce a water abstraction charge in order to foster the efficient use of the Territory's water resources. The purpose of this amendment is to enable more appropriate payment arrangements to be put in place for the payment of annual charges under the Water Resources Act 1998 such as the abstraction charge. It does not introduce any new fee. The amendment will only affect the way in which the fees are collected.

Mr Speaker, under the current arrangements in the Water Resources Act the abstraction charge can be collected only within 28 days after the end of the financial year to which the charges relate. Consistent with the Government's accrual accounting policy, it is clearly more appropriate for the charge to be collected during the financial year to which it relates. The majority of the revenue collected will relate to water abstracted by the ACTEW Corporation from ACT waterways.

Under the current provisions ACTEW would collect the charge from its customers in one financial year, then remit the revenue for that entire year to the Government during the subsequent financial year. This will result in ACTEW holding that revenue for up to 12 months, resulting in a windfall gain to the corporation which is not accounted for in regulated prices.

Mr Speaker, for small water users it is recognised that quarterly or other instalment payments throughout the year might be more appropriate. The amendment, as drafted, provides flexibility to tailor payment options to particular circumstances. The passing of this amendment will require a new determination for all fees and charges levied under the Act. It is my intention that the fees included in the new determination will be identical to the existing fees. As a disallowable instrument, the particular payment arrangements provided will be subject to Assembly scrutiny.

This change to the way fees are collected under the Water Resources Act will ensure that financial arrangements relating to the Act are consistent with good financial management practice.

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

URBAN SERVICES – STANDING COMMITTEE
Proposed Reference

MR SPEAKER: Order! The member, having failed to move his motion, it shall be withdrawn from the notice paper, in accordance with standing order 128.

CHIEF MINISTER'S PORTFOLIO – STANDING COMMITTEE
Reference

MS TUCKER (11.14): I move:

> That:
>
> (1) the Standing Committee for the Chief Minister's Portfolio inquire into and report on, as part of its inquiry into Departmental Annual and Financial Reports, the Legislative Assembly Secretariat's 1998-99 Report; and

> (2) Mr Cornwell be discharged from attending the Standing Committee for the Chief Minister's Portfolio for the Committee's consideration of the Legislative Assembly Secretariat's 1998-99 Report.

Basically this is necessary because we realised in the Administration and Procedure Committee that the Legislative Assembly annual report would be the only report tabled but not actually looked at by a standing committee. The Administration and Procedure Committee decided it should go the Chief Minister's Committee. However, it was clear that there was a slight problem because Mr Cornwell is on the Chief Minister's Committee, as you know, Mr Speaker, and there could be a conflict of interest in that you would be on that committee not only as an MLA but also as Speaker who would be responsible for answering any questions. To avoid this problem, this motion is asking that Mr Cornwell be discharged from that part of the committee work.

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

> Paragraph (2), add the following words: "and that Mr Hird be appointed in his place".

Motion, as amended, agreed to.

HOUSING - SELECT COMMITTEE
Alteration to Reporting Date

MS TUCKER (11.16): I move:

> That the resolution of the Assembly of 1 July 1999 which appointed the Select Committee on Housing, be amended by:
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> (1) omitting from paragraph (1) "by 30 November 1999" and substituting "by 31 March 2000"; and
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> (2) by adding the following paragraphs:
>
> "(3) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
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> (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.".

The committee was due to report on 30 November. We are seeking an extension of that reporting date to 31 March. We have had some delays which have been an influence. The Government's submission did not arrive until 30 September. We cannot hear government officials until 29 November because of members' commitments and the sitting pattern.

Government officials have now requested a later date, which is 13 December, knowing that we would be seeking an extension. It appears that there are difficulties for everybody concerned for this report date. We would have preferred to wait until the government submission arrived before we held public hearings, but decided to start before that because that government submission was delayed.

We started public hearings on 28 and 29 September. Mr Hird was not able to be there for those two hearings. We have also had hearings on 26 October, 4 November and 10 November, some with Mr Hird present and some not, and some with Mr Wood present and some not.

We also have the issue of the annual reports and financial statements now having to be looked at by the committee. This is an extra burden on the work time. I raise these issues not to lay blame in any way on anybody here but because I am a little disturbed about the politicisation, let us say, of a request quite recently in this place for an extension of time for a committee to report. I would not like to see that happen, although I realise it is a slightly different circumstance. I think it is important to get it on the record anyway.

It is fair to say that everyone here is working under a lot of pressure in the committee system because of the workload, particularly on the Liberal backbench member, Mr Hird, and other members as well. It has been difficult for Mr Wood on occasions to get to this select committee.

It is just a matter of us cooperating with each other. I understand it could lead to some inconvenience to government but I really do not think that it could be avoided. Government does also, of course, have to take some responsibility here because they are imposing further work on the committee through the obligation for us to look at the annual reports and financial statements. We just have to work with the situation we are presented with as best we can. I know that the committees that I am working on work extremely hard.

MR SMYTH (Minister for Urban Services) (11.19): Ms Tucker informed me some time ago that she would be moving this motion. I thank her for that notice. It is a curious reference to politicisation of committees and their reporting dates. When we raise it, it suddenly becomes politicisation but, when everybody else raises it, they are just working hard.

That aside, these reforms are very important. The Government's program to ensure that we are delivering the best sort of housing to the maximum number of people that we can is important. The delay in these reforms now means that some $1m in revenue will be forgone; it is 100,000 leaky taps, it is 1,500 new hot water services, it is 10,000 broken windows that might not get repaired. I urge the committee to look very seriously at the issues here. The delay is costing money that we should be spending appropriately on those most in need - the tenants that we have. One million dollars is not to be scoffed at. The Government would prefer that there was not a delay, but I understand Ms Tucker has the numbers. Just for the record, this is $1m forgone in this year.

Question resolved in the affirmative.

STANDING COMMITTEES

MR QUINLAN (11.21): I move:

> That the resolution of the Assembly of 28 April 1998, as amended on 28 May 1998, which appointed the General Purpose Standing Committees for this Assembly, be amended by:
>
> (1) omitting from paragraph (1)(a):
>
> (a) "for the Chief Minister's Portfolio" and substituting "on Finance and Public Administration (incorporating the Public Accounts Committee)";
>
> (b) "the portfolio of the Chief Minister including";
>
> (c) "and any other matter under the responsibility of the portfolio minister" and substituting ", women's affairs, Aboriginal and Torres Strait Islander issues, asset management, gaming and racing and any other related matter";
>
> (2) omitting from paragraph (1)(b) "and any other matter under the responsibility of the portfolio minister" and substituting "and any other related matter";
>
> (3) omitting from paragraph (1)(c) "and any other matter under the responsibility of the portfolio minister" and substituting "and any other related matter";
>
> (4) omitting from paragraph (1)(d):
>
> (a) "on Urban Services" and substituting "on Planning and Urban Services";
>
> (b) "and any other matter under the responsibility of the portfolio minister" and substituting "and any other related matter";
>
> (5) omitting from paragraph (1)(e):
>
> (a) "on Education" and substituting "on Education, Community Services and Recreation";
>
> (b) "and any other matter under the responsibility of the portfolio minister" and substituting "and any other related matter";
>
> (6) omitting from paragraph (2) "for the Chief Minister's Portfolio" and substituting "on Finance and Public Administration (incorporating the Public Accounts Committee)"; and
>
> (7) omitting from paragraph (5) "on Urban Services" and substituting "on Planning and Urban Services".

This is, as far as I can see, the most minimal alteration to the original resolution passed by this place. It changes the nomenclature of a couple of committees and broadens the terms of reference to embrace related matters rather than those matters confined to a single portfolio.

I have moved this motion strictly to accommodate the changes to administrative orders that occurred recently when the Chief Minister divested the Treasury portfolio to Mr Humphries and has assumed, within administration, an overarching policy role. It means that we have, in many cases, two Ministers who could possibly be involved in

a matter that fits within a single category or policy area. It seems common sense, if not a necessary administrative change, for the committee structure to not at least be in contradiction of the administrative orders as they now stand.

It is a fairly straightforward change. The changes were prepared by the Clerk's office, not mine, with instructions that they be minimal. The only other change was a change to the education portfolio committee as it was. I discussed that with Ms Tucker and she voiced a clear preference for the committee to be titled Education, Community Services and Recreation.

This arises out of a decision of the Chief Minister's Portfolio Committee. I referred this matter to the Administration and Procedure Committee and I have circulated this to the chairpersons of every other standing committee in the Assembly. I do not want to tread on anybody's toes or rock the boat, but I am trying to ensure that our committee system is not in contradiction with the administrative orders. I do not know what else I could have done. I commend the motion to the Assembly.

MR KAINE (11.24): I am obliged to support this motion because it came out of the Chief Minister's Portfolio Committee. But the need for such an amendment is a symptom of the fact that our existing committee structure, in a very short period, has turned out to be not a permanent arrangement and one which will require constant amendment every time the ministerial arrangements change.

I was not a supporter of the existing committee structure when it was set in place at the time. One of the things that I opposed and still oppose is the fact that we have had to maintain a public accounts committee and a scrutiny of Bills committee by stealth. Those committees in fact do not exist but we have to perpetuate the myth that they do by incorporating them into other committees. It is a matter for serious consideration by the Assembly as to whether the existing committee structure, even as amended by Mr Quinlan, can be perpetuated and maintained over any length of time.

Personally, I would have been happier had this motion rescinded the resolution of 28 April 1998 and reinstated the original committee structure, which worked well for eight years. I am not too sure that the existing committee structure does really cover all of the eventualities, as one would expect a committee structure to do.

I support the motion. It has come out of a committee of which I am a member. I think it is essential that we make these changes. In particular, the so-called Chief Minister's Portfolio Committee at the moment does not even incorporate treasury and budgetary matters, although we incorporate the public accounts committee.

We are perpetuating the myth that the public accounts committee exists and yet, until we make these changes, we, strictly speaking, are not empowered to look into matters that affect the treasury. So we have to make these changes to give the committees some sort of appearance of legitimacy.

The Assembly may well need to examine the broader question of whether the existing committee structure is appropriate. It has turned out, after a little over a year, to be unworkable in its present form. How many more times in the future are we going to be

compelled to make changes to it because there have been changes in ministerial and portfolio responsibilities. This matter needs a much more extensive look than just this cursory look resulting in these few changes proposed by Mr Quinlan today. We need to look at that matter in much more detail.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.27): I have to confess the Government does not have a strong view about these amendments either way. We see there being some basis for the change to the name of the Chief Minister's Portfolio Committee because it now covers more than just the Chief Minister's portfolio. I do not have a particularly strong argument with the title of Finance and Public Administration.

I agree with one thing Mr Kaine said and disagree with another. I disagree very strongly with what he said about the committee system being unworkable. I am not on these committees but it is quite an exaggeration to say that the committee system of the Assembly is unworkable.

Mr Quinlan: It's hell out there, Gary.

MR HUMPHRIES: It is hell out there, is it? Perhaps there are more grey hairs than I care to count on members who are chairpeople of committees. The committees tell us how hard they work and how good the reports are. Presumably if they are producing, through hard work, very good reports, they are not entirely unworkable. That is just my observation from a distance.

I agree with Mr Kaine's comments about the problem with the constant changes of name. There will be adjustments from time to time in the structure of the ministry - that is inevitable. This happens with every government. It is not surprising that there will need to be some adjustment in those circumstances.

There is a danger in being too prescriptive about the names of the committees and there is a likelihood that, at the end of the day, the committees will not greatly assist the task of advising people what they do because the names have changed. For example, it is now proposed that we have a Planning and Urban Services Committee. I understand people have been asking who looks after planning. We tell them that that belongs to the Urban Services Committee. People will still ask the question, "Who looks after housing? Where's the housing committee?", and we will say, "Oh, that's the Planning and Urban Services Committee". They will say, "Who looks after heritage?", and we will say, "Oh, that's the Planning and Urban Services Committee". "Who looks after the arts?". "Oh, that's the Finance and Public Administration Committee". "Who looks after sport?". "That's the Education, Community Services and Recreation Committee".

There will always be those questions. I am not sure this process of partly picking up more names addresses it entirely. I am, for example, curious as to why the Education Committee covers recreation in its title but not sport, given that sport is in fact a larger part of the budget than recreation.

Mr Quinlan: It's a more embracing term.

Ms Tucker: It includes sport, does it? I don't think it does.

MR HUMPHRIES: I don't think that is the case. They are separately titled because some sport is not recreation - some sport is very professional, not in a recreational sense. Certainly Mr Stefaniak's portfolio covers beyond recreational sport; it covers professional sport as well. I am just making this observation. I do not have a great strength of view about the amendments, but I am just not sure that they actually achieve quite as much as the mover of the motion has suggested that they will.

MS TUCKER (11.31): I voice a couple of concerns, echoing Mr Kaine to some degree. It is not a major issue. We have had imposed upon us this arrangement of committees. We have been able to work with some flexibility though because we obviously, in my committee, the Standing Committee on Education, seek the views of other Ministers or officials of other departments if we believe that it is relevant to the topic that we are inquiring into. It has been established that that is quite acceptable, which it should be.

The issue of what we have lost in terms of trying to align the committees so closely with ministerial responsibility is the ability to have an overarching look at particular issues of concern and importance to the ACT community. When we had a social policy committee there was the ability to take that very broad view. It is interesting to note that the Chief Minister appears to have finally recognised the need for that broader view to be taken when she herself has now, as I understand it, although I am not sure what has been produced from that work yet, taken control of a social policy unit - so-called, or something like that - in her work. I think that that is a step forward.

For a long time the Greens have been asking to see some kind of social policy unit established in the ACT Government and also a social plan to be developed - although Mr Moore is working on that, to a degree, with the healthy cities plan, I believe, at the moment. It is interesting that we still are not able to have that holistic overview taken within the committee structure and we are still stuck with this.

One of the concerns that keep coming up in my committee inquiries is the fragmentation of government services, particularly in the issues that I look at in the Education, Community Services and Recreation Committee, because so many of them involve input from different departments. Often we end up making a recommendation or an expression of concern about the lack of coordination between the various government departments.

It comes up in other reports around Australia. This is not a unique problem for the ACT. It is a very clear problem in all governments - as far as I can gather from reading reports - that look at social issues in other areas of Australia. It comes up as an issue of concern quite often. It is obviously a challenge for government to try to make systems which allow proper coordination and interrelating between different departmental responsibility.

This Government places a very strong onus on individual departments and chief executive officers to work with their particular area within their budget and within those budget parameters. There is a real danger that you see people saying, "That is not my problem. It fits somewhere else". Then gaps can become apparent where a particular issue does not fit in anyone's distinct portfolio area. We then have a problem.

A good example is the inquiry at the moment into education of children with a disability. There is obviously a lot of overlap between Health and Education. Health takes responsibility for some of the therapeutic support for children in schools. It has been highlighted very clearly in this committee process that that is a problem.

There is definitely a discussion to be had about how we do have the committees and the work described - terms of reference and so on - at the moment. But I do also see some flexibility in how we can work within that. I do not see it as a total major obstacle to do the sort of work that I believe we need to be able to do in committees.

Mr Humphries is worried about recreation and sport. He said sport has a bigger budget. That is the Government's approach for you. Something has a bigger budget; therefore, it has greater importance. People in the community might challenge that and there are other ways of looking at the value of things other than the size of the budget. Anyway, I think recreation can cover sport.

MR QUINLAN (11.36), in reply: I thank members for their support, I think. Obviously the titles of the committees cannot embrace every matter that will fall within the purview of the committee. I set out to ensure that we had a fairly seamless transition from the committee structure that we had before the administrative changes to the one that we have now.

I have no argument with either Ms Tucker or Mr Kaine in relation to the possible need to review further. This change is intended purely to ensure that the committee structure that we have today matches the administrative orders that we have today. I commend the motion to the Assembly.

Question resolved in the affirmative.

URBAN SERVICES – STANDING COMMITTEE
Report on Motor Traffic (Amendment) Bill (No. 4) 1998

MR HIRD (11.37): As Chairman of the Standing Committee on Urban Services, I present report No. 37 entitled "Motor Traffic (Amendment) Bill (No. 4) 1998", together with a copy of the extracts of the minutes of the proceedings. I move:

> That the report be noted.

This report looks at the proposed amendments to the Motor Traffic Act to deal with the problems of what are known as "burnouts" and "street racing". The principal amendment is contained in a private members Bill by our colleague Mr Dave Rugendyke, but other amendments are made by our colleague Mr Hargreaves and the Minister for Urban Services, Mr Smyth. The report deals with all three, and in writing the report we have tried to keep it completely fair. We have listed the main features of the amendments, starting with those of our colleague Mr Rugendyke, then with those of the Minister and, finally, with those of our colleague Mr Hargreaves.

Since the Minister provided supplementary material in the course of the inquiry, we have also summarised this information. We then summarised the principal themes of the public comment we received, following our invitation for the public to lodge submissions to the committee. The submissions provided, both written and verbal, were diverse and very interesting submissions. We provided details of what was learnt during our visits to Newcastle to speak to local police officers in respect of the New South Wales jurisdiction on this matter, the local council and the operators of the Newcastle speedway at Tomago.

We carefully assessed all these materials and came to the conclusions and recommendations set out on the second page of the report. I would like to thank the witnesses within the house for the submissions, both written and verbal, and the various staff members who assisted us with our deliberations on this matter. I would also like to thank my colleagues Mr Rugendyke and Mr Corbell, and Mr Power, who is our secretary.

Taking this into account, however, one of my colleagues Mr Corbell considers the proposed seizure provisions excessive. He outlines his reasons in an addition to the report. I dare say Mr Corbell will speak to that matter later. As I said, taking everything into account, however, I recommend to the house that they accept this report.

Question resolved in the affirmative.

EXECUTIVE BUSINESS – PRECEDENCE

Ordered that Executive business be called on.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY AMENDMENT BILL 1999

[COGNATE BILL:

BUILDING AMENDMENT BILL (NO 2) 1999]

Debate resumed from 16 November 1999, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

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

MR BERRY (11.41): It has always been my view that, if there needed to be finetuning to this legislation, then it should occur in consideration of the contemporary requirements of the day. That would apply, in many respects, to most other legislation. The amendments which have been moved by Mr Stefaniak address the building regulation arrangements of the day and, on the face of it, set out to ensure that there is a levy

collection regime in place which is more efficient against the background of the building regulation regime in the Territory. To that extent, the Opposition will be supporting the amendments.

Bear in mind that these amendments have been brought forward at fairly short notice, and there has been a very tight consultation phase with people we might wish to consult with. I am not advised that there any particular difficulties with the amendments which have been introduced by the Minister. On that basis, we are prepared to support them and we will maintain a watching brief in relation to the efficiency of these regulations in delivering the outcomes anticipated by the original legislation which these amendments seek to address.

MR STEFANIAK (Minister for Education) (11.43), in reply: I thank members for their support for this Bill. The Act can now effectively commence. The board is in place. It met on 15 November. It was a very good meeting. With these amendments, of which they were very supportive and which they wanted to see up and running, they can get on with their job according to the legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

BUILDING AMENDMENT BILL (NO. 2) 1999

Debate resumed from 16 November 1999, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PUBLIC SECTOR LEGISLATION AMENDMENT BILL 1999

Debate resumed from 16 November 1999, on motion by **Ms Carnell**:

That this Bill be agreed to in principle.

MR BERRY (11.44): There is a real problem in dealing with this sort of legislation at such short notice in the ACT Assembly. It has been drawn to my attention that the areas which gave rise to the amendments before the Assembly were introduced into the Federal Parliament on 30 March 1999, were passed in the House of Representatives on 27 September and were passed in the Senate on 14 October.

I can see why it has become pressing, but it is often quite difficult to deal with these pieces of legislation which do involve some complex research to ensure that the employees which the legislation purports to protect are properly protected. We have put our shoulders to the wheel in respect of this. We support the principles of the legislation because it ensures continuing access to the merit protection review process which applied prior to the amendments moved by the Commonwealth.

The Commonwealth have offered us continued access to their services for a further year, and Mrs Carnell drew attention to these technical amendments which ensure that we are able to have that access for our employees. We support the Bill in principle. I have circulated an amendment which we were only able to have drafted at short notice. I think we received it late yesterday, and I have circulated it this morning. I will refer to it again later but, to give people a bit more time to think about it, it reinstates access to the Merit Protection Review Agency for LA(MS) Act employees who missed out in the original legislation.

Ms Carnell: The ones that are in the Public Service. It would be only the ones that were in the Public Service - not the LA(MS) Act generally, just the ones that are in the Public Service.

MR BERRY: It applies to LA(MS) Act employees and gives them access to the Merit Protection Review - - -

Ms Carnell: Only if they are public servants.

MR BERRY: Mr Speaker, the amendments that I have circulated go to that issue. I will talk about them further later if there is any dispute about the matter. However, we support the amendment in principle.

MS CARNELL (Chief Minister) (11.47), in reply: I thank the members of the Assembly for their support for the Public Sector Legislation Amendment Bill 1999. The purpose of this Bill is to provide interim arrangements to continue the current scheme of review and to keep in place the appeal procedures in the ACT Public Service. Legislative change obviously has become necessary following the repeal of the Commonwealth legislation which provided the necessary procedural infrastructure. The repeal will occur from 5 December, so it was necessary for this legislation to be passed through the Assembly fairly quickly. I thank members for that support. Obviously there will be a need at some stage in the future to put in place a permanent arrangement.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR SPEAKER: Mr Berry, I notice that the amendments you have circulated do not come within the title of the Bill, and I am therefore obliged under standing order 181 to rule them out of order.

MR BERRY (11.49): I seek leave to move the amendments circulated in my name together.

Leave granted.

MR BERRY: I move amendment Nos 1 and 2 circulated in my name together, which read:

New clause –
Page 2, line 37, after clause 4, insert the following new clause in the Bill:
"**5 Amendment of the Legislative Assembly (Members' Staff) Act**
After section 13B of the *Legislative Assembly (Members' Staff) Act 1989* the following section is inserted:
'13BA **Application of Merit Protection (Australian Government Employees) Act**
'(1) The *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) applies under this Act as if a reference in that Act to the Merit Protection and Review Agency were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth).
'(2) The *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) applies under this Act subject to any modifications prescribed under the regulations.
'(3) This Act applies as if -
(a) a reference to the Merit Protection Agency were a reference to the Merit Protection Commissioner under the *Public Service Act 1999* (Cwlth); and
(b) a reference to the *Merit Protection (Australian Government Employees) Act 1984* (Cwlth) were a reference to that Act as in force on 1 July 1999.
'(4) This section and section 13B cease to have effect on 31 December 2000.'.".
Amendment –
Long title, page 1, omit the title, substitute the following title:
"**An Act to amend the *Public Sector Management Act 1994*, the *Fire Brigade (Administration) Act 1974* and the *Legislative Assembly (Members' Staff) Act 1989* because of the repeal of the *Merit Protection (Australian Government Employees) Act 1984* (Cwlth)**".

These amendments merely reinstate the rights of LA(MS) Act employees pursuant to Part 3A, which apparently was some oversight. I do not see anything sinister in their not being mentioned in the legislation, but on checking through the relevant legislation and its application under the LA(MS) Act we discovered that there had been this slight oversight. The amendment has been prepared to repair it. I need say no more than that, Mr Speaker.

MS CARNELL (Chief Minister) (11.50): As we received these amendments only this morning - and I have to say very recently - it was important for us to have a very quick look at what these particular amendments do. My advice is that the best estimate of the number of staff employed under the LA(MS) Act that would be eligible for reintegration into the Public Service and therefore covered by this approach is two people. My understanding is that it would cover people who are currently public servants but who are on secondment in members' offices and therefore could be reintegrated back into the Public Service. It is those people that we are talking about here. The Government's view is that these amendments were not necessary, but we have no strong objection to the inclusion of the proposed amendments. Therefore, we will be supporting them.

Amendments agreed to.

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

Bill, as amended, agreed to.

CRIMES AMENDMENT BILL (NO 2) 1999

Debate resumed from 14 October 1999, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11.51): The Crimes Amendment Bill (No. 2) was a response to a recent case in the ACT that drew attention to the ancient Common Law presumption of marital coercion which still exists in the ACT. The presumption of marital coercion allows that, where a woman commits an offence in the company of her husband, she is entitled to an acquittal unless the Crown can prove she acted independently. I think that provision resulted in a woman's acquittal in a particular case. As the Attorney-General noted in his presentation speech, this is an archaic and extremely sexist notion - one which every other jurisdiction in Australia has abolished. I think it is notable that New South Wales abolished the presumption as long ago as 1925. The Opposition supports the Bill.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

TERRITORY OWNED CORPORATIONS AMENDMENT BILL (NO 2) 1999

Debate resumed from 21 October 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR CORBELL (11.52): My colleague Mr Quinlan is responsible for covering this Bill. I would like to indicate that the Labor Party has been giving this Bill close consideration, and my colleague Mr Quinlan will now outline exactly what the close concerns are.

MR QUINLAN (11.53): The ALP has no problem with this particular Bill. We are assured from our examination and from what we have heard from the Government that, in the first instance, some parts are only modernising the provisions and descriptions, replacing a memorandum and articles of association with a constitution, as is permitted these days. Secondly, it allows for the constitution of shareholdings to be changed in order that capital can move in and out of territory owned corporations, much as has happened with ACTEW.

I have to make a side comment that we talk about the money that has been taken out of ACTEW as capital repatriation. The amount of capital invested in ACTEW is exactly zero. Its capital is made up of retained earnings and retained earnings only. In the main, it has set out over many years to make sufficient profits to fund its capital expansion. It has, to some extent, become a milch cow, unfortunately. We do not have any objection to the change in the structure that will allow capital repatriation. I have personally advocated a moderate capital repatriation from ACTEW in the select committee on the ACT's superannuation liability. Again, I stress that we have advocated a moderate repatriation from ACTEW in order to fund the past and accumulated superannuation liability. That particular exercise has been corrupted in this year's budget by the Government doing only that and providing nothing out of this year's budget to fund the growing proportion of the liability which we find will be responsible. However, we have no objections to the thrust of the Bill.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.56), in reply: To close the debate, I note Mr Quinlan's comments and the support of the Opposition. I hope it is seen widely as a means of ensuring that our TOCs operate on an efficient and effective basis. It provides that shares can be issued on a more flexible basis by the TOCs; that a statement of corporate intent can be lodged each year on a timeframe that is more reflective of the priorities that the Government might set for that particular organisation; and that the terminology used in the territory owned corporations legislation and the territory owned corporations themselves reflect the current wording of the Corporations Law. I thank members for their support for the Bill.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999

[COGNATE BILLS:

ROAD TRANSPORT (GENERAL) BILL 1999

ROAD TRANSPORT (DRIVER LICENSING) BILL 1999

ROAD TRANSPORT (VEHICLE REGISTRATION) BILL 1999

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 1999]

Debate resumed from 21 October 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Road Transport (General) Bill 1999, the Road Transport (Driver Licensing) Bill 1999, the Road Transport (Vehicle Registration) Bill 1999 and the Road Transport Legislation Amendment Bill 1999? There being no objection, that course will be followed. I remind members that in debating order of the day No. 6 they may also address their remarks to orders of the day Nos 7, 8, 9 and 10.

MR HARGREAVES (11.58): Mr Speaker, the Opposition supports the general concepts that appear in the Bill. We support the change from our Motor Traffic Act to the Road Transport Act and keeping us in line with interstate movements. We congratulate the Government's representatives on the ministerial council that has brought this about over the years. There is a lot of really good material in this package of legislation, Mr Speaker. However, there are a couple of aspects of it which give me some concern.

Unfortunately, Mr Speaker, when the legislation was presented it was not only presented as road transport reform legislation. There was an attempt to sneak into the legislation some bits and pieces which are the private pets of certain members who wanted to introduce mandatory sentencing into the motor traffic legislation, and we have some difficulties with that concept.

It has been said that there is some urgency to pass this legislation. We do not believe that urgency is as acute as has been said recently. We believe that we can support the Bill in principle, but there are some issues within the body of the legislation which will require some attention.

Unfortunately, this is a complicated package. It does not just automatically translate certain pieces of the Motor Traffic Act across. There is a shift of some pieces of legislation which existed before and they are being popped into regulations. We support that concept in general terms. However, there are other parts of the previous legislation,

such as those dealing with alcohol and drugs, which have been embodied into a general part of the legislation and they are not as easy to access as before. So, Mr Speaker, this stuff takes a little bit more cogitation than we have had time to give it so far.

I mentioned a little earlier the urgency and the time taken to do all these sorts of things. All of this package, in fact, was agreed to by all of the Ministers who considered the issue last February. Now, all of a sudden, we were given the package in the last sitting and told, "Okay, let's debate it; let's go through it". As you have seen, Mr Speaker, it has to be four inches thick, if it is anything.

In South Australia it was introduced in February and it was passed through both houses in July. In August, Mr Speaker, it was signed by the Governor of that State, and on 11 November it was gazetted. So it took an enormous amount of time to be processed through their system. In New South Wales it was passed in July. So the State that is supposedly pushing us to get on with it actually passed their legislation back in July, but we had not seen it.

I know that some of my colleagues have some difficulty with the responses that the Minister has given to the scrutiny of Bills committee. I am sure that those responses can be addressed fairly easily and fairly quickly, but, Mr Speaker, we are not ready to debate the detail of this legislation at the moment. I think it would be reasonable if the Government gave an extra week for consideration of the detail stage.

I foreshadow for members that I will be moving to adjourn the debate in the detail stage. I am happy to support the legislation in principle, but I will be asking the Assembly to adjourn debate on the detail stage to another time. I do not think anything more needs to be said. I am sure that other people will have comments to make during the detail stage.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.03): Mr Speaker, this package of Bills is quite an important package in ensuring that the ACT remains part of a national scheme to reform road rules in Australia and provisions dealing with road transport. I am of the view that that kind of reform is long overdue. It is not a very intrusive part, perhaps, of moving from one State to another in this country. Nonetheless, it is a matter of some inconvenience on occasions, and no doubt some confusion and perhaps even some occasion for injury or damage to property, that there are different road rules in different States of this country, or at least there have been until the Australian States and Territories and the Commonwealth got together and decided that there should be some level of uniformity in the road transport and traffic rules.

Mr Speaker, I think all of us are aware of the differences in those rules. I do not think it is worth outlining what they are today, but Australians certainly look to their governments and their parliaments to address issues of needless variation in rules of that kind. Clearly, the most egregious example of States taking different decisions about transport parameters was the decision taken last century to establish different railway gauges in different jurisdictions, particularly New South Wales and Victoria. Those different rail

gauges in those two States in particular remain a supreme monument to the lack of foresight, the lack of planning and the lack of integration between the then Australian colonies, now States.

It is worth remembering that today we have greater movement and interaction of citizens of this country than ever before. The need to ensure that we have a system in place which reflects a single national approach to issues such as the regulation of motor vehicles and the provision of road rules has never been greater. It is a testament to the hard work of the various governments and Ministers involved, including our own Mr Smyth and his predecessors, that we have a chance today to be able to put in place extremely important legislation of this kind.

I heard the comments of Mr Hargreaves concerning the desire to put off discussion on this matter. I note that we do have at this time a national implementation date of 1 December. I think it would be unfortunate if the ACT were not part of that national scheme on the date on which other States become part of it, Mr Speaker, and I think there is a strong argument for that being the case. Mr Berry shakes his head. He does not feel that there needs to be that level of national involvement from day one. He is always very willing, Mr Speaker, to put off until tomorrow what could and should be done today.

Mr Moore: Unless it is their legislation.

MR HUMPHRIES: Unless, of course, is their legislation. I note, Mr Speaker, that when we had, earlier today, amendments to the Public Sector Legislation Amendment Bill, we received notice of those amendments two days after they had been drafted. I understand that other members of the Assembly were given the privilege of seeing those amendments and the Government was not.

Mr Berry: No, no; I circulated them this morning.

MR HUMPHRIES: Well, they were available two days ago, Mr Berry. I am afraid the date on the bottom of your sheet demonstrates they were actually supplied to you at about 3.40, or they were prepared at least at about 3.40 on Tuesday afternoon. That means you must have got them on Tuesday afternoon, and you did not bother to give them to the Government, whose legislation it was, until Thursday morning. I understand that you supplied copies of those amendments to members of the crossbenches. My understanding is that they were supplied to members of the crossbenches yesterday.

Mr Kaine: No.

MR HUMPHRIES: Mr Kaine says no, but I understand that they were. Perhaps someone could check that out. The shadow Minister responsible could check that out.

Mr Berry: I do not care either. It has been passed, Gary, so do not worry.

MR HUMPHRIES: Yes, that is fine. That is the point, Mr Berry. That is exactly the point I am making. We were presented with an amendment of which we had no notice and we passed the legislation because it was important to pass it. We are asking you to give the same kind of understanding and acceptance of a national - - -

Mr Berry: It was a one-pager.

MR SPEAKER: Order! Mr Berry, you will have a chance to speak.

MR HUMPHRIES: Mr Speaker, I know Mr Berry is very keen to take part in this debate. If he wants to wait he will have a chance in a moment. Mr Speaker, I believe that there is a reasonable obligation on us to move forward with this legislation. I think it is legislation that reflects a very important national goal. I am sorry that Mr Berry and his colleagues do not see the need for that to happen in the shorter timeframe.

Obviously there is a problem with the ACT attempting to pick up and amend a large chunk of legislation in a very short time. Mr Hargreaves pointed out that other States had tabled the legislation earlier than we did. That no doubt is true, but other States have massive drafting resources and offices of parliamentary counsel that the ACT does not. Having said that, what the ACT Office of Parliamentary Counsel does is quite exceptional. It has the capacity to throw out work in a very short space of time. I think it is timely to commend that office on its work, and particularly John Leahy as the new head of that office on having achieved a great deal in a short space of time.

Mr Speaker, I think the arguments for this legislation are quite strong, quite compelling. It does replace a large number of provisions in ACT legislation dealing with all sorts of road offences, traffic requirements and issues concerning the regulation of trucks and other vehicles using the roads. This is an exciting development. It is one that the community should be pleased and proud to see happen. It is one that will serve a community like the ACT more than many other places in Australia, given that we are a small island in the middle of a much larger State. There is no citizen of this Territory who uses the roads who does not also at some point or other use the roads in New South Wales and perhaps elsewhere. So, having standardisation between at least New South Wales and the ACT is particularly important, but ACT citizens probably travel more than citizens of many other cities in Australia and reach other parts of Australia outside New South Wales even. Having the chance to have uniform laws is particularly important there as well.

Mr Speaker, I believe I have said all I need to say on this subject and I hope that members will give serious consideration to dealing with these Bills today. There has not been a great deal of time in which to consider these Bills. There has only been a month. That is not a huge amount of time, I concede, but they have been on the table for in excess of a month. They are important Bills. They do produce a national outcome, and I hope members will see that there is value in pursuing that kind of objective as soon as possible.

MR KAINE (12.11): Mr Speaker, let me say first that I agree in principle with the legislation that the Minister has tabled, but I am somewhat concerned at the detail that is lacking from that legislation and the fact that there seems to be some degree of urgency about it. I think the basic question is this: Does the Government want legislation at the end of the day that is good legislation? Attempting to push it through more quickly than is warranted is not guaranteed to achieve that outcome. Does the Government want

legislation that is, in fact, owned by this legislature? I think it would be a sad thing to have this amount of legislation, and it is a pretty weighty lot, passed over the doubts of some members of this place and then have to defend it for the next 10 years, because there is much in it that at the end of the day members of this Assembly do not agree with. There are some difficulties with it. Maybe none of us - maybe even the Government itself - are entirely confident that this legislation is all good legislation.

My concerns about it are twofold, Mr Speaker. The first is that there were significant deficiencies in this law identified by the scrutiny of Bills committee, and I am not certain that the Government has adequately dealt with those matters. For example, I received the Government's response to that report only an hour ago, and from a quick look at it it seems that the Minister has tended to reject much of what the scrutiny of Bills committee said in its report or has modified it in some way. I am not clear at the moment just what the net consequences of the Government's response to the scrutiny of Bills committee report are, yet I am being asked to debate the matter this afternoon and to vote on it. There were significant matters of law raised about which we are being asked to take the Government's position on faith. I do have some reservations about that.

The other problem that I have is that much of the law is being left to the Minister to make by regulation. When you read through these Bills, we are being asked to give the Minister wide-ranging powers to legislate by delegated legislation. I think it is asking a bit much to expect that we will all take on faith that the Government will produce good subordinate legislation and that at the end of the day, of course, it will be disallowable. But why is so much of it left to regulation-making? It is clear that the regulation of road transport is a very complex activity, otherwise we would not have this inch thick legislation, to use the old terminology, or three centimetres of legislation to deal with.

What the Government has done is produce two flavours of legislation. The first is a statement of principles that are in these Bills. The rest, and I submit a very large part of it, will be set down in regulations that we have not even seen. We are being asked to take all of this on faith, to adopt the legislation today and to give the Government carte blanche to go ahead and do whatever they feel like doing under the law.

The Government is telling us that this all has to be in place by 1 December. I think, then, we should safely assume that the regulations have been written already. If they have not, how can they put it into effect on 1 December anyway? If it has been written, why can't we see it? Why can't we see what kind of subordinate legislation the Minister intends to make so that we can be satisfied at the end of the day that his legislation is comprehensive; that it is good legislation? So I think we are being asked to enact a significant body of legislation in a knowledge vacuum.

I wonder how many members of this place are prepared to enact significant legislation in a knowledge vacuum and with most of the legislation probably yet to come in the nature of regulations issued under these major Acts. I am concerned that we might be stepping into a big black hole, Mr Speaker.

I understand that the Minister is proposing that we shortly adjourn and that during the adjournment break we look at that broader question to see whether or not we should proceed today or at some future time. I think that is a sensible thing to do because, if you

read through the legislation in its totality, there are many questions that it raises. I will not go into the detail of that now. I think it would be better to deal with it as we deal with the Bills in the detail stage. I do have reservations, as I say. I am in accord with the Government in principle on this legislation, but I am a bit concerned about dealing with it today without full knowledge of the totality of the legislation and what it all means.

MR MOORE (Minister for Health and Community Care) (12.17): Mr Speaker, I rise to support the legislation. A huge amount of time and effort has gone into the preparation of this legislation, not just by officers here in the ACT but right around Australia. I know that when Mr Kaine was the Minister this work was going on under him. I remember on a couple of occasions having discussions in general terms about the sorts of issues that were involved in this sort of legislation.

I think the point has been made very well that we are looking to get legislation that means that for people who are driving interstate the motor traffic rules and regulations are consistent. I think that is a very important part of ensuring the safety of our community in motor vehicles.

I will indicate now, Mr Speaker, that I will be exercising my independent prerogative with regard to some issues here that are about civil liberties. As you may be aware, when I accepted a position in the ministry I also set out a series of issues on which I disagreed with the Liberal Party and I was not bound by Cabinet solidarity on those issues. One of those issues is the issue that I raised two years ago and on which the Labor Party and the Greens supported me at that time. We prevented the Government proceeding with a sentencing system that was determined by the legislature rather than determined by courts. The role of the legislature is to set the broad parameters. It is the role of the courts to apply the law to individuals, and there are some parts of this legislation that inappropriately apply that. In fact, it is a second go at that same process. So, Mr Speaker, I will be following that through and I hope that I will be able to gain the support of members with regard to those issues.

As important in principle as those issues are, I still feel that the legislation is very important. It will have a significant impact on Canberrans and ensure that they can drive with greater safety because we will have consistent rules across Australia. Only last night, Mr Speaker, I walked past one of my children who was watching television and I saw an advertisement on the television that new road rules are coming into place on 1 December. It was an advertisement coming from the New South Wales Government; nevertheless, there is very good reason for us to try to be consistent with New South Wales in its implementation. Queensland, Victoria and South Australia are ready to start this legislation by 1 December, and we should be trying to do the same. Mr Speaker, I am delighted to support the legislation in principle.

MS TUCKER (12.21): The Greens are also supportive of legislation which ensures that road regulation is consistent around Australia, although I do also have concerns at this point in time about being expected to deal with, particularly, the scrutiny of Bills committee report and the government response to that within an unacceptably short

period of time. My adviser is looking at the Government's response at the moment. We only got a copy about half-an-hour ago, informally, so we would like to have a little more time to look at these issues.

I agree with Mr Kaine that this is a large body of legislation. The issue about regulations is also of interest to the Greens. It is a transparent process in that regulations are tabled and the Assembly can look at them, but there are sometimes concerns about that because keeping track of all the subordinate legislation that is tabled involves members of this place in a lot of work. We do want to ensure that initiatives coming from the Government are well understood and debated. So, in principle, the Greens will certainly be supporting this legislation, but we may have to ask for more time to look at some of these comments by the scrutiny of Bills committee and the government response.

Debate interrupted.

Sitting suspended from 12.23 to 2.30 pm

DISTINGUISHED VISITORS

MR SPEAKER: I inform members of the presence in the gallery of a delegation of members from Pacific Islands parliaments, and on behalf of all members I bid them a warm welcome.

QUESTIONS WITHOUT NOTICE

Bruce Stadium

MR STANHOPE: Mr Speaker, my question is to the Treasurer and Minister for infrastructure. Can the Minister tell the Assembly if the current sublease between the Territory and the Australian Sports Commission over Bruce Stadium has in fact been legally executed, or does the Government rely for its tenure on sublease 820353, the only document that is currently held by the Titles Office? What is the reason for the delay in executing the new lease arrangement?

MS CARNELL: Mr Speaker, I assume that this is a Bruce Stadium matter and on that basis it falls within my responsibilities. With regard to the lease, surprising as it may seem, I cannot remember the lease number that we may or may not be relying on. I have to say that if the Leader of the Opposition wanted a sensible answer to a question like this involving this sort of detail he should have given some level of notice, because it is fairly obvious that no Minister is going to know what lease number we are relying on for the lease involved.

For the interest of members, I can indicate that there has been a number of pieces of correspondence between me and the relevant Federal Ministers, and I think the Prime Minister - I am fairly confident the Prime Minister has also written - with regard to the extension of the lease on Bruce Stadium up to 2024 from the 2009 that is currently the

case. So, certainly, there has been an exchange of letters. I am sure that Mr Stanhope would be aware, and I am sure that Mr Humphries is too, that that has contractual power in itself.

Mr Stanhope: So you do not have a new lease?

MS CARNELL: No, that is not what I said at all. I said that as far as I am concerned there have been exchanges of letters at ministerial level agreeing to the extension of the lease to 2024, based upon the agreement that we had already announced in this place. Mr Speaker, an exchange of letters at ministerial level, with an agreement from the Commonwealth to that extension, in itself has contractual power. I will find out for members what has happened with regard to the lease post that exchange of letters.

MR STANHOPE: I have a supplementary question, Mr Speaker. I look forward to the Chief Minister's response and whether or not we do have a lease post 2009. Can the Chief Minister confirm whether or not the Government, prior to the redevelopment of the Bruce Stadium, sought the prior consent in writing from the Australian Sports Commission for the redevelopment as required under the current lease? Given that there is no apparent provision for compensation to the ACT for undertaking the redevelopment, who will own the improvements when the sublease terminates in 2009? Will they revert to the ASC?

MS CARNELL: Mr Speaker, as I have said, we do have an agreement for the lease through to 2024. Now, I would have to say that that sort of a lease time is quite significant. The depreciation on those improvements over that period of time would, I assume, have been complete. Mr Speaker, the Federal Government is quite clear. It does not want Bruce Stadium handed back to it in any way. It wants the ACT Government to continue to run and to operate Bruce Stadium. The first upgrade of Bruce Stadium was conducted by the Labor Government under Rosemary Follett.

Mr Corbell: We did not spend money illegally.

MR SPEAKER: Order! Settle down.

MS CARNELL: Mr Speaker, the first upgrade, involving quite a number of millions of dollars, was done by the Labor Party, under - - -

Mr Stanhope: Yes, legally.

Mr Corbell: We didn't do it illegally.

MS CARNELL: Oh, Mr Speaker!

MR SPEAKER: Order! It is not necessarily a criticism, I do not think, that the Chief Minister is making.

MS CARNELL: No. Mr Speaker, I am making the comment that the upgrade was made under the lease provisions that existed at the time, through to 2009. Mr Speaker, are we going to get back to stupid interjections or not?

MR SPEAKER: No, we are not.

Mr Stanhope: Certainly not. We can vouch for that. They are not stupid.

MR SPEAKER: Then be quiet, Mr Stanhope.

MS CARNELL: Thank you very much, Mr Speaker. If those opposite are suggesting that there is something unusual about the upgrade that we have done on Bruce Stadium under the lease arrangements, then the same must have been the case for the upgrade that they did. Obviously, Mr Speaker, this is simply those opposite playing politics as usual. Now, with Bruce Stadium and with the upgrade, what we have got is one of the best football stadiums in Australia. If you compare the Bruce Stadium upgrade with other stadium upgrades for the Olympics around Australia, such as the Hindmarsh Stadium, as Mr Osborne mentioned yesterday, you will see that we have got very, very good value for money.

Mr Stanhope: Says who?

MS CARNELL: I think you just have to look at the two stadiums. Hindmarsh Stadium is of significantly lower quality, has cost more than Bruce Stadium, and, guess what, Mr Speaker, it is used for soccer and soccer alone because South Australia unfortunately does not have a Super 12 team and has lost its rugby league team. What does that say about the approach that the ACT Government has taken which means that we have got a Super 12 team, one of the best, we have got a rugby league team, one of the best, we have got a soccer team that is doing really well this season, Mr Speaker, and we have got Olympic soccer, all of which are really good outcomes for the ACT. It is about time that those opposite realised that Bruce Stadium is something that we on this side of the house are extraordinarily proud of, and many Canberrans are extraordinarily proud of. Those opposite just look like silly fools, Mr Speaker.

Gambling and Racing Commission

MR KAINE: My question is to the Treasurer. Minister, on 17 September of this year the Gambling and Racing Control Act 1999 was gazetted and that required amongst other things the establishment of the ACT Gambling and Racing Commission. Could you tell the Assembly when you intend to appoint the five members of the commission as required under section 12 of that Act?

MR HUMPHRIES: Mr Speaker, I have, I think in the last few days, written to an Assembly committee - I assume it is the committee chaired by Mr Quinlan - to advise the names of two proposed members of the commission. I do not recall their names but they have been supplied to the relevant committee pursuant to the Statutory Appointments Act. Those two appointments will constitute the commission legally from 1 December when the legislation - - -

Mr Stanhope: Did you say you cannot remember whom you are appointing?

MR SPEAKER: Order! It is not your question, Mr Stanhope.

MR HUMPHRIES: Well, I am sorry; I cannot remember offhand who the two people are. Actually, I can remember one of them, I beg your pardon. Ms Lyn Morgain is one of the two appointees. I forget the name of the other person. That is not a reflection on the other person, Mr Speaker. With respect, with all due modesty, I think they are both excellent appointments. Those two appointments, assuming they are approved by the relevant standing committee, will constitute the commission legally from 1 December, and the Government hopes shortly thereafter to be able to appoint two other members to make up the membership of the commission.

MR KAINE: I have a supplementary question, Mr Speaker. Two out of five. You have a long way to go. Will the Minister confirm that these two members out of the five that are prescribed by law will not be empowered to make significant decisions which will be binding on the gambling and racing industry and which will be binding on the entire board of five if and when the Government gets around to appointing the other three members? I think it would be rather odd to have these two people making binding decisions for the future.

MR HUMPHRIES: Mr Speaker, I should say that there will also be an acting chief executive officer who will fulfil a short-term role there until a permanent appointment can be made. That person, as I understand it, will make up the three people necessary for a quorum so that it will be able to meet and make decisions. I would not expect that the Gambling and Racing Commission would need to make any extensive decisions that would bind other members for a few weeks, which I expect would be all the time it would take to fill the other appointments, Mr Speaker, but it is not unusual. It is a question of making sure we fill those positions as the right people come to the Government's attention. I hope that there will be a very good brace of appointees to that commission, and I am confident that the two we have nominated so far indicate that that will be the case.

Sports Betting

MR QUINLAN: Mr Speaker, my question is to the Treasurer. In a media release issued today the Treasurer referred to concerns regarding the transfer of a sports betting licence from Canbet and Capital Sports to prospective new owners. Will the Treasurer tell the Assembly what those concerns are?

MR HUMPHRIES: Mr Speaker, I think Mr Quinlan is as able as I am to read the *Canberra Times* and be aware of what criticisms are being made of these proposed appointments.

Mr Quinlan: No, it is not in the *Canberra Times*.

MR HUMPHRIES: Well, if you do not get the *Canberra Times*, Mr Quinlan, that is your bad luck. The article is in the *Canberra Times*. I read the *Canberra Times.* I have seen what is being said about this and I do not express a view.

Mr Quinlan: It does not say what the concerns are.

MR HUMPHRIES: If you ask me for a view on whether there is any foundation for these concerns that led to a report being in the *Canberra Times*, I will say to you that I do not know because I am not aware, directly, of the basis for any such expressions of concern that might appear in the *Canberra Times*. Nor should I be, with respect, because I do not have a role to play in the decision about whether these particular sports betting licences get transferred to the new purchasers of those licences.

That is a role which Mr Quinlan, I am sure, is aware is played at the present time by the Bookmakers Licensing Committee and after 1 December will be played by the Gambling and Racing Commission. They, at arms length from the Government - quite properly, I think - have a decision to make about whether this transfer should occur and whether the people who are proposed to take on the sports betting licence or licences will be appropriate people to have that responsibility and to discharge the obligations inherent in that licence or licences.

Whether I have concerns or not, whether I am aware of those concerns or not, with great respect, is irrelevant. I am not the body considering the application to be made by the prospective new licensees. That is somebody else, and, quite properly, it is somebody else.

MR QUINLAN: I have a supplementary question. Well, "concerns" is the first word in your press release, actually. In the same media release the Treasurer stated that he is proposing to bring forward amendments to the Bookmakers Act. Can he enumerate the deficiencies or inadequacies in that Act that he is setting out to remedy, and does he not consider it appropriate that probity checks conducted on this very significant transfer should be subjected to the stronger standards proposed, whatever they might be?

MR HUMPHRIES: Mr Speaker, it is another question, rather than a supplementary question.

MR SPEAKER: I will allow it though.

MR HUMPHRIES: Yes, Mr Speaker. I am happy to answer it. I have indicated in that press release that the Government has had a concern for some time that there should be a more extensive range of appropriate checks, not just on those who are the licensees, to ensure that they are fit and proper people to hold the licence, and those with whom they deal, but also on any others who might stand at some close proximity to the licence holders. The Government's concern is that there should be no capacity, within reason, to accuse a person who holds a licence of being influenced by improper parties or people who ought not to be involved in the business, say, of conducting sports betting.

The Government indicated its view some time ago that it wanted to engage in that sort of reform. I mentioned it in the course of the media release because it is an issue which I believe ought to be put on the record at this point in time. It is most unlikely that any amendments to the legislation would be introduced or much less passed before this particular application for transfer of a sports betting licence is considered by the Bookmakers Licensing Committee or by the Gambling and Racing Commission. So my comments are irrelevant in that respect to this particular application, but they are worth bearing in mind for future applications when and if the Assembly sees fit to pass the amendments.

Mr Speaker, I think the reasons for the amendments are fairly self-explanatory, based on what I have just said. There is a need to make sure that those who are associated with the handling of bets and the activities associated with gambling, particularly high volume, potentially lucrative exercises such as this, are seen to be people with a fit and proper background to conduct that kind of business and not to be people of influence over such people and who may exercise undue influence. That is the concern that this Government has. I put that on the record very squarely. We look forward to being able to bring that forward and have the Assembly support those concerns when the legislation is ready.

Coronial Inquiry into Canberra Hospital Implosion

MR BERRY: My question is to the Chief Minister. In his report on the inquest that followed the Canberra Hospital implosion and the fatal public event which you fully endorsed, the coroner recommended that the project manager, Project Coordination, be disqualified from future contracts until it could satisfy the Government that it fully understood the nature of its appointments in both fact and law. You, Chief Minister, are on the public record as committing the Government to act on all of the recommendations of the coroner. What steps has the Government taken to satisfy this recommendation of the coroner?

MS CARNELL: Mr Speaker, as members would know, I announced yesterday a whole list of things that we were doing with regard to the implementation of the coroner's recommendations. They have included, of course, putting on an independent person at arms length from government to assess the approach that we have taken to ensure that it is benchmarked in every area. I am sure that at least most people, apart from those opposite, would agree that our choice in that area is beyond reproach.

I also indicated that that report would be tabled in this Assembly in the first sitting in the new year to ensure that the response that we are taking is appropriate. It is certainly true that before this Government enters into any new contracts with Project Coordination we will ensure that they do understand their responsibilities.

MR BERRY: Is it not true, Chief Minister, that you have not spoken with Project Coordination at all in relation to the coroner's report?

Ms Carnell: Personally?

Mr Humphries: Why should she?

MR SPEAKER: Order! This is question time, not a debate.

MR BERRY: Well, what direct contact has the Government or any of its agencies had with Project Coordination in the wake of the coroner's inquiry? What direct contact between the Government or its agencies has there been with Project Coordination to implement the coroner's report, or are you telling us that there has been no contact and we have done nothing?

MS CARNELL: Mr Speaker, I just cannot believe that Mr Berry believes that as Chief Minister I should be involved in contracts, in tenders.

Mr Berry: No, no, Mr Speaker. She is misrepresenting - - -

MS CARNELL: Mr Speaker, tell him to sit down and stop being - - -

MR SPEAKER: Order! It is all right. The Chief Minister fully understands the question.

MS CARNELL: He made it quite clear that he was talking initially about me personally. I would say it is totally inappropriate for me or any Minister to be involved directly with anybody who applies for a tender that is advertised under our tender guidelines across government. It would be contrary to our tender guidelines. It would be contrary to best practice. I have to say that I am sure that Mr Stanhope's committee, which is looking at contracts and tenders, would view it very, very badly if any Minister got involved in that process. On the basis that Ministers do not get involved in tender processes, it would be totally inappropriate for me to know - - -

Mr Berry: Mr Speaker, I raise a point of order. I never asked any questions about tender processes. I asked about steps the Government has taken. None, it appears.

MR SPEAKER: Mr Berry, you have asked your question. Sit down.

Mr Berry: She is not going to answer it, Ossie. Why don't you get your question in?

MR SPEAKER: Would you stop interjecting, Mr Berry.

Mr Berry: Sit down. She is not going to answer the question.

MR SPEAKER: Order!

MS CARNELL: Mr Speaker, I understand that the head of my department has met with Project Coordination to discuss the issues, so Mr Berry is wrong again.

Mr Quinlan: But not berry wrong.

MS CARNELL: Mr Speaker, are you going to just allow these people to continue to interject?

MR SPEAKER: I am amazed at the way they constantly twist and turn.

MS CARNELL: Thank you, Mr Speaker. I think the real issue here, and it must be the real issue here, is whether Ministers should get involved in these processes, and quite clearly they should not. One of the things the coroner said very definitely was that the approach that I took in not getting involved in the tender process or with people who were tendering or applying for tenders with the ACT Government was totally appropriate, and that is the approach that we will continue to take on this side of the house. We will not have direct contact with people applying for tenders. We will not get personally involved in these areas because it would be contrary to our whole approach. But, Mr Speaker, as I said, Mr Gilmour has met with Project Coordination to discuss these issues, as he should.

Former Chief Executive of Chief Minister's Department

MR OSBORNE: My question is to the Chief Minister. Chief Minister, I would like to set the scene, and you will be more than aware of the following two issues. The first is Bruce Stadium, where you set out to spend $12m and it now appears that the taxpayer will be exposed to about $40m in expenditure, or possibly more. Who can say? We also know it is beyond argument that the people in charge of this project continued to spend money without the approval of this place. Even using your measure of the issue, which I do not accept, that it was a technical oversight, I think you must agree that some fairly serious consequences have flowed from it. The second issue is the coroner's report into the hospital implosion. This said many things but I will quote just two. The first was that there were systemic failures within the ACT Public Service in managing the project and that turning the process into a public spectacle was, and I quote, "a total abrogation of responsibility to the safety and wellbeing of the general Canberra community". Now, Chief Minister, I would like to read something from the *Canberra Times* by the former head of the ACT Public Service, Mr John Walker. He said:

> The purpose of good management in the public sector needs to be the improvement of the welfare of the people.

Mr Walker said that when he was awarded an AM in the Queen's Birthday Honours List for - wait for it - his role in introducing administrative reforms to the ACT Public Service. My question is this: Chief Minister, given all the evidence, will you now ask Mr Walker to return the award?

MS CARNELL: Mr Speaker, I think Mr Walker and, I have to say, all of our senior public servants have done an absolutely wonderful job in improving the way that our Public Service works - the whole structural reform. It is interesting that, in respect of Australian honours, it is not this Assembly or any member of this place who assesses the applications. Mr Speaker, you know this.

Mr Stanhope: Who nominated him?

MS CARNELL: One nomination does not produce an award, Mr Speaker. You need to have a large number of people backing up that award. Many, many people are approached and asked for their opinions. Most people who are put forward for awards are not successful. In fact, almost all of them are unsuccessful. The fact that Mr Walker's application, that was backed up by a large number of people, including me, not just in the ACT Government - - -

Mr Quinlan: Spontaneously.

MR SPEAKER: Order! Members of the Opposition, if they keep interjecting, may achieve an award which they do not really want.

MS CARNELL: Mr Walker's award, as I understand it, was backed up by not just people in the ACT Public Service but people in the Commonwealth and people in New South Wales. It was then put to a committee that has one representative from the ACT, as it has one representative from every State, and a large number of other people who assessed whether they believed Mr Walker's contribution to the improvement of the ACT Public Service, to the improvement of our public administration generally, stood up to the test. And guess what, Mr Speaker? They believed it did.

I think it is pretty ordinary for members in this Assembly, who honestly do not see or are not in a position to look at public administration at a macro level right across all States and the Federal Government, as this committee is, to suggest that Mr Walker's award was not appropriate. I have to say I am extraordinarily sick of public servants being criticised in this way.

Mr Stanhope: Well, what did you do yesterday? You blamed them for everything.

MR SPEAKER: Order! Silence!

MS CARNELL: Mr Speaker, I am surprised that Mr Osborne would sink to the same levels as those opposite. Our Public Service has done an extraordinary job since self-government. I am not just talking about since we have been in power. Mr Humphries would know, and Mr Kaine should know, that from 1989 they took over a system that was basically a Commonwealth system that had no obvious roots. It was not a system that was appropriate for a little jurisdiction like ours. Over 10 years, and that is not very long, they have got to a stage where they win national awards regularly for public administration, for financial management, for - - -

Mr Osborne: I take a point of order, Mr Speaker. I was only after a yes or no.

MR SPEAKER: Yes, I thought so too.

MS CARNELL: Mr Speaker, that is not what Mr Osborne is going to get. They win national awards for their annual reports. For a whole list of other things they have won national awards, beating other public services. I think that is pretty stunning and I am proud of them.

MR SPEAKER: Mr Osborne, do you have a supplementary question? Ignore the tempter beside you.

MR OSBORNE: I just had suggestion from Mr Kaine. My supplementary question should be: "Did you nominate, Mr Walker", but I will not ask that. I can only ask what I said in my point of order. Was that a yes or a no, Chief Minister? There is one final point. You always say that your Government and its financial system are based on outputs and outcomes, and I put it to you that in relation to these two issues Mr Walker's output is an obvious and spectacular failure. I ask again, Chief Minister: Will you ask him to hand back his award, or will you raise it with the committee and ask them to reconsider their awarding of the award to Mr Walker?

MR SPEAKER: Chief Minister, a question fully answered cannot be renewed.

MS CARNELL: I agree, Mr Speaker, but I would like to fully answer it again. To suggest that Mr Walker's output was anything less than very, very good is simply ridiculous, Mr Speaker.

Mr Osborne: I raise a point of order, Mr Speaker. I was quite specific on what I was talking about.

MS CARNELL: It is all right. I can answer the question the way I want to. Obviously I will not be asking the committee to look at its recommendation again, but, Mr Speaker, that does not stop Mr Osborne from doing that. Those awards do not come from me. They come from the community generally. So if Mr Kaine, who I suspect just said that, or Mr Osborne would like to suggest to the committee that they have another look at Mr Walker's recommendation, go for it. It will make you look like fools, but go for it.

Proposed Williamsdale Quarry

MR HIRD: Mr Speaker, talking about awards, I would like to see SO 202 used on those blokes opposite on a regular basis. They deserve that type of award, Mr Speaker.

MR SPEAKER: Come to a question, please.

MR HIRD: My question is to the Treasurer, Mr Humphries, in his capacity as a voting shareholder of Totalcare. Is the Treasurer aware of the demands by the Leader of the Opposition, Mr Stanhope, that the Chief Minister should give, and I quote, "A speedy go-ahead to a proposed new quarry to be operated by Totalcare at Williamsdale"? Can the Treasurer explain why the Government has not yet given approval to this project?

Mr Stanhope: Read the rest of it, Harold. Come on. We expect more of you.

MR SPEAKER: Just a moment. He is asking a question of the Treasurer.

Mr Hird: I am asking the question. I was interested.

MR HUMPHRIES: Mr Speaker, I have seen Mr Stanhope's press release.

MR SPEAKER: Ah, there is a media release then?

MR HUMPHRIES: Yes, there is, Mr Speaker.

MR SPEAKER: Very well.

MR HUMPHRIES: It urges the Government to proceed with this project with all due haste. I quote:

> Delays only put more pressure on jobs which might have to go because of the reviews of TotalCare businesses which are underway … The Government could end a lot of uncertainty by simply giving the go-ahead.

Simply giving the go-ahead, Mr Speaker.

Mr Stanhope: Subject to the outcomes of the business plan. Read that bit too.

MR HUMPHRIES: I am sorry; my copy seems to have lost those words from the end of that sentence, Mr Stanhope.

Mr Stanhope: They are not in that sentence. They are higher up.

MR HUMPHRIES: I do not know what happened to them. Perhaps my printer failed at that instant as the sentence got to the end and accidentally printed a full stop at the end of "go-ahead" by mistake.

Mr Speaker, I think it is important for members to be aware of the process to be used here. There is indeed, to use Mr Stanhope's favourite phrase, a process at work here. That process involves the agreement by the board of Totalcare to the proposal and then approval by the voting shareholders, Mrs Carnell and I. Members may not be aware that Totalcare has commissioned an independent due diligence investigation of the business case for establishing this quarry in the Yarrowlumla Shire in New South Wales. While this thorough and appropriate process goes on, Mr Speaker - that report has not been provided yet by the consultants - we have Mr Stanhope's press release. "TotalCare quarry plans should go ahead", urges Mr Stanhope.

Mr Speaker, as I said earlier, not only has the board of Totalcare yet to agree to this proposal but it is still awaiting the final report of the due diligence investigation. There are a number of important issues contained in that investigation which have yet to be put on the table for Totalcare to look at, much less for the voting shareholders to look at. They are things like market demand, sales revenue and, of course, very importantly, in light of yesterday's debate, risk management. Mr Speaker, that has to stop Mr Stanhope from going to the media and saying, "Forget about the process. We do not need a process here. Just do it. Just go ahead and give this proposal the big tick".

I quote again from Mr Stanhope:

The Government could end a lot of uncertainty by simply giving the go-ahead.

Simply giving it the go-ahead, Mr Speaker. What he has done is suggest that the quarry should be approved before there has been a proper business evaluation of that proposal or a risk assessment for that proposal, and we should give it the nod before the voting shareholders have seen the feasibility study or had the opportunity to take advice from public servants about the appropriateness of this arrangement. Obviously Mr Stanhope has assessed all these risks already and has decided that we should go straight ahead.

Now, have we forgotten that taxpayers' money is tied up in these proposals and it is incumbent on the Government not to make these decisions without the proper process? Mr Stanhope says, "Forget about the process. It is not important. It does not matter. Just go straight ahead". This is the person who talked yesterday about the can-do Chief Minister, about just getting on with it, about just doing things and forgetting about the consequences.

Mr Berry: Yes, why this break with tradition?

Mr Hird: Mr Speaker, I cannot hear.

MR SPEAKER: No, and if I cannot hear I will have to ask the Treasurer to repeat the answer in full.

MR HUMPHRIES: He is the same politician who is chairing a committee of this Assembly looking at contracts

Mr Moore: Well, on occasions.

MR HUMPHRIES: Well, on occasions, indeed. That committee is supposed to be examining whether, in respect of the letting of contracts by this Government, proper processes have been used. Now, what does Mr Stanhope think proper process is all about? Is it just giving the go-ahead to a proposal because some people march through the door, probably from the trade union movement, and say, "We like this idea. Give it the tick now. Do not wait. Just go", or is it waiting for a business case to be finished, for there to be a risk assessment, for there to be a report by a probity adviser, for it all to come back to the Government to be put on the table and for the voting shareholders, using due process, to make a decision? Which is the appropriate process, Mr Stanhope?

Of course, Mr Speaker, we have had these contradictory messages from the Labor Party week after week after week. We heard yesterday, for example, in respect of Mr Moore's portfolio, that the details of contract letting by this Government must be conducted at arms length from government. But when Mr Moore, at arms length, presides over a process which awards the contract as project manager to Project Coordination for the hospice, before the coroner reported, the Government is criticised. "You should have interfered", they say.

Mr Stanhope: You had not read the Nash submission, Chief Minister. Did the Government have it, Chief Minister? The Government didn't have it?

Mr Hird: Mr Speaker, I can't hear this.

MR SPEAKER: Silence! You will have the chance to speak later if you wish.

MR HUMPHRIES: Mr Speaker, I think people are entitled - - -

Mr Stanhope: Say it, Chief Minister.

Mr Berry: On the record.

Ms Carnell: I don't know what he is talking about.

MR HUMPHRIES: Mr Speaker, I appeal for your assistance in finishing this answer. Mr Speaker, what is the rule? Is it arms length or is it not?

Mr Stanhope: It is arms length. It is just that you have got very short arms.

MR HUMPHRIES: Well, in that case, if it is arms length, how is Mr Moore supposed to have intervened in a process which awarded, at arms length, Project Coordination the contract for the hospice? How is that supposed to have happened? What is the basis of your press release saying Mr Moore should have interfered? Why, on the one hand, do we have the Labor Party attacking the Government for failing to bring forward legislation to restructure WorkCover before the coroner's report had come down, and on the other hand, when we came forward early with changes to the demolition code of practice, we were accused of having acted in pre-emption of the coroner's findings?

What is the answer? We go too fast or we go too slow. You should not pre-empt, or you should have moved before now. What exactly are we supposed to do? "You should proceed with a quarry deal. Forget about the business plan", or, "No, you should not. You should wait. You should do this at arms length. You should wait for the due process to be observed". Mr Speaker, we do not know, and no independent observer of this process could possibly know. No-one could possibly know.

What we do know, Mr Speaker, is that Mr Stanhope is interested in due process and sounding very solemn about how things should be done properly when it suits him, and at other times all that can go out the window if it suits his purpose. Mr Stanhope has an opportunity later today in the adjournment debate to clarify all of this. When is the Government supposed to move early on these things and when is it supposed to hang back? When is it supposed to pre - empt findings and when is it not? When is it supposed to override due process and when is it not? I look forward to that interesting answer, Mr Speaker. The fact is that Mr Stanhope loves to use the word "process" but not to observe it when the crunch comes when he has got something he wants to get yesterday.

Mr Berry: Well, you can still have a holiday on New Year's Eve, Gary.

MR SPEAKER: You will have a holiday very quickly if you are not careful.

MR HIRD: I ask the Treasurer would he mind tabling the press release that he referred to, and could he have it incorporated in *Hansard*, sir?

MR HUMPHRIES: I am happy to do so, Mr Speaker. I seek leave to have it incorporated in *Hansard*.

Leave granted.

The press release read as follows:

Totalcare Quarry Plans
Should Go Ahead

Jon Stanhope – Leader of the Opposition

Media Statement - 22 November 1999

The ACT Government should give a speedy go-ahead for Totalcare's proposed new quarry at Williamsdale, Opposition Leader, Jon Stanhope, said today.

Mr Stanhope said the new quarry operations would give Totalcare an opportunity to build its business and save jobs that were potentially under threat.

"The quarry has conditional planning approval from Yarrowlumla Shire, and I understand a feasibility study undertaken by Totalcare also gives it the green light," he said.

"Delays only put more pressure on jobs which might have to go because of the reviews of Totalcare businesses which are underway.

"Already up to 50 jobs have been identified in cuts at Totalcare's vehicle and plant hire business.

"The Government could end a lot of uncertainty by simply giving the go-ahead.

"It would also give a sign of confidence to the Totalcare workforce who, with their unions, have been working with management to make sure the corporatised businesses can stay viable.

"In the main, these are long-term Government employees. They deserve some recognition for their hard work and commitment, and for being prepared to help work through the issues facing Totalcare.

"They're not hiding their heads in the sand. They want to help secure a future for the business, and themselves.

"The quarry presents a good opportunity, particularly with the prospect of the Very Fast Train project getting underway in the foreseeable future.

"The VFT has almost worked through the proving up stage and a definitive commitment from government is not too far away.

"It's one step closer to starting. If it goes ahead it will require an enormous amount of aggregate to support trackworks between Canberra and Goulburn.

"Totalcare's Williamsdale quarry would stand a good chance of being one of the main suppliers for that aggregate.

"That's another reason for the Government to give the go ahead," Mr Stanhope said.

Section 56, Civic - Development

MS TUCKER: My question is directed to the Treasurer, Mr Humphries, and it relates to section 56 in Civic. Minister, last week you announced that the Queensland Investment Corporation had been awarded preferred tenderer status for the development of section 56, beating two locally based rival bids. Will you be releasing the report of the assessment panel which examined the three bids and which selected QIC, and also the report of the probity adviser, given that when you were planning Minister in 1997 you released similar details of the assessment of tenders for section 41 in Manuka? I also note that at the time of this release you said in your media comments that the public release of this report, and I quote, "signified the Government's absolute commitment to public consultation and a real and genuinely accountable decision-making process". Does this commitment still apply to section 56?

MR HUMPHRIES: Mr Speaker, I thank Ms Tucker for that question. The Government's view about process here is that the process that we have outlined already publicly should be followed with respect to section 56. What we did in August of last year was to initiate a process that sought expressions of interest first of all in the development of section 56 and part of section 35, and that was a two-stage process. Following an evaluation of the expressions of interest, it was announced in December of last year that there were three consortia who were being asked to submit a detailed submission as part of a select tender process.

Those tenders have now been assessed. As a result, Queensland Investment Corporation has been selected as the preferred tenderer and it has that preferred tenderer status while further work continues on the firming up of its bid and the assessment of whether its proposals meet a number of criteria which have already been tabled in this place, such as, how much would be paid by way of a premium for the right to develop the section 56

site. It does not mean that it is necessarily the body that will absolutely and certainly proceed to develop section 56 and part of section 35; it simply means that they are the people who are preferred at this stage to conduct that work if they satisfy the requirements in due course.

That evaluation process was oversighted by a probity adviser who has confirmed that it has been conducted in a fair and equitable manner. There will be opportunities for further community consultation, of course, on the preliminary assessment which must occur, and there is also the very major task of a variation to the Territory Plan which will also involve further community consultation.

Mr Speaker, I have given undertakings to other parties, the unsuccessful consortia in this process, that we would release as much information as we could on the decision-making process in this matter so that people can see the reasons why that process was pursued - at some distance from the Government, I might say - and that it was conducted properly, and the reasons why this particular bid has been preferred over the over two bids.

The amount of information which will come out of that process depends very much on what is commercially confidential about the bids that have been made, but we have warned the parties concerned that we want to put as much information on the table as possible to ensure that there is public understanding of the way in which this process has been pursued. On that basis, I will be providing information at the end of the process - bear in mind it is not finished yet - where we decide on whom will be the actual developer of that site, at the end of the preferred tenderer phase, to satisfy the community, I hope, that this has been a proper process and that the best bid won on the day.

MS TUCKER: I have a supplementary question, Mr Speaker. Well, the answer seems to be a qualified yes, Minister, if I understood what you have said. You are going to release information, although there seemed to be more parameters around what that information will be. I would be interested to know how that actually compares with the information that you released in respect of the Manuka bid.

MR HUMPHRIES: Mr Speaker, I think it is a different process from the Manuka process. In the Manuka process, for example, I promised to publish details, and did in fact publish details, about each of the bids in a very public way before they were actually considered by the Government. They were displayed, for example, in public places. I think on this occasion there has also been public display of the three consortia and their proposals.

I think we also agreed in advance to publish a report commissioned by the working party within the Government which was considering and assessing the bids, and we in fact did so at the end of that section 41 process. We have not pursued the same process in respect of this matter, but it is possible that much the same information will nonetheless be placed on the public record at the end of this process, depending on the result at the end of that process.

New Year Festivities

MR HARGREAVES: Mr Speaker, my question is directed to the Minister for Urban Services. Last month, on 13 October actually, the Minister confirmed that the contract let by the Government to manage the New Year's Eve festivities in Canberra required the contractor to raise at least $250,000 in corporate sponsorship to supplement government funding. Does the Minister agree that the likelihood of that $250,000 corporate sponsorship being available from the marketplace between the award of the event management contract and the end of the year is in fact very small?

MR SMYTH: Mr Speaker, my understanding is that the department continues to negotiate. We have some sponsors and I would hope that we reach that total.

MR HARGREAVES: I have a supplementary question. I think Mr Smyth answered a question but it was not the one that I asked.

Mr Humphries: I think he did.

MR HARGREAVES: He did not, you deaf person.

MR SPEAKER: Come along. Order! Get on with it.

MR HARGREAVES: Mr Speaker, the supplementary question is this: What strategic plan has the contractor developed to - - -

Mr Hird: Johnno, you can do better than that.

MR HARGREAVES: May I start again, with your indulgence, Mr Speaker?

MR SPEAKER: You may.

MR HARGREAVES: Thank you. What strategic plan has the contractor developed to raise the sponsorship dollars, and what success has the company achieved against that plan to date? Will the Minister table the sponsorship plan? What will be the effect on the New Year's Eve event if the company fails to raise the sponsorship? What will Canberrans miss out on, or what will they pay for out of the public purse?

Mr Humphries: It is a hypothetical question, Mr Speaker.

MR SPEAKER: The last part of the question is hypothetical, but you can answer the rest.

MR SMYTH: It is curious, Mr Speaker. In the first part of the question he suggests we have not got a hope of raising any money, and in the second part he does not actually ask, "Oh, but how much have you raised so far?". It is curious, Mr Speaker. It is the same approach that those opposite always take to anything that they do not like. They open their question with a preamble that puts forward something that is not necessarily true. Then you might search for a few facts in the second question.

Mr Speaker, the event will go ahead. The event will be a big success. The plans for it will unfold. It will give Canberrans the chance to celebrate the new year in quite a spectacular fashion, and I look forward to it occurring.

Funding for the Arts - Effect of the GST

MR WOOD: Mr Speaker, my question is to the Chief Minister as Minister for the arts. Chief Minister, you would be aware of concerns in the arts community about the impact of the GST on their activity as it depends on grants distributed through ACT arts funding programs. Is it the case that grants distributed through the Australia Council will be increased to compensate for the GST? If that is the case, what consideration has been given within the ACT to these issues, and are you able to assure ACT arts groups that they would not suffer through the GST?

MS CARNELL: Mr Speaker, it is certainly our intention to minimise any impact that the GST would have on any of our grants recipients, including the arts, basically because it is money that is flowing in a cyclic way through the system. Certainly, GST will be charged, but then, of course, that GST is paid back to the ACT and to other States because the money comes back to the States and to the Territories, based upon the Commonwealth Grants Commission allocations. So, on that basis, we should be getting more money, and on that basis we should be able to lift the grants to ensure that the GST impact is as little as possible, and that is certainly our intention. It would not be fair, and we do not want it to happen, if anybody suffers as a result.

The interesting thing is that it is not quite as simple, as Mr Wood would know, because the impact of the GST is very different in various areas. In some areas the input credit issues will very much balance most of the GST impact. In other areas it will not, because they are areas that do not have a wholesale sales tax impact on their particular product or services now. So, in some areas, it will be pretty close to 10 per cent and in some cases it will be much less, but it is our intention to ensure we minimise any impact.

MR WOOD: Thank you. When do you think it might be possible to advise ACT arts bodies about circumstances here? Secondly, is there a time delay here? The money comes back after you make the grants, so is that a difficulty for you?

MS CARNELL: Mr Wood actually asks a really sensible question.

Mr Humphries: What has gone wrong?

MS CARNELL: Mr Wood actually often does; it just does not flow to many of his colleagues, I have to say. Mr Wood, this is not just a problem with the grants. It is an issue that I am sure Mr Humphries is spending a fair amount of time on right now. There really are some quite significant upfront costs to the States and Territories with regard to the GST which flow back at some time in the future.

What we are doing at the moment is negotiating with the Federal Government to ensure that that does not happen; to ensure that the financial grants that come to the States and Territories are adequate to be able to handle those upfront costs. But, as we all know,

negotiations with the Commonwealth tend to take a little bit of time, particularly in an area where the Commonwealth has still to determine just what the GST impact will be at government level. They have spent lots of time, and rightly so, assessing the issues with regard to business and small business and the community generally. We are now addressing the issues with regard to government service delivery grants and other areas.

We will certainly keep you informed, Mr Wood, because you have indicated an interest in the area, and we will make sure that the arts community is aware that we certainly have no intention of causing them a significant problem in the short term.

Public Servants - Appearances before Committees

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Will the Chief Minister confirm that the reason she refused permission recently for public servants to appear before a public hearing of the Select Committee on Government Contracting and Procurement Processes was that she had advice that the Auditor-General thought it would be inappropriate? On what basis did the head of her department, Mr Gilmour, approach the Auditor-General for advice on this matter?

MS CARNELL: Mr Speaker, I think I have answered this question lots of times before, but maybe not in this place. I was advised by my department that it would be inappropriate or undesirable, shall we say, for departmental people to appear before the particular committee involved while the Auditor-General was looking at the issue of Bruce Stadium. There are two reasons for that. One is that, as members would be aware, a huge amount of public sector time is going into making sure that the Auditor-General has all of the information that he and his team want, and we should not underestimate just how much that involves. Also, Mr Speaker, the issue here was why you would have a parallel inquiry, the Auditor-General doing an inquiry and an Assembly committee doing what appeared to be a fairly similar inquiry at the same time, and how you would justify that level of inquiry.

What happens if you have two totally different outcomes? It is true that an Assembly committee will end up, as appropriate, with the outcome of the Auditor-General's inquiry, at which stage it will investigate or have a look at that document. As that particular document would normally go, I suspect, to Mr Quinlan's committee, we then could have the situation where we would have Mr Stanhope's committee looking at the same issue, the Auditor-General's inquiry, and then another Assembly committee looking at it as well. That seemed to me to be a bit illogical, and the advice from my department was that it was illogical.

I then said to the head of my department, "Well, what we need to do here is assess what the view of the Auditor-General would be on this and also the view of Mr Osborne, as that sort of matters a bit in this place, on the approach that we are taking". Mr Gilmour did both of those things and my understanding is that both of those people said they understood the position that the Government was taking in this area and did not oppose it.

Mr Corbell: Ha, ha! Oh, gee, Mr Speaker.

Mr Kaine: Oh, dear; oh, dear. How long is your nose growing?

MS CARNELL: It's true.

MR CORBELL: Mr Speaker, I think we will let that answer speak for itself. My supplementary question is this: Given the Auditor's public comments that he had not offered any such advice - that is, he did not indicate in any way that public servants should not appear - can the Chief Minister say who is correct, the Auditor or the head of her department?

MS CARNELL: No, I cannot. I cannot. How could I?

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

PERSONAL EXPLANATIONS

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

Leave granted.

MR OSBORNE: The one point that the Chief Minister did leave out in her answer to that question was that I made it very clear to Mr Gilmour at the time that the proper process was to write to the committee and for the committee to make the decision. Mr Speaker, I do not think that Mr Stanhope, you or I had a problem with the letter that we received, bar the last sentence where the Chief Minister made the decision. I made it clear to Mr Gilmour at the time that the proper process was to write to the committee. I had no problem with what they were arguing, but the decision had to be made by the committee, not by the Government.

MS CARNELL (Chief Minister): Mr Speaker, I seek leave to make a personal explanation, too.

Leave granted.

MS CARNELL: I do not disagree with that. I did write to the committee. The fact is that Mr Stanhope then unilaterally gave my letter to the media.

PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS
Papers and Ministerial Statement

MS CARNELL (Chief Minister): Mr Speaker, I present for the information of members, and pursuant to sections 31A and 79 of the Public Sector Management Act 1994, a copy of a long-term contract made with Edward Rayment and a Schedule D variation made with Desmond McKee. Mr Speaker, I ask for leave to make a short statement in relation to these contracts.

Leave granted.

MS CARNELL: As always, I ask members to respect the confidentiality of the information in these documents. I would like to thank members for respecting that confidentiality in the past.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 1 of 1999 – Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.28): Mr Speaker, for the information of members, I present the Government's response to Report No. 21 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 1, 1999 - Stamp duty on motor vehicle registrations". The report was presented to the Assembly on 26 August 1999. I move:

> That the Assembly takes note of the paper.

I am pleased to present this report in response to the Standing Committee for the Chief Minister's Portfolio report. The Auditor-General, in his report of 25 March 1999, concluded that there were inadequate procedures and controls to provide reasonable assurance that the correct duty is fully imposed on the registration of new and used vehicles. The Auditor-General estimated a resulting tax loss of up to $500,000 per annum. The report specifically criticised the lack of procedures and controls at the point of registration and the limited compliance activities.

The Government's submission to the standing committee in May 1999 recognised the need for greater procedures and controls upon registration and for the compliance program to be formalised in greater detail. The Government did, however, submit that the compliance procedures were adequate and disagreed with the Auditor-General's estimates of the potential revenue loss. The review by the standing committee recommended to the Assembly that the Government confirm that the new procedures and controls are in place and provide details of the compliance program resulting from the suggestion contained in the Auditor-General's report.

Mr Speaker, in consultation with Road User Services, Department of Urban Services, new procedures and controls have been implemented on the registration of vehicles. These procedures and controls include: Distribution by the Department of Urban Services of information pamphlets and informing customers at the point of registration of their responsibility to declare the correct value of their vehicles for tax purposes; the provision by the Department of Urban Services to the Commissioner for ACT Revenue of a monthly report of all transactions, with the department also informing the commissioner of transactions that appear suspicious and not within reasonable values; the amendment by the Department of Urban Services of the application for transfer of registration form to include a section for the previous owner to include the sale price,

with the former owner also being required to attest to the purchase on the part of the transfer form lodged by the new owner; and the maintenance by the Department of Urban Services of current procedures and controls.

The Auditor-General has advised that these procedures and controls will result in a much better situation than existed before the audit and greatly reduce the need for the previous almost complete reliance on the Department of Treasury and Infrastructure's compliance activities. In accordance with the suggestion of the Auditor-General, the Department of Treasury and Infrastructure is in the process of developing compliance procedures and targets in greater detail with respect to motor vehicles. However, because of the highly sensitive nature of the compliance program, the Government does not propose to provide details thereof to the Assembly. Public knowledge of the program could enable taxpayers to tailor their operations and self-assessment of taxes to minimise or avoid taxes. As an alternative, and consistent with the comments of the standing committee in its review, the Government proposes to make the program available to the Auditor-General upon completion.

In general terms, the compliance program will take into account the following: Matters drawn to the attention of the Department of Treasury and Infrastructure through internal and external sources; random selection of registrations over a number of categories of vehicle registrations; review of values declared in respect of registrations selected, to determine the number and extent of undervaluations; extrapolation of figures to estimate potential revenue losses over the year, registration categories to be targeted and resources required to minimise and recover the losses; and structuring the education program to target anomalies and common errors arising from the sample, changes to legislation and policy and ad hoc issues arising during the year.

As with other taxes, to determine the appropriate level of compliance activity, the Department of Treasury and Infrastructure will continue to take into account resources available, cost effectiveness and success factors of litigation. Mr Speaker, the Government believes that the procedures and controls introduced at the point of registration and the compliance program currently being formalised in greater detail will address the concerns of the Auditor-General and the issues resulting from the review by the standing committee.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Report on Victims of Crime (Financial Assistance) (Amendment) Bill 1998 - Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.33): For the information of members, I present the Government's response to Report No. 2 of the Standing Committee on Justice and Community Safety, entitled "Victims of Crime (Financial Assistance) (Amendment) Bill 1998". The report was presented to the Assembly on 30 June 1999. I move:

That the Assembly takes note of the paper.

Mr Speaker, I indicated to members at the government business meeting the other day that the report had already been tabled. I regret that error. That, in fact, is happening now.

Compiling a government response to this report has been a very difficult task, because the recommendations are complex and numerous. In compiling a response, I have asked my officers to work hard to achieve agreement with as many of the recommendations as possible; but agreement with all of the recommendations would, frankly, cost taxpayers in this community millions upon millions of dollars.

Criminal injuries compensation schemes are created by legislation and are essentially welfare measures. Unlike workers compensation or accident compensation schemes, they are not a statutory embodiment of previously existing rights to damages. Criminal injuries compensation schemes are a relatively recent invention which some commentators regard as primarily an attempt to mollify victims' rights activists alienated by the treatment of victims in the criminal justice system.

The Government's two submissions to the committee's inquiry reported that the efficacy of such schemes to address victims' concerns in any meaningful way has been challenged by both victimologists and victims themselves.

Despite the origins of the current scheme as a welfare measure, the courts in the ACT have applied the common law tort scale to awards of criminal injuries compensation. As the discussion paper released by my department in 1997 noted, the adoption of the tort scale has effectively transferred to the Territory the liability of any offender as the defendant in a civil action for damages without conferring on the Territory the rights that such a defendant would have in the litigation, such as the right to compel a medico-legal examination of the claimant or to demand better particulars of the claim. The result has been that the criminal injuries compensation scheme has lost its character as a welfare measure by government and now costs far more than was originally anticipated.

Despite the ACT's comparatively low crime rate, the ACT scheme is the second most expensive scheme per capita in Australia and has the second highest average award at $13,333 per claimant. The ACT's per capita expenditure and average award size is exceeded only by New South Wales. However, New South Wales has a far higher rate of serious violent crime than the ACT and its expenditure is expected to decrease as that State completes the transition from its 1997 legislation to its 1996 legislation.

It was interesting to read in last Sunday's *Sun-Herald* that a New South Wales parliamentary committee chaired by Labor MP Tony Stewart is calling for urgent reform of the State's CIC scheme. Mr Stewart was quoted as saying:

> We need to get back to the real needs of genuine victims rather than just throwing money at them.
>
> Some people might be better served with counselling and support services than a big payout.

I have to say to that, "Hear, hear!". I could almost accuse Mr Stewart of plagiarism, so close are his words to my own on this subject. I have no doubt that, if Mr Stanhope became the ACT Attorney-General, he would quickly look at the ACT budget position of this scheme and come to the same conclusion - a conclusion, I might say, that my predecessor, Mr Connolly, also had some sympathy with.

Statistics provided by the Territory's courts show that the number of applications lodged each year in the ACT is continuing to grow, despite a relatively stable crime rate and population size. It may be that the recent increase in the take-up rate has been caused by a growing awareness in the comparatively centralised and well-educated ACT community of the existence of the scheme, coupled with the more effective marketing of legal services in recent years following changes to advertising practices by law firms.

Another factor which may explain the high and increasing take-up rate is the relative ease with which applications can be lodged and determined. The courts have no capacity to award costs against unsuccessful applications, which means that applicants have little to lose and much to gain by lodging applications.

Submissions on the ACT's discussion paper from the Victims of Crime Coordinator and community-based victim support groups emphasised the need for a more comprehensive review of the way in which government assists victims of crime, with a view to developing a scheme that addressed a wider range of victim needs. In response to the concerns raised during the consultation process, an independent victims support working party was convened by the Victims of Crime Coordinator in October 1997.

The primary function of the working party was to examine the options for comprehensive reform of government assistance to victims. The working party included representatives from community-based victim support groups, such as the Victims of Crime Assistance League, VOCAL, the Canberra Rape Crisis Centre, the National Association for Loss and Grief and the Domestic Violence Crisis Service as well as representatives from government agencies and departments. The working party was convened to examine whether existing government measures for victim support do, in fact, address victims' needs effectively and involved consideration and discussion as to what those needs are and how they could best be met.

The Government welcomed the underlying philosophy of the working party's report of moving away from purely financial assistance to a more comprehensive response to victims' needs. This underlying philosophy is stated correctly and succinctly at page 27 of that report as follows:

> It is the view of the Working Party that the current allocation of Government and community resources to crime victims is seriously distorted and overly focused on individualised financial packages with little or no regard to whether the emotional trauma of criminal victimisation is actually alleviated. The fundamental argument of this report is that the vast majority of crime victims in the ACT are receiving no or an inadequate response to their victimisation.

Another important issue which has emerged since the committee issued its report is the recent conviction of a young man for defrauding the criminal injuries compensation scheme. The committee had proceeded on the basis that criminal injuries compensation fraud was not "a live issue" in the ACT. As the facts of the fraud case demonstrate, however, abuse of the system can occur quite easily but is very difficult to detect. In that case, a young man cut his arm severely while breaking into a high school with a friend. To conceal their criminal activity from parents and the police the two youths invented a story that the cut was sustained during an attack on them by Asian youths. The injured youth and his friend told the fabricated story to ambulance officers and the police.

The injured youth's mother mentioned the injury and the alleged attack to a solicitor when she consulted her in relation to another matter. The solicitor suggested that the youth make an application for criminal injuries compensation. The youth was unaware before this advice from the solicitor of the possibility of making an application for compensation. The solicitor and the mother were unaware that the youth was lying about the attack. The application appeared to be straightforward and disclosed no reason for not accepting the youth's version of events. The court awarded the youth $18,000.

The youth's accomplice later revealed the true story when he was being questioned by police in relation to other offences. The police charged the injured youth with vandalism and with defrauding the Territory. He pleaded guilty to the vandalism and fraud charges, and told the court that he had used the money to buy a car and to drink and smoke cannabis to his heart's content.

Mr Hargreaves: I bet he was content.

MR HUMPHRIES: Yes, I bet he was. Mr Speaker, this Bill was referred to the Standing Committee on Justice and Community Safety in December 1998. The committee released a majority report of its inquiry into the Bill on 29 June 1999. The government member of the committee, Mr Hird, issued a dissenting report. The majority report contained 24 recommendations.

In brief, the Government supports recommendations 7, 8, 9, 10(ii), 14, 18, 20, 22 and 24. The Government supports the objectives underlying recommendations 2, 3, 5, 15, 16 and 23, but considers further implementation is unnecessary because they involve actions which have already occurred, recommendation 2; the proposed legislation already achieves the recommended approach, recommendations 3, 15, 16 and 23; and the implementation of the recommendation can be achieved within existing arrangements, recommendation 5.

The Government supports recommendations 1, 10(i) and 13 in part, but considers that they would require some modifications if they were to be implemented. The Government does not support recommendations 1, 4, 6, 11, 12, 13, 17, 18, 19 and 21 on the following bases: Firstly, they are not budget neutral and would significantly add to the cost of the criminal injuries compensation scheme in the ACT. I repeat that they would significantly add to the cost of the scheme. My comments about them not being budget neutral apply to recommendations 1, 4, 6, 11, 12 and 18. Secondly, they reduce equity, efficiency or accountability in the operation of the scheme, particularly recommendations 4, 10(i), 13

and 17. The third reason for not supporting them is that they involve matters which are outside the scope of the criminal injuries scheme, particularly recommendations 19 and 21.

The committee has not indicated a view on the level of expenditure it would regard as sustainable. It is clear from the advice of my officers that the agreement by the Government with all of the committee's recommendations would add in excess of $7m to the annual cost of the criminal injuries compensation scheme in the Australian Capital Territory. Let me repeat that, Mr Speaker. The Government has brought forward a package of reforms with the stated objective of reducing the cost of the criminal injuries compensation scheme, but the advice from my department is that implementing the recommendations of this committee on those reforms not only would not achieve any of the savings, but also would actually add a total of $7m to the annual cost of the scheme. That does not include the proposal not to impose the scheme retrospectively from the date of announcement. That would be an additional cost, Mr Speaker.

The Government's position is that, having regard to the rate of crime in the ACT and its population size, an amount of between $3m and $4.5m per year would be sustainable and reasonable. A figure in this range would still represent a proportionately higher level of expenditure on victims of crime than all other Australian States and Territories except New South Wales, and even that is likely to change.

In light of this analysis by my department, I am today presenting the Government's response, but I hope that members will give some thought in the very near future to the realistic outcomes sustainable by taxpayers in the ACT. I hope that members will engage in discussion with the Government in the near future about what form the final package should take and be conscious of the fact that the cost of this scheme is spiralling heavily each year. Mr Speaker, I commend the Government's response to the Assembly.

Question resolved in the affirmative.

PUBLIC PASSENGER TRANSPORT LEGISLATION - EXPOSURE DRAFTS
Papers

MR SMYTH (Minister for Urban Services) (3.45): Mr Speaker, for the information of members, I present an exposure draft of the public passenger transport legislation, which includes a draft explanatory memorandum and a discussion paper, and I move:

> That the Assembly takes note of the papers.

Mr Speaker, current bus transport regulation is confusing, burdensome and inefficient. Private operators conduct business under different rules to public operators and there is an excess of provisions contained within the regulatory framework which are not necessary. The proposed Public Passenger Transport Bill will provide for a streamlined regulatory framework for the provision of public passenger bus services in the ACT in

one piece of legislation. The Bill covers all public passenger services using buses. It does not cover services that are not available for use by the public, such as those provided by schools using their own buses.

Developed in consultation with the industry, the Bill will introduce accreditation standards for all bus operators. Accreditation requirements will replace the current licensing arrangements. It is proposed that, where an operator is accredited with another jurisdiction, he or she be granted an equivalent accreditation in the ACT. This will reduce the regulatory burden on many operators and ensure that the scheme readily coexists with a jurisdiction such as New South Wales. The accreditation standards will ensure that the industry maintains sound commercial practices and provides high-quality services and safety standards.

To gain accreditation, operators will be required to meet standards similar to those which apply in other jurisdictions. The content of the proposed standards and regulations will be made available to the public as a discussion paper. The discussion paper proposes that the standards should require that the operators give details about maintenance facilities and maintenance programs for their vehicles. The operator will also need to monitor and record his or her employed drivers' compliance with the accreditation standards and traffic laws.

Other standards proposed in the discussion paper require operators to take reasonable steps to ensure that drivers comply with driving hour restrictions and oblige operators to make timetables and brochures publicly available. The standard also requires as a minimum the operator to maintain a telephone service between the hours of 9 and 5 on weekdays in order to answer any customer complaint, timetable inquiries and lost property inquiries. The regulations have been developed in consultation with industry and will deal with matters that ensure public safety and revenue protection for operators. For example, it will be an offence for a person to engage in offensive or threatening behaviour on a bus or to participate in fare evasion.

Under the provisions of the Bill, it will be in the discretion of the road transport authority, the registrar, to audit operators at any time to determine compliance with the accreditation requirements and to maintain service, quality and public safety. If the operator does not comply with government standards, the road transport authority has the power to suspend, cancel or vary an accreditation.

The Bill allows the Government to enter into contracts to provide regular public passenger services in the ACT. These contracts will be for route services which pick up and set down passengers in the ACT, such as those currently provided by ACTION and Deane's Bus Lines. However, services such as charter and tourist services will not be required to sign a contract, but will be subject to accreditation standards and the regulations. The issued contracts will contain matters such as service characteristics the operator will employ, timeliness of services, special fares and insurance.

The public transport bus services provided by ACTION within the ACT have been declared a regulated industry under the Independent Pricing and Regulatory Commission Act 1997. The Independent Pricing and Regulatory Commission released its final report and price determination on 30 April 1999 for the period 1 July 1999 to 30 June 2000.

The proposed legislation will allow the Minister to determine fares within the price direction provided by IPARC. Fare concessions will, of course, continue to be provided for people on low incomes.

Mr Speaker, deregulation is one possible means of increasing competition. Indeed, it has been tried in the United Kingdom. The results, however, have been considered unsatisfactory. The United Kingdom experience with a deregulated bus market has been that it has led to a decline in market responsiveness, instability and an overall decline in the efficiency of services. In contrast, bus operators on ACT government contracts will be required to meet minimum service levels, including late night and weekend services. The contract will allow this balance to be maintained in the best interests of the consumer.

The Public Transport Passenger Bill contains the most significant changes to passenger transport services for many years and provides the framework for the continued development of the industry. After presentation in the Assembly, the Bill will be open to public comment for six weeks so that all views can be received and considered in relation to the new scheme.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Report on Restricted Taxi (Multicab) Plates – Government Response

MR SMYTH (Minister for Urban Services) (3.51): For the information of members, I present the Government's response to Report No. 28 of the Standing Committee on Urban Services, entitled "The need to increase the number of restricted taxi (multicab) plates". The report was presented to the Assembly on 24 August 1999. I move:

> That the Assembly takes note of the paper.

I thank the Standing Committee on Urban Services and its chairman, Mr Hird, for the detailed report on its inquiry into the provision of wheelchair-accessible taxis in the ACT. The inquiry has provided people with disabilities, their carers and other members of the taxi industry with the opportunity to express their views on providing suitable taxi services in the ACT for people with disabilities.

The report recommends, amongst other things, that the number of wheelchair-accessible taxis be increased immediately by 10. The last wheelchair-accessible taxi plate was issued in 1994 and, compared with other jurisdictions, the percentage of the ACT taxi fleet that is wheelchair accessible is very low. It is 3 per cent in the ACT compared with around 10 per cent in most jurisdictions. Because there are only six wheelchair-accessible taxis in the ACT, people with disabilities have to wait longer for a cab than those in the general community. This is unacceptable to the Government. We therefore join with the taxi industry, people with disabilities and their carers in supporting the recommendation for the immediate issuing of 10 additional wheelchair-accessible taxi plates.

I note that the committee has been unable to ascertain how many Canberra people require wheelchair-accessible transport and has proposed that an objective for 10 per cent of the taxi fleet to be accessible initially be set. Further plates would be issued following an assessment of equivalent access to taxi services in terms of waiting times. The Government is committed to ensuring that within five years there is parity in the waiting time for wheelchair-accessible taxis and a standard taxi. Accordingly, we plan to progressively issue additional taxi plates until parity is achieved.

It is important to note, Mr Speaker, that the recommendations made in the report are consistent with the intentions of the draft Australian accessible public transport standards. These standards are directed towards ensuring that people with disabilities will have the same access to public transport services throughout Australia as people who do not have disabilities. In the case of taxi services, the standards provide that equivalent access is to be achieved within five years.

The Government agrees with the committee's recommendation that the plates be issued by way of a non-transferable six-year licence. The leasing of taxi plates is common in other jurisdictions. Leasing does away with the high price of plates sold through the auction system, a practice which is a barrier to entry for many.

It is proposed that the annual licence fee for wheelchair-accessible taxis be set at $1,000. This fee has been established taking into account the cost of administration and regulation and the Government's desire for a strong take-up of the additional plates. In the longer term, it is proposed that the Independent Pricing and Regulatory Commission will determine the fee. As recommended by the committee, new licences are to be made available by way of ballot to individuals who are able to satisfy certain criteria. First and foremost, we want to attract operators who have a strong customer focus and who are prepared to undertake appropriate training. The Government is prepared to facilitate this training, but considers that the costs should be met by the industry.

The committee has made a number of recommendations dealing with the design, functionality and other specifications of new wheelchair-accessible taxis. The Government considers that, if specifications are overly prescriptive, this may stifle innovation and limit choice for those with disabilities. It is the Government's intention, however, that the 10 additional wheelchair-accessible cabs be able to accommodate two wheelchairs. The choice of taxi and the use of hoists, ramps and other devices will be left to operators as long as the necessary safety standards are met.

The committee has recommended that the dispatch system used to control wheelchair-accessible taxis be the same as that used to dispatch all other taxis. The Government considers that the current dispatch system provides a good service for people requiring a wheelchair-accessible taxi and should be retained. The recommended improvements to the method of recording bookings under the current dispatch system, recommendation 2, are supported. These improvements will allow for a more accurate assessment of waiting times and the need for additional wheelchair-accessible taxis.

The Government has commenced work on the development of smart card technology for application across a range of services. Once available the technology could be used for transport services including taxis, as recommended by the committee. The Government will examine the taxi subsidy scheme to ensure that it better meets the needs of users. I am pleased to report that in July of this year arrangements were made for reciprocity of taxi subsidy vouchers between the ACT and other jurisdictions. That will clearly benefit eligible ACT residents and visitors. I thank the taxi industry for its support in implementing these arrangements.

This report is yet another from the Urban Services Committee. The chairman and the other members of the committee, Mr Rugendyke and Mr Corbell, are to be congratulated on the work that they have done here. It is pleasing that there is a good way forward for those with disabilities in the ACT and that we can, indeed, move forward together to make sure that they get the sort of access to taxis that they deserve. I commend the report to the house.

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

LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION TO THE TERRITORY PLAN - HERITAGE PLACES REGISTER
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): For the information of members I present, pursuant to section 29 of the Land (Planning and Environment) Act 1991, variation No. 102 to the Territory Plan, relating to the Heritage Places Register. In accordance with the provisions of the Act, this variation is presented with the background papers, a copy of the summaries and reports and a copy of any directions or reports required. I ask for leave to make a statement.

Leave granted.

MR SMYTH: Variation No. 102 to the Territory Plan proposes to enter a further four places on the Heritage Places Register as part of the Territory Plan. The four places are: The Kingston-Griffith housing precinct; the Blandfordia 5 precinct in Griffith-Forrest-Red Hill; the Wakefield Gardens precinct in Ainslie; and the Evans Crescent housing in Griffith.

The Griffith-Kingston housing precinct clearly demonstrates the philosophy of the garden city planning which underpinned the early planning of Canberra by the Federal Capital Commission and the Department of the Interior. The clever use of strong symmetrical patterns of subdivision planning and house placement are components of the town planning approach exemplified by this precinct.

Blandfordia 5 precinct is significant as an exemplar of the early twentieth century planned garden city suburban precinct. It demonstrates how English garden city thinking was appropriated and implemented by the Federal Capital Commission and the early

planning bodies. The precinct is also significant as an illustration of early residential ideas. The precinct has direct associations with the work of Walter Burley Griffin, John Sulman, John Butters of the Federal Capital Commission, and Thomas Weston.

The Wakefield Gardens precinct is also significant as an exemplar of the early twentieth century planned garden city suburban precinct. It is also significant as an illustration of early Canberra residential ideals, combining in one subdivision residential, commercial and open space. The Beaufort steel house, within the precinct, is important as a rare prototype intended for mass production. It uses prefabricated steel construction extensively. The type is very rare and this is the only example built in the ACT. The Wakefield Gardens precinct also has direct associations with the work of Walter Burley Griffin, John Sulman, John Butters and Thomas Weston.

The Evans Crescent housing is an excellent example of the inter-war functionalist style housing which, at the time of its construction in 1940, was relatively new in Australia. This style is comparatively rare in the ACT, as are examples which are as comparatively intact.

The Standing Committee on Urban Services considered the draft variation and in Report No. 34 of November 1999 endorsed the variation. In doing so, the committee made two recommendations. The first one was:

> The committee recommends that PALM inform people who lodge submissions with it, in relation to a draft Variation to the Territory Plan which has been revised in the light of public comment, that a revised version of the document has been forwarded to the Executive (and this committee) and is available for inspection in libraries and at PALM's Shopfront.

When PALM submits a draft variation to the Executive, it is required by the Land Act to place a notice in the *Gazette* and the *Canberra Times* advertising that the documents submitted are available for inspection at libraries and at the PALM shopfront. In the past, these notices have not always indicated whether the submitted documents have been revised following public consultation. In the case of draft variation No. 102, this led to misunderstandings about the content of the documents being considered by the committee.

To avoid this issue occurring again in the future, PALM has begun including a statement in the notices advising whether the submitted variation has been revised. Where a variation has been revised, PALM is now also publishing the revised document on its Territory Plan online website as well as making it available for inspection at public libraries and the PALM shopfront, as required by the Land Act.

The second recommendation of the committee was:

> The committee recommends that the legislative provisions relating to the registration of heritage places be reviewed.

I am pleased to advise that work is already proceeding in relation to this recommendation. Earlier this year, my department completed a review of the ACT Government's heritage functions. Coming out of that process was a recommendation that the heritage provisions in the Land Act should be reviewed. That work will commence early in 2000 and will include a review of the processes relating to the registration of heritage places. I now table variation No. 102 to the Territory Plan for the Heritage Places Register.

CASINO CONTROL AMENDMENT BILL (NO 2) 1999

MR KAINE (4.02): Mr Temporary Deputy Speaker, I seek leave to present the Casino Control (Amendment) Bill 1999 and its explanatory memorandum.

Leave granted.

MR KAINE: I present the Casino Control Amendment Bill (No.2), together with its explanatory memorandum.

Title read by Clerk.

MR KAINE: I move:

> That this Bill be agreed to in principle.

This Bill will amend section 76 of the Casino Control Act by deleting the existing provision and replacing it with one which would enable the casino licensee to install, operate and control up to 200 gaming machines. Section 76 is further amended by the insertion of a provision which states that the limit of 200 gaming machines shall apply for a fixed period of 10 years from the date of commencement of the amending Act. The effect of this legislation will be to enable Casino Canberra to operate poker machines limited to a maximum number of 200 and capped at that figure for 10 years. You will also note the provision for a new part 7A dealing with the control of gaming machines in the casino.

That part of the Act is pretty much a replica of the controlled provisions in the Casino Control Act that relate to clubs and other venues. The background to this legislation is this: Members will recall that in March of this year the Select Committee on Gambling presented to the Assembly its report on the social and economic impact of gambling in the ACT. The Government presented to the Assembly its response to that report on 30 June 1999, and on 26 August 1999 the Assembly passed the Gambling and Racing Control Act 1999. The report of the select committee contained a number of recommendations relevant to this Bill.

They fall into two categories: The first category of recommendations sought to restrict the number of gaming machines by the retention of the cap of 5,200 on the number of gaming machines licensed under the Gaming Machine Act; and that access to machines not be extended beyond licensed clubs. The second category of recommendation - and

more important in the longer term - relates to the social and economic impacts of problem gambling. In its response to the committee's report, I believe the Government, clearly, took seriously the concerns of the committee. The arrangements that emerged in the Act to establish the Gambling and Racing Commission generally reflect that.

When the control board was debated in the Assembly in August, the Government agreed to amend the Bill to address some of the concerns of the committee. As well, Assembly members took the opportunity to amend further the Bill to strengthen its powers in relation to our concerns. In particular, the membership of the Gambling and Racing Commission was strengthened by ensuring that one of the members should have knowledge, experience or qualification relating to providing counselling services for problem gambling.

Outside of that, the casino has, in recent months, taken a more responsible approach in its quest to add gaming machines to the range of its legal activities. Attempts to secure gaming machines through unorthodox approaches have been replaced by a more orthodox approach, including offering a significant additional premium for the benefit of the ACT community in exchange for the benefit of having gaming machines. The casino has also acknowledged its responsibility to address problem gambling issues.

I am satisfied that the Gambling and Racing Commission will recognise our grave concerns about the adverse impact of gambling and give the highest priority to ensuring that those problems are addressed. It is also appropriate to acknowledge that Casino Canberra has recognised the effects of problem gambling, and has in place internal procedures to address them. It is also clear that the casino is well equipped to manage problem gamblers.

The Bill does not seek to alter the cap of 5,200 gaming machines currently provided for in hotels, that cap being inserted by this Assembly in the Gaming Machines Act. The number of machines provided in this current proposal to amend the Casino Control Act is reasonable and is capped for 10 years, which is a reasonable safeguard. It represents a small percentage increase in the existing number of machines in the Territory.

Members may be concerned - I know that some of our constituents might be - as to the impact this change would have on ACT residents. I have had the opportunity to study the research of Synaval Pty Ltd, the Victorian-based market research company. This research shows that the majority of visitors to the casino come from interstate or overseas, or are special occasion visitors.

Thus in my view, the introduction of machines into the casino is not expected to result in a dramatic increase in exposure of ACT citizens to such machines, or to materially affect the clientele of existing clubs and hotels. I emphasise that a major factor influencing my decision in relation to this matter was the changed attitude of Casino Canberra in relation to its rights and entitlements under its original licence and the development agreement with the ACT Government. It has been my view, as most will know, that the original licence fee entitled the casino to operate only the games provided in the agreement, and the Casino Act specifically precluded gaming machines.

Casino Canberra has now recognised that any new and additional rights such as the right to install gaming machines must be accompanied by an appropriate additional premium. Such a premium is integral to my proposal. I draw to the attention of Assembly members a thoughtful editorial in the *Canberra Times* of 10 September 1999, which deals with the issue of gaming machines. The editorial quotes the finding of the Productivity Commission inquiry into gambling suggesting that restricted gaming machine ownership was not necessarily the answer to problem gambling. The *Canberra Times* went on to say, and I quote:

> Any relaxation must be done in accordance with the broader social agenda led by a caring and clever Government -

we know we have got that -

> which seeks to limit the damage that gambling can do.

I believe that this Assembly has now set the broader social agenda which is required by that statement. The challenge for government and for us as individual members of this place is to ensure vigilant adherence to that agenda. Mr Temporary Deputy Speaker, I commend the Bill to the Assembly.

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

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999

[COGNATE BILLS:

ROAD TRANSPORT (GENERAL) BILL 1999

ROAD TRANSPORT (DRIVER LICENSING) BILL 1999

ROAD TRANSPORT (VEHICLE REGISTRATION) BILL 1999

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 1999]

Debate resumed.

MR SMYTH (Minister for Urban Services) (4.10), in reply: Mr Temporary Deputy Speaker, the Government understands that members would like to take some more time to consider these Bills. Although disappointing, it is understandable. I understand that some members did not receive my response to the scrutiny of Bills committee until today. So the scrutiny of Bills did raise a large number of concerns, although I believe they are adequately addressed. So, if it is the wish of the Assembly, the Government would support adjourning the debate at the end of the in-principle stage and bring it back in the first sitting week in December.

I would like to express thanks for what I heard around the Assembly, which was in-principle support for these reforms. This has been a much shorter process than, say, standardising the national rail reform. But it is a tremendous step forward that Australia, as a nation, would have a single set of nationally consistent road rules.

So, for the support of the principle of these Bills I would thank the Assembly. The changes in the road rules, particularly for the ACT, are minor, but important. It would be tremendous to see consistent road rules leading to a lessening of confusion interstate visitors experience when they come to Canberra. But the clarification of the requirement for giving way, keeping left unless overtaking on multi-lane roads, banning U-turns at most intersections, banning use of hand-held mobile phones while driving, giving pedestrians right of way of a vehicle on slip lanes, allowing cyclists to make right-hand turns from the left-hand lane intersection and banning skaters and skateboarders from riding on major roads are the most important and fundamental changes to the road rules.

Scrutiny of Bills brought forward a large number of concerns. Many are addressed simply by the fact that these are sections or subsections from existing legislation just brought over into the new Bill. There was some concern about what is known as the Henry VIII clause. But, to ease the committee's concern, I will bring forward an amendment inserting a two-year sunset clause, assuring that any regulations under this clause will expire within six months if they are not put into the legislation. That is an adequate timeframe, say, over a Christmas or July break that regulations we see necessary could become law as quickly as possible.

The Government's response to that report is quite detailed. Where the committee said they had concerns with the section, if it was a section that had just been brought over from existing legislation, I clearly outlined that. Much of what the committee had concern about is already in the existing Acts. So, they have been there for some time and it is clearly laid out. If members require a further briefing or more information on this, the Government would be happy to provide that.

To clarify dates, 1 December is the desired date for the start of this legislation and for the start of the national road rules. All mainland States and Territories, except WA and now the ACT, will meet that deadline. WA intends to have it by March, and Tasmania by October next year. I hope that as quickly as this has progressed through the Assembly we will be able to get it up and running, so that we are nationally consistent on the eastern seaboard of Australia.

Mr Hargreaves this morning said the start date had slipped to the end of March next year. That is not true. What needs to happen by the end of March next year will be an assessment by the National Competition Council of where all jurisdictions are going with their transport reform, of which this is clearly the substantial amount. The intended start date is 1 December. It has always been 1 December and it has not slipped.

Given that there are concerns; given that some members would like more time - although I understand that we agree on the bulk of what is in these Bills - the interesting part in the first sitting week of December will be the question of mandatory sentencing. We will sort that out then. I would like to thank members for their support to get it to this in-principle stage. That is a significant step, not only for the ACT, but also for the

nation. As I said, it is unlike the different rail gauge. Consistency in this case has been achieved in a reasonably short time. With that, I commend the Bills to the house and ask that the Assembly agree to them in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

ROAD TRANSPORT (GENERAL) BILL 1999

Debate resumed from 21 October 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

ROAD TRANSPORT (DRIVER LICENSING) BILL 1999

Debate resumed from 21 October 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

ROAD TRANSPORT (VEHICLE REGISTRATION) BILL 1999

Debate resumed from 21 October 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 1999

Debate resumed from 21 October 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

LEAVE OF ABSENCE TO MEMBER

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Temporary Deputy Speaker, I seek leave of the Assembly to move a motion concerning leave of absence for Mr Rugendyke.

Leave granted.

MR HUMPHRIES: Mr Temporary Deputy Speaker, I move:

That leave of absence for today, 25 November 1999, be given to Mr Rugendyke.

Question resolved in the affirmative.

LAND PLANNING AND ENVIRONMENT AMENDMENT BILL (NO 3) 1999

[COGNATE BILL

LANDS ACQUISITION AMENDMENT BILL 1999]

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

That this Bill be agreed to in principle.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Is it the wish of the Assembly to debate this order of the day concurrently with the Lands Acquisition Amendment Bill 1999? There being no objection, that course will be followed. I remind members that in debating order of the day No. 11 they may also address their remarks to order of the day No. 12.

MR CORBELL (4.19): Mr Temporary Deputy Speaker, the Land Planning and Environment Amendment Bill (No. 3) 1999 and the Lands Acquisition Amendment Bill 1999 are both highly significant Bills in the context of leasehold administration of rural properties in the ACT. Rural leases serve important functions for the people who work them and invest so much time in them. But they also serve important planning functions for the ACT. The metropolitan form of the national capital is defined not only by the urban and suburban areas of our city, but also by the clear interface between urban and rural areas. The planners of Canberra devised our city to sit within a typical Australian rural setting.

Policies providing for the maintenance of viable and sustainable rural properties were important in creating the context of the national capital. Mr Speaker, as Canberra developed, previous territory administrations ensured that rural leases were administered to make sure that land was managed for the purposes of a land bank. Land identified for future suburban development was given restricted tenure so that it could be withdrawn or resumed at a time required for development. This process served the city well and allowed for orderly development as Canberra grew.

However, as the final metropolitan structure of the ACT was determined, there remained many rural leases still with significant restrictions placed on them in relation to their tenure. This has created problems for rural lessees seeking to plan for the future management of their properties with significant environmental consequences. Placing long-term investment needed to address problems relating to damage to environmental rural leases has not been a viable option for a rural lessee with restricted tenure. In essence, this is what these two Bills seek to remedy. Labor supports in principle such an approach.

As a territory we will need to maintain more restricted tenure of leases for city areas still expanding, such as Gungahlin, and where in future we will need to withdraw land for urban development. But in areas where development will not be occurring - land to the

west of the Murrumbidgee River, for example - we support the proposal to offer 99-year leases to lessees. It will provide a level of tenure and security currently afforded to all who hold a residential lease. As part of this package of offering to rural lessees 99-year leases, the Government proposes a package which requires a lessee to pay out land rent and purchase all government improvements.

The Government has proposed a number of options for rural lessees to achieve this, including a full payout; a partial payout with a remainder of a 30-year period at 8 per cent; or the entire amount paid out over the 30 years. These are generous terms from the Government. After close examination, Labor is satisfied that this offer, which calculates the value of the lease not on a market value but on a dry sheep equivalent value, is an appropriate response to meet the requirements of the Territory's planning and environment policies, to ensure that our rural areas are managed in a sustainable way by lessees permitted long-term tenure.

Further, we will support government proposals in relation to a covenant on the transfer or sale of a new lease within a 10-year period, which will protect the community interest. More importantly, they will put restrictions on – indeed, stop - windfall gain. I am conscious that there are rural lessees unhappy with this approach. They believe it will result in the value of their properties being downgraded unfairly without just compensation.

We have examined this issue closely and recognise that there may be an argument on the grounds of a change to the bundle of rights associated with the new lease as opposed to the old lease. Labor cannot accept that these are grounds for not proceeding with this package. Legal advice provided to me by the Government Solicitor's office indicates that the proposals are consistent with the Australian Capital Territory (Self-Government) Act in relation to the requirement for compensation on just terms.

While some rural lessees clearly disagree with this advice, it is difficult for the Assembly to disagree with the Territory's rights to vary the terms and conditions of any new, as opposed to an, existing, lease as long as it is consistent with the requirements of the Australian Capital Territory (Self-Government) Act. Based on substantiative advice provided by the Government Solicitor's Office, we will be supporting this approach in the Assembly today.

The other important element of this package is provision of land management agreements for rural properties, which will accompany the new long-term leases issued to leaseholders. Land management agreements are a positive step in providing for appropriate development of long-term conservation and environmental management practices on rural leases. This is not to say these practices are not already implemented by most rural leaseholders. But it does formalise such arrangements. More importantly, it creates a partnership between the Territory as a lessor and the rural property owner as a lessee in managing the land sustainably and protecting areas of endangered or threatened species or endangered or threatened ecosystems.

Labor does, however, have considerable concerns about the level of financial support proposed by the Government to assist rural leaseholders in administering and implementing their land management agreements. The amount proposed in the budget,

$230,000, does not appear to be justified in any way. It does not seem to relate to any particular level of demand expected for financing for projects required under LMAs. It would be fair to say that the only way it appears to be justified is that it reflects all the Government is prepared to pay, indeed find, for this important work. Labor sought to amend the Bill, the amendment to the Land Act, to provide for the rent payouts received by the Government to be incorporated into funds available for land management agreements.

However, the constraints of the Australian Capital Territory (Self-Government) Act have meant that only the Government could legislate in such a regard. We urge the Government, therefore, to consider such a step. A number of hypothecated charges already exist in the ACT. Funding such as Labor proposes for implementation of land management agreements should be seen as a cause worthy of such a step.

Labor will also support Ms Tucker's proposal to establish a rural conservation trust. This mechanism would allow rural lessees, the Government and land conservation groups to work together on management and land management agreements and in raising funds for land management agreements and associated projects.

In the detail stage, Labor will move an amendment to provide for the trust to receive donations and other contributions as part of its fund-raising, as well as establishing a land management trust fund. I need to indicate now, however, that Labor will not be supporting Ms Tucker's proposals on public inspection of land management agreements, an increase in penalties for breaches of a land management agreement, or on proposed powers of entry and inspection. On balance these do not, we believe, add to the cooperation and goodwill needed to have these significant changes to rural leases implemented. This is not to say we would not be prepared to reconsider at a later date, should these issues need addressing.

There are a number of other issues I would like to briefly address. The first relates to appeal rights in variations to land management agreements through the Administrative Appeals Tribunal. It has been raised with me by a large number of rural lessees who have concerns that there are no appeal rights for land management in relation to agreements between the Government and the lessee. I am pleased to see that the Government, through the Minister, have circulated amendments which will provide for an appeal to the Administrative Appeals Tribunal on any variation to a land management agreement. This is a positive step and Labor will be supporting it.

The areas of Tenant and Booth relate to another dam for the ACT. This area has been broadly indicated for a long time as the site for a potential new dam to be built to satisfy the Territory's demand for water. The Government proposes to provide 99-year leases for rural leaseholders in the Tenant and Booth areas and to accommodate the demand for a potential new dam through the use of specific withdrawal clauses for the purposes of a dam - to withdraw land from those leaseholders.

Previously, leaseholders in these areas have been on a shorter tenure than many other rural leaseholders in the ACT because of the uncertainty relating to a new dam. On balance we are prepared to support the Government's approach. But I should send

a signal. We would hope that the withdrawal clauses will be rigorous and clear enough to ensure no dispute in the event of the Territory needing to withdraw land for a new dam.

An easier way to go about it is to maintain those leaseholders on a shorter lease; to have the option more available to the Government within the anticipated timeframe. I understand it is around 30 to 40 years, for the withdrawal of land for a new dam. I do accept that there are many legitimate arguments over uncertainty of tenure for rural leaseholders in the Tenant and Booth districts. We will be looking very closely to make sure that, in return for the grant of 99-year leases for leaseholders in Tenant and Booth, there will be sufficiently rigorous withdrawal clauses to protect the Territory's - indeed the community's - interest should a new dam be required at that site.

My last point is related to the issue of Tenant and Booth. That is the area of rural leases at Pialligo. This is an area where the Territory could very well in future seek to withdraw land for territory purposes beneficial to the community overall. In Pialligo it relates clearly to the development of a transport hub and the possible route of the very high speed train.

I am pleased to see that the Government has been prepared to compromise with Pialligo leaseholders on land for withdrawal from rural leases and is proposing designated areas within specified Pialligo leases where land can be withdrawn. Outside of that area, land will be acquired under the Lands Acquisition Act. This would appear to satisfy our concern that the proper planning of developments in the Territory is not hindered by problems with leasehold administration. I commend the Government for its preparedness to negotiate with Pialligo leaseholders in this regard.

These Bills are significant and will provide a range of benefits to rural leaseholders in the ACT. It is a complex process. We will deal with some of those complexities in the detail stage shortly. There will be some rural leaseholders who will be unhappy with the overall outcome of these Bills. On balance, having considered all the issues, we believe these Bills are beneficial. They will result in greater security of tenure for all rural lessees and a better process for leasehold administration in rural areas of the ACT.

MR KAINE (4.33): Mr Speaker, it is clear that the provisions of the two Bills we are debating are controversial. They affect the rights of existing lessees. I have been approached over recent months by various interests, by the Rural Lessees Association, by individual lessees and by the ACT Sustainable Rural Lands Group. They have raised material questions that the Government should not set aside lightly. We need a response from the Government on some of these points before we vote on these Bills in the in-principle stage. I have not had the opportunity to verify what is stated in the information I received only today, but it appears significant. We would want to be satisfied by the Government that these concerns have been, or will be, addressed before we vote on this legislation.

The advice comes from the ACT Sustainable Rural Lands Group. I understand it has attempted to brief the Minister on its concerns, without too much success. My understanding is that his advice to them was: "Go and get some formal legal advice on

the points that you are making". They appear to have done that. I am advised that they have obtained the best possible legal advice in Australia. I do not know the source of that advice, but the Minister, I think, should note that.

Senior rural and leasing valuation advice has also been obtained and these sources have provided consistent professional opinion confirming the worst of the lessees' concerns, reflected in three fairly short statements which I think the Minister should take careful note of. I quote from the first of those statements:

> The proposed amendments to key sections of the Land Act appropriate lessees' rights and are beyond the authority of the ACT Legislative Assembly.

As a result, the legal advice suggests the amendments would be invalid. The second point is:

> Key provisions of the existing Land Act also appropriate rights without compensation and are therefore beyond the powers of the Assembly and are invalid.

The third statement is:

> It is possible that they may also be invalid in respect of other leases of land within the ACT, including other kinds of rural leases and residential and commercial leases.

These are very significant comments. The advice also identifies invalid parts of other related Acts, which may have implications beyond the ACT. The effect, I am told, of passage of the proposed amendments would be to open the ACT community to substantial compensation claims. This might also be the case because of problems with the existing Act. My understanding is that this organisation has attempted to put this to the Minister and he has told it to go away and get legal advice. This suggests that they have now received it. That advice, if accurately conveyed in those three sections that I have just read out, raises very serious questions as to the legality of what the Government is proposing.

I do not know whether the Minister and the Government want to go ahead with this, in light of that sort of advice. But it raises very serious questions in my mind as to whether we should be enacting legislation until those issues are resolved by the Government. I have not had access to the legal advice. I have not had a chance to verify in any way how substantive it is. But if the advice to me is substantive, and it seems to be, I think it raises serious questions about what the Government is proposing to do. In fact, it raises questions about sections of the existing legislation. Perhaps before we move to a debate on this legislation, the Minister will respond to those statements as to whether he believes that they ought to be a matter for concern to the Government and this legislature or not.

MS TUCKER (4.38): A significant feature of Canberra is the closeness of the rural land around it. Some 20 per cent of the ACT is rural land. The rural land in the ACT has had a greater role than just for agricultural production. It has been used as a planning feature to provide a rural backdrop to the city. It has been used as a land bank to allow the orderly expansion of the city over time. In recent times it has become more attractive as real estate for city dwellers seeking a rural lifestyle.

Some of the land contains remnant woodland and grassland that has become endangered and needs to be protected for the benefit of future generations. Because of past land management practices, some of this land has degraded in ways that are impacting negatively not just on its productive capacity, but also on surrounding environments. That needs to be reversed.

Difficult and often conflicting demands have led to much insecurity on the part of rural leaseholders over years. These issues came to a head in 1996 when the Government commissioned a task force to develop a new rural policy. The task force reported in mid-1997. There was a range of recommendations from that task force that have been incorporated into the Bill before the Assembly today. While the Greens have objected to some of the Government's responses to the task force report, such as its promotion of rural residential development, we generally support the approach taken by the task force - and subsequently by the Government - in preparing this legislation.

We accept that rural leaseholders who have leases in areas that are unlikely to be required for urban expansion should be able to have the same security of tenure and ownership of the improvements on that land as other leaseholders in the ACT. We therefore accept the move to give rural leaseholders 99-year leases. We also support the view that the land management policies adopted by the Government should facilitate the maintenance of a sustainable rural industry in the ACT.

However, we would put more stress on the ecological sustainability of the rural industry rather than just its short-term economic sustainability. It is now common knowledge that past farming practices have not always been appropriate for the Australian environment and that very significant land degradation has occurred. It is heartening that efforts are finally being made across governments and by land-holders, for example, through the landcare movement, to address these issues.

There is still so much to be done to reverse this degradation. While there are extensive conservation reserves in the ACT and the other locations which do protect particular natural areas, there has been a growing move across Australia to set up systems which promote off-reserve nature conservation management involving land management agreements with private land-holders in rural areas. I am pleased that the Government has picked up this approach through its requirement for land management agreements on new rural leases as a central tool for promoting nature conservation and responsible land management on rural leases.

However, the experience elsewhere is that effective off-reserve nature conservation management is dependent on the willing cooperation and support of the land-holders, which needs to be obtained through a mixture of carrots and sticks provided by government. This is where my support for this legislation diverges from the

Government's. The Government has built into its package some very significant carrots for rural leaseholders to take up the new 99-year leases, and with that the requirement to develop a land management agreement for that lease. Firstly, the payout value for their existing lease is based on dry sheep equivalent value, which, I understand, is lower than market value.

Secondly, the leaseholder gets a 15 per cent discount to compensate for the land management responsibilities imposed by the LMA. Then the leaseholder is given the option of paying this amount either as a lump sum or over a 30-year period. Rural leaseholders are therefore getting a pretty good deal to convert to 99-year leases. It must be such a good deal that the Government has had to build into the legislation some restrictions on leaseholders' opportunity to make a windfall profit if they sell their new lease within 10 years. Even so, leaseholders still get to keep 50 per cent of the windfall gain. It does concern me that no financial analysis appears to have been done by the Government on what has been the opportunity cost of offering such a good deal.

Has the Government done any analysis of what potential revenue the Government is losing, relevant to the existing land rent system or other payout options, relative to what the ACT is gaining in terms of better land management? While I support land management agreements in principle, I have my doubts that they will be developed and implemented effectively in the ACT.

I will be putting up amendments at the detail stage to improve the application of LMAs. But I would like to make some general comments now. Firstly, there are some 240 rural leases in the ACT held by some 150 lessees and covering some 40,000 hectares. Potentially all of these leases will require the development of LMAs over the next 18 months. I understand, however, that the Government is not allocating any more resources to the administration of rural leases within the Department of Urban Services. There is, therefore, a real danger that the LMAs will be developed and assessed in a quick and superficial way to meet the demand of leaseholders who want to move to the new leases. Secondly, part of the LMAs relates to the identification of specific works that need to be undertaken on the land to protect nature conservation values and the resources necessary to do these works.

These costs were then to be shared between the leaseholder and the Government. I therefore find it amazing that the Government has allocated so little money to these works. The Government announced in the 1998-99 budget that $250,000 over three years would be placed in a rural conservation trust. This would amount to a bit over $1,000 per rural lease. Strangely enough, no mention has been heard of this trust since this announcement in mid-1998. The Minister did not even mention it in his presentation speech. I note that Environment ACT has recently received a grant of $100,000 for the trust through the Commonwealth Natural Heritage Trust, which boosts the available funds. But it is still a pittance compared to other expenditure by government, such as the $600,000 being spent on our New Year's Eve celebration, or the $300,000 being spent annually on the FAI car rally. A related concern I have is that the Government has not provided an open and accountable mechanism by which this trust money will be distributed to rural lessees.

This brings me to the considerable work that has been put into examining this issue by the Conservation Council of the South-East Region and Canberra. After reviewing off-reserve management schemes in other States, the council concluded that not only should there be a rural conservation trust as a pot of money, but as an independent statutory organisation to administer the fund, assist development of LMAs and as a source of expert conservation advice on rural lands. These tasks should be performed by extra staff appointed for this purpose, and not be added to the work of already overloaded staff in Environment ACT. I have picked up many of the concerns raised by the conservation council in my amendments.

I have also discussed with the Rural Lessees Association the Government's package and my amendments. I acknowledge their desire to get this package through the Assembly with a minimum of fuss so that they can get their longed-for security of tenure. I also believe that just about all rural lessees will enter into LMAs in good faith. However, as the Minister acknowledged in his presentation speech, there is a need to balance the right of farmers to earn a living from the land against the environment/conservation requirements which increase with our improving knowledge of the fragility of our environment.

While I support the Government's package in principle, I believe it has not got the balance right. More emphasis needs to be placed on making sure that nature conservation objectives are achieved through effective, fully resourced land management agreements.

We have also been contacted by the group Mr Kaine referred to, who have raised concerns about legality of this legislation. I have seen the Government's legal advice. All we can do is take assurance from the Government that they have done the appropriate amount of work on this concern, and that the Territory will not be found liable in some way. I do not have the resources in my office to do that kind of legal analysis. This is the responsibility of the Government, and I hope they have got this right.

MR SMYTH (Minister for Urban Services) (4.48), in reply: Mr Speaker, I am delighted at the level of interest from the Assembly in this issue, because it really is very important. The rural lessees are a very important part of the ACT community. Before the site was chosen, indeed, up to the mid-1950s, Canberra was still just a sheep-run. I thank for the in-principle support that I hear from the Assembly. It is very important that they support this package. It will contribute to the long-term viability of our rural sector. It will also contribute very much to the protection of the environment, and that is also very important. In striking that balance, I believe the Government has come up with a good package.

In regard to comments by Mr Corbell, I thank him for his support. It is important that people have appeal rights. Where the Minister has the right to amend something, people should have the right to appeal. On the issue of Tenant and Booth, we will make sure that it is quite clear. I have made it quite clear to the rural lessees in the Tenant and Booth areas that the Government will honour its promise on 99-year leases, but with the understanding there will be a withdrawal clause in the event of a dam.

Changing needs of the transport hub that Canberra national airport is rapidly becoming, and the expected arrival of the very high speed train, mean we will have to look particularly at Pialligo. I foreshadowed that there would be amendments when I tabled the legislation. Seven of the eight amendments are, indeed, in regard to Pialligo, and the very special nature of the Pialligo leases. Pialligo lessees as rural lessees also have a commercial nature to their properties, so the payout formula for them will be slightly different. The first seven of the Government's amendments outline how that will be achieved. The eighth is of course the appeal rights to the AAT, for those who would seek to question the Minister's decision should he or she seek to vary their LMA.

In regard to Mr Kaine's comments and his words on behalf of the ACT Rural Sustainable Land Group: He said that they had attempted to brief me. Mr Kaine, let me put on the record that I have had several meetings with this group - two small meetings in my office; a major round table in the Cabinet room. Mr Moore attended on behalf of one of his constituents. At that meeting were Mr Hawkins, who is the head of PALM and Mr Thompson who is the head of my department, plus the Government's legal adviser.

Mr Wood: I don't want to listen to you.

MR SMYTH: Thank you. Mr Wood is a long-term supporter of all those rural lessees who inhabit the lower half of our electorate and I would welcome Mr Wood's attendance at this very important occasion. This group of lessees also contacted me and we met privately in my office one Saturday. They showed me that they had some initial legal advice that questioned some of what the Government was doing. I said, "Go away and get confirmation of that and provide me with your further advice".

Mr Speaker, I have yet to receive that further advice. I believe Mr Corbell said it was, sort of, shown to him. Mr Kaine indicated that he has not seen it. I have asked my staff. They tell me that though we have asked for that advice to be provided, to show where the Government was wrong, that group has chosen not to provide that advice to me in writing.

It is very difficult for anybody to react to something they have not seen. If the sustainable land users were genuine in their concerns and truly believed that what the Government was doing was wrong, then surely they would have shown, or provided the Opposition, the Greens, Mr Kaine, or me, with that advice. But it would appear that not a single MLA has that advice or has seen the full detail of that advice. It is very hard to respond in those conditions, Mr Speaker. I have had several meetings, the round table, the private meeting. They have had a number of meetings with my officials as well as correspondence from my office. I have asked for that advice and I have yet to receive it. Mr Speaker, it makes it very hard to respond.

Indeed, Mr Corbell raised these concerns with me. I provided him with the Government Solicitor's advice. I think we heard Mr Corbell say that he accepted the advice that the Government had been provided with. Ms Tucker raised that same concern and said it was the responsibility of the Government to make sure that they had done their

homework properly. The advice that I have shown Mr Corbell clearly indicates that the Government Solicitor believes we are not doing anything in contravention of the law or the Constitution.

But if the rural lessees wish to show the Government their advice, we would be happy to consider it. You cannot consider something you have not seen. I would refute what Mr Kaine said, that they had attempted to brief me. I have met with them several times. On all occasions when they asked for a meeting, and where I could facilitate it, I met them. We even met privately. I have shown good faith in this and intend to continue to show good faith in this.

Ms Tucker raises several concerns. The land management agreements are important. The Government takes them very seriously. A key element of the rural policy package is the requirement for rural lessees to have the land management agreement. I would like to outline the Government's approach to the land management agreements and the rationale that underpins this part of the Government's rural policy.

One of the more difficult tasks which face all governments in relation to rural land is the need to recognise the right of farmers to earn a living from that land, yet protect for future generations the broader community's interests in the valuable asset that comprises the natural heritage. Nowhere in the country is that more evident than here in the bush capital. Indeed, on the way home, Mr Wood and I can pass the rural lessees. On the trip down the Monaro Highway there are farms still in existence. It is a tremendous asset for us here in Canberra. It is part of the intrinsic nature of the national capital.

The land management agreements proposed by our amendments provide a framework for integrating sustainable management of land with reasonable custodianship of that community asset. Our LMAs articulate an environmental duty of care that recognises management requirements of land degradation factors; protection needs of conservation assets; and a strategy for managing climatic and environment risk inherent to any primary production. They continue very broad, healthy balance and cooperative arrangements between the Government and rural lessees.

Ms Tucker made reference to my comments in my tabling speech. We have to ask ourselves: If we are in the business of fostering viable rural holdings, do we have to turn the ACT into an entire national park? If it is our aim to foster viable rural holdings while recognising the importance of native vegetation, indeed, putting in place a regime that will enhance its continued survival, then the land management agreements as proposed will achieve that aim.

It should be noted, Mr Speaker, that a report prepared for the Australia-New Zealand Environment and Conservation Council Standing Committee on Conservation cites the existing property management agreement used in the ACT as best practice initiative. And our model land management agreements are a significantly improved model. The new land management agreements establish a framework for ecologically sustainable management of leased rural land. They address issues such as fire and drought protection; natural resource management; management of water quality and repairing

zones. And they include a mechanism for dispute resolution. Where management of specific conservation issues is identified under the arrangements, it may be used as a basis for seeking grants under the Government's proposed rural conservation fund.

Ms Tucker made reference to what she saw as a very good deal that the Government was giving rural lessees. It is true, it is a good deal, but it is with the expectation that a 15 per cent discount, the good deal, is put back into their properties. This is an opportunity to ensure we give farmers the tools and encouragement that they have lacked because of uncertainty in recent years to go out and make sure they do the right thing by their properties and by the community.

The new land management agreements have the objective of ensuring that the rural land in the ACT is managed in a sustainable manner and can serve future generations, while recognising that balance between livelihood and conservation. They will have to have an LMA in place before the new grant is made. Mr Speaker, there are significant penalties and an order may be made against a person who is managing land contrary to their land management agreement. It is an offence with a penalty of $5,000 not to comply with an order.

Environment ACT maintains a rural liaison service based on a cooperative approach to issues of common interest. We will continue that. We want to work with the rural lessees to make sure that they do the right thing. This is in contrast to the Greens' proposal. The Government's land management agreement process recognises that rural lessees are not a bunch of recalcitrant environmental vandals, that they are a responsible group of land managers and primary producers and that, in collaboration with the Government, they are keen to ensure that the productive capacity of their land is maintained and the natural heritage of future Canberrans protected for the long term. The Government will not be supporting the Green amendments, and, therefore, assuming they go down, hopefully we will not have to support Mr Corbell's amendments either.

Mr Speaker, this is a good package of reform. It is a package that has taken some time to put together. I have to comment here on the process that has been put in place here, and would compliment the former Minister for the Environment, Land and Planning, Mr Humphries, on the process he was able to start. It was all about consultation. It was about getting out there and talking with all the stakeholders. It was making sure that we took the time to listen to people's concerns. We allowed the lessees to get on with the job of having a rural livelihood, at the same time protecting the nature conservation values of the land and the future that it is for all generations of Canberrans to come; but at the same time having a framework which people can live with. It has taken some time. Over that time it has been quite difficult. For instance, where the task force initially suggested we should travel has ended up as a far more complicated process that has seen the amendments to the Acts coming forward today.

It is, and has been, a good process in terms of consultation. I believe there has been plenty of consultation. The Government is willing to give ground where flaws have been pointed out. We are willing to make amendments.

I thank staff who have had a long carriage of this - Christine, Karen, John, all the others from that section of PALM. I would compliment all officers in Environment ACT who have also worked to make sure that the land management agreements have been put together. I thank you for your work and dedication in what proved to be a much harder task than anybody expected.

Mr Speaker, I will finish by thanking the Assembly for what I guess is in-principle support for this package. We will have a tussle now over some amendments. But I look forward to protecting the rights of rural lessees and the rights of all Canberrans to their own environment. We now have a package that gives long-term stability to our rural sector - an important employer in the ACT. It offers further opportunities in terms of protection of the environment and in tourism. At the same time it protects the long-term values of the bush capital that all Canberrans want.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

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

Clause 4

MS TUCKER (4.59): I move:

> Page 2, line 1, proposed new definition of ***land management agreement***, omit the definition, substitute the following definition:
>
> "***land management agreement*** means an agreement under section 186C or 186CD, and includes such an agreement as varied.".

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

MS TUCKER: I will speak to a number of amendments at this point. Amendments 1 and 2 are consequential amendments to definitions due to amendments 4 and 9 of mine, so I will discuss the later amendments, too. Amendment 4 puts into the legislation a provision that the LMAs are for a term of five years and amendment 9 is about establishing a mechanism for the renegotiation of LMAs when they expire. It concerns me that, under the Government's proposal, once an LMA is approved it stays in place indefinitely.

Whilst the LMA pro forma states that the agreement will be reviewed at least every five years, it also states that if existing management practices are retained and there is no adverse impact on the environment over this period no changes to the agreement will be required. There is therefore an obligation on the Government to prove that there has been an adverse impact on the environment to get the LMA amended rather than an obligation

on the lessees to demonstrate that their land management has had a beneficial impact on the environment during that period. This seems like a very unequal agreement in favour of the lessee as there is no incentive on the lessees to improve their leases. I have a fear that, given the limited resources that the Government is intending to put into the LMAs, these reviews will end up being fairly perfunctory.

I need to comment on Mr Smyth's comments a moment ago. It is really quite disappointing that he feels that he has to try to misrepresent what I have said. I made quite clear in my speech that I regard most rural lessees as very responsible land-holders and I would say that a responsible land-holder would not have a problem with seeing in place legislation that will ensure that everyone takes a responsible approach.

This is a debate that we often have when we have governments saying that they want to have a voluntary kind of self-regulation and what we find is that the responsible members of the group concerned often will ask for legislative force because they will be disappointed if those who are not responsible are not being held accountable. I needed to clear that up for the record. I do not know what Mr Smyth thinks he is achieving by making such incorrect statements.

This amendment will require the negotiation of a new LMA every five years and all issues relating to the LMA can be put on the table by either party at that time. Proposed new section 186CD requires the lessee to negotiate a new LMA in good faith before the expiration of the current agreement and proposed new section 186CE provides that dealing in land subject to an LMA - for example, the transfer of a lease - has no effect unless there is a current LMA. However, the Minister can waive that if negotiations on a new LMA are continuing in good faith. Proposed new section 186CF provides that if an LMA expires the land must continue to be managed according to the expired LMA. That is to cover any gap between the expiration of an LMA and the negotiation of a new LMA. Proposed new section 186CG requires that a copy of the LMA for a particular lease must be given to a new lessee.

MR CORBELL (5.04): For the clarification of other members, the Labor Party will be supporting this amendment, which seems to be a sensible mechanism to ensure that the issues raised by Ms Tucker are properly dealt with in the transition stage.

MR SMYTH (Minister for Urban Services) (5.05): Mr Speaker, the Government will be voting against the amendment. The LMA pro forma provides for review of the agreement every five years on the reissue, variation or transfer of the lease or on the written request of the lessee or of the Territory. We believe that what we have put in place is appropriate and a good process.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

Clauses 5 to 7, by leave, taken together, and agreed to.

Clause 8

MR SMYTH (Minister for Urban Services) (5.10): Mr Speaker, the next seven amendments circulated in my name all concern the Pialligo leases and the payout formula therein. It is in recognition of the special nature of the Pialligo leases that they also contain a commercial component, so the payout regime is being modified. I move:

> Page 3, line 14, proposed new section 186B, definition of ***discharge amount***, omit the definition, substitute the following definitions:
>
> **"discharge amount**—
>
> (a) in relation to a special Pialligo lease-means an amount determined in accordance with section 186EA; or
>
> (b) in any other case-means an amount determined in accordance with section 186E.
>
> **earlier index number**, for a lease, means the last index number issued before the lease was granted under section 161 or 171A.".

I table a supplementary explanatory memorandum to the Bill and commend the amendment to the house.

MR CORBELL (5.11): Mr Speaker, the Labor Party will be supporting this amendment. As the Minister has indicated, it does address issues relating to the special nature of rural leases at Pialligo and this response would appear to be an appropriate response to that issue.

Amendment agreed to.

MR SPEAKER: Ms Tucker, was your amendment No. 2 conditional upon amendment No. 1 getting up?

Ms Tucker: Yes, it was.

MR SMYTH (Minister for Urban Services) (5.12): Mr Speaker, I ask for leave to move together amendments 2 and 3 circulated in my name.

Leave granted.

MR SMYTH: I move:

> Page 3, line 20, proposed new section 186B**,** insert the following definitions:
>
> "***index number*-**see section 186EB.
>
> ***later index number*** means-
>
> (a) for a special Pialligo lease-means the last index number issued before the discharge amount is to be paid; or
>
> (b) for any other lease-the last index number issued before the last amount is worked out under section 186E.".
>
> Page 3, line 22, proposed new section 186B, insert the following definition:
>
> "***special Pialligo lease*** means a lease comprising land in block 6, 12, 13, 14, 15, 19, 20 or 52 of section 2 of the district of Majura.".

Again, amendments 2 to 7 are about the Pialligo leases and I commend them to the house.

Amendments agreed to.

MS TUCKER (5.13): I move:

> Page 3, line 35, after proposed paragraph 186 (2) (a), insert the following new paragraph:
>
> "(aa)approved by the person or people (if any) whose approval is required under 186CA; and".

My comments will relate to amendment 7 as well. Amendments 3 and 7 relate to who on the government side should approve an LMA. At present the Bill only says that the Minister or a person authorised by the Minister needs to sign the agreement, but there is no mention of how the LMA comes to be approved. I believe that the legislation needs to give an explicit role to the Conservator of Flora and Fauna in the LMA process, given the conservator's existing statutory responsibility for nature conservation in the ACT. I also believe that if the rural lease contains any registered heritage sites the Heritage Council needs to be involved as the LMA may have an impact on the preservation of the heritage values of the site.

MR CORBELL (5.14): Mr Speaker, the Labor Party will be supporting this amendment. We believe that it is appropriate to recognise the role of the conservator in relation to all land management issues and clearly it is appropriate to incorporate that function in relation to rural leases.

MR SMYTH (Minister for Urban Services) (5.15): Mr Speaker, the Government will oppose the amendment. We believe that there are sufficient safeguards in the existing legislation to make this amendment unnecessary.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Amendment negatived.

MS TUCKER (5.17): I seek leave to move my amendments separately.

Leave granted.

MS TUCKER: I move:

> Page 4, line 4, proposed subclause 186C (3), omit "may", substitute "must".

This amendment relates to the paragraph in the Bill that states that an agreement may contain a provision allowing the agreement to be varied other than by agreement between the parties. The word "may" worries me as it gives the impression that some agreements may contain this provision and some may not, which just creates uncertainty and scope for unequal treatment between lessees. I think it is best for all parties that the Bill make clear that the LMA will provide for its variation other than by agreement between the parties, otherwise the situation could arise where it would not be possible to reach an agreement because of an ongoing dispute between the lessee and the officials. There has to be a mechanism in place to resolve these disputes in the negotiation of new LMAs.

MR CORBELL (5.18): Mr Speaker, the Labor Party will be supporting this amendment. Clearly, the ambiguity in the current wording is not satisfactory. All rural lessees should be treated equally in this regard and there should be a clear understanding that all leases could be varied other than by agreement between the two parties. The current wording simply creates an ambiguity there which we do not believe is appropriate. That is why we will be supporting Ms Tucker's amendment.

MR SMYTH (Minister for Urban Services) (5.19): Mr Speaker, the Government will oppose the amendment. The LMA pro forma provides that a review of the agreement can be instigated by either party. The dispute mechanism is in the agreement and the Government's latest amendment will allow for appeal rights to the AAT. It can remain as made; it does not have to be amended.

Amendment negatived.

MS TUCKER (5.20): I move:

> Page 4, line 6, proposed clause 186C, add the following subclause:
>
> "(5) A form approved for paragraph (2) (a) is a disallowable instrument for section 10 of the *Subordinate Laws Act 1989*.".

This amendment provides for the agreement pro forma to be a disallowable instrument. That is a standard accountability mechanism which will give the Assembly the chance to have input on the form of LMAs. Obviously, MLAs cannot be involved in the negotiation of individual LMAs, but I think that MLAs should have at least the chance to examine the standard form that will be used for the LMAs to ensure that it adequately covers all issues relating to the environmental management of rural leases.

MR CORBELL (5.21): Once again, Mr Speaker, the Government should not be afraid of these types of documents being disallowable instruments. Indeed, members in considering this Bill will have received a copy of the pro forma to see exactly what is in it. As Ms Tucker quite correctly points out, individual MLAs should not be involved in any way in the negotiation between the department and the rural leaseholder in relation to their land management agreement. However, the pro forma does set out certain terms and conditions and the general layout of how an LMA will be structured and it is simply not appropriate that the Assembly not have the opportunity just to say, "We do not believe that that is an appropriate way generally to structure the LMA. You need to be looking at

it in a different way". That option should be made available to the Assembly. As with all of these things, Mr Speaker, the fact is that they are very rarely exercised. A disallowance is an extremely rare occurrence in this Assembly on any issue. I would expect it to be the same in relation to this LMA pro forma but there is, I believe, justification for saying that, as a matter of principle, the pro forma should be a disallowable instrument.

MR SMYTH (Minister for Urban Services) (5.22): Mr Speaker, upon reflection, it seems to add little to the process, but a disallowable instrument is a fine thing. The Assembly is the final arbiter. The Government is happy to accept this amendment.

Amendment agreed to.

Proposed new clauses 186CB and 186CC

MS TUCKER (5.23): I move:

> Page 4, line 6, after proposed new clause 186CA, insert the following new clauses:
>
> "186CB **Exclusion of parts from inspection**
>
> "(1) If a person enters into a land management agreement with the Territory, the person may apply to the Minister to exclude a stated part of the agreement from inspection by the public under section 186CC on the grounds that-
>
> (a) the disclosure would, or would reasonably be expected to, adversely affect a person in respect of the lawful business affairs of the person; and
>
> (b) it would not be in the public interest for that part to be published.
>
> "(2) An application must—
>
> (a) be in writing; and
>
> (b) be made at the time the agreement is entered into.
>
> "(3) If the Minister is satisfied that the grounds referred to in subsection (1) exist for the exclusion of a part of a land management agreement, the Minister must exclude that part from each copy of the agreement made available for public inspection under section 186CC.

"(4) If part of a land management agreement is excluded from the copy made available for public inspection, the copy must include a statement to the effect that an unspecified part of the agreement has been excluded to protect the confidentiality of information included in that part.

"(5) The Minister must not permit the inspection of a land management agreement, or part of an agreement, under section 186CC to which an application under subsection (1) relates—

(a) until 28 days after the Minister has made a decision excluding or refusing to exclude part of the agreement from inspection; or

(b) if an application for review of that decision has been made to the Administrative Appeals Tribunal-until the matter has been determined by the Tribunal.

"186CC **Inspection and copying of land management agreements**

"(1) The Minister must keep a copy of each land management agreement entered into.

"(2) A person may inspect a land management agreement kept by the Minister at any reasonable time.

"(3) A person may, on payment of the reasonable copying costs, obtain a copy of an agreement.

The amendment provides for copies of the LMAs kept by the Minister to be inspected by members of the public. However, the lessee can apply to have parts of the LMA excluded from inspection. This is the same provision as is included in the Environment Protection Act for the public inspection of environment protection agreements with businesses. Similar provisions can also be found in the Land Act. I am aware that the rural lessees would prefer that their agreements be kept private, but I believe that the principle of public accountability overrides this concern. I also expect that the only people who would ever access these agreements would be those who have a genuine interest in doing so. Lessees will also be able to request that commercially sensitive parts of LMAs be excluded from public inspection if they wish.

MR CORBELL (5.24): Mr Speaker, the Labor Party will not be supporting this amendment. This amendment, we believe, does not add to the goodwill and cooperation that will be needed between the Government and the department and rural lessees in the implementation of the new LMAs. The provision of these types of documents for public inspection has been supported, as Ms Tucker quite rightly points out, in relation to environment management agreements under the Environment Protection Act. However,

we believe that because this process is a new one, because we are dealing with a wide variety and number of people in relation to LMAs and because a very complex series of negotiations have to be undertaken, the best way to achieve the best outcome in those negotiations is to provide for a level of confidentiality as is set out in the Bill as it currently stands.

Clearly, that does not mean that the Bill is not subject to other provisions for access, such as those under the Freedom of Information Act. In the current climate we would accept the Government's position that these LMAs should not be generally available for inspection other than through the Freedom of Information Act. However, as with all of these types of matters, should it become apparent that this mechanism is no longer needed and we no longer need to keep these types of agreements private and not available for general inspection, we would be prepared to reconsider the issue, but at this stage we are prepared to accept the Government's argument and we will not be supporting the amendment.

MR SMYTH (Minister for Urban Services) (5.25): Mr Speaker, I thank the Labor Party for their support. It has to be remembered that rural lessees operate as businesses. Even though LMAs might not include financial details, they may include details of how the business operates. Therefore, they should not be open to scrutiny.

Proposed new clauses negatived.

MR SMYTH (Minister for Urban Services) (5.26): Mr Speaker, I ask for leave to move amendments Nos 4 to 7 circulated in my name together.

Leave granted.

MR SMYTH: I move:

Page 5, line 6—
Proposed new subsection 186E (1)
After "lease", insert "(other than a special Pialligo lease)".
Page 5, line 10—
Proposed new subsection 186E (2)
Omit the subsection.
Page 5, line 22—
Proposed new subsection 186E (3)
Omit the subsection, substitute the following subsection:
"(3) In this section—
first amount means—
(a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or 171A; or
(b) in relation to a short lease—the value of the lease determined when the lease was granted under section 161 or 171A; or

(c) in relation to any other lease—any consideration for the lease when granted under section 161 or 171A plus any amount to be paid under the lease;

other than an amount attributable to lessee-owned improvements to the land comprised in the lease.

last amount, in relation to a lease, means—

(a) the consideration for the dealing with the lease, not including any amount attributable to lessee-owned improvements to the land comprised in the lease; or

(b) if—

(i) there is no consideration; or

(ii) the dealing relates to only part of the land comprised in the lease; or

(iii) the consideration is less than the market value of the lease;

the market value of the lease, not including any amount attributable to the lessee-owned improvements to the land comprised in the lease.

owed amount means—

(a) in relation to a long lease—any amount remaining to be paid under the lease, even if the amount is not due; or

(b) in relation to a short lease—any rent and additional rent payable under the lease up to the day of the dealing with the lease.

Page 6, line 21—

After proposed new section 186E, insert the following new sections:

"186EA **Discharge amount—special Pialligo leases**

"(1) The discharge amount for a special Pialligo lease granted less than 1 year before the discharge amount is an amount equal to the total of the amount paid and the owed amount for the lease.

"(2) The discharge amount for a special Pialligo lease granted at least 1 year before the discharge amount is to be paid is the amount determined in accordance with the formula—

$$\textbf{amount paid} - (\textbf{cpi adjusted amount} \times \frac{\textbf{years since grant}}{10}) + \textbf{owed amount}$$

"(3) The ***cpi adjusted amount*** in relation to a lease is the amount determined in accordance with the formula—

$$\textbf{amount paid} \times \frac{\textbf{later index number}}{\textbf{earlier index number}}$$

"(4) In this section—

amount paid means—

(a) in relation to a nominal rent lease—the consideration for the lease when granted under section 161 or 171A; or

(b) in relation to any other lease—any consideration for the lease when granted under section 161 or 171A plus any amount to be paid under the lease;

other than an amount attributable to lessee-owned improvement to the land comprised in the lease.

years since grant, in relation to a lease, means the number of whole years since the lease was granted under section 161 or 171A.

owed amount, in relation to a lease, means any amount remaining to be paid under the lease, even if the amount is not due.

"186EB **Index numbers**

"(1) In this Division—

index number means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician from time to time.

"(2) However, in determining index numbers for this Division—

(a) if the Australian Statistician revises the calculation of an index number for a reason other than a change in the reference base for the All Groups Consumer Price Index and, as a result of the calculation, publishes an index number for a period in substitution for the previous index number, the later index number is disregarded; and

(b) if the Australian Statistician changes the reference base for the consumer price index after the lease is granted but before the calculation of the later index number, the earlier index number is the index number that would have been applicable if the new reference base had been in effect when the lease was granted.

Again, amendments 4 to 7 continue the amendments that will set up the regime for the Pialligo leases, and I urge the Assembly to support them.

MR CORBELL (5.26): Mr Speaker, as previously indicated, the Labor Party will be supporting these amendments.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 9 agreed to.

Proposed new clause 9A

MS TUCKER (5.27): I move:

That the following new clause be inserted in the Bill:

Page 6, line 30:

9A Insertion

After Division 7 of Part 5 the following Division is inserted in Part 5:

"***Division 8—Rural conservation trust***
"Subdivision A—Preliminary

"221A **Definitions**
For this Division—

chairperson means the chairperson of the trust appointed under section 221I.

deputy chairperson means the deputy chairperson of the trust appointed under section 221I.

member means a member of the trust.

secretary means the secretary to the trust appointed under section 221I.

trust means the Rural Conservation Trust established by section 221B.

Subdivision B—Establishment, functions and powers

"221B **Establishment**

The Rural Conservation Trust is established.

"221C Functions

The functions of the trust are—

(a) to provide advice to the Minister about the adequacy and effectiveness of land management agreements in achieving nature conservation objectives and their ongoing development for that purpose; and

(b) to provide advice to the Minister about the development and implementation of land management agreements with individual lessees; and

(c) to make recommendations to the Minister about payments by the Territory to lessees for conservation activities as provided for by land management agreements; and

(d) on request—to provide information and advice to rural lessees on sustainable land use and nature conservation issues in relation to their rural leases; and

(e) any other function conferred on it under this or another Act.

"221D **Powers**
The trust has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

"221E **Delegation to secretary**
The trust may, by resolution at a properly constituted meeting, delegate to the secretary any of its powers or any functions referred to in paragraph 221C (e).

Subdivision C—Constitution and meetings

"221F **Constitution**

The trust is constituted by—

(a) the conservator; and

(b) 5 other members appointed by the Minister in writing under section 221G.

"221G **Appointment of members**

"(1) The Minister must appoint as members—

(a) a person nominated by the ACT Rural Lessees Association to represent rural lessees; and

(b) a person nominated by the Conservation Council of the South Eastern Region and Canberra Inc to represent the Council; and

(c) a person with tertiary qualifications, and expertise, in ecology who is not employed by the Territory; and

(d) a person with expertise in protection of land from degradation who is not employed by the Territory; and

(e) a person with expertise in rural finance.

"(2) A person is not eligible to be appointed to be a member mentioned in paragraph (1) (b), (c), (d) or (e) if he or she has a financial interest in a rural lease.

"(3) The performance of the functions or the exercise of the powers of the trust is not affected only because of a vacancy in the membership of the trust.

"221H **Terms of appointment**

"(1) Members hold office on a part-time basis.

"(2) A member, other than the conservator, holds office—

(a) for a period of not more than 3 years that is mentioned in the instrument of appointment; and

(b) on the terms and conditions (if any) in relation to matters not provided for by this Act that are determined in writing by the Minister.

"221I **Chairperson, deputy chairperson and secretary**

"(1) The Minister must appoint from the members—

(a) a chairperson; and

(b) a deputy chairperson.

"(2) The Minister must appoint a public servant who is not a member to be secretary to the trust.

"221J **Leave of absence**
The Minister may, in writing, grant leave of absence to a member on the terms and conditions mentioned in the writing as to remuneration or otherwise.

"221K **Disclosure of interests**
"(1) A member who has a direct or indirect financial interest in a matter being considered or about to be considered by the trust must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a trust meeting.
"(2) A disclosure must be recorded in the minutes of the meeting and, unless the Minister otherwise determines, the member must not—

(a) be present during any deliberation of the trust in relation to the matter; or

(b) take part in any decision of the trust in relation to the matter.

"221L **Resignation**
A member may resign office in writing signed by the member and delivered to the Minister.

"221M **Termination of appointment**
"(1) The Minister may end the appointment of a member for misbehaviour or physical or mental incapacity.
"(2) If a member—

(a) is absent, except on leave granted under section 221J, from 3 consecutive meetings of the trust; or

(b) without reasonable excuse, contravenes section 221K;

the Minister must end the appointment of the member.

"221N **Acting members**
The Minister may appoint a person to act as a member—

(a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the member is absent from duty or from the Territory or is, for any reason, unable to perform the duties of the office;

but a person appointed to act during a vacancy must not continue to act for more than 12 months.

"221O **Convening meetings**
"(1) The chairperson, or, if he or she is unable to do so, the deputy chairperson, must call the trust meetings—

(a) that the chairperson or the deputy chairperson considers necessary for the efficient performance of the functions of the trust; and

(b) that the Minister directs by notice in writing given to the chairperson or the deputy chairperson.

"(2) If the chairperson or the deputy chairperson proposes to call a meeting of the trust, he or she must, not later than 5 days before the date of the proposed meeting, give each member a notice in writing setting out—

(a) the date, time and place of the meeting; and

(b) the matters to be considered at the meeting.

"221P **Procedure at meetings**

"(1) The chairperson must preside at each trust meeting at which he or she is present.

"(2) If the chairperson is not present at a meeting, the deputy chairperson must preside.

"(3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect a member present to preside.

"(4) The member presiding at a meeting may give directions about the procedure to be followed at the meeting.

"(5) Questions arising at a meeting are decided by a majority of the votes of the members present and voting.

"(6) The member presiding at a meeting has a deliberative vote and, if the votes are equal, a casting vote.

"(7) The trust must keep minutes of its proceedings.

"221Q **Quorum**

At a meeting of the trust, a majority of the members currently appointed to the trust constitutes a quorum.

"221R **Trust's annual report**

"(1) The trust is taken to be a public authority for the *Annual Reports (Government Agencies) Act 1995* that is required to provide a report under paragraph 8 (5) (a) of that Act.

"(2) A report in relation to a period must include particulars of the following for the period:

(a) progress in achieving nature and land conservation on rural leases;

(b) progress in the negotiation of land management agreements and issues raised in the negotiations;

(c) public and private expenditure on nature conservation and land management activities on rural leases and further expenditure that is desirable;

(d) monitoring of the implementation of land management agreements;

(e) complaints, disputes and enforcement actions regarding land management agreements.".

This amendment establishes a statutory body called the Rural Conservation Trust, which will provide advice to the Minister on issues relating to land management agreements and nature conservation on rural leases. The provisions in this amendment may seem long and complicated, but they are modelled on the ACT Heritage Council provisions and the Land Act. Of particular interest are proposed section 221C, which describes the functions of the trust, proposed sections 221F and 221G, which specify the membership of the trust, and proposed section 221R, which describes issues to be covered in the trust's annual report.

As I said in the in-principle debate, I do not believe that the Government's proposal to establish a fund of money called a Rural Conservation Trust goes far enough. I believe that there also needs to be a group of people who have the specific task of administering this money and overseeing implementation and effectiveness of the LMAs. The conservation council proposed a totally independent statutory authority with its own staff and budget and its own enforcement powers. But my concern with this proposal is that such an organisation would overlap considerably with Environment ACT and the powers of the conservator.

To establish this form of Rural Conservation Trust would require considerable restructuring of Environment ACT. Rather than impose this disruption, I propose that the Rural Conservation Trust be established as purely an advisory committee reporting to the Minister. The Minister will still retain all his statutory powers regarding LMAs and other land management and nature conservation issues. If after some time of operation the trust looks like it is working well, then perhaps some further powers could be given to it. But at this stage I think it is adequate to set it up as an advisory body.

Membership of the trust is quite broad and represents a range of stakeholders and expertise in rural conservation. The Rural Lessees Association would be formally represented on this body, which is something that they would like, as I understand it, because they have been concerned for some time that none of their members were ever asked to be on the Minister's Environment Advisory Committee.

MR KAINE (5.29): I cannot support this proposal from Ms Tucker. I think it is a means by which the Government and others could be far too intrusive on the rights of rural lessees. If Ms Tucker wants to achieve some environmental input into the way rural lessees manage their properties, there is a already a body called the Environment Advisory Committee, and she could seek to amend the terms of reference of that committee to give them some additional responsibilities. But to try to set up a completely new mechanism with the powers and functions that she proposes to give them is going way beyond what is reasonable.

She is using a sledgehammer to crack a nut, in my view. It would incur additional cost to the taxpayer to set up and run such a function. It would be a duplication in some degree of the advisory committee that already exists. It is quite unnecessary and it would be unduly intrusive.

MR CORBELL (5.31): Mr Speaker, the Labor Party will be supporting this amendment. This is not a radical concept that the Assembly is being presented with today. It is in fact a concept which has already been implemented in a number of other jurisdictions where land management agreements are in place between governments and rural leaseholders or rural property owners, as the case may be. It is a sensible proposition which will provide a mechanism and forum for cooperation between all the affected parties in relation to environment protection of rural leases. This should be welcomed by this Assembly and embraced by this Assembly because it does provide a very important mechanism.

Mr Kaine raised the issue of the Environment Advisory Committee. That performs quite a different function from that of the Rural Conservation Trust as proposed by Ms Tucker. I would like to echo Ms Tucker's concerns. As I outlined in my speech at the in-principle stage, we have significant concerns about the amount of money the Government has set aside for the purposes of funding projects outlined and required as part of land management agreements.

The figure the Government has set upon to fund these projects is $230,000. It is a one-off figure. When I asked departmental officials how the Government came up with this figure, they could not tell me. At the same time, they said that it should be enough money. They also conceded that they were not that sure what the value of all the projects involved in the land management agreements would be. Yet they were sure that this figure would be enough.

It seems that this is simply the amount of money the Government felt it could afford. That is the bottom line. The concern for this Assembly is that there is not much point in having a land management agreement and having in place the very important mechanisms proposed in this Bill to manage environmental issues on rural leases unless there is the resourcing to back it up. The Minister for Urban Services, as the environment Minister, will go all over the city saying what a wonderful environmental record his Government has because they have put in place LMAs, but they mean very little unless they are backed up with the resources needed to make sure that they can be effective. The Government has not provided any justification for why it thinks $230,000 is enough. They have not assessed what the demand will be. It seems to me to be an arbitrary figure, a figure pulled out of the air.

The establishment of a Rural Conservation Trust, as proposed by this amendment, will assist in focusing the efforts of all the different parties in the administration of LMAs. It will also address the very important issue of making sure that appropriate funding is provided for these projects. I will be moving some amendments later in relation to funding, but I think it is important that the Assembly accept the amendment proposed by Ms Tucker this afternoon. This is not a radical concept. In fact, it is a well-established practical concept operating in many other States.

MR SPEAKER: Do you mind moving your amendment No. 1, Mr Corbell?

MR CORBELL: I move the following amendment to Ms Tucker's proposed new clause:

> Proposed new section 221B—
> Add at the end the following subsection:

"(2) The trust—

(a) is a body corporate; and

(b) may have a common seal.

MR SMYTH (Minister for Urban Services) (5.35): The Government will oppose both Ms Tucker's and Mr Corbell's amendments. Ms Tucker's amendment provides for the establishment of a Rural Conservation Trust. The Government has already committed itself to the establishment of a Rural Conservation Trust Fund. The figure of $230,000 that Mr Corbell quoted is not correct. It is $250,000 and we have also received an additional $100,000 from the Federal Government's very successful NHT funding program.

The Greens' proposal for the Rural Conservation Trust does not add any real value to the Government's proposal for the establishment of the fund. An independent advisory committee will oversee the operation of the fund. That committee will contain experts in land management, business management, nature conservation and community relations.

The fund will be a much more streamlined approach than the Greens' proposed trust, with tremendous potential for real and productive collaboration between the Government and the rural community. The Greens' proposal does not have the background of consultation or broad support from the rural community that would be vital to its successful implementation. Mr Corbell, who will be moving further amendments, believes that the funds can be applied to administrative costs, the activities of the trust and other things. We want to see this money spent on the ground improving the environment, not tied up in another trust and more duplication of bureaucracy. That is not required in this city.

The Rural Conservation Trust Fund is the way to go. The Government opposes the amendments.

MS TUCKER (5.36): I want to respond to a couple of points that have been raised. I think Mr Kaine has misunderstood what we envisage as the role of this trust. I said in my speech that it will be established as purely an advisory committee reporting to the Minister. Mr Kaine suggested that I can amend the terms of reference or membership of the Environment Advisory Committee. The Environment Advisory Committee is a quite different advisory committee. It does not have statutory force. There is no way I can force any changes on that committee. It is a creature of the Minister.

That is what Mr Smyth has just described in his version of a group to advise on how the money is spent. Mr Smyth said it would be an independent advisory body. How on earth could it be? It has no statutory status at all. The Minister of the day will choose the members. It is very obvious that our proposal is much stronger and quite different. We are saying who will be on it. It will have statutory status. It is disappointing that this Government is reluctant to bring in this kind of accountability on such an important issue.

Amendment (**Mr Corbell's**) to **Ms Tucker's** amendment negatived.

MR CORBELL (5.37): I move the following amendment, amendment No. 2 circulated in my name, to Ms Tucker's amendment No. 10:

Proposed new Subdivision D—

"**Subdivision D—Rural Conservation Trust Fund**

"221S **Definitions**
In this Subdivision—

fund means the Rural Conservation Trust Fund established under section 221T.

"221T **Rural Conservation Trust Fund**
"(1) The trust must establish and maintain a fund called the Rural Conservation Trust Fund.
"(2) The fund consists of—

(a) money received by the trust under section 221V; and

(b) interest generated by money standing to the credit of the fund.

"221U **Application of fund**
The fund may be applied only for the following purposes:

(a) payments to rural lessees for conservation activities;

(b) administrative costs;

(c) research related to the functions of the trust;

(d) activities of the trust.

"221V **Trust may seek funds**
"(1) The trust may seek money from any source it considers appropriate, taking into consideration the aim of encouraging environmental conservation on rural leases.
"(2) Money paid to the trust under this section must be paid into the fund.".

The purpose of this amendment is to establish definitions for the Rural Conservation Trust Fund. It is similar to the Government's proposal, except that it implements the fund within the trust, rather than the fund being a stand-alone fund, as proposed by the Government. It also proposes that the fund receive donations from parties outside of the Government. It also allows for interest to be generated on money in the trust.

But importantly, and contrary to Mr Smyth's pronouncements earlier, it indicates where funds may be applied from the fund. Clearly, the purpose is to direct funds to conservation activities. The provision to apply funds to administrative costs, as the amendment proposes, is a sensible mechanism, contrary to Mr Smyth's argument. The final proposed new clause will encourage payments into the fund from outside sources, with the aim of encouraging environmental conservation on rural leases. I commend the amendment to the Assembly.

MR SMYTH (Minister for Urban Services) (5.40): The Government will oppose the amendment, for the reasons previously given. It sounds like another unnecessary empire. We want the funds spent on the ground achieving real outcomes in the bush.

Amendment (**Mr Corbell's**) to **Ms Tucker's** amendment negatived.

Proposed new clause negatived.

Clause 10 agreed to.

Clause 11 agreed to.

Proposed new clauses 11A and 11B

MS TUCKER (5.41): I move:

That the following new clauses be inserted in the Bill:
Page 7, line 9—
Proposed new clauses 11A and 11B

11A Inspections etc

Section 266 is amended by adding at the end the following subsections:

"(2) For finding out whether there has been a failure to manage land held under a land management agreement in accordance with the agreement, an inspector may enter the place—

(a) with the consent of the occupier of the place; or

(b) in accordance with a warrant issued under section 273A; or

(c) with such assistance and by such force as is reasonable, where the inspector believes on reasonable grounds that the circumstances are of such seriousness and urgency as to require the immediate exercise of those powers without the authority of a warrant issued under section 273A;

and, subject to section 268, may exercise any power referred to in section 269 if the inspector believes on reasonable grounds that a controlled activity is, or is intended to be, conducted in or on that place.".

11B **Insertion**

After section 273 insert the following section:

"273A **Search warrants**

"(1) If an inspector suspects on reasonable grounds that a person is managing land other than in accordance with a land management agreement that applies to the land, the inspector may—

(a) lay before a magistrate an information on oath setting out those grounds; and

(b) apply for the issue of a warrant to enter the place and search the place for evidence of a stated kind that the person has not been managing the land in accordance with the agreement.

(2) On application under subsection (1), a magistrate may issue a warrant authorising an inspector named in the warrant, with necessary and reasonable assistance and force—

(a) to enter the place; and

(b) to search the place for evidence of the kind stated in the warrant; and

(c) to seize anything found in the course of the search that the inspector believes on reasonable grounds to be evidence of a stated kind connected with not complying with the agreement.

(3) However, a magistrate must not issue a warrant unless—

(a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought; and

(b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(4) A warrant must—

(a) state the purpose for which it is issued; and

(b) state that the warrant is to investigate suspected noncompliance with a land management agreement; and

(c) mention the hours during which entry is authorised, or state that the entry is authorised at any time of the day or night; and

(d) include a description of the kinds of evidence in relation to which the powers under the warrant may be exercised; and

(e) mention the date, not more than 28 days after the date of issue of the warrant, that the warrant ceases to have effect.".

This amendment establishes inspection powers to check whether land is being managed in accordance with an LMA. It does not add new of more stringent inspection powers to the Land Act but merely clarifies how the current inspection powers relate to LMAs. The Minister has already included in this Bill a provision that orders can be taken out against leaseholders who do not manage their land in accordance with an LMA. However, the current orders regime in the Land Act applies to what are called controlled activities.

At present, section 266 of the Act, relating to inspections, only refers to inspections to ascertain whether controlled activities are taking place with an approval. But an LMA cannot be regarded as an approval under the Act, as approvals under section 230 only

relate to applications to undertake a development. My amendment merely mirrors the existing section 266 in the Land Act regarding ascertaining whether controlled activities are being conducted in accordance with an approval.

A new section to mirror the existing section 273 will also allow for a search warrant to be obtained to inspect a property where it is suspected that land is being managed other than in accordance with an LMA. Of course, I would hope that these provisions never have to be used, but they need to be there just in case someone does not do the right thing.

MR CORBELL (5.43): The Labor Party will not be supporting this amendment. I accept Ms Tucker's argument that other provisions of the Land Act and the Environment Protection Act are needed. But in the context of establishing the new regime for LMAs and the new 99-year leases, it is important that an atmosphere of goodwill and cooperation be engendered wherever possible. Putting these types of powers in place would not add to the level of confidence needed to establish and negotiate those agreements. Again, as I indicated earlier, should it be found subsequently that these types of provisions should be provided for, we will certainly be prepared to reconsider the issue in light of changed circumstances.

MR SMYTH (Minister for Urban Services) (5.44): The Government will oppose the amendment. The Land Act already provides for inspection powers and warrants. The Government's amendments add that for managed land held under rural lease other than in accordance with the land management agreement that applies to it there is a penalty of 50 units. The penalty is there; the fine is there; the ability is already there.

Proposed new clauses negatived.

Proposed new clause 11A

MR SMYTH (Minister for Urban Services) (5.45): I move amendment No. 8 circulated in my name in the following terms:

> That the following new clause be inserted in the Bill:
> Page 7, line 9—
>
> 11A **Review of decisions**
> Section 282A is amended—
>
> (a) by inserting after subsection (4) the following subsection:
> "(4A) Where a decision is made on behalf of the Territory to vary a land management agreement under a provision of a kind referred to in subsection 186C (3), the Minister must give notice of the decision to the other party to the agreement."; and
>
> (b) by omitting paragraph (5) (a) and substituting the following paragraph:
> "(a) a decision referred to in subsection (1), (2), (3), (4) or (4A);"; and

(c) by omitting subsection (6) and substituting the following subsection:

"(6) A notice under subsection (1), (2), (3), (4) or (4A) or paragraph 69 (1) (b) or 73 (1) (b) must be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.".

This is the last of my amendments. It allows for appeal to the AAT. It is appropriate that that appeal mechanism be there.

MR CORBELL (5.45): The Labor Party will be supporting this amendment. We welcome this change of heart by the Government in relation to appeal rights. This has been an issue of significant concern for a number of rural leaseholders. Clearly they should have the opportunity to go to the AAT should there be a disagreement in relation to a negotiation over an LMA. The use of the AAT is a far better mechanism than leaseholders going to a higher court and endeavouring to argue denial of natural justice because they have not had a provision that allows them to appeal to a lower body such as the AAT. There has been a welcome change of heart, and the Labor Party will be supporting the amendment.

MS TUCKER (5.46): The Greens will also be supporting this amendment. We support the concept of appealability in this legislation.

Proposed new clause agreed to.

Clause 12

MS TUCKER (5.47): I move:

Page 7, line 10—
Omit the clause, substitute the following clause:

12 Schedule 5

Schedule 5 is amended by adding at the end the following item:

"12	Managing land held under a rural lease other than in accordance with the land management agreement that applies to it, whether because of the agreement or because of subsection 186CF(1)	100 penalty units".

This amendment increases the penalty units for managing land other than in accordance with an LMA from the Government's proposed 50 penalty units to 100. I think this high penalty is much more appropriate relative to the scale of other penalties in this Schedule. The penalty for causing soil erosion or damaging vegetation near a watercourse is 100 penalty units. The penalty for conducting work affecting the heritage significance of a place on the Heritage Register is double this, at 200 units. I therefore think that the Government's proposed 50 penalty units is too low and does need to be increased to 100.

MR CORBELL (5.48): The Labor Party will not be supporting this amendment. As Ms Tucker indicates, there are already penalties for issues such as causing soil erosion near a watercourse. I do not think it is appropriate that the Assembly in this case should increase the penalty units for managing land other than in accordance with an LMA. I understand that the Government has come to this view on the basis of advice from the Department of Justice and Community Safety and the comparability of different penalties across a broad range of legislation. In this case that appears to be an appropriate judgment, so we cannot support Ms Tucker's amendment.

MR SMYTH (Minister for Urban Services) (5.49): Mr Speaker, I thank the Labor Party for their support. We believe a penalty of $5,000, or 50 penalty units, is the appropriate level. We will oppose the amendment.

MS TUCKER (5.50): I just want to clarify. I mentioned higher penalties only as comparisons. I was not suggesting that they would deal with the issues. There are broader issues that have to be looked at.

Amendment negatived.

Clause agreed to.

Title agreed to.

Bill, as amended, agreed to.

LANDS ACQUISITION AMENDMENT BILL 1999

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

> That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

URBAN SERVICES – STANDING COMMITTEE
Inquiry into Betterment - Alteration to Reporting Date

MR HIRD (5.51): Mr Speaker, I ask for leave to move a motion to alter the reporting date for the Standing Committee on Urban Services' inquiry into betterment and change of use charge.

Leave granted.

MR HIRD: I move:

> That the resolution of the Assembly of 1 July 1999, as amended on 26 August 1999, referring the level and charging of betterment and change of use charge to the Standing Committee on Urban Services, be amended by omitting "by the last sitting day in 1999" and substituting "by the first sitting day of March 2000".

Question resolved in the affirmative.

GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES – SELECT COMMITTEE
Commercial-In-Confidence Documents – Publication

MR OSBORNE (5.52): Mr Speaker, I seek leave to move the motion being circulated in my name.

Leave granted.

MR OSBORNE: I move:

> That this Assembly requires the Government to submit the following agreements to the Select Committee on Government Contracting and Procurement Processes:
>
> (a) hirer's agreement between Bruce Operations Pty Ltd and the Canberra Raiders;
>
> (b) hirer's agreement between Bruce Operations Pty Ltd and the ACT Brumbies;
>
> (c) hirer's agreement between Bruce Operations Pty Ltd and the Canberra Cosmos; and
>
> (d) Agreement between the ACT Government and the Sydney Olympic Organising Committee (SOCOG) for the staging of Olympic football in Canberra.
>
> And directs that the Select Committee, and its members, regard these documents as being commercial-in-confidence and not publish them, or extracts from them, without the express permission of a majority of members of the Assembly.
>
> The foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

This motion relates to the contracts for the hirers of Bruce Stadium. I have had discussions with Mr Stanhope and Mr Humphries in relation to this motion and I think we have agreement that there needs to be some clarification of the Government's

understanding and Mr Stanhope's understanding of what this motion does. There has been a fair amount of toing-and-froing in relation to this issue, and I think it has gone on for long enough.

The motion calls on the Government to provide the hirers' agreements between Bruce Operations and the Canberra Raiders, the Brumbies, the Canberra Cosmos and SOCOG. It directs that the select committee that your good self, Mr Speaker, Mr Stanhope and I are on regard these documents as being commercial-in-confidence and that we agree not to publish them or extracts from them. However, there is agreement that we can speak about what is in the contracts without being specific about extracts.

Perhaps I will make it a little bit clearer, Mr Speaker. My understanding of the agreement from the Government is that we will not publish the contracts or extracts from them, but we can refer to them in public and within the confines of the committee.

As I said, I think this issue has gone on long enough. Mr Stanhope has been forced to go to the AAT over it. This Assembly did pass a motion. This afternoon I have had conversations with the Raiders and the Brumbies and informed them of my decision on this. They have accepted what we are attempting to do, and I look forward to support from the majority of the Assembly.

MS CARNELL (Chief Minister) (5.53): Mr Speaker, we will be supporting this approach. I have said on many occasions that I am more than happy to release these documents in confidence to an Assembly committee. I think that is an appropriate way to go. Of course, the Auditor-General already has the documents as part of his deliberations about the Bruce Stadium issue. From the Government's perspective, we have made it clear on many occasions that we are happy to make them available to the Assembly committee on the basis that the commercial-in-confidence requirements are met; that is, as Mr Osborne says, the documents will not be published, extracts from the documents will not be published and commercial-in-confidence parts of the documents will not be used. It is that simple.

I think it is appropriate that the committee have the opportunity to look at these documents and in their deliberations use the information that they will provide. They will be able to make comments without using any of the commercial-in-confidence information in a specific way. This is not an unusual scenario. It is the way commercial-in-confidence information is provided to committees in Federal Parliament and parliaments in other parts of Australia.

It allows the requirements of the Raiders, the Brumbies, the Cosmos and SOCOG for confidentiality to be met, but at the same time it allows the information that the contracts provide to be available to the Assembly committee to use in its deliberations. I believe that is a totally appropriate approach.

After the motion is passed I hope the Assembly will be able to reach agreement with regard to commercial-in-confidence information and its availability to Assembly committees. The Government would be very pleased to end up with some guidelines that would allow commercial-in-confidence information to be available to Assembly

committees for use in their deliberations without exposing the Government to breach of contract or doing the wrong thing with regard to commercial-in-confidence information provided by private companies or individuals.

We will be happy to support this approach on the basis of what I have already said. For Mr Humphries' interest, we are happy to support this approach on the basis that the committee uses the information but does not publish it, publish extracts from it or use commercial-in-confidence information in a public manner that would endanger the relationship that the Government has with the other parties to these contracts or the contractual obligations it has to those parties.

We are happy to do this because we believe this information should be available to the Assembly, and always have, as I have said before in this place and in other places. It will also mean that members of the committee will have accurate information. We have heard all sorts of unbelievable figures and unusual statements about these contracts which simply are not right. It will be great to have accurate information in front of the Assembly committee that is looking at this important issue. It certainly is in the interests of openness and appropriate behaviour.

I thank Mr Osborne for bringing forward the motion. I agree with him that this has gone on for too long. It is appropriate that both sides of this debate compromise. Certainly the Government is willing to do so.

MR STANHOPE (Leader of the Opposition) (5.57): As Mr Osborne indicated, he and I did have a discussion about this motion. As the Assembly knows, the Opposition and the Assembly have previously sought copies of these documents and asked for them to be tabled. In fact, I am pursuing an application before the AAT in relation to the Government's refusal to release these documents under the Freedom of Information Act. We had a second directions hearing yesterday at which the Raiders, the Brumbies and the Cosmos were invited to be joined. I understand that the Raiders, the Cosmos and the Brumbies did attend yesterday with their legal advisers for that purpose.

Mr Humphries: They would love that.

MR STANHOPE: Yes, the would. The Government also attended with its legal adviser, as did I with my legal adviser. That is the position we have reached. There is an application before the Administrative Appeals Tribunal seeking release of these documents pursuant to refusal by the Government to release them. Five parties are now represented in that matter.

When Mr Osborne approached me today, I was quite amenable to seeking to deal with the release of these documents in this way on the understanding which Mr Osborne and I had that the committee could not be gagged as to their content. I understand from Mr Osborne that his understanding of his discussions with Mr Humphries is that we would agree not to publish the documents. In other words, we would not photocopy and release the documents for publication but there would be no attempt to constrain the committee or me, as its presiding officer or chair, from discussing the content of the documents.

Ms Carnell: In the committee.

MR STANHOPE: No, publicly. I understood from Mr Osborne that that was his understanding. I said that I would happily support this motion on the basis that there was not a gag. If there is a gag, then I will continue with my application before the Administrative Appeals Tribunal and I will obtain the documents that way or in any other way that I can - through a further motion in the Assembly, if need be. But on the basis of Mr Osborne's initial discussion with me and my understanding of what Mr Osborne said, I was happy to support the motion, but as it is now being interpreted and put by the Chief Minister the Labor Party will not support it. This motion neuters the committee in a way that is not acceptable to me.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.00): I assume this means Mr Stanhope is opposing this motion.

Mr Stanhope: I am seeking clarification of what it means.

MR HUMPHRIES: I will put on my legal hat and say what I think these words mean. I read the words "publish documents and extracts from them" in the same sense as "publish" in the defamation legislation, meaning the disclosure of that information. I would certainly regard someone going on the radio and reading extracts from the contracts as publication. Putting them in some kind of public arena where others who are not given access to the information in this privileged way can see them would be publication. It might not mean publishing in the sense of putting out a press release, but it certainly would be publication in that wider defamation Act sense.

Mr Speaker, that is the sense in which the documents are put out there. As I understand Mr Osborne's intention, this is meant to be a way of providing access to the information by the committee without destroying the commercially sensitive aspects of the documents by virtue of the information being bandied about in a way which would prejudice the parties who have entered into these contracts. That has always been the Government's concern. We are particularly sensitive to the commercial sensitivity that releasing the documents would entail and to the commercial damage that could be sustained by the parties.

We remain willing to make the documents available on that basis. We are not attempting to avoid parliamentary scrutiny, but there are other parties to these matters. Those parties, I assume, are indicating in the AAT proceedings that they wish this information to be protected without necessarily stopping parliamentary scrutiny of the information. For that reason, as I understand it, this motion refers to the documents being made available to the select committee but with the commercial-in-confidence element in them preserved. That is as the Government understands it.

MR KAINE (6.03): I would like to put in my two-penneth worth. I do not support this motion, because it would be a precedent which would allow the Government to suppress documents under the shield of some sort of commercial-in-confidence label at will. I do not agree that the Government should have that power very often. I believe a committee of the Assembly is entitled to documents, particularly documents such as these which at

the end of the day may well entail expenditure of public money. It is not appropriate for the Government to hide behind some sort of confidential barrier and say that the Assembly and its committees may not have access to them.

If Mr Osborne's motion had been simply that these documents be made available to the committee, I would have endorsed it without qualification. But I cannot and will not support a motion that says that the Government should be able to give these documents to a committee of this place under some cloak of confidentiality. It is just not acceptable, Mr Speaker.

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

ADJOURNMENT

Mr Dan Craig

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.05): I move:

> That the Assembly do now adjourn.

Mr Speaker, I want to make a brief observation about those who usually make observations about us, namely, the media. I am sure many here are aware that Dan Craig from Prime Television leaves the TV station this week to join ABC radio as a producer. Who of us will forget Dan's probing questions between cigarettes during the lunch suspensions of the Assembly?

Dan is unique among members of the television media who regularly cover Assembly politics. To start with, he is about the only one older than I am, I think. He is also the longest serving of those who regularly cover the Assembly. He is one of only a few journalists in the electronic media who could remember this Government's first term, let alone the former Government's term of office. It is a sad comment that his corporate memory is unique among members of the electronic media and will be lost to the TV electronic media with his departure for radio.

Dan will be long remembered for his televised giving up smoking campaign which, as those of us used to his questioning at lunchtimes on sitting days and elsewhere will testify, was a complete and abject failure. I am sure all members will join with me in wishing Dan the very best in his change to radio - or his return to radio, since he came from that area. I am sure we will all speak to him often in his new role at the ABC. But his passing from television is a mark we all recognise today.

State Electricity Losses

MS CARNELL (Chief Minister) (6.06): We have had lots of discussions in this place in recent days about ministerial responsibility. As ministerial responsibility does not stop with Ministers but runs to the whole Assembly in some circumstances, I think it appropriate to read into the record an extract from today's *Australian Financial Review.* An article headed "Taxpayers take a whopping charge on State power bills" states:

> Yesterday, Queensland Power Trading Corp admitted, in a report to Parliament, that it had blown its entire shareholders' funds, racking up $575 million of losses on long-term power purchase contracts.
>
> QPTC's trading losses will cost Queensland taxpayers much more than the headline figure of $575 million, which is a discounted cash flow figure.
>
> The actual cash losses over the next 30 years will be between $1.1 billion and $2.2. billion, but you won't find those numbers in the annual report.
>
> QPTC's horror loss estimate brings to $1.6 billion the total estimated losses revealed to date by NSW and Queensland government electricity corporations since the establishment of the national electricity market less than two years ago.
>
> Just to put that into perspective, that's more economic damage inflicted on taxpayers' wallets than either Alan Bond or Chris Skase inflicted on their respective shareholders.
>
> … … …
>
> There are two basic reasons for the big losses so far.
>
> One is that a deregulated electricity market is just like that for any other commodity: volatile and unpredictable.
>
> Two is the fact that State authorities, lacking street smarts and vigilant shareholders, are unsuitable players in such high-risk markets.

Mr Speaker, let me list the sorts of losses that have happened so far. Energy Australia have lost $315m; Pacific Power, $300m plus; Queensland Government, $400m; Queensland Power Trading, $575m; and Macquarie General, $14m. That makes $1,604m lost in just two States.

Ministers and members of this house have a responsibility to take this sort of information extremely seriously and to take it on board when assessing what the future of our power entity, ACTEW, should be.

Death of Mr Nick Sadil

MR HIRD (6.09): Mr Speaker, I seek members' indulgence to make a short reference to the recent passing of one of this Territory's most respected businessmen, Mr Nick Sadil. As members will know, Nick was a real estate industry leader in Canberra for more than 30 years and co-founder of a company known as Sadil Quinlan. Regrettably, he passed away on 7 November, at the age of 76, after a long battle with cancer.

Nicholas George Sadil was born in China in 1923, the son of White Russian parents who had left their homeland in 1917. He migrated to Australia with his family in 1949 and got a job selling window blinds in Sydney. This led to his first venture into real estate on the New South Wales central coast. Nick moved his business operation to the south coast at Tomakin but transferred to Canberra for greater ease of commuting. He made what might today be called a killing, selling land at £20 a block.

Nick worked for a period in Canberra with a company known as Lyneham, Tacheci and Whyte and became the first salesman in the industry to sell $1m worth of property in the ACT in a single year. He founded his own company with Mr Laurie Quinlan in 1970. Mr Quinlan moved on after three years but Nick continued to run the company right up until his death, although in later years most of the business responsibility was taken over by his three sons - Greg, Marc and Adam.

Those of us who knew Nick well, as I did, would be aware that he was a man of his cultural talents. He was an accomplished musician and was fluent in four languages, a skill which gave him unparalleled access to community organisations as well as the diplomatic community.

Among the sales he made in this area was the People's Republic of China's first Canberra embassy, established in the early 1970s in the former Commodore Motel on Northbourne Avenue. He also sold the Russian Trade Commission building in Sydney and the East German Embassy, and he helped the Czechs and the Slovaks with additional accommodation after the break-up of Czechoslovakia.

Nick was active in the hotel broking market, and among his various sales, to name a few, were such well-known properties as the Statesman Hotel-Motel in Curtin, the Jamison Inn in Macquarie, the Deakin Motel in Deakin and the Kingston Hotel in Kingston.

Mr Speaker, our condolences go out to his three sons, their wives and their children, Nick's grandchildren. Sadly, his wife, Ngarie, predeceased him a number of years ago.

Question resolved in the affirmative.

Assembly adjourned at 6.13 pm until Tuesday, 7 December 1999, at 10.30 am.

QUESTIONS UPON NOTICE

Asset Sales
(Question No. 196)

Mr Quinlan asked the Treasurer, upon notice, on 13 October 1999:

"In relation to past budgets and the effect of certain major asset sale on transactions, and in preparation for the possible draft process:

(1) Will the Treasurer itemise by year and amount the money raised through transactions (i.e. transactions which are not incurred in the normal course of operations, but which have provided operating cash or have had an accrual effect on the operating statement) such as , but not limited to, the sale/leaseback of the vehicle and bus fleet, the Magistrates Court and one-off financing strategies such as the capital repatriation from ACTEW, since the introduction of accrual accounting.

(2) Will the Treasurer state how each of the transactions in (1) were treated in the (a) General Government Sector operating Statement, (b) balance sheet and (c) cash flow statement in both gross and net terms where relevant.

(3) Will the Treasurer itemise each asset disposal that has raised greater than one million dollars, by year and amount, since the introduction of accrual accounting.

(4) What was the effect on each transaction in (3) on the (a) General Government Sector operating statement, (b) balance sheet and (c) cash flow statement.

(5) What asset sales, which will raise greater than one million dollars are included in the 1999-2000 budget that have already happened or are scheduled tohappen before the end of financial year."

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

Questions 1 and 2

<u>Magistrates Court and Dame Pattie Menzies Buildings</u>

In the 1996-97 financial year, the Territory entered into a lease/leaseback over the Magistrates Court ($28.3m) and the Dame Pattie Menzies ($20.9m) buildings.

The transactions had the following impact on the GGS financial statements:
Operating statement:

The leaseback increased expenses for interest paid on borrowings.

Balance sheet:

The sale of the buildings reduced non-current assets and increased cash
The leaseback increased non-current assets and increased borrowings

Cashflow statement

The sale increased cash inflow from sale of fixed assets

The leaseback increased cash inflows from financing activities (ie borrowings) and increased cash outflows for the payment of interest

Midi-bus fleet

In the 1997-98 financial year, the Territory entered into a sale/leaseback of the midi-bus fleet ($6.5m). This was treated as an operating lease. This transaction had no impact on the GGS financial statements.

Capital repatriation from ACTEW

A capital repatriation of $300m from ACTEW to the General Government Sector has been budgeted for in 1999-2000. This will be invested in the Superannuation and Insurance Provision Unit.

This transaction has no impact on the operating statement, as it is a simple capital distribution. This increases cash inflow from investing receipts (ie capital distribution) on the cashflow statement, and increases both the cash balance and accumulated funds on the balance sheet.

Question 3 - 5

There have been no major one-off asset sales that have raised greater than one million dollars since the introduction of accrual accounting, or budgeted in the 1999-2000 Budget.

ACT Housing and Infrastructure and Asset Management undertake disposal of surplus assets, or replacement of obsolete housing stock as part of the ordinary course of business.

AUSTOUCH Kiosk System
(Question No. 202)

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

In relation to the AUSTOUCH kiosk system:

(1) What has been the total cost of developing the system?
(2) What quantitative and qualitative measures are utilised to determine the effectiveness of the system?
(3) Since the introduction of the system, what are the annual results of the quantitative and qualitative measures in relation to each individual kiosk and as an overall total?
(4) Since its introduction, what are the annual costs of maintaining the kiosk system in terms of hardware and software?
(5) What service provider performs the maintenance of the kiosk system and under what arrangements?
(6) Who retains the intellectual property rights associated with the system?
(7) What efforts are being made to market this technology beyond the ACT Public Service?

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

(1) Stand-alone AUSTOUCH kiosks were installed in public locations late 1994 and officially launched early 1995.

In July 1996 the AUSTOUCH project was transferred to Urban Services.

A request for tender was called in 1996 to expand the AUSTOUCH service to include payment collection and receipt printing facilities.

A contract with North Communications Australia was signed on 5 November 1996 for the delivery of 10 networked AUSTOUCH kiosks and options to extend the network. The cost of the contract was $115,000 per annum. An amount of $50,000 per was also allocated for the development of content and services on the kiosks.

Since entering the contract, eight additional kiosks have been added to the network, bringing the total number of kiosks to 18. The annual cost for the 18 kiosks is $163,000.

In February 1999, the kiosks were upgraded to be Internet compliant, thereby reducing the annual content and services cost from $50,000 to $10,000.

(2) A comprehensive Customer Satisfaction and Performance Study is conducted annually.

In addition, NCA reports daily and monthly on the following:

- Daily Statistics of bill payments
- Daily Usage Summary
- Sequential Count Summary (the actual number of hits AUSTOUCH receives.)
- Kiosk Content Usage
- Reliability Report

(3) For the past three years, Urban Services has commissioned Artcraft Research to conduct a survey of the Canberra community to determine perceptions of the importance and performance of services provided by the Department of Urban Services on a range of issues.

In the first two years, levels of service provided were in excess of the public's consideration of the importance of AUSTOUCH. This has since reduced to closely match the level of importance. Public perception on the importance of AUSTOUCH is steadily increasing.

Of all financial transactions processed by the kiosks, 33.7% occurred outside core business hours (9.00am-5.00pm Monday to Friday), indicating that ACT Government clients appreciate the convenience of electronic delivery of government services and confirming the role of AUSTOUCH in the process of improving customer service. Bill payments continue to increase monthly, as indicated below.

graph included

(4) There are no annual hardware and software costs separate from the contract with NCA.

(5)

- NCA ensures the Kiosks are resilient and substantially vandal resistant, and kept clean and in working order.
- NCA provides a 24 hour automatic telephone recording for Kiosk users and the Territory to notify faults in the operation of the Kiosk system to NCA.
- NCA installs an automatic fault paging system which tests for Kiosk problems at least once each hour and notifies NCA of the fault.
- NCA logs the time, place and nature of faults reported to it by Kiosk users, the Territory or the automatic paging system and provides that log to the Territory on a monthly basis.
- NCA responds to faults with screen errors or in the EFTPOS system within two working hours of being notified of the fault.
- NCA responds to faults with the printers on a Kiosk within four working hours of being notified of the fault.
- NCA assists and co-operates with the Territory to liaise and consult with groups representing the disabled on issues concerning access to Kiosks by the disabled, and in further developing accessibility to Kiosks and the Kiosk System for the disabled.

(6) Intellectual Property in Agreement Material produced jointly by the Territory and NCA under this Agreement vests in the Territory and NCA jointly as Intellectual Property owners. The Territory grants NCA a royalty-free licence for the term of this Agreement to use, reproduce, adapt or exploit, jointly owned Agreement Material.

(7) The intention of sharing the ownership of the Intellectual Property with the service provider was to encourage the technology to be marketed beyond the ACT Public Service. In effect, the responsibility for commercialising the Intellectual Property was transferred to the private sector, on the basis that it is not Government's core business. The ACT is used as a reference site by NCA. The benefit to the ACT is believed to be a lower price for the service than would otherwise have been possible.