DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

24 May 2000

Wednesday, 24 May 2000

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

DEATH OF MRS DYMPHNA CLARK

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

> That this Assembly expresses its deep regret at the death of Mrs Dymphna Clark, who will be remembered for her scholarly achievements and her participation in a wide range of cultural and academic activities, and tenders its profound sympathies to her family.

It was with much sadness that I learnt of the death Dymphna Clark on Friday, 12 May 2000, at the age of 83. Dymphna Clark was a remarkably dynamic and successful person, lecturing at the Australian National University, translating and publishing several works of her own, as well as providing research and secretarial support to her husband, Manning Clark. She did all this while raising a family of six children.

Born in Melbourne on 18 December 1916, she attended Mont Albert Central School and the Presbyterian Ladies College in East Melbourne. She matriculated at the age of 15 and completed honours at Melbourne University. Mrs Clark then travelled to Germany in 1938 as a von Humboldt scholar, but abandoned her doctoral studies as the Nazi regime continued to rise.

Fleeing from Germany to Oxford, she reunited with Manning Clark, whom she had met as an undergraduate, and who was studying for his master of arts in history. They were married in 1939 and went on to have six children. As well as maintaining such a large household, Mrs Clark provided invaluable assistance to her husband's greatest works, including *A History of Australia*, by editing, proofreading and providing research.

Mrs Clark was a distinguished scholar in her own right. She was fluent in eight languages, and could get by in another four, and lectured in German at the Australian National University. She also established Manning Clark House, which runs seminars, book launches, literary talks and music evenings.

Mrs Clark also enlivened the community with a passion for the environment and was the driving force behind the formation of the Aboriginal Treaty Committee, a group as relevant today as ever.

In the wake of her death, those who had the pleasure of working and studying with her, or just knowing her, have remembered her fondly and with pride. She was a distinguished woman, whom people have described as warm, generous, friendly and principled. Dymphna Clark was admired by many. Her scholarship and contribution to our community are appreciated and will be remembered.

She had been ill for some time with cancer, but still managed to successfully defend her husband's memory in the nine years since his death. Equally, her work with Manning Clark House continued unabated, and she continued her translating work despite her illness. She died that Friday morning with the dignity and courage that have characterised her life.

I am sure all members join with me in acknowledging the contribution Mrs Clark made to Australia and to Canberra, and expressing our sympathy to her family, especially her children, Sebastian, Katerina, Axel, Andrew, Rowland and Benedict. She will be sadly missed.

MR WOOD: Mr Speaker, it is with sorrow that I join with Ms Carnell in the condolence motion following the passing of Dymphna Clark. Mrs Clark was a great Australian. She was a great, well-known and respected Canberran and, more than that, she was a world citizen, a great example of what people might be.

One example of this is that she was a remarkable linguist, fluent in many languages, and that flowed through, or came from, her interest in people. She had a lifelong interest in conversation—talking with people, listening to people—and she was famous for her hospitality. All the comments I have heard about Mrs Clark express the joy that people had in talking to her and—following another one of her passions—perhaps leaving her home with an armful of garden produce produced in the backyard.

She will live on, in some respects, through the activities of that organisation, Manning Clark House, because that, too, reflects an interest in people and events—major issues, but issues that effect people. That concern for people was also reflected in her interest in Aborigines, and her early work as a key member of the Aboriginal Treaty Committee, which continued through to the present day, with her interest in bringing about reconciliation.

She was also interested in the environment; it followed naturally. She put her hands to it, she worked it. She got involved in her own garden and in ideas for planting trees. She always had a passion for planting trees, so it was hands on. She lived the way she spoke.

An outstanding academic, she has many works to her own credit and also provided essential, highly skilled help to Manning Clark in his production of significant documents, including that notable *A History of Australia*. I note one comment, and I will quote:

> Dymphna argued in his defence that his work—

that is, *A History of Australia*—

> opened the minds of thousands of Australians to the story of their country in a way nothing else had done.

That is very true, and she was a significant part of it. She was a fine person, and a great example to us all.

MS TUCKER: I also join with members in this condolence motion for Dymphna Clark. As others have said, Dymphna was a woman of great intellect, strength and integrity. As happens with many women, she was publicly known more as the wife of her famous historian husband, Manning Clark, rather than for her own achievements, but her achievements were many.

In her earlier years she was a scholar in German literature, and later assisted Manning Clark in researching his books on Australian history. She was also the mother to six children, which obviously took much of her time. As her children grew older, she was able to devote more of her time to environmental and social justice issues. In the mid-eighties, she was a key participant in the formation of the Aboriginal Treaty Committee, which led to the current moves towards reconciliation and justice for Aboriginal people.

She was also a supporter of a number of environmental groups over the years, and most recently was the patron of ACT for Trees, which is really where I got to know her. This was only formed in 1997, but has become a key champion of Canberra's bush capital heritage. She gave generously of her time to this group and also made her house available for its meetings. ACT for Trees will greatly miss her presence.

She also contributed to the cultural life of the Canberra community by turning her family house into a meeting centre, which has been used for seminars, book launches, literary talks and musical events. Dymphna has left her mark on Canberra and, indeed, on Canberra's and Australia's cultural life, both in her own right and in association with Manning Clark, raising six children at the same time. She has shown remarkable strength and dignity in her life and she will be sorely missed.

Question resolved in the affirmative, members standing in their places.

LAND (PLANNING AND ENVIRONMENT) AMENDMENT BILL 2000 (NO 3)

MR CORBELL (10.41): Mr Speaker, I present the Land (Planning and Environment) Amendment Bill 2000 (No 3), together with its explanatory memorandum.

Title read by Clerk.

MR CORBELL: I move:

> That this bill be agreed to in principle.

This bill will, for the first time since the commencement of self-government, establish an independent ACT planning authority. It also restores the position of chief planner for the Australian Capital Territory and, again, for the first time since self-government, the position will have statutory independence. There is a clear need for this bill. There is a clear need to restore integrity and transparency to land use planning decisions in the ACT. This government's record on land use planning is without credibility and without strategic direction. Its approach has been ad hoc and has been driven by the winds and vagaries of individual government minister's support for individual development proposals.

The rejected Federal Golf Club development is a prime example. Originally proposed and supported by the government in 1997, this project became too sensitive too close to an election, and was dumped by the then planning minister, Gary Humphries, with the commitment that the government would not consider it again. Immediately after the election, with the government safely re-elected, the new minister, Mr Smyth, again proposed a Territory Plan variation to allow the development to proceed. It took a disallowance motion in this Assembly to stop it.

This example highlights the problems with land use planning decisions in Canberra. Decisions about land use, decisions to vary the Territory Plan, are driven completely by the whim of the minister and the executive. The government argues that such decisions are policy driven, but the reality is that they are politically driven, often to suit the interests of individual proponents who have won the ear of the minister. This is not the way to plan for the future of Canberra. It is not the way to encourage integrity or transparency in land use planning in Canberra. In short, it is not the future direction for planning in this city that Canberrans want.

This bill establishes the position of chief planner for the Australian Capital Territory. The chief planner will perform the functions of the ACT Planning Authority. As members would be aware, the ACT Planning Authority is the body that formally proposes variations to the Territory Plan to the executive. But the ACT Planning Authority is, at the moment, a compromised body. It is not independent. Instead, its functions are performed by public servants who are directly responsible to the minister. They must implement the wishes of the minister. They cannot act independently of the executive, and they cannot act as independent counsel for the executive and the Assembly on planning issues. That is what this bill seeks to change.

The bill provides for the functions of the ACT Planning Authority to be performed by the chief planner. The bill explicitly states that the ACT Planning Authority will not be subject to any directions by the executive or the minister, except in certain circumstances specified in the bill. Even when a direction is made by the minister under these criteria, it must be in writing and it must be tabled in the Legislative Assembly within six sitting days of the minister giving such a direction.

I believe that this structure, which provides for the independence of the ACT Planning Authority while still allowing for ministerial directions within specific criteria, is the right balance needed to achieve a rigorous and transparent relationship between the Planning Authority—that is, the chief planner—and the minister.

There is a need for elected governments to be able to implement the planning policies on which they were elected, but there is also a need for the public to have faith that the Planning Authority, which is also responsible for protecting the public interest and avoiding the market failure that is inherent in the land market, is at arms-length from government. That is, they must believe that it is not solely an agent of the government. This is what this bill seeks to achieve.

Contrast this situation with the current provisions of the land act, which do not guarantee the independence of the Planning Authority, and the existing provisions for executive policy direction of the Planning Authority, which are rarely, if ever, used. Currently, under the existing act, the executive does have the capacity to direct the authority, but this is a power that is hardly ever used. Why? Because it does not need to be.

The existing structure, where the ACT Planning Authority is comprised of public servants responsible directly to the minister, ensures that the Planning Authority is under the complete control of the executive, and that authority's capacity to provide independent advice is lost. In short, the minister does not need to formally direct the authority under section 37 of the existing act because a phone call will do. The situation has compromised the independence of the advice that the government and the Assembly receive on planning issues, and this is the situation that must be changed.

To further achieve this, my bill provides for the chief planner—that is, the Planning Authority—to engage and direct staff working for the authority. Section 40 of the principal act is amended by my bill to allow the chief planner to have all of the powers of a chief executive in relation to the staff assisting him or her. So the staff for the chief planner of the ACT Planning Authority will be responsible to the chief planner, not to the minister.

Independence is a central theme of this bill. To further guarantee the integrity of the chief planner and to protect the position from improper influence, the bill stipulates that the chief planner cannot be a public employee. This may seem a strange provision at first to members, but it will avoid the situation where a public servant who becomes the chief planner can be influenced by the government because they fear for the future of their substantive positions in the public service. This situation obviously has to be avoided if the chief planner and the planning authority are able to act independently.

The bill also provides for the Legislative Assembly to direct the minister to direct the authority in relation to specific criteria outlined in the bill. This replaces existing section 37 of the principal act, where the Assembly can only request the minister to direct the authority. This change, through the bill, gives greater authority to the Assembly in relation to planning and land use matters. However, I must stress that this provision is introduced on my understanding that it would be used only where the Assembly had no confidence in the minister's relationship with the authority. In short, it is a power that should be available to the Assembly, but one that should only be used in exceptional circumstances.

The Planning Authority, under my bill, will be required to publicly respond to any direction made by the minister. This response must occur within two months, and must outline what action the authority has taken and intends to take in response to any specific written direction, and the minister is required to table that report in the Assembly within six days of receiving it.

The bill provides for the term of the chief planner to be of no more than five years, contains strong disclosure mechanisms to protect the integrity of the office of chief planner and the independence of the ACT Planning Authority, and ensures that there is no conflict of interest between the chief planner's personal interests and any decisions being contemplated by the Planning Authority.

In conclusion, this bill is about the public interest. It is about making the decision-making framework for planning as transparent as possible, and making sure that it is separated clearly from ordinary commercial or private interests. As we know, Mr Speaker, among many other markets, the land market is prone to systemic failure. That is why we have planning. Land scandals have marked the cards of this government, and it is vital to ensure that the independence of public officers entrusted with planning is rigorously maintained.

I took the opportunity of referring this draft bill to a number of others for comment prior to tabling it today. One of the individuals I asked to comment on the bill was Dr Brendan Gleeson, who is a senior research fellow and deputy director of the urban frontiers program at the University of Western Sydney. The urban frontiers program is one of the leading academic institutions on planning and urban government policy in Australia. He had this to say about the legislation:

> In short, the amending legislation will:
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> 1. strengthen the democratic foundations of planning in the ACT by establishing a public advocate for planning and by enhancing the Assembly's power to scrutinise planning;
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> 2. protect the integrity of planning in the ACT by reducing the potential for ad hoc and/or venal decision making; and
>
> 3. protect the minister's integrity by ensuring that his or her relationship with the planning administration is transparent and not clouded by private interests or secretive process.

He concludes by saying:

> Who could object to this legislation?

This is an important reform in planning in the ACT. It will help to restore integrity in the community in the planning process in the ACT, and I commend the bill to the Assembly.

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

LEASES (COMMERCIAL AND RETAIL) BILL 2000

MR RUGENDYKE (10.53): I ask for leave to amend my notice of motion by omitting "Commercial Tenancy Tribunal" and substituting "Tenancy Tribunal".

Leave granted.

MR RUGENDYKE: I present the Leases (Commercial and Retail) Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MR RUGENDYKE: I move:

> That this bill be agreed to in principle.

The purpose of this bill is to implement a workable process to enhance the relationship between commercial tenants and their landlords in the ACT. In summary, the bill will ensure that the parties to retail and commercial leases and to negotiations for those leases are able to make fully informed decisions; ensure that there is an appropriate balance between the bargaining power of lessors and tenants, particularly during negotiations in relation to retail and commercial leases; encourage equitable conduct between parties to commercial and retail leases; provide an effective dispute resolution process in relation to commercial and retail leases or negotiations for such leases.

This bill has been close to a year in the making and stems from inadequacies in the Tenancy Tribunal Act that have been consistently raised with my office since I came to this place. The clear message that I have received is that the dispute process for commercial tenants and landlords in the ACT is not an efficient or effective mechanism.

The aim of this bill is to streamline and enhance this process. It promotes direct access to the Tenancy Tribunal and prompt resolution of disputes. Unfortunately, we have seen too many cases in the ACT where disputes have been in process for excessive periods, with the only result being a financial burden, particularly on small business.

The other common complaint that this bill aims to address is that the playing field for small business in its dealings with landlords has not been level. Under the present regime, landlords hold the upper hand, particularly in the instance of lease negotiations with large shopping malls. This bill proposes to put small business on an equal footing by implementing security of tenure rights.

Presently there is no requirement for landlords to negotiate with tenants on the renewal of their lease. We have all heard stories about the landlord delaying negotiations for as long as possible. Often the tenant is put off until the lease runs out and they are forced to live in limbo. They do not know what their future holds or whether the landlord truly intends to renew the lease or not.

I am particularly worried about the ramifications of this environment for the future of the genuine, independent, small business owners in the ACT. With large shopping malls having a preference to place national franchises with a national identity in their shops, the independent local retailer gets squeezed out and does not receive any support under the current arrangements. This bill proposes to eliminate this problem by introducing a minimum five-year lease with an option for the tenant to renew.

If an owner proposes to re-lease the premises and the existing tenant wants to renew or extend the term of the lease, the owner must give preference to the existing tenant over other possible tenants. The owner must also commence negotiations between six and 12 months before the end of the term of the lease. These measures will help protect the goodwill of tenants.

Consider this hypothetical situation: a tenant owns a supermarket in a suburb and the goodwill of the business is worth $200,000. Rent payable to the landlord is $100,000 per year. The time for lease renewal arrives and market rental is assessed at $100,000 per annum. The landlord refuses to renew the lease, and instead gives the lease to the landlord's mate. The rent charged is $120,000 per annum for five years. So, in summary, the landlord gets an extra $100,000 over five years, the mate gets $200,000 worth of goodwill for $100,000, and the former tenant loses the $200,000 business. This bill will enable the tribunal to identify harsh and oppressive behaviour by the landlord against the former tenant, and will protect the tenant against this type of behaviour or other similar scams.

This bill also includes clear guidelines and criteria for the termination of a lease and sets out clear responsibilities for both tenants and landlords. For example, I do not propose an unconditional option for tenants. Tenants will still have to meet all of their obligations under their lease and, if they fail to do so, their leases may be terminated in certain circumstances. The bill incorporates and maintains the present role of the Tenancy Tribunal. However, it does give parties to disputes easier access to the tribunal. It also recognises the existing code of practice under the Tenancy Tribunal Act.

Presently the registrar of the tribunal must follow a series of processes before a dispute can be heard by the tribunal. It is not uncommon for these dispute applications to be tied up for long periods in this regimented process, sometimes for months on end. This bill gives the registrar a series of options for responding to cases. They range from seeking information to resolve the dispute to referring the dispute to a mediator or a conference and, in clear-cut cases, referring the dispute immediately to the tribunal for hearing. In the case of a failed mediation, the registrar must refer the matter to the tribunal automatically.

Among other rights, this bill provides for tenants to have legal or other representation at conferences or tribunal hearings. If this bill is adopted, the tribunal will be able to grant an appropriate interim order if it is satisfied that the person applying, whether landlord or tenant, would suffer if it was not granted.

In conclusion, I believe that this bill will serve to fix the ongoing problems in our tenancy tribunal system and create a workable model that successfully resolves, rather than prolongs, disputes. This will be a more productive and beneficial environment for both tenants and landlords, and I commend the bill to the Assembly.

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

VICTIMS OF CRIME (FINANCIAL ASSISTANCE) AMENDMENT BILL 2000

MS TUCKER (11.01): I present the Victims of Crime (Financial Assistance) Amendment Bill 2000, together with its explanatory memorandum.

Title read by Clerk.

MS TUCKER: I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill amends the Victims of Crime (Financial Assistance) Amendment Act 1999, which was passed, as members may remember, around 4.00 am on the last day of sitting last year. That act produced a scheme that is unjust and unfair, discriminatory, inconsistent and bad law.

This bill does not attempt to turn the clock back; neither does it attempt to implement every recommendation made by the Justice and Community Safety Committee when it inquired into the proposed bill over several months last year. In bringing this new bill before the Assembly, the ACT Greens are simply offering the government and its crossbench supporters an opportunity to correct the most glaring inequities. If they are not prepared to amend the legislation, the debate of this bill provides, at the very least, an opportunity for them to explain their position to the Assembly and the Canberra people they represent.

In this context it is instructive to look at the more recent history of victims of crime compensation. The disquiet dates from the 1997 release by the ACT Attorney-General of a discussion paper on the reform of the Australian Capital Territory criminal injuries compensation scheme. Key recommendations were that financial assistance for pain and suffering be assessed by the proportionate scaling method, that financial assistance for psychological injury be limited to significant persisting disability, and that the amounts available to secondary victims of crime be limited, compared to that of primary victims.

Following extensive public response to the 1997 discussion paper, the ACT victims of crime coordinator convened a victims support working party to consider the needs of crime victims in the ACT. Members of the working party included police victim liaison officers and representatives of the ACT departments of Justice and Community Safety and Health and Community Care; the office of the Director of Public Prosecutions, the National Association of Loss and Grief, the Domestic Violence Crisis Centre, the Victims of Crime Assistance League and Canberra Rape Crisis.

There has been well-documented discomfort with interpretations of the working party's May 1998 report, *Victims support in the ACT*, in light of the legislation as presented by the ACT government. Key recommendations of that report, however, included the establishment of a comprehensive, but not exclusive, victims services scheme, improved victims and witnesses support programs, and the retention of financial assistance for physical and psychological criminal injuries.

Remarkably, the bill tabled by the ACT government in mid-1998 went further in restricting access to financial assistance and eliminating freedom of choice. Objections were raised publicly by victim support groups and legal and professional associations.

The bill was referred to the Legislative Assembly Standing Committee on Justice and Community Safety, chaired by Paul Osborne, in December 1998. The committee received 18 written submissions from key victims service, legal and government organisations, and conducted a full day of public hearings. The committee's report was tabled in June 1999. Fundamental recommendations were that all references to permanent in the special assistance provision were removed, that financial assistance to victims of sexual assault and domestic violence was provided, that such victims were not disadvantaged by the introduction of the new scheme, that involvement in the proposed victims services scheme be voluntary, and that retrospective loss of entitlements be removed from the legislation.

The Victims of Crime (Financial Assistance) Amendment Bill 1998 was debated and passed in the early morning of 9 December 1999. Key amendments were the introduction of compensation for pain and suffering for police officers, emergency service employees and victims of sexual assault only, and a requirement for victims to pursue workers compensation entitlements before seeking financial assistance under the scheme. The act came into force on 24 December 1999.

Of course, the inadequacies, the inconsistency and the inelegance of that legislation were very clear to all of us who opposed it at that time. I presume that they were clear to those who supported it as well, but no defence was made of these inequities at the time. Mr Humphries was particularly notable in his avoidance of key issues, and neither Mr Osborne, who failed to support his own recommendations, nor Mr Rugendyke, who moved the more controversial amendments, made any contribution at all to the debate.

We hope that this time those members will contribute to the debate. This is particularly important for Mr Osborne. As chair of the committee of inquiry into this bill, which ran over many months last year, Mr Osborne received extensive, detailed submissions from extremely hardworking expert groups in close contact with the community. The committee weighed up a number of competing interests and authorised a comprehensive report, with a number of substantial recommendations. We would like to understand why his position changed when it came to the vote on the government's bill.

I believe the case for making changes to last year's legislation is clear. I believe that the Canberra community can and should be served by law that treats people fairly, that does not serve and is not constructed by people as serving special interests to the detriment of the common good.

The legislation, as it stands, casts victims of crime into two classes. Members of the police force, the fire brigade and the ambulance service and victims of sexual assault are entitled to apply for financial assistance by way of reasonable compensation for pain and suffering, up to an amount of $50,000. All other victims of crime are entitled to apply for special assistance in an amount of $30,000, after they have obtained assistance from the victims services scheme as is reasonably available and if, and only if, it is an extremely serious and permanent injury.

Are Mr Rugendyke, Mr Osborne and the Liberal government so much less concerned for victims of domestic violence than they are for the police? Are they so much less concerned for other innocent people whose lives have been seriously upset by crime? Are they really comfortable with this inequity?

Speaking of the police, why is it that they are not required to obtain assistance from the victims services scheme? If the purpose of the scheme is to provide timely and appropriate support and to ensure that people applying for financial assistance would truly benefit from it and are not just out to rort the system, why on earth should the police, fire fighters, ambulance officers or victims of sexual assault not be required to obtain such assistance? Is it because police do not rort, but bank tellers do? I do not think so.

Mr Humphries, the Attorney-General, in a letter to me on 7 March 2000, argued these special entitlements are a form of positive discrimination. The issue in contention, according to Mr Humphries, is whether the particular instance of positive discrimination is justified. This was an interesting argument, coming as it did three months after the debate, that the special entitlements in this legislation are a form of positive discrimination. Section 27 of the Discrimination Act, measures intended to achieve equality, addresses the issue of positive discrimination in the following way:

> Nothing in Part III renders it unlawful to do an act a purpose of which is:
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> to ensure that members of a relevant class of persons have equal opportunities with other persons; or
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> to afford members of a relevant class of persons access to facilities, services or opportunities to meet their special needs.

Subsection 3(b) of section 109, grant of exemptions, refers to "the desirability, where relevant, of certain discriminatory actions being permitted for the purpose of redressing the effects of past discrimination".

I referred Mr Humphries' explanation to the Discrimination Commissioner on 11 April. In that letter I said I would be interested to learn the views of the Discrimination Commissioner on the notion of positive discrimination and whether it can be seen fairly to apply to the separate classes of entitlement in the 1999 act. The Discrimination Commissioner wrote back on 28 April making it clear, of course, that an apparently discriminatory act undertaken to comply with this law will not generally constitute unlawful discrimination.

She also pointed out, however, particular questions that would need to be answered to determine whether positive discrimination was warranted. In this context, I would have thought that the relevant questions relate to the nature of the disadvantage that the police experience in comparison with the rest of the community, which would explain why they are not required to obtain assistance from the victims services scheme when mainstream groups are. Obviously, other professional groups, such as bank tellers, are also exposed to violence in their workplace.

The ongoing inequality or disadvantage suffered by the police would also have to be demonstrated. This inequality or disadvantage is redressed by making up to $50,000 available for compensation for pain and suffering, when that entitlement is not available to mainstream groups, when it is not available to victims of domestic violence or bank tellers caught up in an armed hold-up.

The third point he would have to explain is how this special entitlement brings the police to the same level of advantage as mainstream groups, and why this entitlement is needed to continue indefinitely.

I am interested to see how the government responds to these questions. I have asked Mr Humphries in writing for a response, but have not yet received a reply. In my view, the act does not provide special assistance to police, firefighters, ambulance officers and victims of sexual assault in order to address any matters of ongoing and historical disadvantage. In fact, rather than endowing the police and others with special considerations, what the 1999 act actually does is just strip entitlements away from all other classes of citizen.

The 1999 act discriminates against all other forms of victims of crime by limiting their entitlements, for no just purpose, to little more than half the amount to which this select class of citizens is entitled, and only on the condition that they are suffering from a permanently serious impairment, with no expectation of improvement. The 1999 Victims of Crime Act thus makes access to financial assistance virtually impossible for the bulk of all victims of serious violent crimes.

The Victims of Crime (Financial Assistance) Amendment Bill 2000 simply aims to give all victims an equal entitlement. It offers the court some discretion in considering the impact and longevity of any criminal injury in making awards, and it presupposes compensation is payable only in serious, although not necessarily permanent, cases.

The 1999 act was touted as a solution to controlling the exploding costs to government. It is true that offering a level of entitlement to all, rather than select, classes of victims of violent crime does have financial implications, but it is important to identify those cost-cutting aspects of the 1999 act that will remain in force if this bill is passed. In the first instance, secondary victims of crime will still not be entitled to any financial assistance at all, while primary victims and responsible persons, even under this bill, would have to pass a threshold of serious injury for compensation for pain and suffering.

Furthermore, the set-offs introduced in the 1999 act remain largely unchanged, thereby limiting the territory's exposure under this act and putting some of the onus back on the victims of crime to pursue other remedies. The territory itself has right of appearance in,

and so can become a party to, any application before the court. The requirements for applicants to obtain counselling and other support, under or by arrangement with the victims services scheme, takes further pressure off the court to award compensation for pain and suffering.

Yes, this bill has some financial implications but, in the context of the social and economic cost of crime generally, in that it addresses fundamental issues of discrimination and hence injustice and inequity and in the context of a system of law which purports to serve all citizens fairly, it is not an unreasonable burden.

This bill also amends the transition arrangements in the 1999 act and takes out the retrospective provisions. Under this bill, the new arrangements will come into force for all injuries sustained after 24 December 1999, and applications regarding criminal incidents before 24 December 1999 will be heard under the legislation as it existed prior to the passage of the 1999 act.

Opposition to this retrospective legislation is very wide. In submissions to Mr Osborne's inquiry last year, the ACT Bar Association, ACT Legal Aid, the ACT branch of the Australian Federal Police Association, the Australian Plaintiff Lawyers Association, the Law Society of the ACT, the Women's Legal Centre, Canberra Rape Crisis and VOCAL all describe this retrospective application as unfair and unjust.

They were not arguing that case simply because they wanted a piece of the action. Many of those bodies are organisations that are fully extended as it is: they just do not need more of the action. They formed the view, however, that this 1999 act was unfair and unjust because it applies retrospectively to any applications made after an arbitrary date, no matter when the criminal conduct may have occurred, if for whatever reason it had not been settled by Christmas eve 1999. Retrospective legislation, when it strips people of their entitlements, as the 1999 act does, is unjust.

There are also a number of smaller amendments in this bill that take out some of the coercion implied under the act. They do not change the intent but, added together, can make quite a difference to how the act operates and how it will affect victims of violent crime. These amendments reflect an approach that acknowledges the importance of empowering victims, and not further disempowering them by restricting the choices available to them.

The literature is clear that victims need to feel empowered in order to heal. A feature of much of the research that purports to inform the creation of the new victims services scheme, and the 1999 Victims of Crime Act, points directly to the significance of independence and control over their rehabilitation for many victims of violent crime.

It is not enough simply to provide services and support. Indeed, this can be quite counterproductive if handled poorly. It is most important that some flexibility and understanding be built into the legislation and that, where feasible, such victims who may require some assistance be entitled to make some choice whenever practicable.

Consequently, while the draft victims of crime 2000 regulations include provision for approved service providers, that is not clear in the 1999 act. Specialist agencies, such as the Domestic Violence Crisis Centre, are often in a strong position to provide appropriate support and guidance, especially in the first instance. So it is absolutely necessary to make clear that such arrangements between the victims services scheme and such agencies are encouraged and expected. This bill amends the act to make that clear.

Furthermore, the set-offs in relation to intoxication under the act can be read to imply that, if you were drinking in a bar and you were attacked, then you asked for it. There becomes a presumption that an intoxicated person in the face of violent crime is less entitled to the protection of the law. There are, of course, questions of contribution to the incident, but this particular set-off is unnecessary as the court, under relevant conditions in this act, is already charged with taking the behaviour and condition of the victim into account in making an award.

The ACT Greens do support the government in pursuing workers compensation remedies when looking at redress and assistance for victims of crime. However, workers compensation cases can take years, whereas positive outcomes for victims of crime often turn on a timely resolution of the case. In the interests of consideration, flexibility and compassion for the people concerned, this bill provides for the court to hear criminal injury cases prior to the resolution of the workers compensation case as an application for workers compensation must be made nonetheless, as any subsequent workers compensation award can be recovered by the territory, and as the court can adjourn proceedings if it forms a view that the workers compensation action is not being pursued adequately. This is not a case of double dipping. We are simply introducing some flexibility.

The final amendment may be more in the wording than the effect. Many of the more serious cases of violent crime—sexual assault and domestic violence—afflict women with family responsibilities. While compensation for loss of income resulting from violent crime is provided for primary victims, related victims and responsible people, the concrete and legitimate costs of child care and the other domestic work that the primary victim cannot continue to perform are not identified in the act. By including an acknowledgment that such costs can be legitimately claimed in these situations, the act is made more woman-friendly and family-friendly.

The Victims of Crime (Financial Assistance) Amendment Act 1999 cuts back significantly on entitlements for victims of crime in the ACT. This bill does not attempt to return us to the previous regime. As I have previously argued, secondary victims have no access to financial assistance under this scheme, while related victims have access only to very limited support. The set-offs introduced in 1999 further limit the territory's obligations and, even under our amendments, financial assistance for primary victims is restricted to serious cases.

This bill, however, does address the very real issues of injustice and inequity. It is not acceptable to implement and accept legislation that treats people so poorly and in such an unequal and unreasonable manner. Victims of crime schemes and entitlements have developed over time as an acknowledgment of the failure of society to protect us from crime.

The government is of the view that the new victims services scheme will provide a broader, and perhaps more effective, level of support. This is an arguable point, particularly regarding the current version. I do hope that members will seriously consider supporting this bill. I would be very pleased to have a round table discussion on the issue, in the hope that at least we could find some common ground and improve the situation for all victims of crime.

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

SUPERVISED INJECTING ROOM—PROPOSED TRIAL—EVALUATION

MR KAINE (11.22): Mr Speaker, I move:

> That before the proposed "supervised injecting room" trial commences, this Assembly requires the Government to provide details of the following:
>
> (1) the assessment criteria against which the trial is to be adjudged a success or failure;
>
> (2) the process to be used for the evaluation, including specification of data to be used and methods of data collection and recording, from day one of the trial until the tabling of the report in the Assembly;
>
> (3) the name(s) of the independent, disinterested organisation, person or persons who will conduct the assessment of the trial; and
>
> (4) the date on which the results of the assessment will be tabled in this Assembly.

Mr Speaker, we now know for sure that we will soon have in this city a shooting gallery for heroin addicts. The minister announced the trial; some time ago he said that it would go ahead. He fixed a location for it on the old QEII site, which was the site for a home for nursing mothers. It has now been funded in the budget. And yet there is by no means unanimous support either in this place or in the community for this so-called trial to go ahead. The support was far from unanimous when the trial was voted upon on the floor of the house, and I think that the outcome of that vote very largely reflects community views towards this issue. In other words, a very large part of this community does not agree with having such a facility in our city.

That being so, it must be pretty obvious to the minister and to the government that such a controversial trial must be conducted under such circumstances that the outcome, success or failure, can be clearly established. There is no room for any lack of clarity in the way the trial is to be conducted, how and by whom the evaluation of the trial is to be carried out, and on what criteria the assessment is to be made.

Proponents of this trial, including the minister, have consistently referred to it as being a scientific trial. However, in what way it is to be scientific has not been described. Given that it is highly controversial and that many people in our community are not convinced of the efficacy of such a trial, it is incumbent upon the proponents to demonstrate unequivocally that it is being conducted on a scientific basis and that the outcomes will not be judged on some subjective opinion or coloured interpretation of the outcomes.

I believe, therefore, that the matters requiring prior determination as set out in my motion must be addressed before the trial has begun so that we can all be satisfied, particularly those who are opponents of it, that the basis of the trial has at least some semblance of scientific method.

Some might say, "Well, the old grey-haired bloke is opposed to this thing and he is going to fight it to the death." Well, if it was only my opinion, I would accept that comment; but it is not only my opinion. I am not alone in the belief that the trial should be properly conducted. For example, Dr Gabriele Bammer, one of the strongest advocates of this trial, upon whom the minister relies heavily for advice, has expressed similar sentiments to mine in terms of how the trial should be conducted.

In a paper submitted to the Australian and New Zealand Journal of Public Health only in October last year, entitled "Medically supervised injection rooms—How will we know if they work", Dr Bammer made two or three comments that I want to quote. Mostly, they have to do with evaluation. The first has to do with how you do your evaluation. She notes:

> For many of the outcomes of interest, the best design will be before-after comparisons, where the situation before the injecting room opened is compared with that after six and 12 months and preferably also longer intervals.

In other words, a before/after comparisons, progressively during the trial preferably, are recognised by Dr Bammer as being essential. She goes further, saying:

> Detailed evaluations of all the issues is prohibitively expensive. In addition, for some outcomes of interest, such as fatal overdoses, the numbers that may be influenced by an injecting room are likely to be too small for any meaningful measurement of change.

In other words, she is even pointing out how difficult it is going to be to measure some of the criteria if you adopt them as such. Finally, she says—and this was in October last year:

> What we need now is a detailed discussion between policy makers, researchers, and key proponents and opponents to ensure that all the likely measures of success and failure are considered—

all the measures—

> Evaluation plans should include a clearly documented rationale for inclusions and omissions.

In other words, there needs to be a very careful study of which evaluation criteria you adopt and which ones you leave out. To read on:

> Supervised injecting rooms will continue to be contentious—

this is the point I want to emphasise—

> and if we want decisions to be made on the basis of evidence rather than speculation, the process for gathering the evidence needs to be transparent and to address agreed key issues.

That is Dr Gabriele Bammer, a lady whom I respect highly for her opinions and an adviser to the minister on this issue. I agree with everything that she said. It is clear, then, that we must fully understand from the outset what the objectives of this trial are to be, what we expect to gain from it, how it is to be conducted, and how it is to be assessed. Although the minister has announced that the trial will begin and has now funded it, he has made no statement about these important matters which, in my opinion, are prerequisites for the trial. I repeat that Dr Bammer thinks so, too. Dr Bammer, in the paper to which I have already referred, highlighted the necessity:

> ... for governments considering trials of supervised injecting rooms to allow adequate time, and provide sufficient funding for before measures to be taken.

In other words, what is the baseline for this trial? I presume that the minister has followed this good advice. I ask him now to table the results of his work, to establish the baseline for this trial. He has not done so.

Of crucial importance is the determination of the assessment criteria to be used to judge success or failure. Ill-defined, unquantifiable notions of success will not suffice. The general community out there is not going to be convinced by some soft assessment that is subjective in nature. It might make a few people feel warm and fuzzy, but it will not convince the electorate that the trial has been a success.

The minister has offered several justifications for the trial over a period of years. He and other proponents have said, for example, that the aim is to reduce the incidence of disease caused by unhygienic use of sharps, that the trial will reduce the level of public danger arising from the number of used syringes left in public places, that the trial will reduce drug-related crimes, such as robbery and burglary, that the trial will make Civic centre more attractive by reducing drug dealing in our city streets, that the trial will reduce the risks associated with overdosing, and that the trial will encourage addicts to use a “safe” facility, rather than using public toilets, public parks, their cars or their homes.

These are what the minister and others have been putting forward for years as the basis for such a trial. If the achievement of these objectives is to be an expected outcome, and I believe that it should be, then we need to be able to assess success or failure in each case. That necessitates the before and after comparison stipulated as being desirable by Dr Bammer. So, where are the baseline statistics?

Given that the trial is about to begin, where are these statistics that are to be used in the comparison? Who is to maintain comparative, cumulative data in the course of the trial? In what form and where are those statistics to be maintained and collated? Will staff at the safe injecting place be maintaining statistics? Will the police? Will the emergency

services? Will the courts? Will community and business organisations concerned about the impact of drug use and dealing on their businesses and amenity? How is this to be done to ensure usefulness and consistency in the data to be used in this evaluation?

These questions bear heavily upon the larger question of what process is to be set in place for the purpose of evaluating outcomes. They are not merely rhetorical questions, yet the minister's statements in this place so far have failed to refer to them in the detail which, in my view, is absolutely essential before the trial begins.

On that point, I have to say that I do not accept the restricted criteria which the minister has indicated that he has already accepted and which he outlined in a letter of 9 May, and I assume everybody else in this place got the letter as well. The criteria that he has accepted without any debate anywhere are too broad and are too ill defined, and I do not believe that they provide any basis for evaluation of this trial.

For example, how do you evaluate public amenity? What on earth is the basis for such an evaluation? Until the minister tells me what data he is going to collect, what his baseline data will be and how he is going to do the evaluation at the end of the day, I do not believe that public amenity as an evaluation criterion is capable of objective analysis and interpretation. I do not say that you should not include client satisfaction , but how are you going to judge that? Is any client at this place going to walk out the door without a smile on his face? I ask the question: is the criterion going to be that they all leave happy?

The minister says that, in terms of public health impact, drug overdoses and other adverse events will be considered. What adverse events? What on earth are the selection criteria that the minister has already agreed to about? They are so broadly defined and, in my view, so incapable of objective analysis that, unless they are changed, we still will not know at the end of the trial whether it was a "success" or a "failure", except in the minds of the proponents for whom some sort of soft evaluation that is warm and fuzzy is all they require. They do not want to do an objective assessment.

Mr Speaker, that is not good enough. We need to know the basis of this evaluation in detail before it begins and we need to know the process. In terms of the process, the minister made the following statement in the house recently:

> The remainder of the evaluation for the trial—

after the international survey project at the ANU has conducted some pre-trial evaluation measures—

> would be put to public tender. Specifications for this tender cannot be written until after the advisory committee has considered the evaluation issues thoroughly.

Presumably, they have considered them thoroughly because they have made recommendations to the minister and he has accepted them, and yet what are the details of the tender? What are we going to ask people to tender for? I have seen nothing on that

issue. Has any other member of this place? So, what is the process? How is it to be conducted? Who is to oversight it, other than this advisory committee?

In terms of this whole process, in my view the credentials of the evaluators at the end of the day have to be impeccable and in my view no proponents of this trial should be allowed anywhere near the evaluation, because they cannot look at it objectively. For the same reason, strong opponents should be excluded, because they would not look at it objectively, either. Whoever is going to do this evaluation had better be totally disinterested. The minister needs to listen to that point very carefully.

Finally, the timely submission to the Assembly of the evaluation conclusions must be guaranteed. I do not want the conclusions a year after the trial has finished. If the minister sets this trial up properly on a scientific basis, if he has his baseline data established and he collects data during the trial, he should be able to produce an evaluation result within about one month of the conclusion of the trial. If it takes longer than that, the minister will have to explain to me why.

I understood that the trial was to be for one year. Obviously, that is not so now, because the budget includes financial provision into the third budget year from now. When was a two-year plus trial agreed upon? When was it enunciated by this government? It has never been enunciated, to my knowledge. It always talked, in the early days, about a one-year trial; but now, of course, it is to be a two-year trial, possibly two years plus. If it is a one-year trial, the results should be known 13 months after the starting date. If it is a two-year trial, they should be known 25 months after the starting date. I would not suggest that we should allow more time than that.

If the data collection and analysis mechanisms are put in place first, the public will want to know whether their public money has been spent to some good purpose, and they are entitled to know without delay.*(Extension of time granted.)* I was going to say that the evaluation must be completed and in the public arena before the next election in October 2001. Clearly, that is not going to happen now because the period of the trial has been extended; so the electorate will not be given an opportunity to express a view about this trial in October of next year. The electorate will have to wait for another four years before they get to express a view. I wonder whether that is coincidental.

The minister and other proponents of this trial will have to convince a very large part of the ACT community that this trial is being properly conducted, that the expenditure of public money is warranted and that the results are clearly and unequivocally demonstrable and supported by objective data. A soft evaluation, based on some subjective opinion, simply will not do and I will not support it.

Responsibility for all of these matters rests with the minister and the government. The minister has already pulled one trick by saying that it is not his problem, that the advisory committee decided. The advisory committee is just that; it is an advisory committee. Decision-making and the responsibility that goes with that decision-making fall to the minister and the government. It is their project. This project would never have got off the ground if it had not been government sponsored. I do not accept that anybody other than the minister and the government should be held accountable for the way it is conducted and for the outcomes of it. I will not for one moment tolerate the minister or the

government trying to shove the responsibility off onto an advisory committee, the evaluators or somebody else. It is their problem, their project, and they should be held accountable for it.

These are critical matters. They are critical matters that must be dealt with before the trial begins. They cannot be left until some time later, as being somehow inconsequential. I put it to the minister that the matters I have raised need to be dealt with before he switches on his trial, not later. They should not be left open for interpretation as to what the outcomes are expected to be or how we are going to determine what the outcomes are.

These are important matters. They are important matters because so many people in this community do not support this trial and the government had better get it right. Some half-baked trial or some attempt to produce a report at the end of the time that does not really deal with the issues, that deals with ill-defined issues like the ones that the minister has already said he has agreed to as the evaluation criteria, will not suffice. They are not evaluation criteria; they are the basis of a data collection exercise.

I need an explanation of how the evaluation of them at the end of the day is going to work. I have not had one yet and I am very concerned that we will have the trial, all right, and then we will get some soft evaluation of it that tells us what a wonderful trial it has been, with no objective facts about it. I do not think that is good enough. I ask members to support this motion.

MR MOORE (Minister for Health and Community Care) (11.41): Through you, Mr Speaker, I wish to address those comments from Mr Kaine. First of all, I would like to say that I welcome Mr Kaine's motion. I think that it is a very sensible motion. I also welcome the general discussion that he has begun.

I understand that Mr Kaine opposes the particular process, but he and the rest of us have put that behind us. The decision of the Assembly has been made. It was made by a narrow majority, I concede, as many of our decisions are, and we are now getting on with the work. Mr Kaine has drawn our attention to the fact that there is a wide range of views in the community on this matter. In his view, by no means the majority of the community support this trial. We certainly know that a large number of people do not support the trial and it is important that we monitor the success of the trial.

I will just take up one or two items as to matters of fact. Mr Kaine, the trial is set down in the legislation for two years. It is very clear in the legislation that it is to be for two years. I should say that the legislation sets out a series of things which I am compelled to do and I will do those things according to the legislation. That will be the area that governs most strongly where I go. The motion before the Assembly, which the government welcomes, will help to provide guidance as to what we should and should not do.

Mr Kaine suggests that the most important thing in this motion is that we ensure that we have a proper scientific trial. I could not agree more. I have always wanted that to be the case and I will continue to ensure that that is the case. Coming with that is a series of things that force it to be at arms length from me. It would be entirely inappropriate for me

to interfere with the science of the trial and I do not intend to interfere with the science of the trial. However, we can certainly inform on that and we will do what we can to ensure that we get the best scientific trial.

The criteria suggested under the legislation are the broad criteria given by the advisory committee. Of course, even the advisory committee recognised that in the letter that I tabled. Mr Kaine will realise that I did table the criteria, as required by the legislation. It will be the responsibility of the successful tenderer to develop detailed strategies for the collection of the above data where a source does not already exist. It talks about the style of the criteria.

I agree that the criteria that we have in front of us is very broad. That does not make it wrong. It means that it needs to be refined. Whomever is conducting the scientific arm of the trial, the scientific evaluation, should ensure that the details of that are filled out, and that work has already begun. At the beginning of this year when the legislation had already passed through the Assembly and it was clear that the work was going to occur, we established a process for getting baseline data to get a fundamental understanding of what was happening with regard to drug use in the city. The department commissioned Dr Gabriele Bammer, through the National Centre for Epidemiology and Population Health, to do that. Mr Kaine has referred to Dr Bammer. That baseline data will be important.

The thrust of Mr Kaine's motion, as I read it, is to ensure that the Assembly is informed of the detail of that motion. I am quite comfortable with doing that. It is certainly a very reasonable request on such a controversial issue and something that I am very happy to do, Mr Kaine.

There is one issue on which it is worth ensuring that there is clear understanding so that we do not interfere with the science of the trial. First, it is not to be a KPMG-style evaluation. It is not to be an economic evaluation whereby somebody sits to the side and says, "Here it is; now we can draw conclusions." When an epidemiological trial like this one is conducted the scientific approach which sets the evaluation, as Dr Bammer has set out clearly in the article that Mr Kaine has quoted, is quite clear; the criteria are quite clear. But the scientists who are doing the trial have to be subject to peer review. It is that peer review process which separates a scientific evaluation from other evaluations.

We said that we would go to tender. We have gone through the first step of that. We have advertised for expressions of interest from people interested in doing that trial. If the expressions of interest are limited, it may be inappropriate to take the next step and go to a tender process. I may be better simply to appoint somebody under those circumstances. I do not know because we have not received expressions of interest, but the number of people within Australia capable of undertaking this sort of exercise is limited.

It will be somebody disinterested in and independent of government; there is no question about that. As to it being somebody who has proposed a trial or not proposed a trial, let me say that I would not interpret what Mr Kaine has put here as eliminating, for example, the person he was referring to, Dr Bammer, although she has given a scientific view on what you would achieve from a trial and what you would not achieve from a trial.

Mr Kaine: She should be excluded because she is too close to it.

MR MOORE: I certainly would not exclude her under the criteria of this legislation. Whilst I welcome what you are doing, Mr Kaine, I am making it clear how I am reading your motion so that there is no doubt in your mind or the mind of the Assembly as to how we would approach it.

It seems to me that the accountability for this trial, as Mr Kaine says, falls fairly and squarely on my shoulders and the shoulders of the government, and we wear that. Of course, the more the Assembly decides to interfere, the less the accountability on our shoulders. I do not see Mr Kaine's motions as interfering. I think that it is a normal and reasonable request and a normal expectation of members of the Assembly, and entirely appropriate.

I do not think Mr Stanhope would mind my mentioning while he is not here today that he has written to me and said that he would like to see a much more refined view of the criteria as set out by the advisory committee. I have no problem with that. I think that is very sensible. I think that is the main thrust of Mr Kaine's motion. But we would have to do that with the scientists who were running the trial to assess the costs.

Mr Kaine, whenever we do a scientific trial, we always do it, like any other thing we do in government, within the context of the costs. If you want to examine everything in minute detail, every time you add another factor that needs to be evaluated, you add another element of cost. We have put up a budget for the trial that we expect to be sufficient for an appropriate and sensible scientific evaluation of the subject which will stand up to peer review. That is the fundamental driving factor behind this matter.

If Mr Kaine would like to amend his motion to say that we can spend whatever we like on it, I am sure that it would be considered by other members of the Assembly; but we already have members of the Assembly saying that they consider that this money would be better spent in other areas. We have to make a judgment on that, as we have to do in almost every arm of government. As Mr Kaine would well know, having been Chief Minister, you do the best you can within a reasonable cost regime. Certainly, we will continue to take that approach. Mr Kaine, is quite specific about asking for the name of the person, group or organisation who will conduct the assessment of the trial. Of course, we will make that available.

I feel very comfortable about meeting the criteria that Mr Kaine has set out in his motion within the framework of what I have just said. But, most importantly, what I am doing is driven by the legislation that has been passed by this Assembly. I see the motion as clarification of that legislation. For that reason, we welcome the input from Mr Kaine and other members of the Assembly.

MR QUINLAN (11.50): I rise in the place of Jon Stanhope who, unfortunately, is at a funeral as we speak. I note that this debate has moved from just the presentation of the information to the quality of the information that we have received. We recognise that there will always be concerns within the community surrounding this trial. The ALP has tried to allay those concerns by ensuring that the community is closely involved. In fact,

Jon Stanhope drew up amendments that ensured that a 17-member committee made up of community representation from law enforcement agencies, the legal fraternity, business and residents associations, associated agencies, family and friends were all involved.

We were pleased that the minister was able to inform us that the decision in relation to the location of the facility and the operators of the facility was unanimous when made by such a large committee, which was a good sign. The minister wrote last week advising that he had adopted recommendations made by the committee in relation to a range of issues. The act requires the minister to consult and endeavour to agree with the committee on a wide range of matters surrounding the drug injection place. Section 5 of the act prevents the ministers from approving the place and declaring it open until certain conditions are met.

One of those matters was raised by Mr Kaine, that is, how the assessment criteria against which this trial is to be adjudged a success or failure are determined and notified to this Assembly. We acknowledge the need for the professionals, the experts appointed to carry out the evaluation, to determine the methodology of the evaluation, but the minister and the committee must accept that the community will want to see criteria that will ensure that the trial is truly a rigorously evaluated scientific trial.

The criteria must also ensure that the committee can in two years' time make an objective—I stress the word "objective"—recommendation about whether to continue the trial. I do no think that the criteria tabled last week satisfy that standard. Mr Stanhope has written to the minister telling him so and asking for the committee and for the minister to review the criteria.

Another matter raised by Mr Kaine—the need for the results of the assessment to be tabled in this place—is also embodied in the act as far as it is possible to do so. The act requires reports to the Assembly at six-month intervals, with a final report to be tabled when the act expires. The act expires two years after it commences. Given the uncertain starting date, it is difficult to nominate a particular date for the final report, except that stage.

Other matters raised by Mr Kaine are dependent upon who is selected under the normal government contracting and administrative procedures to carry out evaluations against the criteria set by the committee. We acknowledge Mr Kaine's concern over this matter and thank him for his continuing interest in the trial, despite the fact that he does not necessarily support it. It is only by ensuring that all sections of the community, whether they support the trial or not, are involved in the process that we will gather any meaningful information to assist in the battle to overcome the problem caused by drug addiction.

The Labor Party supports Mr Kaine's motion in the interests of keeping the minister up to the mark in the administration of the trial. We want to ensure that it is, as I say, truly a rigorously evaluated trial that will produce as much hard data as possible on which effective policy can be made about drug-related issues in the future. I cannot accept that setting some hard criteria would somehow make the whole trial cost prohibitive. If we do

not decide what we are going to measure during this trial, if we do not start off with baseline statistics that we know of now so that we can say that there has been a change, I do not think it is a trial at all.

MR WOOD (11.55): Mr Kaine made the fairly obvious comment that this trial did not have unanimous support in the Assembly or in the community. If it were simply a matter of the use of illicit drugs, there would never be unanimous support. It is a highly contentious issue as people struggle to deal with it. Members will know that just a little while ago I attended a conference in Jersey on the drugs issue. It was organised by a harm minimisation group, so it had a particular aspect to it. I am also attending to claims by other advocates because I want to consider the whole field of opinion. We certainly hear a pretty wide range of opinion in this place.

If the community is concerned, it is entirely understandable. The drug problem is one that is creating enormous difficulties for people, communities and governments. My concerns have not been allayed by my attendance at that conference and what I heard there; I did not expect them to be. But that conference certainly confirmed me in the view that we should take this step and take other steps to diminish the harm that is caused by illicit drug use. The supervised injecting room is necessary; there is no doubt about that from what I have heard. It is necessary. A heroin trial and certain other measures are necessary.

I hear comment from time to time—from this chamber as well; not in the chamber but from members—critical of the needle exchange program. If we had to face today the proposal to establish a needle exchange program, perhaps it would arouse strong opposition. The fact that we have had a needle exchange program operating throughout Australia for many years has saved Australia and Australians from an enormous additional dreadful impact. I heard people from 51 nations at that conference. The spread of HIV/AIDS and hepatitis C is an enormous problem.

HIV/AIDS has been considerably alleviated by that program. Hepatitis C is not as bad as it might be because of that program. There are other measures as well. Yet there are voices raised by people who say that we should not have this needle exchange program. I cannot believe it when I hear such things. You need to look at the damage that is caused widely because there are no needle exchange programs, no methadone programs and a whole range of other strong measures, so claimed, against drugs. A supervised injecting place is a strong measure because it needs that sort of determination to get it up and running.

I am very pleased to support Mr Kaine's proposal today. While Mr Kaine does not particularly support the supervised injecting place, it will certainly be a step towards keeping it on track. More than that, I support the supervised injecting place trial; it is an absolute necessity. It is a trial. We may find as a result of this fairly stringent evaluation that is going to occur that it does not work. We may find that; but let us get down to getting this trial up and running.

MR STEFANIAK (Minister for Education) (12.00): Of all the issues that have cropped up in this Assembly, the issue of having heroin trials and a supervised injecting place is probably one of the biggest that we have had to face, certainly in terms of community feeling. Not a week goes by when my office does not receive some correspondence or

some phone calls in relation to the issue of drugs in our community. It is a most serious issue for the whole nation and for many other parts of the world as well. People have been grappling for many years with the best way of overcoming it.

We had a debate on this measure late last year and, like Mr Kaine, I had grave reservations about it. I was one of the members who voted against this trial taking place. My views really have not changed in that regard. There are some real problems there. Members of the community have indicated that one of the big problems is that the heroin brought there is, in fact, coming from the proceeds of crime, a very real issue. Indeed, some members have suggested that perhaps the government should supply the heroin because in that way it would not be coming from the proceeds of crime. It is a very vexed issue and I do not wish to canvass a debate that has occurred already in this place. My views in opposition to this matter are well known. They are on the public record, as are Mr Kaine's views.

Accordingly, it is essential, given that the Assembly has decided to go ahead with this trial, that it be evaluated properly, that there are clear assessment criteria, that the details of any process used for the evaluation are tabled and can be properly scrutinised, that any organisation or individual who actually conducts the assessment of the trial is clearly independent, clearly has no vested interests and can be seen to be such. Any body or individual who assesses this trial also should be seen to be thoroughly professional. I am sure that my colleague the health minister will ensure that that occurs.

Also, this Assembly and the community need to be kept up to date on this issue, because there is some very real, understandable and proper angst in the community about this measure. There is also some very real, proper and understandable angst in the community in Sydney and Melbourne in relation to similar trials. The community is very much divided in its views on this most important issue and it is absolutely essential that any member of this community can be confident that this trial will be treated as such, as a trial, properly run, properly supervised and with a proper, accurate, professional assessment being available for the community to look at and then evaluate whether, in fact, the trial is successful. Indeed, the Assembly can then have a further debate on it and members can look at where to go from there.

I do not profess to being clairvoyant on this issue. I have my opinions about it, but I have no idea what is going to come from this trial. Let us wait and see, but let us give due regard to the very considerable, very real and very proper concerns that are being expressed by so many people in this community about this trial. Therefore, I think that Mr Kaine's motion is not only timely but also worthy of strong support from this place.

Whilst I have very different views from my colleague the health minister on these issues, and I have had for some time, I acknowledge his interest in them. I also acknowledge the way he has gone about them and, very properly and appropriately, he has indicated support for Mr Kaine's motion. That is most proper and appropriate. I commend him for that.

I have not detected any real opposition in this place to Mr Kaine's motion. It is a very important step in the process. Let us vote on it. Let us have a proper assessment and see exactly how this trial pans out—a trial on which, against the wishes of a number of us in this place, the Assembly has voted to proceed.

MS TUCKER (12.05): I support Mr Kaine's motion about the government providing details of the evaluation process. I understand from what Mr Moore has said that he is comfortable with this motion and with the suggestions that have come from Labor and Mr Kaine on tightening up some of the criteria for the evaluation. I just want to say briefly that I support what Mr Wood said. The ACT Greens have made it clear that we definitely support the health minister's approach to this issue. We understand the broad community health issues that are associated with this issue and the need to be prepared to look at new approaches to dealing with the tragedy of drug abuse in our society. It is a tragedy which is broad in our society and it is not just about heroin. It is as much, if not more, about alcohol and cigarettes.

I did find very interesting a survey I read about recently where men and women were asked what was the biggest drug problem in Australia. The men said that it was heroin and the women said that it was alcohol. I found that very interesting because in the discussion about drug abuse in our society it is so often the sensationalised illicit drug use that gets the attention, whereas the endemic problem in our society is alcoholism. It is a cultural thing, of course. Men in particular see it as part of their identity to be able to get drunk with the boys.

That is relevant because we have this sensationalist approach to illicit drugs, especially heroin, and there are some very serious public health issues that we have to look at as well as trying to keep alive people who are victims of addiction to a particular drug. You can die from an alcohol overdose, as we know, but it is not likely to happen. It is more the long-term chronic effect that will kill you. But with heroin it is immediate and it can happen very easily because of the nature of the market. Being illegal, you cannot control the quality of the substance that people are actually injecting. We want to save the lives of the young people who are injecting. Three people I knew personally came from an environment in which you would not have expected such a tragedy to occur. They would have got through it if they had lived longer.

We need to be really clear on what we are trying to achieve when we have this kind of trial. It would be ridiculous if we got too bogged down on its having to be absolutely scientific. We are looking at a social issue. Any kind of social research has to have credible methodology, and Mr Moore is acknowledging that, but if support for this trial is going to be totally dependent on some scientific criteria, we will have a problem because we will be putting our heads in the sand in terms of the real issues that we are looking at here.

I know that members of this Assembly have different views on this matter; but if the majority of the members do have that concern for the welfare of the people who are victims of this drug addiction as well as the broader community who are suffering from HIV and hepatitis C, we have to be prepared to look at these sorts of trials as one way—I stress "one way"—of dealing with the problem. Other questions are equally important, such as understanding the social reasons behind drug addiction and substance abuse and

understanding how we can address the causes—whether it is mental health, the society we live in, alienation of young people or whatever. Obviously, we need to look at the causes across the whole field. We also need to be able to take on these sorts of crisis-oriented responses.

As Mr Wood said, the evidence in other countries is overwhelming that only places which have had the courage to look at controversial reactions or responses are actually addressing these broader health issues. The safe injecting room is one and needle exchange is another. It is seen by some countries not to be appropriate to have needle exchanges, so we are seeing a much wider spread of these very serious diseases. We do have a needle exchange program and people have come to accept it. It was controversial at the time of introduction. This trial is another way of looking at whether we can assist these people and the broader community in this way. I support what Mr Kaine is saying. I agree that it is necessary to have the methodology as stringent as possible. I am glad that Mr Moore has said that he is open to that. I am glad also that Labor is supportive. I am just waiting now to see whether we can actually have some impact on the effect of heroin on people in the ACT.

MR KAINE (12.11), in reply: I must say that when I brought this motion on I did not expect that there would be much opposition to it because it is essentially, I thought, a sensible proposal. But I brought it on specifically to give myself the opportunity of articulating to the minister what my concerns are, and my concerns are reflective of the concerns of lots of people. I do not think I stand alone on this issue. The debate has served that purpose and I think that the minister is aware that there are concerns and of the nature of those concerns.

To pick up a couple of points that emerged from the debate, the minister said, and I am paraphrasing, that he did not think that he was qualified to deal with the science of the trial and would leave that to others. I do not quibble with that. Who in this place is qualified to conduct a scientifically based trial? There might be one or two of us, but in the main we would not be so qualified. The same applies to the minister's advisory committee. There might be one or two members of that committee who are qualified to deal with the science of the thing but, by and large, they would not be so qualified.

That raises a question which is the nub of the issue: how do we do it? How do we ensure at the end of the day that there is some validity to the methodology, to the process and to the outcomes? Who are we going to bring on board to make sure that that is so, so that we can be satisfied? We have to get, through the tender process presumably, experts in the field who can advise us and on whose advice we can rely, and that is the point. The minister said that he did scientific trials in the context of cost. It almost smacked of the lowest tender, and we all know what that means. But I give the minister credit; I do not think he quite meant that. He was implying that there is a cost that has to be taken into account and I do not dispute that.

Ms Tucker questioned the concept of a scientific trial. She needs to understand that when I talk about a scientific trial I am talking about the method. It has to be a method that is based on objectivity, not subjectivity. I do not envisage any complex mathematical formulas intruding into the process. I do not mean scientific in that sense, but the trial has to be seen to be objective. In that sense it has to be a logical process and one that stands

up to later scrutiny as actually proving what the proponents want it to prove. If it does not do it in a logical, rational way, the outcomes are always going to be questioned by those of us like myself who are still not convinced that the trial is necessary. I think it was Mr Wood who said, "I do not support it but it is now inevitable and I want to make sure that it is done properly."

Finally, the minister has undertaken to bring details to the Assembly, which was one of the things that I wanted to have done. I look forward to receiving the details as they come due and, more importantly, the opportunity to debate any of those details which I or others may see to be controversial in some way. Mr Quinlan raised a fair point: there will be a continuing interest in this trial on the part of members of this place and of the general public and the notion of periodic, progressive reporting is a good one. I do not know whether the minister intended to do that, but it is a point that he should take up.

There will be continuing interest in this place because at the end of the day, as I said, the minister and the government will be held responsible. But to the community out there the government means us, all of us. At the end of the day, we are all going to be held accountable for the result, whether we support the trial or not; so, keeping ourselves informed, firstly, on how it is going and keeping the public informed is necessary. Beyond that, I expected that there would be general support for the motion because I thought it was eminently logical and I did not expect anybody to get up and say that they do not support it. Nevertheless, I thank members for their support for this motion and, as I say, I look forward to continuing cooperation from the minister on this issue.

Question resolved in the affirmative.

INDIGENOUS EDUCATION—GOVERNMENT PERFORMANCE

MR BERRY (12.16): I move:

> That this Assembly:
>
> (1) expresses its concern at recent reports on the performance of the Government on Indigenous education; and
>
> (2) calls on the Minister for Education to issue quarterly reports on his department's progress towards addressing this issue, beginning with the June 2000 quarter.

This motion, if it were not for other business taking precedence, would have been considered at the last private members business sitting of the Assembly. However, it is fortuitous that on this occasion I am able to discuss it in the wake of the recent budget. I will start there because it points to the reason for this sort of motion and the need for us to consider it at an early date.

Here I am waving two budget papers around, Budget Paper No 3 and Budget Paper No 4, and searching for moves by the ACT government to deal with indigenous education. My office has conducted an electronic search and has been unable to turn up anything additional in Budget Paper No 3. We did find on page 239 of Budget Paper No 4

reference to expanding indigenous education programs in the Department of Education and Community Services. The only cash that we could discover in relation to that was Commonwealth money which has been contributed to the ACT's coffers.

This government has been keen to say that this budget is a budget about building social capital. I would have thought new initiatives, not continuing initiatives, to deal with indigenous education might well have been appropriately mentioned in a high-profile way in the budget—not merely describing it as a highlight in education. But no additional funding has been provided, certainly within Budget Paper No 4, as far as I can make out.

Leaving that aside, the motion sets out, to use the government's term, though a different interpretation on the government's theme, to build social capital, because that is an area where the Australian community has failed to deal with issues facing indigenous citizens. No more pointedly so than in the ACT education system were we reminded of that just a short time ago when there was a leak, I suspect, of a Commonwealth report into the performance of the ACT system on the provision of education services to indigenous people.

According to the report, the federal government had given the ACT Department of Education and Community Services a damning report card in relation to the matter. It is clear that the report was damning of the ACT government's performance. The minister adopted the usual defence, although he did concede, according to a newspaper report, that the highly critical Commonwealth assessment had indicated that further work is required, but that the government was making significant beneficial changes. All of this has been happening behind closed doors. In light of the newspaper reports which have appeared, there has been a great deal of concern emerging in the community, no more so than with the parents of Aboriginal students who use our schools.

As it is the theme of the motion, I would like to refer to another report on that. A *Canberra Times* article of 5 May 2000 quoted a parent of an Aboriginal student as saying:

> ... this week's debate about the Federal Government's highly critical report on indigenous education in the ACT was necessary, as the Department of Education was not being accountable for improving standards.

That is a parent's view. That is a very serious accusation. The article went on to say:

> The report, which showed indigenous students lagging behind non-indigenous students, was "very painful for parents".
>
> "It upsets us as these are our kids, but we would rather have public disclosure and do something about it," he said.

That is the very point of this motion and the driving issue for it. I will go on with a few other issues upon which this parent is quoted in the *Canberra Times*. I am paraphrasing some of it and these quotes are selected because I do not want to read the whole article into *Hansard* as I am sure that the minister is aware of it. The father said that most indigenous parents had had negative experiences in schools and felt isolated from their children's education. He said:

> "We are following a cycle which has to be broken.
>
> "Koori kids are falling out of school with no literacy or numeracy skills and are going to be the next generation of parents and they are not going to have the socio-economic

> standards to support their kids or the academic background to help their kids with homework.
>
> "We are educating these kids for despair."

When those sorts of comments are made about our education system in relation to indigenous students we are being sent the message that we have deeply serious problems in our education system or that our education system is not reporting adequately the progress that is being made so as to convince the community that it is dealing with the issue. In the case of this parent at least, and I suspect many more, it is felt that the education system is not maintaining pace.

A committee of inquiry is currently looking into the number of young people in our education system whose education is at risk. There is no doubt that these matters will be the subject of recommendations by the committee of inquiry. I suspect that the committee of inquiry will go on for some time and I just do not think that we can wait for some sort of activity from the education department to try to convince the community that they are doing something in relation to these matters. On the other hand, if they are not doing anything, expose them to public criticism in order that we can give the minister and the department the necessary jolt to improve performance.

That is what social capital is about, not just a string of small budget initiatives. Social capital is about dealing with serious problems within our society. The education of indigenous students is a serious issue right across this country and I cannot, in good conscience, sit idly by and not do something to initiate action from the department to try to win back the confidence of the indigenous community in our education system.

I am a great supporter of the public education system. It has to be a leader in our community. It has to set the standards and it has to demonstrate that it is setting the standards. So far, it appears that the ACT has a poor report card in relation to indigenous education issues and is not setting the standards that we would require as a forward-looking society. This motion goes to the issue of giving the department and the minister a jolt in relation to the matter to ensure that we get proper reporting on a quarterly basis.

Some might say that that is a bit too frequent. This issue is so serious that my first draft of this motion said monthly, but people said that it was going a bit over the top to require a report monthly. I feel quite concerned about this matter. We really have to demonstrate that our education system is dealing with the issue. It may well be that the education system can report in a positive way and demonstrate to the indigenous community that it is worthy of their support. Certainly, the non-indigenous community out there would have some very serious questions to ask, given these reports which need to be addressed.

I want to repeat one thing that I said earlier. There is no doubt that the education committee which Ms Tucker chairs will have something to say about this issue in the future. There is no doubt at all that they will have something to say about it. But I am

sure that the committee, of which I am also a member, will go to the issues of substance which need to be addressed in relation to these matters.

I do not want to deal with any of the evidence that has been given to the committee, as that would be rude, other than to say that the evidence that has been received has done nothing to alleviate my concern about indigenous education in our schools. This matter cannot be brushed aside. If there is a move to brush it aside, to relieve the minister of the responsibility of reporting to the community every three months on exactly what is going on in indigenous education, we will have failed in our duty.

We have a duty to all of our citizens to ensure that they are aware of what is going on with our system. We are especially responsible for ensuring that our community is aware when there have been such bad reports about the performance of our education system. I repeat that it may well be that the education department can convince us that they are doing an adequate job. I will bet you that if this motion is passed they will be doing an adequate job because they will have to report on all of the moves that are being made to improve the situation.

Nobody will argue that the performance of our education system is up to the standard that we would require in relation to indigenous students; nobody would accept that. We will never accept it while ever we have such large gaps between the outcomes for indigenous students and those for non-indigenous students; it is simply unacceptable. We need to have a full and better understanding of the work that the department is doing. Three monthly reports are a way of reassuring the community that this government is serious about building social capital.

We are going to hear the words "social capital" over and over again. I have a vague suspicion at this point, and it is growing, that the government's interpretation of building social capital is a little different from mine. If the government resist this motion or try to delay its implementation, it will be a clear demonstration that they have a different interpretation from mine and they do not want to keep the community informed about what is going on in our education system.

Our education system, as with any other education system throughout the world, has a responsibility to build better communities, without which the world can never progress. Democracy, social justice and support for our broader community come from having a quality education system.

This motion is meant to be received positively; but, in the wake of the recent ACT budget, we can feel concerned that there have been no new initiatives from the ACT government at least, though there is some Commonwealth funding mentioned in the budget papers, and the subject has received something less of an emphasis than it ought. I do not think there can be any doubt about the expression of concern about these reports; the reports are of concern. The reporting requirements would lead us to a point where we, as part of the community, will be better informed. They would also give the minister and his department the opportunity to demonstrate that they are dealing with the issue in a positive and progressive way.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.31 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Budget—Health and Community Care

MR STANHOPE: Mr Speaker, my question is to the Treasurer. This morning on ABC Radio the Treasurer corrected the Minister for Health and Community Care on his understanding of his "discretion" to spend funds on emerging needs. The Treasurer blamed the misunderstanding about the nature of "unallocated" funds to a newly discovered scientific phenomenon. He said:

> What you say down the microphone and what comes out at the other end sometimes sounds very different.

The minister for health is clearly unaware of this scientific discovery. In the lines the minister leaked to the *Canberra Time* before the budget he was clearly of the view that the money was there for him to spend as he thought fit. The minister said to the *Canberra Times* that the discretionary funds were the "wherewithal to implement my goals". But the goals were undefined. The funds are marked in the budget papers as "unallocated". The Treasurer said this morning that any expenditure by Mr Moore will need cabinet and Assembly approval. Mr Speaker, can the Treasurer say how this extraordinary process—that is, the expenditure of "unallocated" funds at the discretion of a minister—will proceed?

MR HUMPHRIES: I am very pleased to discover that Mr Stanhope has never been in the position of having his words misquoted or coming out differently to the way he intended when they are printed in the media. If he gets through his life as a politician with that never happening to him, he will either have been extraordinarily lucky or he will have never talked to journalists.

Members ought to be very clear about what is happening here. First of all, let me make the point that the—

Members interjecting—

MR HUMPHRIES: If members opposite want an answer to the question, they will have to be quieter than that.

MR SPEAKER: Yes. The question has been asked and the Treasurer should be given the opportunity to answer it.

MR HUMPHRIES: Those opposite may not realise that there are substantial emerging needs all the time in our health system and that what is true today about the break-up of the services being offered by our health system to its patients, its clients, will be untrue by next year and probably extremely untrue five years from now.

What the government has identified is the clear need to be able to fund changing needs in the health system. There needs to be a medium-term projection for the capacity to meet those changing needs in such a way that people do not front up to our hospitals, our health centres, our baby health clinics, or wherever it might be, and say, "I have a problem I want you to help me fix," and we have to say, "Sorry, we have not got a budget for that," or, "Our budget for this particular type of procedure has been exhausted." Nobody wants that kind of outcome in our heath system and nobody deserves it because a budgetary system cements in place services for particular kinds of operations or treatments.

What the government has asked me to do is put a sum of about $62 million into a fund which will be adapted. The purpose of the funds will grow to meet the needs of particular areas of our health system as those needs emerge. It is hard to project them all with great accuracy early on but it is possible to do this the further down the track you go. I think the community expects the government to have a flexible budget—a budget flexible enough to deal with those sorts of issues.

The idea inherent in the comments made by some members of the Assembly about this process is that somehow this is money which is actually just there for Mr Moore to spend at his discretion. That is not the case. It never has been the case and it never would be the case. It is clear that this money is to address health needs. In the next six to 12 months we could have a surge in the number of people coming forward requiring operations for cataracts, hip replacements, certain prosthesis or heart/lung conditions, whatever it might be. If that happens, we would want to have the procedure in place.

Members of the Assembly have said to us, "We don't like this idea of unallocated funds. It is a dreadful thing to discover in this budget that you have these unallocated funds." Can I remind members that these provisions actually occurred in the draft budget as well, and there was no comment about that in the draft budget that I can recall. I think Mr Wood was the chair of the committee that looked at that matter. Perhaps I have overlooked the report that he brought down. I assume that in his draft budget report Mr Wood made comment on the unallocated funds in health. I will go back and check—I must have overlooked that fact.

Do not blame us for the fact that you have not done your homework on the draft budget. The fund has been increased to identify and meet real needs in our health system. The fund has been increased to deal with greater need in our health system and to make sure people are not turned away from our health system. You people get upset because we are dealing with those problems.

I am proud that we have a balanced budget in the territory which addresses the real needs of the people of Canberra. It is about addressing and building up the social fabric of our community, and I am very proud to have done it in that way.

MR STANHOPE: Mr Speaker, I have a supplementary question. Acknowledging that the minister for health described to the *Canberra Times* the need for the discretionary funds was to give him "the wherewithal to implement my goals", is the Treasurer confident that the cabinet and the Assembly, indeed the Canberra community, are fully aware of Mr Moore's goals?

MR HUMPHRIES: Absolutely. The entire community knows perfectly well where—

MR SPEAKER: I am not even sure that you should answer that question. You do not know what Mr Moore's goals are.

MR HUMPHRIES: Mr Speaker, I would interpret that as a question about the government's goals, the goals of the minister of health, as stated already in a public way in the *Setting the Agenda* document that was published sometime last year. It clearly sets out what the government proposes to do about health in this territory. Of course, the painful part for those opposite is that we have plan, we have a strategy for dealing with health—something which was sadly lacking when those opposite were on this side of the chamber.

V8 Supercar Race

MR KAINE: My question is to the Chief Minister and the minister for fast cars. That latter reference has nothing to do with the car she drives; it has to do with the V8 supercar event soon to be staged in the parliamentary triangle. Chief Minister, you have previously given figures as to what this is going to cost the ACT taxpayer. Do you see any need at the moment to revise those previously announced figures and can you confirm that the costs will come in according to, or even under, your budget as announced some time ago?

MS CARNELL: Thank you very much, Mr Kaine, for the question. Just recently I asked the CEO and the chairman of the board of CTEC how the budget was tracking and they said it was tracking very well. So they were very comfortable with the amount that is allocated.

Mr Humphries: Fast tracking very well?

MS CARNELL: In fact, they were fast tracking.

MR KAINE: Chief Minister, I presume you have voluminous notes with you in order to answer questions. Could you refresh our minds as to what these figures were when you last announced them?

MS CARNELL: I actually do not have voluminous notes with me. From memory, the ACT government allocated $2.5 million in recurrent funding, and certainly there is $2.5 million for the GMC 400 in the budget that Mr Humphries brought down yesterday. That is the recurrent funding over five years of the contract that we have to run the event. There was also $7 million for the capital works that we put through this Assembly. So, to

my knowledge that is the case. I also understand that the event is expected to generate economic benefits of over $52 million for the ACT over five years and create an estimated 150 full-time or part-time equivalent jobs over that five-year period.

In the first year the event is expected to boost the ACT economy by an amount in the order of $5.3 million. This is based on the attendance of, from memory, an estimated 50,000 spectators in the first year, increasing by 10 per cent per annum, up to 80,000 in the fifth year. June is a quiet month for tourism operators. I have attended quite a number of tourism functions over the last few weeks and it has been interesting to talk to people who run accommodation venues in the ACT. They are all talking about how high the booking rates already are for the June long weekend. So, it shows that this event has already picked up the problems that exist in what is a quiet time of the year. Restaurants, retail and transport operators will also benefit from increased tourism numbers.

The event will be telecast to something like 2.25 million domestic viewers through Network Ten and Foxtel and 85 million international viewers throughout China, Japan, New Zealand and Asia—almost as many people who will watch the Brumbies win on Saturday night.

Budget Deficits

MR QUINLAN: Mr Speaker, my question is to the Treasurer. The Treasurer and the Chief Minister have frequently used the figure $344 million as the bottom line deficit that the government inherited from the previous Labor government. In fact, Mr Hull of the *Canberra Times* used it in his article today, so it proves that if you say something often enough it will be believed. Can the Treasurer inform the house of the operating deficit for that particular year, 1995-96, before abnormal items, and what would the figure have been in 1995-96—you might have to take this one on notice—if the accounting standards used today were used back then?

MR HUMPHRIES: I was not the Treasurer in 1995-96, so it is very hard to give the member a figure of that kind. I will, however, quote for his benefit the figure he used on that very subject. This morning he said that there was a $91 million abnormal item in that particular year, which leads one, if you take that for granted, to discount the figure of $344 million to a figure of about $250 million. On checking the Auditor-General's report for that year, the figure used by the Auditor-General for the 1995-96 operating loss was not $344 million—I do not know where this figure comes from—but was $349 million. If you exclude the PTE sector, it was only $347 million. The following statement is made on page 2 of the Auditor-General's report entitled *1995-96 Territory Operating Loss*:

> The accrual operating loss incurred by the ACT from all its operations in 1995-96 was $349m. This comprised $347m loss on General Government Sector operations and $2m from Public Trading Enterprise operations after adjusting for dividends and tax equivalents payable to the Government by the Public Trading Enterprises.

It is clear that that is the figure that the Auditor-General refers to. The Auditor-General perhaps negligently failed to mention in the pages of the report that I have in front of me the $91 million abnormal item. Assuming that is what the figure is—that is Mr Quinlan's

figure; I do not know if it is true or not—perhaps the Auditor-General does not believe that abnormal items are actually all that unusual. In fact, I cannot recall any budget that has not been brought down without at least a small number of abnormal items in it. In fact, quite often there are a large number of abnormal items. So, if you can have a budget without abnormal items you are doing extremely well. Perhaps Mr Quinlan is promising that when he is the Treasurer—many moons away perhaps—he will deliver budgets without abnormal items.

Whatever the case, whether the budget should or should not have included the abnormal items, the fact is that even if there was not legitimately the inclusion of an abnormal item in a particular year, you have still got a loss for that year of $256 million—a quarter of a billion dollars in loss inherited from the Australian Labor Party by this government in its first full year of operation. A quarter of a billion dollars! That is still nothing about which I, as Treasurer and the inheritor of previous Labor Treasurers' budgets, or Mr Quinlan, as shadow Treasurer, should be proud.

The real figure is not $256 million. It is, in fact, $344 million, $347 million or $349 million. I do not mind which you choose. Choose one of the three figures, but any one of those is the case because of what the Auditor-General himself has had to say about this. On page 3 of the report—

Mr Quinlan: This is not a little chat, is it?

MR HUMPHRIES: Not a little chat, no. This is what is published in the Auditor-General's printed report *1995-96 Territory Operating Loss*. The report stated:

> The 1995-96 loss eventually will have to be met by future generations of ACT taxpayers;
>
> The 1995-96 operating loss of $349m—

that is the figure he uses—

> is equivalent to around $3,000 per ACT household or $1,100 for each man, woman and child resident;
>
> The 1996-97 budgeted loss is $231m; this is the equivalent of more than $2,000 per ACT household or $750 for each resident;

That, of course, was the loss that my predecessor, Mrs Carnell, managed to bring in after the previous much higher loss under Labor. I quote again the Auditor-General:

> The budget forward estimates forecast large losses continuing through to the limit of the forecasts (year 2000);

That was an interesting forecast, wasn't it? The Auditor-General continues:

> These losses will increase the amounts to be met by future generations of taxpayers; and
>
> The size of the losses are sufficient to create the potential for the future standard of living of ACT residents to be significantly affected.

Mr Parkinson, the Auditor-General, did not say when he made those remarks, "Well, really, the extent of the loss is not $3,000 per ACT household. It is actually only $2,500 or $2,100," whatever

your figure, Mr Quinlan, would be. He used that figure. He broke that figure down into a per household and then a per person figure in the ACT because he wanted to make the point—

Mr Quinlan: Get off his back. Do not malign public servants in this place, Mr Humphries.

MR HUMPHRIES: I am not maligning public servants, Mr Quinlan. I am quoting him accurately and I am pointing out to you that you should also quote him accurately and reflect what he has had to say. He did not say that you can discount the figure by the abnormal items. He did not say you could do that. He extrapolated the figure for each person and each household in the territory.

The fact is that that is the size of the loss inherited from the Labor Party. It is the extent of the ACT community's problem that we inherited from the Labor Party and it is the extent of the achievement of the Carnell government in wiping that loss off the books of the territory. It is the extent of this great achievement. Proportionately, given the size of the budget, this achievement is probably unparalleled in my lifetime by that of any other government, with the possible exception of Jeff Kennett in Victoria after the Cain/Kirner years. This is an extremely large achievement on the part of the government and I am proud of that. All territorians, with the $3,000 lifted off their shoulders, will also be proud and pleased about that fact.

MR QUINLAN: I appreciate Mr Humphries' answer. I know his knowledge of accrual accounting is limited, given that—

MR SPEAKER: Question, please.

MR QUINLAN: I just wanted to let members know that he claims that a surplus was achieved without asset sales or borrowing.

MR SPEAKER: Is that your question?

MR QUINLAN: No.

MR SPEAKER: I will take it as such if you—

MR QUINLAN: Can the Treasurer inform the house as to what would have been the bottom line for the 2000-2001 budget had the same accounting procedures been used as were used to arrive at the $344 million?

Ms Carnell: Can we do that across the board and treat depreciation and everything else the same way?

MR QUINLAN: I am asking the question of the Treasurer, who has given a very erudite answer to the previous question. He is quite capable of handling it himself. Can the Treasurer tell us what the result would have been for this year's budget had the same accounting processes that were used in 1995-1996 were used this year? Not hard.

MR SPEAKER: I am concerned about the hypothetical nature of this question.

MR HUMPHRIES: It is a type of hypothetical question, Mr Speaker. I agree with you.

Motor Vehicle Registration

MR OSBORNE: My question is to the Minister for Urban Services, Mr Smyth. Minister, I received a call yesterday from an elderly woman from Tuggeranong who gave me the most extraordinary account of her morning's encounter with the clever, caring government.

Mr Corbell: That was last year. It is the social—

MR OSBORNE: It was so extraordinary that I wanted to check whether or not this could be true. It was actually before the budget came down, Mr Corbell. Apparently this woman was attempting to arrange for the registration of the family car. It is a serious matter, Mr Speaker. She informed the motor registry official that her husband had died earlier this year, and she was seeking to renew the car registration in her name instead of in the joint names of her and her deceased husband. I trust that you can imagine, minister, how distraught this elderly woman became when she was informed that to change the name of the owner would require a payment additional to the regular percentage levy on the market value of the car. Minister, please tell me this incident could not be true. If so, is this what your government means by social capital?

MR SMYTH: I would have to investigate the circumstances that Mr Osborne raises. Unfortunately, when a loved one dies there is the need to transfer property and to do it appropriately. I will gain more information on how that process works.

Budget—Planning and Land Management

MR CORBELL: My question is also to the Minister for Urban Services. Minister, the document *2000-2001 Budget at a Glance* reveals a cut to planning and land management of $4 million over the 1999-2000 budget. Will the minister explain to the Assembly how PALM can continue to deliver effective services with a $4 million cut in funding, and which areas will be affected?

MR SMYTH: This is not new news. We announced the findings of the review conducted by Ernst and Young last year that there were savings to be made in PALM, that there were great efficiencies to be achieved, and that by streamlining the process we could achieve better outcomes and more certainty. That figure is a known figure and will continue.

MR CORBELL: I ask the minister a supplementary question. What services to the community is PALM going to cut in order to absorb this $4 million deduction?

MR SMYTH: Mr Speaker, the Labor Party seems to be obsessed with the fact—

Members interjecting—

MR SPEAKER: Order, please! You presumably want to hear an answer to the member's question. I suggest you remain silent.

Mr Kaine: On a point of order, Mr Speaker. In terms of the question put, I do not think we want to know what the Labor Party is doing. The question is what is PALM doing? I am not interested in what the Labor Party is doing.

MR SPEAKER: Neither am I and that is why I do wish they would stop interjecting.

MR SMYTH: It is important to understand that the approach of those opposite is that you cannot ever seek or achieve better efficiencies from public servants.

Mr Hargreaves: On a point of order, Mr Speaker: this is hypothetical. You cannot possibly know what the Labor Party is doing.

Mr Moore: Which standing order is that? It is about—

MR SPEAKER: Order! The minister is answering the question.

MR SMYTH: Mr Speaker, we do know as a matter of fact that they have objected to every staff change that this government has ever put forward because they know that they do not know how to achieve greater efficiency. PALM is achieving its budget targets through a combination of measures. This includes systems and process reform, better training, better development and a progressive reduction in staffing numbers across the organisation because we are learning how to handle it better. We can continue this. There are bills before this Assembly which highlight how we can simplify that process and we will continue to do so.

Mr Berry: On a point of order, Mr Speaker: I thought the question that was asked of the minister was what services are going to be cut. Does he know or doesn't he? Is the answer yes or no?

MR SPEAKER: Mr Berry, if you had bothered to listen, the minister was in the process of answering that very point.

MR SMYTH: Mr Speaker, I am happy to repeat it.

MR SPEAKER: Please do.

MR SMYTH: PALM, consistent with other areas of the department, is subject to greater efficiencies.

Members interjecting—

MR SPEAKER: Order! The minister will repeat it again for my benefit if you keep interjecting.

MR SMYTH: PALM has been achieving these efficiencies—

Members interjecting—

MR SPEAKER: Order! Would you mind repeating that all again, please, minister.

MR SMYTH: Mr Speaker, PALM, consistent with other areas across the government, is charged with generally being more efficient and achieving cost savings. PALM has been achieving its budget targets by a combination of measures including systems and process reform, through training and development and a progressive reduction in staffing numbers across the organisation. It will continue to do that and meet its targets. Over the past 12 months, PALM has been achieving its savings targets, while at the same time it has significantly improved the level of customer service. The opinion around town is that the reforms that have taken place have led to a much better focus—a customer service focused PALM.

Budget—Response

MR SPEAKER: I call Mr Hird.

MR HIRD: I thought you had a blind spot there for a while, Mr Speaker.

MR SPEAKER: Not where you are concerned, Mr Hird, my friend.

MR HIRD: My question is to the Treasurer, Mr Humphries.

Mr Hargreaves interjecting—

MR HIRD: I am being rudely interrupted by our colleague Mr Hargreaves. I will have to start again. My question is to Mr Humphries, the Treasurer. Treasurer, what sort of response has there been to the 2000-2001 budget to date?

MR HUMPHRIES: I thank Mr Hird for that question. As much as I am shy and modest on such questions and would love to cease to dwell on the government's—

Mr Kaine: Mr Speaker, on a point of order: does this not require an opinion on the part of the minister or is that permissible under the standing orders?

MR HUMPHRIES: I have plenty of opinions to exercise, Mr Kaine. I can give you plenty of opinions and most of them are my own. I am very pleased to be able to report to the Assembly on the response to the budget. I will just say that not all the responses have been positive. I have Mr Quinlan's comments that the budget has been a cynical and patronising affair. This was apparently referring to the fact that, as he put it on the radio last night, there were a number of crowd pleasers in the budget; a number of items designed to appeal to various sections of the community.

Mr Kaine: The insurance levy would be one.

MR HUMPHRIES: Indeed it is, Mr Kaine—spot on, absolutely correct. I know that it is a shocking and somewhat scandalous thing to have a government that would attempt to please the community by bringing forward initiatives in its budget that are designed to ensure that the community's needs and desires are being met. But I am just curious to know with respect to Mr Quinlan's comments which of the initiatives we brought forward for additional spending in this budget are cynical and/or patronising. What exactly is it in the budget that Mr Quinlan would not have a Labor government touch with a barge pole? What is it that he would consider to be inappropriate for a government to be doing in our community? I look forward to the answer to that question during the budget debate.

I have to say that, with that exception, generally speaking other comments have been rather more positive. I note Mr Battersby, the President of the ACT Council of Parents and Citizens Associations, has said:

> We welcome the increase in teachers' salaries and there are a lot of other welcome initiatives in this Budget.

I have a quote from Mr Osborne, who is not at present in the chamber. I will quote him anyway; he cannot interject. He said:

> The overall turnaround in the five years since I've been here is worthy of praise …
>
> It was a disaster when I came in 1995, and to think [after] five years we're now in surplus …

Mr Kaine: That is right. It was a disaster when he came here.

MR HUMPHRIES: That was not what he meant, Mr Kaine. He said:

> … and to think [after] five years we're now in surplus … I think Kate Carnell deserves a pat on the back.

She does not get many of those in this place, Mr Speaker, so she is entitled to revel in them.

The Director of the Council of Social Service of the ACT had this to say:

> There's some good initiatives for families and schools ... but I also encourage the government to remember there are many people at risk who aren't accessing schools.

A reasonable comment to make, and that of course is why the social capital initiatives deal with many issues outside of the ACT schools. The *Canberra Times* editorial today said:

> Mr Humphries justly expressed pride that the Carnell Government has achieved a balanced Budget with modest projected surpluses to restore the overall government finances of the Territory. It will pose a challenge to Opposition Leader Jon Stanhope. To be a credible alternative Government he will have to fit his policies and promises into that context and subject them to the rigours of accrual accounting. The discipline will be good for the Territory.

Another interesting comment has come from an ANU economics lecturer, Dr Robert Albon. At the budget breakfast this morning he said:

> The government must be applauded on the fiscal responsibility and broader community focus of this budget compared with some earlier ones with which I am familiar.
>
> When I was rather active in looking at ACT budgets in the early to mid-1990s I was constantly disturbed by the way the then government's—

to whom was he referring, Mr Speaker?—

> squandered the ACT's transitional funding from the Commonwealth and focused strongly on the interests of the dominant public sector unions in transport, health and education—not the broader community interest.

That is an interesting comment, Mr Speaker.

Finally, Access Economics, from whom I was not actually expecting any accolades in respect of this particular budget, said that—

Members interjecting—

MR SPEAKER: Order! I did not hear that, Mr Treasurer. Would you mind repeating it?

MR HUMPHRIES: Yes, I will, Mr Speaker, happily.

Mr Corbell: It is all those car drivers using the buses again, that is what you said.

MR SPEAKER: I will keep asking for it to be repeated if you keep interjecting, Mr Corbell.

MR HUMPHRIES: I quote Dr Albon:

> When I was rather active in looking at ACT budgets in the early to mid-1990s I was constantly disturbed by the way the then governments squandered the ACT's transitional funding from the Commonwealth and focused strongly on the interests of the dominant public sector unions in transport, health and education—not the broader community interest.

Mr Corbell: Buses, hospitals and schools.

MR HUMPHRIES: No, it was more like bus unions, hospital unions and school unions, Mr Corbell, I am afraid.

Even though the surplus was not designed to impress economists, Access Economics has been impressed and has said, "It"—that is, the government—"has contributed significantly to the strong position it is in via greater restraint shown on recurrent spending."

I welcome those comments. It is good to have some recognition. In particular, I hope that the reply Mr Stanhope gives on Friday at the National Press Club will be a full exposition of where the government has gone wrong. I might recommend that he try to learn tap dancing or something before Friday because he might need to fill in a bit of the 55 minutes he has to stand up and speak.

Budget—ACTION Services

MR HARGREAVES: My question is to the Minister for Urban Services. Minister, in the 2000-2001 budget for ACTION an extra $8.208 million is being allocated. We all know that this is to fill ACTION's very large black hole. The following highlights for ACTION are set out in the budget paper: refining services—this is code for cutting the service; reforming the workplace—this is code for cutting jobs; improving customer service, and we all know this is impossible because fares are being increased. Minister, your government intends to cut 12 more jobs from ACTION and reduce the services. Is this not merely more of the same ideology of cutback with no real result?

MR SMYTH: This government is committed to public transport in this city because that is what the people of Canberra want. The dilemma that faces the government is that many Canberrans choose not to use the bus service. Recent reforms have led to a six per cent increase in use of ACTION buses. It is the largest increase in a very long time. There are clearly some factors outside our control—things like the rise in the cost of fuel. You can only estimate what you think that rise will be. It has gone further than anyone would have expected. We are all shocked when we get to the petrol pump and see the rise in the price of petrol. But there have been significant reforms in delivering the service.

What we have, though—and it is not me that says this; the independent pricing commissioner says it—is the government giving too great a discount on periodical tickets. The independent pricing commissioner says that we should reduce that discount. So we have had an accompanying shift by Canberrans who are canny and have gone out and bought the monthly tickets. Mr Hargreaves mentioned price rises. Yes, there are price rises. The price rises are determined inside a framework by the independent pricing commissioner and he approves what we want to do.

The government is committed to public transport in this town for those that need it and for those that seek to use it. Why? Because we are helping to build up their quality of life. We want to help improve their quality of life by providing the sort of service that they deserve. And that is social capital—the sort of thing that those opposite find so offensive, that they find patronising.

MR HARGREAVES: Mr Speaker, I ask a supplementary question. A second appropriation bill was tabled yesterday to supplement ACTION's $7.724 million blow-out. Is this not a sign that your new network reforms are not working, that the people have rejected the zone system? It is really an admission that you have no idea how to entice people onto public transport.

MR SMYTH: Mr Speaker, this is not true. There is growth in the number of people that are using ACTION. We have the figures to prove it. But they are using it perhaps too wisely because they have gone out after the periodic tickets to get a cheaper fare. These fares are determined by IPC. IPC gives us a direction on what fares we can charge and the framework in which it survives. The independent pricing commissioner himself has said that the discounts are too generous and we should be looking at the way in which we deliver fares in the ACT. That is one of the issues. The second issue is the unanticipated blow-out in fuel costs. The third issue relates to some legal costs that have come forward much earlier than expected.

We have not achieved all the savings in the network. We will continue to make sure that we get the sort of efficiency out of the transport system that the people of Canberra deserve, and at the same time we will continue to provide that service.

Budget—Funding of Initiatives

MS TUCKER: My question to the Treasurer relates to the budget. Treasurer, Budget Paper No. 3, page 40, states that the 2000-2001 budget includes a so-called dividend to the community of $103 million. The paper says:

> This demonstrates the level of additional investment made into the community in the 2000-01 budget.

The budget paper then goes on to list some 80 budget initiatives worth $77 million and six items of capital expenditure worth $26 million, which add up to $103 million. However, the budget also says that total expenses of $1,892 million are up only some $33 million on the forecast outcomes for 1999-2000. If it is true that $103 million is additional expenditure in the budget, where is the rest of the money coming from on top of the $33 million to pay for these initiatives?

MR HUMPHRIES: I thank Ms Tucker for that question. It does not say that the $103 million is additional spending above previous years. It says it is additional investments made into the community in the 2000-2001 budget. Obviously the flavour of those initiatives in the following three pages of a recurrent and capital nature is about the sorts of things we have spoken about with respect to the social capital budget. I should make the point very clear for Ms Tucker's benefit because I have been asked about this by a journalist: we are not pretending that the full extent of our direction of funding towards social capital is restricted to the $3.5 million in this year's budget under *Building Social Capital*. In fact, we tried to address a much broader agenda of building social capital in our community through the initiatives which are listed on pages 41 to 43 of this budget.

I know that Ms Tucker has difficulty with some of the initiatives which constitute social capital—things like the grant to Impulse Airlines. But I repeat the point made by this government many times that it is by creating opportunities for job creation in the ACT that we give people the best kind of assistance to take part in the community. As a result of these resources being provided, people are able to be employed and participate fully in their community. Therefore, the grant to Impulse is not about helping an airline; it is about helping citizens in this community who will be employed by that airline when it comes to this city. So, Mr Speaker, that is the explanation.

Clearly the government has directed a number of resources into this program of works, this dividend to the community as we put it in this part of the budget papers. Other areas of government continue to experience efficiencies. Funds are being directed to the areas where they are, in the government's view, most needed, and that is set out in the pages I have just referred to. Some have been mentioned already here today. For example, there will be further reductions in urban services to make urban services more effective and efficient. A number of agencies of government are still expected to achieve efficiencies.

The issue of the territory having a higher level of operating expense than the Australian average for each of the services it provides remains a concern of this government. In other words, we do not believe there is any necessarily good reason why it should be 15 or 20 per cent more expensive to deliver a service in our hospital than it is in equivalent hospitals in other parts of Australia. So Mr Moore, despite the growth funding which has been given in the budget for emerging needs in health, will still have to find efficiencies to meet targets set for his portfolio. Other portfolios have a similar discipline. I cannot give Ms Tucker a breakdown of those figures now, but I will take that question on notice and provide her with detailed information.

Social Capital

MR WOOD: My question is to the Treasurer. Minister, your social capital document says:

> Social capital is a basis of our quality of life in Canberra.

And another quote:

> Canberra has strong social capital, with well developed networks based on shared interests, enduring relationships and trust.

Note the word "trust". And you even said that social capital is:

> … about people and neighbours looking out for one another and taking an interest in their community.

Minister, do you really understand anything about this concept? If you do, how does it fit in with your government's action yesterday when residents of Red Hill flats and Mawson Gardens were summoned in the afternoon by notes in their letter boxes to a meeting today to tell them that their lives will soon be considerably changed either by redevelopment or, in the case of Mawson Gardens, sale of the sites and their homes.

Minister, these are people's homes you are proposing to dispose of so abruptly. Is it not the case that the bottom line is that Red Hill flats and Mawson Gardens both occupy prime real estate sites which, in the words of Mr Smyth, are both "under-utilised". Minister, does not this unexpected harsh and unfeeling action against Canberra residents reveal your words about social capital to be completely devoid of meaning?

MR SMYTH: Mr Speaker, I would like to answer that on behalf of the government because it is—

Mr Wood: He is the Treasurer.

MR SMYTH: No, I am the minister responsible—

Mr Wood: No. I am talking about social capital. It is not a housing matter. It is an example of—

MR SPEAKER: The minister may transfer—

Mr Wood: On a point of order, Mr Speaker: the question is about social capital and what is meant by social capital. I gave that example by way of explaining my question. I want Mr Humphries to justify what he has done.

Mr Humphries: I am not the minister for social capital. All of us are ministers for social capital.

MR SMYTH: Mr Wood says that I said something about them being valuable real estate sites and that they should be redeveloped. What Mr Wood fails to recognise or acknowledge is that a review of all the large ACT Housing flats was undertaken by Ecumenical Housing from Melbourne. This is a church group that gave us advice on how best to look after our tenants. It was their advice that certain flats should be kept, certain ones should be upgraded, certain ones should be redeveloped, and certain ones should be sold because they do not meet the needs of tenants. If we are committed, if we are dedicated, to building up the quality of life of ACT residents, then we have an obligation to make sure the public housing that we provide to them meets their needs. This plan will do so.

MR WOOD: Mr Speaker, I have about a dozen supplementaries. I will stick to one. Rental accommodation, minister—I guess this will be Mr Smyth since Mr Humphries cannot answer—in the ACT private sector is virtually unavailable at present and there are long waiting lists for ACT Housing properties. What is going to happen to these waiting lists with an influx of tenants from Mawson Gardens and Red Hill who need to be housed? What about the potential tenants, those already on the waiting list, whose time on the list will now be stretched because of this new demand?

MR SMYTH: Our waiting lists are probably a third of what we inherited from the Labor Party. Their waiting lists were much longer. We have addressed this matter, firstly through Bill Stefaniak and now through me, and across this government. We have been looking at the needs of tenants and making sure that we meet their needs. This is the

fundamental thing about social capital. It is about building up the quality of life where people are. That is what you fail to understand. It is what you hate about this government because you know that we are delivering on this. The rental—

Mr Wood: Social capital says keep them out of Red Hill. That is what you are saying. Social capital will not allow them to live at Red Hill.

MR SPEAKER: Mr Wood!

Mr Wood: Well, that is what it is about, Mr Speaker.

MR SMYTH: Mr Speaker, the rental market is tight. Mr Wood says that social capital will not allow them to live at Red Hill. The Labor Party would leave tenants in the government flats at Red Hill living in substandard accommodation. The Labor Party's housing policy is change nothing, do nothing, do not build up the quality of life for ACT Housing tenants.

The point is that we have done two redevelopments and we are about to undertake a third. I refer, firstly, to Macpherson Court, which we have transferred to Community Housing Canberra. Community Housing Canberra, in association with a private developer working with ACT Housing, will buy back into Macpherson Court and deliver a variety of environmentally sustainable quality accommodation that caters for the private, the public and the community housing sector. It is a model for redevelopment around this country. They hate what we are doing because we can build up social capital, we can build up the quality of life, we can improve the quality of life of our tenants and we will do so.

How did we do that? We did it by managing it on a person by person basis. We stationed staff, and I commend the ACT Housing staff who moved in and set up office in Macpherson Court and dealt with all of these people on an individual basis. These are people who deserve to be dealt with on an individual basis. We did this because we wanted to help address quality of life issues where they live.

We did the same at Lachlan Court. Lachlan Court had 119 bedsitters that were substandard. Again, the model is tremendous and the ACT Housing staff that managed that process is to be fully complimented. They moved in, they set up office and they met these tenants as individuals. They said, "Where would you like to go, what do you need, what do you want?" and we addressed their needs. That is why Lachlan Court was even quicker in terms of decanting the tenants and moving them to better housing. At the same time, the waiting list did not blow out because we are managing our stock better.

Mr Stanhope: They all left town, you put the rent up.

MR SMYTH: They had not left town. The population of the ACT is increasing, Mr Stanhope. You are just wrong. You people have run the line for the last six years that all these people are moving out, but the population of the ACT has increased, the workforce numbers of the ACT have increased and the way that we have looked after public housing tenants over the last five years is better than your government ever could have done.

Budget—Health and Community Care

MR RUGENDYKE: My question is to the Minister for Health and Community Care. Minister, as you are aware, I have expressed my concerns about the provision of the $7.6 million in yesterday's budget to spend at your discretion. I believe that the budget process is about genuine appropriation, not blank cheque appropriation and that every dollar should be prioritised and itemised. Will you give the Assembly an undertaking to produce a supplementary appropriation that allocates and accounts for all of this money, in the same manner that each other minister has been able to do?

MR MOORE: Yes. It is called a purchase agreement.

MR RUGENDYKE: Minister, could you provide the Assembly with an overview of how you envisage the $7.6 million being allocated, and for how long do you intend to keep the money in your control before releasing it?

MR MOORE: The money is, of course, set out as growth needs funds, and that recognises there is going to be an increase in health needs in a whole area. They are not new initiatives; they are increasing needs across the community.

Mr Rugendyke would know of a number of instances where he and other people have brought cases of a special need in the community to my attention and he expected these cases of real need to be funded at the time. He may remember an example of some autistic children who were needing specific assistance at that time.

This is a normal part of the budgeting process. It is allocated for unmet need. It will be set out, as I just indicated, in the purchase agreement and will be dealt with in the normal and appropriate way. The funds that are available to me will be all expended within the context, as the Treasurer said, of *Setting the Agenda*—the policy direction that I set when I became minister. It was accepted by cabinet, it was tabled in this Assembly and noted by the Assembly.

Budget—CIT Funding

MR BERRY: My question is to the Minister for Education, Mr Stefaniak. I refer the minister, first of all, to budget 1999 and secondly to budget 2000, and draw his attention to where the money goes and what the money buys in those documents respectively. The tables show that CIT funding drops in 2000-2001 to $66.9 million from $75.7 million in the same paper last year, a cut of around $9 million. How does the minister reconcile this with his media release, which states the cut as $3.1 million, and what bizarre formula for building social capital does this fit into?

MR STEFANIAK: Mr Berry, thank you for the question. I thought that at the last estimates committee you got a lesson in accrual accounting; that is unique. You need to go back and revise whatever notes you took. Effectively, in layman's terms the second cut that you mentioned of $3.1 million is the one which most people go on.

There are a few other factors which Mr Berry neglected to take into consideration in his question. CIT is now in the third year of rearrangements that have been put in place to make it more efficient. And, Mr Berry, yes there are cuts and there have been cuts, and this is the third year of them. Might I say that in the last financial year the CIT had some 3,500,000 contact hours. This year, in this particular budget, the aim is to have an additional 100,000 contact hours, and that actually takes it up to 3.6 million.

The CIT is managing very well within the regime of greater efficiency. Yes, Mr Berry, as I have said at estimates committees in the past, that does mean there are cuts, and the CIT is managing those cuts very well. The main point here, Mr Berry, is accountability to the community. There is no point in government spending more money than it needs to. If we did that, we would be back with the $344 million deficit this government inherited.

I also told you, Mr Berry, that I, as minister, and the government are monitoring very closely how the CIT performs under this new regime. It is for that reason, Mr Berry, that the government put in an extra $600,000 for the enterprise bargaining agreement of CIT teachers—something, Mr Berry, that went down very well. Quite clearly it would be irresponsible, with the regime we have put in place for CIT, for this government not to bolster it to that extent. In fact, if you take that into account, the cut is less than $3.1 million.

Mr Berry: This is ridiculous. How do you reconcile these figures? That is what the question was. What bizarre formula—

MR SPEAKER: Sit down, you have no right to stand up.

MR STEFANIAK: Well, Mr Berry, short of giving you a detailed lecture in accrual accounting, I just hark back to the one you have already had. It was a waste of time. I thought you might have understood it after the last estimates committee meeting. Quite clearly, in simple language, Mr Berry, the further efficiencies at CIT relate to the third year. There is no rocket science in this. The actual difference is, in fact, an additional $600,000 put in for the CIT teachers' EBA. That is the only difference to what, in fact, was in the draft budget and indeed in forward estimates of years gone by. I repeat: this is the third year of the regime the government has put in place for CIT—a regime, I might say, CIT is handling very well and I commend the director and the staff of the CIT for the effort they are making.

MR BERRY: No thanks for the non-answer. Mr Speaker, I ask a supplementary question. Minister, do you stand by the threat on page 246 of Budget Paper No 4 that there will be no injections this year, bearing in mind that there were $5.4 million worth of extra injections last year, and will you guarantee that the budget cut to the CIT, as a result, will not exceed $3.1 million? Again, I ask you: how does this fit into this bizarre formula for building social capital?

MR STEFANIAK: Perhaps I will read out to you page 246 because—

Mr Berry: Not the whole page.

MR STEFANIAK: No, just that particular point because it explains it fairly simply. I am awfully sorry if you cannot understand it.

MR SPEAKER: Mr Minister, the inference or the imputation about a threat should be ignored.

MR STEFANIAK: I intend to, Mr Speaker. Thank you for that. I will read it slowly; so hopefully he can understand it. The quote reads:

> injection for operations: the increase of $5.443m from original budget to 1999-2000 estimated outcome represents the injection for operations due to CIT. Due to a change in accounting treatment the receipt of this amount must now be reflected on the operating statement. For the 2000-01 budget the Department and CIT will not receive injections for operations, following update of benchmarks;

Again, Mr Berry, it is accrual accounting. I go back to what I said earlier.

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

Motor Vehicle Registration

MR SMYTH: Further to Mr Osborne's question, I am informed that if the car is transferred under the will then there is no stamp duty payable. If there is no will, a waiver can be applied for. The advice I am given is that under the circumstances outlined by Mr Osborne the waiver would be granted.

Mr Osborne: Mr Speaker, I thank Mr Smyth for that and I will forward it on to the lady involved.

Budget—Planning and Land Management

MR SMYTH: Mr Corbell claimed in the question he asked today that there is a $4 million cut to PALM. I forgot to address this; it is simply wrong. It appears that he has arrived at this figure after having taken a simplistic look at and comparing the figures in last year's Budget Paper No 2 with this year's figures. If he looked further than just the pie chart in the Urban Services section he would have actually found out why. This kind of reading of the budget is the reason why Labor left us with a $344 million, $347 million or $349 million deficit. The reality is that there is a cut in funding but it is nowhere near the $4 million that Mr Corbell puts forward because $3 million of it relates to the transfer of WorkCover out of PALM. I do not have to remind you, Mr Speaker, that this was in line with the wishes of the Assembly, including Mr Corbell, at the time.

Interactive Gambling Licences

MR HUMPHRIES: Mr Speaker, yesterday I took on notice a question from Ms Tucker about the process for issuing interactive gambling licences. I seek leave to table and incorporate into *Hansard* the response to that question.

Leave granted.

The response read as follows:

Ms Tucker asked: Could you tell the Assembly exactly at what stage the internet licences that you issued are up to.

Mr Humphries: The answer to the question is as follows:

- In accordance with the *Interactive Gambling Act 1998* (the Act), the licences were issued under section 27 of the Act.
- The first licence was issued to tatts.com Pty Ltd on 17 May and the second, issued on 18 May, was to ACTTAB Limited.
- The issue of a licence does not necessarily result in the immediate provision of an Internet gambling service.
- The construction of the Act is such that an application that complies with section 26 of the Act is required to be considered by the Minister to either approve the application or refuse it. The Minister cannot simply ignore the application and do nothing about it. To do so would be tantamount to refusing the licence and the Minister could very well expect to be the respondent at a Supreme Court hearing under the *Administrative Decisions (Judicial Review) Act*.
- Section 26 deals with the eligibility to apply for a licence. Secions 28 to 30 contain the criteria for granting an application and largely deal with the suitability of the applicant, the suitability of the applicant's business associates and the applicant's ability to successfully conduct a business under the licence.
- Before a licensed provider's site can become operational, there are quite a number of other requirements that must be met under the Act. For example:
- each game must be tested and authorised;
- each key person involved with the operation of the site must undergo probity checking and be licensed; and
- the provider's control system, software and hardware, is subjected to comprehensive and independent laboratory testing before approval of the system.
- Also, the Territory's legislation provides the Minister with the power to place conditions on a licence, to change, add to or delete a condition.
- The types of conditions that I have placed on the licences strengthen controls on player privacy and harm minimisation measures already in place for the proper conduct of games or in the public interest. The licensees will not be allowed to 'go live' until I am satisfied that they are ready to do so. That is another condition of the licences issued.

In respect of tatts.com Pty Ltd, I anticipate that it will be ready to go live in about six weeks or so. In respect of ACTTAB, it will be some months.

As I said in response to the question yesterday, Tattersall's embarked on this venture some 18 months or so ago. ACTTAB has not been in the pipeline as long and consequently cannot be expected to be as near to a 'go live' date as Tattersall's.

AUTHORITY TO BROADCAST PROCEEDINGS
Papers

The following papers were presented by **Mr Speaker**:

> Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—
> Authority to broadcast proceedings relating to:
> Presentation of the Appropriation Bill 2000-2001 and associated papers and any subsequent debate on the motion that the Bill be agreed to in principle for Tuesday 23 May and Thursday 25 May 2000, dated 23 May 2000.
> Debate on the Adult Entertainment and Restricted Material Bill 2000 for Wednesday, 24 May 2000, dated 24 May 2000.

ADMINISTRATIVE ARRANGEMENTS
Paper and Ministerial Statement

MS CARNELL (Chief Minister): Mr Speaker, I present for the information of members the following paper:

> Administrative arrangements (Gazette S13), dated 10 May 2000

I ask for leave to make a statement.

Leave granted.

MS CARNELL: Mr Speaker, the Administrative Arrangements Orders I have tabled today have been prepared for the purpose of updating references to legislation. They came into effect on 10 May 2000. The arrangements include references to new laws. A number of repealed laws have also been deleted. The arrangements are made at this time to coincide with the commencement of the Children and Young People Act 1999 and reflect the agreed arrangements between the justice and education portfolios. Administrative Arrangements released last August located all corrective service measures, including youth justice, in one administrative area. Portfolio responsibility for the Children and Young People Act has been allocated along the same lines.

There are some additional minor changes relating to the allocation of laws between the Attorney-General and justice portfolios. Sections 6 and 7 of the Energy Efficiency Ratings (Sale of Premises) Act 1997 have been transferred from the urban services portfolio to the justice portfolio. This means that the Office of Fair Trading will now cover compliance requirements for advertising houses for sale.

PRESENTATION OF PAPERS

The following papers were presented by **Ms Carnell**:

> Ministerial Travel Report for 1 January to 31 March 2000.
> Canberra Tourism and Events Corporation Act, pursuant to subsection 28(3)—Canberra Tourism and Events Corporation—Quarterly report for January-March 2000.
> ACT Government Workforce Statistical Report—Third quarter 1999-2000.

PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS
Papers and Ministerial Statement

MS CARNELL (Chief Minister): I present the following papers:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instrument—
> Schedule D variations:
> Phillip Thompson, dated 18 April and 3 May 2000.
> Sandra Lambert, dated 22 March and 13 April.

I ask for leave to make a short statement.

Leave granted.

MS CARNELL: I present another set of executive contracts. I again ask members to respect the information in these contracts as they have before. I ask members to deal sensitively with the information and to respect the privacy of individual executives.

FINANCIAL MANAGEMENT ACT—APPROVAL OF GUARANTEE
Paper and Ministerial Statement

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members, I present the following paper:

> Financial Management Act, pursuant to subsection 47 (3)—Approval of a guarantee under an agreement between the Australian Capital Territory and the CPS Credit Union Co-operative (ACT) Limited for a loan under the New Enterprise Loan Guarantee Scheme.

I ask for leave to make a short statement.

Leave granted.

MR HUMPHRIES: The underlying principle of the scheme is to provide small businesses with financing for capital investments, in the expectation that they will succeed in establishing and developing their businesses and increasing their potential for

future business growth. It is intended that the scheme will give eligible applicants access to loans, to a maximum of $10,000 over a period of up to four years, from an approved financial institution. The CPS Credit Union has agreed to support the principles of the scheme by providing concession rates to eligible applicants and has been selected as the loan provider.

The FMA instrument I have presented has been approved by the chief executive of DTI, as delegate, pursuant to the small business loans scheme. The loan guarantee is for Ms Sandra Scheetz, the owner of Streamline Training, an ACT company that offers a home-based business to provide correspondence training throughout Australia in certificate IV in assessment and workplace training.

I stress that these are guarantees, not loans, grants or any other form of financial assistance and that maximum exposure under the scheme is capped at $500,000. To date, loans to the value of $80,470 have been approved under the scheme.

FINANCIAL MANAGEMENT ACT—APPROVAL OF GUARANTEE
Paper and Ministerial Statement

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): For the information of members, I present the following paper:

> Financial Management Act, pursuant to subsection 47 (3)—Approval of a guarantee under an agreement between the Australian Capital Territory and the CPS Credit Union Co-operative (ACT) Limited for a loan under the Small Business Loan Guarantee Scheme.

I ask for leave to make a short statement.

Leave granted.

MR HUMPHRIES: This scheme is intended to give eligible applicants access to loans of up to $10,000, for a period of up to four years, from an approved financial institution. The CPS Credit Union has agreed to support the principles of the scheme by providing concession rates to eligible applicants. The instrument I have presented has been approved by the chief executive of DTI. The loan guarantee is to Mr Peter Joseph Yandle, the owner of RSI Massage Therapy, an ACT company that will offer seated, non-invasive 15-minute workplace massage to relieve stress and ease muscle tension. I might call him myself, Mr Speaker.

I stress that these are guarantees, not loans, grants or any other form of financial assistance and that the maximum exposure under the scheme is capped at $500,000. To date, loans under this scheme to the value of $75,420 have been approved.

LAND (PLANNING AND ENVIRONMENT) ACT—REVOCATION OF DEVELOPMENT APPLICATION
Paper and Ministerial Statement

MR SMYTH (Minister for Urban Services): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 229A—Statement relating to the revocation of Development Application 20001663—block 17, section 29 Turner.

I seek leave to make a statement.

Leave granted.

MR SMYTH: Mr Speaker, the call-in of the block 17, section 29, Turner, relates to a dual occupancy development in Turner that I believe meets the government's directive to achieve quality and sustainable development in the ACT. It is important that we support those who go out of their way to do the right thing in quality of design and leading-edge sustainability.

The proposal provides a high standard of residential accommodation while retaining substantial on-site vegetation as well as protecting the existing streetscape. It introduces innovative design for some of the most energy efficient accommodation ever to be built in the ACT and exemplifies what we can achieve here in the ACT.

The application seeks approval for a development that provides a significant example of achievement of the objectives of residential land use in the Territory Plan. The proposal would also give rise to substantial public benefit by providing an excellent example of high-quality sustainable development which I believe will assist in raising the standard of residential development in Canberra.

LAND (PLANNING AND ENVIRONMENT) ACT—LEASES
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): For the information of members, I present the following papers:

> Land (Planning and Environment) Act 1991—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 January 2000 to 31 March 2000.

I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, the tabling of leases by direct grant, lease variations and change of use charge for the January to March quarter 2000 is required under section 216 of the Land (Planning and Environment) Act, which specifies that a statement be tabled in the Legislative Assembly each quarter outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. The schedule I have tabled covers leases granted for the period 1 January 2000 to 31 March 2000. I have also tabled a schedule in relation to variations approved and change of use charges for the same period.

Mr Speaker, a record of all new leases and applications to vary Crown leases is available for public inspection at my department's shopfront at Dame Pattie Menzies House at 16 Challis Street, Dickson.

URBAN PARKS AND SPORTSGROUNDS—PLANS OF MANAGEMENT
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): I table the following papers:

> Plans of management—
> Inner Canberra's Urban Parks and Sportsgrounds, dated November 1999.
> Tuggeranong's Urban Parks and Sportsgrounds, dated November 1999.

I seek leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, I am pleased to table the revised draft plans of management for urban parks and sportsgrounds in inner Canberra and Tuggeranong in the Assembly today. Canberra's urban parks and sportsgrounds form a defining part of the territory's open space system. It is urban open space which provides the landscape setting justifying Canberra's reputation as the bush capital. Under the Land (Planning and Environment) Act, a plan of management is required for land identified as public land in the Territory Plan.

These draft plans are innovative in their approach, being regional in scope and strongly focused on park customers and service delivery. The community's attitudes and values regarding urban open space have been identified, management objectives have been defined, and the type and level of service delivery that the community can expect for each type of park or sportsground has been clearly stated. Detailed maps are included showing the unique extent and character of Canberra's parks and open space.

Extensive consultation with the community has taken place, including public release of the draft plans for six weeks. The draft plans have also been endorsed following one amendment by the Standing Committee on Planning and Urban Services.

The 1999 customer satisfaction survey of Canberra's urban parks showed high levels of satisfaction, with 89 per cent of park visitors being satisfied with their experience. In 1998 and 1999 over 93 per cent, that is 295,000, of Canberra residents visited the large

town and district parks at least once. When multiple visits are aggregated, there were 6.4 million visits to Canberra's town, district and neighbourhood parks during 1998-99.

ACT BUSINESS LEADERS DELEGATION TO SOUTH AFRICA
Paper and Ministerial Statement

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present the following paper:

> ACT Business Leaders' Delegation—Report from ACT Delegation to South Africa—10-20 March 2000 led by Brendan Smyth MLA, Minister for Urban Services.

I seek leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, I had the pleasure to lead a small delegation to South Africa in March this year to raise the profile of the ACT in South Africa, to look for business opportunities of partnerships, and to quite pleasurably support the Brumbies when they broke their hoodoo at the Newlands Stadium against the Stormers.

Australia and South Africa have very great similarities, yet South Africa has dilemmas of a magnitude that we cannot imagine. It is important that we build relationships there. Three Canberra firms were represented in the delegation. I believe two have now signed or are in the process of signing contracts, and the third has sent its staff back to follow up leads that we established during the visit. It is very important that we promote the ACT. It is very important that we promote the reforms that we have put in place. It is very important that we promote the sort of business that can assist South Africa and that we can learn from so that we expand opportunities for Canberra business.

The delegation was very pleased with what we were able to achieve. The fact that the firms represented on the delegation are now either trading in South Africa or going back to seek more business is an indication of the importance of these sorts of delegations.

INDIGENOUS EDUCATION—GOVERNMENT PERFORMANCE

Debate resumed.

MR STEFANIAK (Minister for Education) (3.43): Mr Speaker, I listened with interest to what Mr Berry said. A fair bit of it was said in a quite sensible and concerned way. I was very pleased about that. I say from the outset that we do not have a huge problem with the motion as far as it goes, except for the time lines Mr Berry seeks to put in place.

Mr Berry calls on the Assembly to express its concern at recent reports on this government's performance on indigenous education. The government too is a little bit concerned, I suppose, about the way the reports were done. Perhaps in a different way from the way Mr Berry is coming at it, we agree with that.

Mr Berry needs to be aware of a number of things. The concerns were raised by one parent of an indigenous child who stated that he himself was not indigenous, and the report relates to 1998 figures. I want to put on record the great efforts of our schools, teachers, school boards and P&Cs in inclusive education. In our break between sittings I talked to the head of the Indigenous Education Unit, who passed on to me comments made by Matilda House that, of all the areas of government, she was very praiseworthy of the efforts of the Department of Education and Community Services in the reconciliation process. I put that on record because it is important to praise the efforts of our teachers, our schools and our parents.

I was a little bit interested when Mr Berry made comments about this person thinking that parents felt a bit alienated and threatened. If anything, our schools are very keen to involve members of our Aboriginal and Torres Strait Islander communities as much as possible. One only has to go around our schools to see the inclusive nature of the efforts being made and the respect for indigenous culture in our schools. Dale Huddleston has paintings in virtually all of our government schools. Only last week I was at Macgregor Primary School, where a number of indigenous people, including members of the Indigenous Education Unit, are celebrating the diversity of Aboriginal and Torres Strait Islander culture. I put on record my thanks to the members of the indigenous community who give up there time to assist there.

Mr Berry referred to media reports. They are based on a progress report from the Commonwealth government done for the purpose of administrative accountability associated with the funding agreement. Those media reports on the issue were selective in the extreme, and of course the Commonwealth report was two years old. The media reports were based on 1998 data and on discussions between Commonwealth and ACT officials.

The report Mr Berry wants this Assembly to focus on was the Commonwealth critique and analysis of the department's indigenous education strategic initiatives program progress report presented to the Commonwealth for the 1998 year. The report was used as the basis for discussion between officials from the department and Commonwealth officials and was used to set goals and targets for the following year, and 1998 was the second year of a four-year agreement with the Commonwealth. For the benefit of Assembly members, I note that that performance report shows that, of the 20 targets reported on for the 1998 year, the department met or exceeded 10. That did not appear in any of the reporting of this matter. It is disappointing that the media and those who reported this matter were so selective in their interpretation of that report. Those figures demonstrate the progress.

Beyond that, Mr Berry asks this Assembly to concern itself with old news in that report, when it would be infinitely more productive and more appropriate for members to look at the current situation. I have no dramas at all about issuing the reports. I will come to that.

Indigenous education, as Mr Berry mentioned—and he is quite right—is of real concern not only here but Australia-wide. I acknowledge, as does the government —and I am sure I speak for my Commonwealth and state colleagues—that there is a real need to put workable strategies in place to ensure that educational outcomes for our indigenous students improve. Members of the Assembly should be concerned not so much about a story that is now two years old, not so much about the selective reporting supposedly of the performance of the department and, through it, the government, but about what we need to do now and the bigger, broader issues of indigenous education.

I put it to members that this government, unlike its predecessor, has put in place policies that have led to real progress. More needs to be done, but we have seen real progress. For example, in 1999 there were a number of new initiatives. Firstly, the Indigenous Education Consultative Body has been expanded to provide a broad range of advice to government, and I am very pleased with the frank advice that comes from that body. The Indigenous Education Unit has been revamped in two important ways. The unit leader position has been upgraded to a deputy principal position, and an indigenous person has been appointed to lead the unit. Chris Harris, as members might recall, was deputy principal of Campbell High School. He is a most impressive person doing an excellent job.

The indigenous workers on the team are now working with all indigenous students and their teachers to produce individual education plans, something that certainly was not happening in 1998. New, improved data collection and reporting procedures were negotiated with all the responsible agencies within the Department of Education and Community Services. The literacy and numeracy testing which has been put in place for years 3, 5, 7 and 9 now provides very valuable data on student performance. I have asked my department to provide me with a detailed strategy on how we can best use that data to improve educational outcomes for our indigenous students, and at present the department is working on an additional strategy to address the literacy and numeracy needs of indigenous students. I am not satisfied with results to date. I want to see them improve. I would be surprised if all members did not want them to improve, and the government wants to see them improve.

The main thrust of the strategy is to build up a commitment that schools have the responsibility to use test results to identify individual indigenous students destined to become illiterate without intervention. The schools then need to develop education programs for those students. I get back to the individual plans. The purpose of those programs is to achieve improved results, and we will see those improved results in a two-year period, as we did with writing between year 3 in 1997 and year 5 in 1999. Writing was identified as a weakness, and we saw an improvement there.

There are three parts to our strategy, with the first two supporting the third. Those three parts are, firstly, an awareness and acceptance that there is a need to change; secondly, a better targeting of resources to support school individual indigenous education programs for indigenous students; and, finally, schools making an explicit commitment in their school literacy plans to adopt this approach. The department now has the data collecting mechanisms to ensure success. As well as this, resources are already provided through learning assistance, English as a second language, and federal funds for this purpose.

It is acknowledged nationally that major gaps still exist in educational outcomes for indigenous and non-indigenous students. No-one in this place and no educationalist would deny that. That is something Assembly members should be concerning themselves with. The department, in close partnership with Commonwealth officials, is working to close the gaps.

Feedback I am receiving from the indigenous community is very supportive of policy corrections when set. They are pleased with what we are trying to do. I hope Mr Berry is not minded to use this issue as a political football. To do so would not be very helpful. If he tried to do that, I doubt whether he would receive a great deal of support from the indigenous community.

Ask any teacher or ask the union. There will be a real concern if Mr Berry—for all the right reasons, I would suspect—wants us to do quarterly reports. If anything were to be gained from quarterly reports, or indeed from monthly reports, I would be delighted to use them, but the fact is that nothing can be gained from them. Any educationalist will tell you that it is not the way to assess programs and how people are treated. It puts far too much emphasis on collecting data for the sake of it and not fixing up problems.

Mr Berry has given a few members some documents which relate to the progress report and to an annual process. Our literacy and numeracy testing is done on an annual basis. Everything to do with education is done, for very good educational reasons, on an annual basis. We report nationally against agreed profiles. Our testing program for literacy and numeracy takes place in August. That is the same in every other state and territory. Whilst I suppose quarterly reports could be done, some of those reports would not be of much use or show much progress.

I would hope that members would want to ensure that the material that is issued publicly can be critically assessed, that assessed needs can be properly addressed, that action can be taken and the following year an assessment can be made to see whether in fact improvement has occurred. That is crucially important. Our three years of testing in literacy and numeracy indicates that it normally takes a student 18 to 24 months to progress from one profile level to the next. Accordingly, it would be meaningless to report every 12 weeks on student literacy and numeracy outcomes, even if that were possible.

The government is working towards monitoring performance of all students, including indigenous students. This development began in 1997 with the assessment of year 3 and year 5 literacy. The annual report on literacy and numeracy includes data on the performance of special groups. This year we have seen it for indigenous students. Having seen that, I want that to improve. Most of the data—such as attendance, years 3, 5, 7 and 9 assessment, employment figures, et cetera—is collected annually and is valuable for negotiating targets or examining trends for the year. That is the verdict from Commonwealth officials and our officials. That process—next month or the month after they will start assessing the data from last year—will lead to us being able to report, I would hope, in August. I would be aiming at being able to bring in a report in the

August sittings and then a further report at about the same time next year. Mr Berry's motion talks about issuing reports. I am quite happy to issue them publicly out of session too. But people have to be realistic about when the government can issue reports.

In the week's break, I asked this question of the head of the Indigenous Education Unit, who told me that by August data could be available. He also indicated to me that anything more than 12 months would be of no use and we would not be properly and critically assessing where we were going. That is what members in this place want to do. If anyone wants to make political capital out of this issue, they can go for their lives.

I will be proposing an amendment that we report by 1 September this year, and annually after that on 1 September. If we have not improved by next year, no doubt Mr Berry or someone else will use that politically. And that is not too far from an election. But at least it is a proper timeframe to enable the government to get the data together and to report properly. Proper systems can be put in place to do so, and the effort can continue to be made by the many very good people in our Aboriginal and Torres Strait Islander community, who are doing a lot to assist in the schools, and by the very good workers in our Indigenous Education Unit to get on with the crucially important job of raising standards.

For me, the 1998 report is not all doom and gloom. Some very good progress was being made even then. A lot was put in place in 1999. A lot more has been put in place since then. Mr Berry mentioned the budget. The 2000-01 budget we released yesterday further supports better outcomes for indigenous young people. We will negotiate with the Indigenous Education Consultative Body to provide a broader range of advice to government and to include community services as well as education, and funding will be provided to support any increase in administrative workload.

Programs will be developed in computing software to improve data collection and reporting procedures for indigenous education. It is important to have that information, to target programs and support areas of real need. Monitoring programs will include a tracking strategy for indigenous students. The testing we have done for years 3, 5, 7 and 9 in literacy and numeracy will be further developed to provide information in this fundamentally important area, specifically to assist targeting resources for indigenous students.

We are increasing the number of indigenous people employed through the new equity and diversity policy, which has set clear targets for indigenous employment. As a further enhancement to the indigenous literacy and numeracy strategy, an indigenous teacher will join the literacy and numeracy team. That teacher will work with the team to develop literacy and numeracy programs and strategies specifically to assist classroom teachers of indigenous students. *(Extension of time granted.)* Professional development initiatives will also be provided to support the literacy and numeracy team and classroom teachers. Finally, we will ensure that all current programs—such as ESL, learner assistance, and gifted and talented programs—are accessible to indigenous students.

These initiatives enhance the existing support of indigenous students, and they are consistent with the government's emphasis on the importance of social capital through this year's budget. I had a quick flick through the budget, and I noticed at least three

programs: healthy indigenous young people, accommodation support for young indigenous people aged 14 to 16—very important for school—and intensive support for juvenile offenders. They are just three programs which will directly benefit, and are targeted towards, young indigenous people.

Every Australian person is entitled to a quality education and equality of access to reach their full potential that that brings with it. We need to do that. We need to put energy and resources into meaningful reporting. Unfortunately, that is not going to happen under Mr Berry's motion. I can see where Mr Berry is coming from. If it would do any good, I would be happy and the government would be happy to support his motion, but it will not; nor will turning the matter into a political football.

I foreshadow an amendment to delete quarterly reporting from paragraph (2).

Mr Berry: If you say six monthly, I will cop it.

MR STEFANIAK: I do not know whether you are going to get too much benefit from that, Mr Berry. We might have a talk about that. I will move my amendment.

Ms Tucker: Why don't you have a talk first, before you move the amendment?

MR STEFANIAK: Perhaps, before I move my amendment, I will conclude and just see whether anything meaningful can be done. I am mindful of the term of this Assembly. Annual reporting, as I said, is the most effective and sensible way to go. It is consistent with what the committee was told in terms of the Commonwealth government and my department. It is consistent with every other form of reporting that we do in education. Any teacher will tell you that that is the most effective way of truly assessing progress and taking proper steps to address areas where more needs to be done. That is something we have done in education, to my knowledge, for decades.

I am happy to talk to Mr Berry to see whether there is any possibility of meaningful six monthly reporting, but I foreshadow that I will be moving and amendment, and I will close my reply to his substantive motion at this point.

MR HARGREAVES (4.01): I will not speak for very long on this motion, but I want to make a couple of comments in relation to the first paragraph of Mr Berry's motion. In doing so, I want to acknowledge the work of Mr Chris Harris in the Indigenous Education Unit of the department of education. I have known Mr Harris for quite some time. He is a man of immense integrity and has a very clear devotion to fixing up problems with indigenous education wherever he can. He is a great example of how bureaucrats can achieve things.

The minister said that there are individual education plans for indigenous students. I take it that he means in mainstream schools. Mr Speaker, we need to understand that, as you would probably know from your own background, there are two types of indigenous students in our society. There are those who can function quite reasonably in mainstream schools with a bit of assistance. There are some kids, I must say, who can function in our schools without any assistance. But there are also some kids in our society who cannot function in mainstream schools and require a special education service.

In 1997 there was such a service. We had a school not far from, or perhaps even within the boundaries of, Boomanulla Oval in Narrabundah. It had two indigenous teachers. The task of that school was to provide educational programs but it was also to enable kids to adapt to the education system and to assist them in their societal development through the use of the educational ethic. The students came from significantly disadvantaged homes within the Narrabundah area. There were not too many of them. One of the biggest problems with students from that area was truancy, so attendance was not crash hot. My conversations with the teachers—at the time I worked in an unrelated area of education—indicated that they were making inroads into this problem, and in fact the kids were looking forward to going to the school. They were achieving a success rate of about 10 per cent a year, and it was building.

In 1997 that school was closed and the teachers taken away from there, and the program that the teachers were giving kids in Narrabundah disappeared. It is certainly a great idea to have some sort of assistance for indigenous kids in mainstream schools. It is also supremely important that we understand some of the problems facing indigenous youth today. Sometimes we have to put a school in their midst. We cannot afford to take teachers away. Those kids have reverted to their old ways. Truancy is back up. A lot of the kids are into drugs and most of them are into monstering the neighbours. Their societal development has regressed.

Under the leadership of Mr Harris we are tackling how we can assist indigenous kids to go through our school system so they can compete on an equal footing when they leave the school system and enter the job market. That is a great idea. But we may have lost sight of those kids who do not fit into the mainstream system and who will not fit in unless they have some sort of transitional arrangement. That is what the school in Narrabundah was. As far as I know—I am happy to stand corrected—it does not exist anymore. I urge the government to look into that and to include in it some of its investigations into how we provide services for indigenous people. It is a vicious circle. If we do not break that circle, we are going to have uneducated, illiterate, inarticulate and innumerate indigenous adults who have no way of getting on to a level playing field in the job market.

I saw in the budget a line which said that this government is going to enhance the provision of services for indigenous education. When I looked further into it, I was disappointed to find that it was Commonwealth money, not ours. It could have been better described so that there was not an expectation on my part that our people were driving it. I got a sense of disappointment when I dug into it, and with a sense of disappointment comes a sense of scepticism and cynicism that perhaps we are not committed as much as we ought to be.

The minister indicated that the government is doing things in health, accommodation and juvenile justice. My point is that if we had continued the school at Boomanulla Oval we would have fewer problem dealing with juvenile justice. The program of the teachers there was not restricted to educational exercises. It was about how students there were fitting into society and how their culture could exist side by side with others. It was about the differences between, using the term very loosely, Aboriginal law and white man's law.

The teachers were looking at addressing some of the social problems through peer support. There were some success stories in the school—admittedly, only one or two—but there was peer support and a mentoring arrangement for some people who were off the rails and into heroin. As the minister would know, there is significant heroin use and trafficking among indigenous youth, and we have to stop that. We can stop it through punitive measures, through the law, or we can stop it at source by taking away the desire and need. The teachers who were working at that school were doing a great job in addressing just that. If you wanted to apply the standards of success in mainstream schools to that school, certainly it was not doing all that well. Certainly the success numbers were not all that large. But I would argue that, given the small number of indigenous kids in this town in that age group, a success of one, two, three or four is a fairly reasonable success rate, because there is something on which to build. These teachers were building on that. I would like to see some attention given to that.

That is the sort of thing I would be looking for when looking at a report. I would be looking to see whether that sort of service was still being provided and, if not, at whether it could be reinstated. I would be looking at how it was tracking. I had a casual conversation with a teacher there whose job disappeared. It is not very often that you find a teacher very close to tears because they cannot provide the service to students that they want to provide. I thought it was a tragedy. My role in the department of education at that time had absolutely nothing to do with the policy of that area, so it was totally inappropriate for me to do or say anything.

I pick up the minister's point about making political capital out of this issue. That was smack in the middle of the election campaign, and the minister would know that I did absolutely nothing about it. This motion has given me an opportunity to share my genuine concerns with the government. I hope that, when we get these reports, there will be something in them for me to read.

MR STEFANIAK (Minister for Education): Mr Speaker, I seek leave to speak again.

Leave granted.

MR STEFANIAK: Mr Berry and I have had a quick discussion, and we have come up with two agreed amendments which I seek leave to move together.

Leave granted.

MR STEFANIAK: I move:

> Paragraph (2), omit "quarterly", substitute "six monthly".
> Paragraph (2), omit "beginning with the June 2000 quarter", substitute the words "the first report to be issued by 1 September 2000.".

MS TUCKER (4.11): I will be speaking to the motion as well as the amendments, and I will be very brief. I understand why Mr Berry moved this motion, but I did express some concerns to him when he told me he was going to move it, because I feel that it pre-empts the inquiry the education committee is currently undertaking. We have received

concerning evidence in the committee. I do not want to address that evidence now, because I cannot. Some of it was in camera and some of it is better considered with the rest of the evidence given to our committee.

I understand the concerns that have been expressed here. I do not think anyone is making a political football of this issue, if Mr Stefaniak is concerned about that. Certainly concerns have been raised publicly. That is the role of people working in public positions and the role of the media. It is an issue of concern. I am very concerned about what is happening to indigenous youth and how well they are being supported in the mainstream school system. I have been concerned about this for a couple of years. The inquiry has been a great opportunity to go into detail.

As a member, I have had representations over several years from indigenous people who have expressed grave concerns about how well this government is dealing with the issues. They may well be improving their performance. I notice a few initiatives in the budget. Maybe that is thanks to the publicity. Maybe the government would have done these things anyway. But it is absolutely clear that it is not a good record. It is in fact an appalling record.

The figures on retention rates are misleading. We have no idea of the number of children who drop out of the school system. When you talk to people in the Aboriginal community, you get a strong sense that it is a significant number and of grave concern.

We need to be aware of these issues. I am glad that they are being highlighted. I will continue to work within the committee system to address the issues, and hopefully we will be able to come up with some constructive recommendations for the government to inform future decisions and policy directions in this area of education.

I support the six-month compromise that has just come up from Mr Stefaniak as a requirement for reporting by the government. We will continue to look at this issue in my committee, and I will address it in detail when we have completed our report.

MR BERRY (4.13): I thank members for their support for this motion. The motion seeks to provide better outcomes for the community as a whole and, in particular, to provide better outcomes in indigenous education. I trust that these reports will be a confidence-building exercise as well as an exercise for the department and the minister in keeping the community better informed about progress in matters which have been the subject of public criticism.

This matter is certain to attract the interest of the education committee which is looking at the matter. I once again thank members for their support for this motion.

Amendments agreed to.

Motion, as amended, agreed to.

TRIENNIAL ARTS FUNDING

MR HIRD (4.15): Mr Speaker, I move:

> That this Assembly:
>
> (1) congratulates the recipients of triennial arts funding for their innovative management of resources in the support of the arts;
> (2) applauds the achievements of the ACT arts organisations for improving the quality and cultural diversity of the arts in the ACT;
> (3) notes the success of triennial funding and urges the Government to continue this approach in allowing arts organisations to engage in long-term planning.

Mr Speaker, I would like to congratulate and acknowledge the recipients of triennial arts funding for their artistic excellence, their innovative management of resources, and their contribution to making the arts a highly valued part of this community. The ACT government funds 13 significant local arts organisation through multi-year funding program agreements, i.e. triennial funding. These organisations are on triennial funding because they have shown a high level of achievement and development in promoting excellence in the art form within the territory, clarity of artistic vision and outcomes, an outstanding level of quality innovation in arts activity, a demonstrated capacity for efficient, high-level financial management in administration, and a capacity to make a major contribution to our community.

There are many triennial arts organisations that show extraordinary innovation in their management. These organisations continue to enrich the lives of people of the territory. One such organisation, Mr Speaker, is the Canberra Symphony Orchestra. It is a prime example of innovative management at its best. The organisation provides the ACT region with an extensive series of concerts. It attracts leading national and international conductors and soloists and employs over 100 musicians. The Canberra Symphony Orchestra receives 53 per cent of its income from box office receipts, 28 per cent from sponsorship and 17 per cent from the ACT government, thus indicating that it is an efficient and economic operation. Relative to orchestras in other states and territories, the Canberra Symphony Orchestra is setting best practice in Australia.

Mr Wood: Are you going tonight? They have a concert tonight.

MR HIRD: Thank you, Mr Wood. I have another engagement that I am committed to. I would have been enriched by your kind invitation. It is through triennial funding, Mr Speaker, that arts organisations produce high-quality artistic projects and innovative and informative presentations to the Canberra community, achieve high levels of audience participation, contribute to activity in the arts in the daily lives of all of us, and plan future activities from a secure funding base. If continued, triennial funding will contribute not only to allowing organisations to engage in long-term planning but also to improving the quality of the distinctiveness of the arts within the ACT and beyond.

Mr Speaker, the budget brought down by Treasurer Humphries yesterday included an extra $260,000 for the arts grants program. This will bring the program to $3.34 million to the year 2001. I know that Mr Wood, as the shadow arts minister, would be interested

in this. This level of grant will further profile Canberra as a centre of artistic excellence. Over 100 artists and arts organisations currently enjoy support, and the increased funding will allow for a broadening of this base.

On top of the grants program, the government is also maintaining its support for the Canberra Institute of the Arts with $826,000 in the budget yesterday. There is also a $591,000 injection of funds for the capital works program for arts and cultural facilities and brightening Canberra with public arts. These fundings include $350,000 for the public arts program and $100,000 on Gorman House revitalisation. This proved to me the value of the draft budget process which was used by the government earlier this year. My committee, the Standing Committee on Planning and Urban Services, identified that Gorman House was an asset that needed revitalisation, and the government has responded with this amount of money. There is $96,000 for improvements at the Nolan Gallery and Lanyon Homestead, and $45,000 on forward design for a modern glass industry development centre.

Mr Speaker, the Carnell government's involvement in the arts to this high level is a justified recognition of the achievements of our arts community within the territory. I commend the motion to the house.

MR WOOD (4.21): Mr Speaker, I am pleased, with my colleagues, to support this very fine motion. It is a sensible motion of good sentiments expressed by my colleague, and I am sure it will encourage the government to build on developments over all the years and from all arts ministers.

I am delighted about Mr Hird's conversion to the arts. That is perhaps the best thing about this motion. Perhaps Mr Hird has seen that wonderful ray of brilliant light so that he can now stand up and propose such a motion. I am sure we all remember, especially those of us who were there, his savage attack against the arts community at estimates not so long ago. People from the Canberra Institute of the Arts and others were attacked—I use the word "attacked"—by Mr Hird at those estimates. Now, not only has Mr Hird been converted, he has become an advocate for the arts. That is wonderful. I wonder what comes next. He may even attend some arts events or galleries and extend his interest in the arts beyond that area of literature to which I know he is so passionately attached. He may even in the end get to like the arts. So, Mr Hird, I am delighted you have seen the light.

The second part of Mr Hird's motion congratulates those in the arts for their fine work. It bears mentioning just how vital the arts are. In the last week alone I have been able to attend concerts of the Festival of Chamber Music. That is finished now. It finished a week ago or thereabouts, at the weekend. Last Friday I was able to go to *Big River*, an excellent production put on by Super Productions. The next night there was the concert across here by students of dance schools in Canberra. It was a wonderful night. On Monday night I was able to go to the National Gallery and see a truly outstanding production by the Jigsaw Theatre Company. It will take that production to our schools. What a fine production company that is.

Tonight, if the sittings allow, Mr Speaker, I will track out to Crafts ACT. They have an exhibition by Canberra and district artists and craftspeople of household items, things we can really buy and use. When I spoke about one of their publications recently I was delighted to hear the Chief Minister say that the government has purchased a scarf for the Queen from there. So tonight I hope to get to that. Tonight also there is the Canberra Symphony Orchestra, if members allow us to go there.

Ms Carnell: You can pair with me so that we can both go.

MR WOOD: All right, we will get a pair. We have got that deal done free of the whips. There is so much happening. At the weekend Gaudeamus, Music for Everyone, is putting on *Brundibar*, so that will be wonderful to see. I have indicated a limited range of activities that I and others can see in the space of just a week. So it is a vibrant community out there, and I now look forward to talking to Mr Hird at the intervals of some of these events.

MS CARNELL (Chief Minister) (4.25): I thank Mr Wood for his comments. The problem is that there is actually an embarrassment of riches. There are often things that are impossible to get to see simply because there are too many things on, and I think that is a wonderful situation for all of us.

Mr Speaker, there are a number of triennially funded organisations that have demonstrated extraordinary examples of innovation and artistic excellence. I am sure Mr Wood would agree that the Choreographic Centre, a national centre for development of choreographic practice for the dance profession, attracts dancers and choreographers from all over Australia. In the last week I expect that Mr Wood would have seen *On the Shoulders of Giants* at the Playhouse, which was absolutely a stunner. It was done by the Choreographic Centre, using young dancers, many of whom have had no training at all. They have been brought on by the centre and they provide a level of energy that is really quite stunning.

The Choreographic Centre has quickly gained quite a national reputation and recognition as the leading centre of choreographic development. It is probably one of the leading centres in Australia. The centre has also been very successful in forging strategic partnerships. Last year the centre embarked on an outstanding partnership with Melbourne University to conduct research into the nature of choreographic thought and practice. Funded through the Australian Research Council, it has been a groundbreaking project for the dance profession. The centre has also been successful in achieving a two-year contract with the Australia Council to deliver a residency for a new media artist, another first for a Canberra organisation. Subscribers to the Canberra Theatre 2000 subscription season can now enjoy *Risky Manoeuvres*, three performances of new choreographic work, developed and presented by artists working through the Choreographic Centre.

The Choreographic Centre, as we know, does have triennial funding and will continue to do so. The thing that allows them to continue to plan for the future is triennial funding, and it shows the benefit of that. They really create some serious innovation. The Choreographic Centre has also been successful in winning contracts from other state governments to do work in other areas.

The ACT Writers Centre is another example of triennial funding working very well. It is the peak writers organisation in the ACT and it promotes and supports literary activities. Currently the ACT Writers Centre boasts over 650 members. The centre runs a consistently high-quality program to support strong and emerging literary community activities, and some huge talent. Mr Wood will have the pleasure that I do in being able to be present at many of the launches of work done by writers in the ACT and surrounding region. The level of talent that exists in this city never ceases to amaze me.

Another triennial funded organisation is Craft ACT. Mr Wood mentioned that he was going to an exhibition this evening. This is the peak body for contemporary craft and design and it promotes excellence in professional contemporary crafts and design practice. Craft ACT has presented numerous exhibitions nationally and internationally and was invited to showcase some of the region's outstanding glass artists at the recent Focus on Business Conference here in Canberra. Eight out of the 25 Australian glass artists have also been selected from Canberra for the prestigious Australian contemporary glass exhibition touring Australia and Germany in 2000-2001.

Triennial funding enables these organisations to contribute to Canberra's thriving art sector and to allow real innovation in the arts with forward planning. The ACT government supports, and I as arts minister, and Mr Humphries before me, support, triennial funding very definitely, and we look at moving more organisations onto triennial funding over time when they have proven their capacity to continue to operate and to continue to innovate.

Every year we look at expanding this program because the arts, like anything else, need to be able to plan into the future and need to be able to look to what they want to achieve, not just for the next 12 months but in a significantly longer term way than is the case on just annual grants. So we will continue to go down the path of triennial funding and hopefully be able to expand that program in the future.

MS TUCKER (4.31): I also appreciate the opportunity to congratulate those Canberra organisations who were awarded triennial funding. I am well aware of the importance of Canberra's professional arts infrastructure. My two daughters greatly enjoyed and benefited from their involvement with the Canberra Youth Theatre.

I do think we need to be cautious, however, in our expectations of these organisations which, despite the luxury of some certainty in funding from the ACT government, need to run very tightly, with little or no fat to absorb any of the slings and arrows that come their way. The demise of Company Skylark a couple years ago, and now Studio One, demonstrates very clearly that the triennial agreements that are made with Arts ACT are only one small part of the economic equation that professional arts organisations must manage if they are to survive.

Basically, three-year funding is good, but the actual level of funding in terms of the outputs and the outcomes expected for it is always fairly low. In fact, the very equation that underscores the existence of these organisations is now under question, thanks to the federal government's new taxation system. Anyone who has worked professionally in the

arts in Australia, or knows people who do, understands the high level of cost that artists carry and the importance of complementary employment, such as teaching in the arts or other sources of income, if they are to develop and promote a professional practice.

I understand that the proposed reforms following the recommendations of Ralph, described in the New Business Tax System (Integrity Measures) Bill 2000 before the Commonwealth parliament at the moment, are intended to end tax evasion by hobby farmers and others. It may be that the impact of the legislation on professional artists at all stages of their development is an oversight. It will, however, have a disastrous impact on the work and lives of artists, requiring, as it does, that they must profit directly from their arts work, not even their related teaching or coaching, in order to claim costs associated with that work.

You may be aware, Mr Speaker, that few artists manage to earn even half of their income directly through their professional practice. Most artists earn less than $10,000 from their work. This is not a reflection on the quality of their work, nor on its importance to our cultural development. It is simply a product of our present economic and social structure. Artists use other essentially secondary employment to subsidise this primary work. The legislation as it stands will impact tremendously on the everyday work of Australia's artists—on their productivity, on their capacity for invention, on their preparedness to take risks, and on the likelihood or possibility of them being able to continue to work creatively at all.

Mr Speaker, the materials and equipment costs that many artists need to meet if they are to produce and develop their work are high. These costs range from drawing and painting equipment, chemicals, metals and tools for sculpture, to musical instruments, sophisticated computer and video equipment and voice and body training. Anyone who has worked as an artist or with artists would be well aware of the continually straightened circumstances under which most of them practise, but it is untrue to say that artists who do not make a profit on their work are necessarily unsuccessful, or that they are hobbyists, or that their work is not important to our cultural development at the time or, indeed, in the future. Their work defines our Australian identity. It is widely enjoyed and creates an international representation of the country.

This legislation will have its most devastating impact in the long term. It is very clear that it was not drafted with any understanding of or consideration for the professional development of artists. One of the key features of any significant professional practice is that the work itself has a profile and recognition within the industry and across the community more generally. Emerging artists of every form very rarely establish such a practice without investing a high proportion of their non-arts income into developing, refining and promoting their work.

Most young and emerging artists make do on limited incomes, often working in low-grade jobs in service industries and investing an extraordinary amount of time and money in their work. If they cannot claim the legitimate but extensive costs this work incurs as deductions from their income they will not be able to survive and to develop their work. They will not be able to contribute to the shape and shaping of our society, now or in the future. As a consequence, unless this legislation as it affects the arts community is

amended, Australia will not see the next generation of artists. We will not be able to have motions like this in this place celebrating the artists who are receiving grants from this government.

It is quite possible for an exemption to be included in the legislation to allow artists to continue to offset their expenses to get their necessary other forms of income. There already exists a method for distinguishing between hobbyists and real artists as informal criteria agreed upon by the Australian Taxation Office in consultation with the National Association for Visual Arts and the Arts Law Centre of Australia.

Additionally, the proposed New Business Tax System (Integrity Measures) Bill 2000, section 1.47, allows for the commissioner's discretion where special circumstances are applicable to the business activity, so it is evident that the problem is not insoluble. Another exception has already been made in the legislation for primary producers earning less than $40,000 from their second income. It is very clear that at the very least the same exemption should be allowed for artists. The Treasurer has appeared inflexible on this issue, but I believe he is all too well aware, as the federal government is, that the implementation of the new tax system will need careful management.

I have written to the Chief Minister and asked her to write to the Commonwealth government and urge it to allow some small amendments to the bill in order to avoid penalising Australia's artists for their passion and commitment—that section of our community which dedicates a great deal of talent and effort for little or no remuneration but which greatly enriches the nation. I do hope that the Chief Minister will respond. I am sure members would give Mrs Carnell leave now to respond if she is aware of how she is going to answer my letter on this important issue as we are discussing arts in this place. I really hope that the Chief Minister will give an undertaking to write to the Treasurer in support of the artists of Canberra and in the interest of making possible the ongoing contribution to Canberra's cultural life of these organisations that we are congratulating today.

MR SMYTH (Minister for Urban Services) (4.38): Mr Speaker, it is a delight to stand and speak to this motion on support for the arts. The arts is part of the social fabric of Canberra. It is something that makes Canberra the great place that it is to live in. We would say that it adds to the social capital of Canberra. Mr Wood would agree that there is just so much art out there.

Triennial funding is important because triennially funded arts organisations are executing groundbreaking results and inspiring work that could not be achieved without that sort of funding. They need the funding over the period to make sure that they can develop what it is that they are doing.

One of the good examples of that is the Canberra Youth Theatre. It is the longest established youth theatre in Australia, with a high profile, and an unequalled reputation in youth theatre activities. The company is to be congratulated for all that it does. The company has been a feature of Canberra's arts community for many years, and the opportunities that it creates for young people to learn and to participate in the performing arts is certainly valued by this community.

What the organisation does is pursue strategic partnerships. Through that they have been able to stage a number of bold proactive and celebratory projects and co-productions because they have secured funding over the three-year period. A perfect example of this is their recent production of the *Youth's Eye View of the Millennium.* They did that with Screensound Australia. It is very successful as a work of art and very successful as a partnership, especially as an example of showing the importance of giving youth the opportunity to put on their own performances. In that way it was also very successful.

Mr Speaker, art across this community is very important. As Mr Wood, Mr Hargreaves, Mr Osborne and Mr Kaine would testify, the art scene in Tuggeranong in particular is very strong. One of the great delights, of course, is the Tuggeranong Community Arts Centre. That centre performs a wonderful function down in the valley. It means that a wide range of different art forms have a venue in which they can show off their wares. They can challenge the community to think about what it is that we are and where we are going. As well, it provides opportunities to our young folk so that they can take up many different forms of the arts.

I was very pleased recently when the Tuggeranong Branch of the Liberal Party went to the Out of Mind Personal Reflections display. It is an exhibition of woodblock prints and etchings by emerging artists from the refugee community around the region. It was very interesting because it allowed them to express the emotions and the trauma that they had gone through as refugees. It looked at places as diverse as Ethiopia, Croatia, Bosnia and Burma. It was a credit to the community to put this together.

It is great that we have a venue in Tuggeranong where small exhibitions like this—there would not have been more than 20 or 30 pieces—can be viewed. It was a great night. Some of the members of my branch bought pieces of art, so they were able, in their own small way, to support the refugee community and support the print-making community in their endeavours. It is very important.

Mr Deputy Speaker, you would be well aware of the fact that Tuggeranong community arts recently had their annual general meeting because you are mentioned in the minutes. It is tremendous, when you look through the document that they put out, to see the wide range of activities that are carried on down there at the art centre and the opportunity it provides to hone up the skills of people in the valley.

The thing that really pleases me, in particular, is the shorelines project that they are currently working on. This is developing a sense of place about Tuggeranong. The invitation says, "Come and join us in creating a sense of place in Tuggeranong. You are invited along with others who live or work in Tuggeranong to contribute your ideas and thoughts about the environment of Tuggeranong in a special community art and design project beginning soon." There were two meetings. One was on 3 May during the day and the other was during that night. The fact that we all have an opportunity through our arts community to express ourselves is particularly important. You often see the Deputy Speaker at the feltmakers exhibition, for instance. I know of Bill's tremendous interest in this.

It is very important that the government and the community support the arts community. It really does add to what we see of ourselves. I know from my days at the National Library the number of aspiring writers and artists who used to come and use the facilities there. What an important part of the community they become as they contribute to our understanding of ourselves.

To the Tuggeranong Community Arts, congratulations on another successful year—their annual general meeting was on Wednesday, 10 May—but particularly to the triennially funded organisations. Their level of achievement in developing a wide variety of art, promoting excellence in the art, is something that we all should aspire to and that we all should support. It is important that the energy and confidence that these organisations have developed in themselves is not dampened. It is important that we do fund them triennially to make sure that they understand that they have the support of the government and of the community in making sure that they can continue to be a highly valued and thriving part of Canberra's community.

I will finish by saying well done to all the triennially funded organisations. Well done to groups down in Tuggeranong that do particularly well. Well done, particularly to the Tuggeranong Community Arts Centre, because it does provide a huge base and a venue for these groups to launch out and do amazing and exciting things.

I must not forget to thank Mr Hird for putting forward this excellent motion because one of the nicer things in this city is its creative side, particularly through the education system. There is such an opportunity to develop different arts. I guess, when most of us went to school, we were lucky if we did painting. Perhaps they were adding pottery as we passed through. The school system supports and encourages photography, film making and all the different forms of theatre and drama. It is turning out a large number of motivated, active, adventurous young artists who can move into these triennially funded groups like the Tuggeranong Community Arts Centre who will support them. That bodes well for the future of the arts in the ACT. It certainly bodes well for us as a society, simply because it means that we value their expression. We value different forms of expression. We value what they raise in those forms of expression. We are willing not only just to listen but to participate; to congratulate them and to come to an understanding of what it is that they are trying to say to us. Mr Deputy Speaker, congratulations to all the triennially funded organisations for what they have done for this community.

MR QUINLAN (4.46): Mr Deputy Speaker, I will be very brief. I just place on record that I think this debate has been an artifice brought on by the government to waste time on private members day. I would much rather have got on with the more serious program.

Mr Smyth: Mr Deputy Speaker, Mr Quinlan should withdraw that. Mr Hird is a private member and has absolutely every right to bring on issues that are important to the community.

MR DEPUTY SPEAKER (Mr Wood): No, there is no point of order. You have not indicated a reference to that point of order.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.47): As a former minister for the arts I want to make a comment about this motion. It needs to be recorded, Mr Deputy Speaker, that in the last couple of years since the 1998-99 budget, when there was, as members know, quite some controversy and debate about cuts to the Institute of the Arts, there has not been much discussion in this Assembly about the role of the arts in this community, and particularly about the benefits that a triennial arts funding arrangement brings to this community and to arts organisations.

I am sorry if members begrudge taking a little time to talk about the arts in this context, but it is important. Members in this place value the arts, value the role of the arts, and believe that it does behove us once every two years to spend an hour-and-a-half talking about the role of the arts in this community. The vehicle for that on this occasion is the motion moved by Mr Hird about triennial arts funding and the importance of ensuring that we have appropriate vehicles to provide the ACT's arts community with the means to deliver a high-quality product with the certainty of knowing that the considerable energy dedicated each year in the past by each arts organisation and individual receiving funding no longer needs to be devoted on an annual basis to securing continuation of that funding.

It is certainly a matter of record that the ACT government requires, as do other governments, a high degree of accountability on the part of those to whom it provides funding to indicate the purpose for the funding, the basis for the project or plan that the funding will be used for, and details of how it will be acquitted over a period of time. We want to know what particular goals and milestones will be set in that program. In recent years the ACT government has moved away from the idea of simply making untied grants to organisations or individuals of any description. Instead, we now focus on the idea of having funding based on a contract, a performance contract in effect, whereby a person is to perform certain work or produce a certain output as a condition of receiving funding.

I am very pleased that we have recognised that each arts organisation or arts provider that needs to spend a certain number of days or hours preparing the necessary documentation to seek funding diverts some of their energy and their creativity away from the skill and the attributes they possess into things rather more mundane. So the certainty, the capacity to be able to deliver all of their energy to their arts product, is a very important development. Triennial arts funding, as you know, Mr Deputy Speaker, as a former minister for the arts, is a vehicle for arts organisations to be able to do that.

I have made this comment before but I will repeat it now. There is the suggestion that people are more creative when they are under pressure and that some of the greatest art produced in the history of humanity has come from people who have been under incredibly difficult circumstances. I could cite many examples but I will not do so now. The suggestion has been made, perhaps cheekily, that having this pressure on arts organisations to write reports to the government on what they are doing and what they are hoping to spend their next lot of money on is a very suitable form of pressure to place on arts organisations to improve productivity and the quality of the output.

I do not subscribe to that point of view—I am sure none of us do, Mr Deputy Speaker—but it is important that we have a vehicle for arts organisations to be able to deliver a high-quality product. There are many examples of organisations with an incredibly high-quality of output in this territory which deserve the certainty of knowing that we, as a community and as a government, value their product to the degree that we will say to them, "Show us the product of your output. Give us some evidence of the work you are doing, but annual reapplications for funding for the next three years are unnecessary. We will accept that the quality of output is of such a high order that it will be continuously delivered during that time and there will be a measure of acceptance by the community that they are getting good value for money from these grants."

Some of the examples we could cite of that are fairly obvious. One is the Choreographic Centre. I was very pleased, as minister for the arts, to acknowledge the centre with some greater certainty of funding and a triennial funding arrangement back before the last election.

I admit that I have not seen anything like as much of the work of the Choreographic Centre as I would have liked in the last couple of years, but I have no doubt that the centre has more than repaid the faith and commitment of the government and arts administrators in this territory with the quality of their output. It is both a training facility and a vehicle for new development and experimentation in dance. They have excellent interface with other organisations out in the community and they have tried to operate almost as a peak organisation within the dance community of the ACT. They have done that extremely well. To those involved in producing that output I say well done, and I think it is quite appropriate that they have that triennial funding arrangement in place.

Theatre organisations and theatre groups also benefit from such arrangements. I am not sure at present which theatre groups in the ACT have triennial funding arrangements. Clearly, for theatre, there needs to be a plan made some time in advance for future seasons. Preparation for the hiring of venues and the securing of services of people to provide particular components of a production need to be occurring before the year in which the funding is actually allocated on an annual grant basis. Where you have that kind of arrangement, Mr Deputy Speaker, you need to be able to make sure that the funding is secure on a long-term or medium-term basis. For theatre organisations, clearly that is a very major benefit. As a community, we get a better quality of output because community organisations—

Mr Berry: We yield. We will vote for it.

MR HUMPHRIES: I am very pleased to hear that, Mr Berry. I am sure you have something very important to say about the arts. I do not usually hear it but I am sure that deep down in that breast of yours there is something very important to say about the arts.

I note the fairly trenchant comments made about my colleague Mr Hird for bringing this motion forward. I forget from whom it came, Mr Deputy Speaker, but the suggestion was that Mr Hird had experienced a recent conversion to the arts. I have to defend Mr Hird in this matter. I believe that members need only stand or sit in this chamber for a period of

time to realise that Mr Hird has a great sense of theatre. Each question time he exhibits that sense of theatre in rising to ask his question of the day. I do not think for one instant that Mr Hird lacks artistic bones in his body. I will not say any more.

I have one last reflection on the theme Mr Smyth raised a moment ago. We are extremely lucky in the ACT to have such a high quality of output, both from the organisations based in the ACT who are funded here and from those that visit here. Some of us had the privilege of seeing the Bell Shakespeare Company production last week of *A Midsummer Nights Dream*. It was an absolutely superb production. I hope members who got to see that enjoyed it.

Ms Carnell: I am seeing it tonight.

MR HUMPHRIES: You are seeing it tonight? Very good. You think you are.

Ms Carnell: No, I am, because Bill and I are paired. He wants to go to—

MR HUMPHRIES: I might get a pair too. Mr Deputy Speaker, it is a great thing to see, and I do hope we have an acknowledgment in today's motion by Mr Hird of a very high quality of output assisted by triennial funding.

MR HIRD (4.56), in reply: I was not going to rise and exercise my right of reply.

Mr Berry: That's good. We are sorry we provoked you. Mr Deputy Speaker, I take a point of order. We are sorry that we provoked him.

MR DEPUTY SPEAKER: Order!

MR HIRD: But there have been some comments made. It gives me no pleasure to do what I am about to do in respect of the shadow treasurer who said that the government were the ones who were perpetrating the loss of time of this great institution in this chamber.

Mr Quinlan: For the second week in a row.

MR HIRD: Let me tell you, Mr Deputy Speaker, for Mr Quinlan's information, that it is very difficult for a backbencher in the government—you would know from when you were a backbencher on all those committees, Mr Deputy Speaker—to vent your views and get action for your constituents. I would remind Mr Quinlan of what is on the daily program. Item No. 4 relates to the proposed supervised injecting room trial and was placed on the notice paper by Mr Kaine on 9 May. Notice of a motion on indigenous education was given by Mr Berry, in his enthusiasm, on 9 May. My motion relating to triennial arts funding went on notice on 17 February. So Mr Quinlan owes me an apology, but I will not hold my breath.

Let us talk about the wild accusation you made in respect of the estimates committee which was chaired by your colleague Mr Berry. I was accused, wrongly, of being overzealous, overstrenuous, for over-emphasising the expenditure of public moneys, to wit, $1.6 million. I know Mr Quinlan would be interested in this. This art group was

spending $1.6 million of our money. I asked where the money was going and they could not give an answer. I asked why it was that the government on several occasions, over a period of 2½ years, had to ask them to come clean with the information as to where that money was being spent—$1.6 million.

I will not belabour this, Mr Deputy Speaker, but the Chief Minister will confirm that all of a sudden, when I asked the questions and the figures and the books came forward, the figure was cut in half. So they were spending $800,000 of your money and mine. If you knew that and you were sitting over there, wouldn't you tear into us, Mr Wood or Mr Quinlan, with some justification? You certainly would. They were spending $1.6 million.

Mr Quinlan: Harold, I was there that day.

MR HIRD: I know you were. They were spending $1.6 million. Let us talk about the arts. My colleague Mr Smyth raised a very important point. When I was in school arts was seen as painting your school fence. That was art.

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

MR HIRD: As I was saying, when I was at school the art classes were formed around painting the fence.

Mr Quinlan: Finger painting was as far as you got.

MR HIRD: Did you go as far as finger painting? You went up a couple of notches. I was allowed to paint the fence.

Mr Quinlan: Art school, me.

MR HIRD: Now we know who the arty-farty is—Mr Quinlan, the old bean counter. I suppose he counted the jelly beans, the red ones and the black ones, and all those sorts of things. Getting back to what Mr Smyth was saying, we do have a heritage and we do have some benefit.

Mr Stanhope: Did you wind him up?

Mr Smyth: No, your fellows did.

MR HIRD: No, your fellows over there did. We have some enormous benefits, flowing right from the grass roots in the schools, through to the colleges and then out into the community. I have attended plays at the Canberra Theatre and the new Playhouse, compliments of the former minister for arts or the Treasurer at the time. It is a pleasure to see performances such as the *Old Time Music Hall*. I know you are a regular attendee, Mr Wood, and so am I.

There a number of other areas where the arts benefit from government funding, but this government, through the Chief Minister and the Treasurer, will not stand by and see moneys wasted, contrary to what the previous government may or may not have done. I would have been interested to see how the previous government would have handled the School of Music when they were spending $800,000 more than they should have been entitled to. They came clean. I know they got an increase in the budget, to $826,000, and they are to be congratulated.

Mr Hargreaves: They had a candlelight vigil.

MR HIRD: That may or may not have been the case. Triennial funding is certainly one way of enriching the arts for the community. I simply conclude by saying that the ACT government's funding of 13 significant local arts organisations through the multi-year performance agreements, triennial funding, is certainly bearing fruit and is assisting a high level of achievement in providing excellence in the art form within the territory. I commend the government for the way they have gone about it.

I think this is the third motion I have brought on for debate. I will endeavour to put on a few more motions, Mr Deputy Speaker, and maybe in 18 months I will clear them. I thank members and commend the motion to the house.

Question resolved in the affirmative.

ADULT ENTERTAINMENT AND RESTRICTED MATERIAL BILL 2000.

Debate resumed from 29 March 2000, on motion by **Mr Rugendyke**:

> That this bill be agreed to in principle.

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

> That the debate be adjourned.

Ms Tucker: Pursuant to standing order 174, I seek leave to move that the Adult Entertainment and Restricted Material Bill—Oh, I cannot do it until we have agreed to the bill in principle.

MR DEPUTY SPEAKER: Ms Tucker, you are on your feet. You have the floor. I am not sure where we are going. Ms Tucker, do you have a motion?

Ms Tucker: No, not at this minute. I will do something later.

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

MANDATORY SENTENCING LAWS, THE STOLEN GENERATION AND RECONCILIATION

MR STANHOPE (Leader of the Opposition) (5.07): Mr Speaker, I move:

> That this Assembly reaffirms its support for the ongoing reconciliation process between indigenous and non-indigenous Australians and requests the Chief Minister to write to the Prime Minister notifying him that the Assembly:
> (1) supports federal intervention to overturn mandatory sentencing laws in the Northern Territory and Western Australia;
> (2) rejects the references in his Government's submission to the Senate Legal and Constitutional References Committee inquiry into the stolen generation that deny the existence of a stolen generation of indigenous Australians; and
> (3) supports the adoption of the Council for Aboriginal Reconciliation's *Declaration Towards Reconciliation.*

Mr Speaker, almost 10 years of work by the Council for Aboriginal Reconciliation will culminate on the weekend with Corroboree 2000. I find it extremely ironic that as some barriers to reconciliation are being torn down new ones are still being built. Friday of this week is National Sorry Day, but in some states and territories of Australia there are still governments creating and implementing policies for all of us and for future generations to be sorry for.

On several occasions this Assembly has acknowledged the inherent injustice of mandatory sentencing regimes, which invariably impact negatively on disadvantaged sectors of society. Australia's indigenous people in particular are undoubtedly suffering as a result of the implementation of mandatory sentencing in Western Australia and the Northern Territory. Perhaps we should not be so surprised and outraged that some of our interstate colleagues have chosen to adopt such laws. Pursuing populist but discriminatory responses to societal problems is just as attractive to some modern-day politicians as it has been throughout history.

In modern-day Australia a major problem is undoubtedly property crime. In America, the tradition of identifying scapegoats for the problems facing society has continued from the reported Salem witch-hunts of early puritanical America, through the McCarthy era and into the 21st century. After many years of pursuing this sort of tradition, the Americans have managed to capture the sentiment of that in legislation—mandatory sentencing legislation. Through mandatory sentencing regimes the Americans have efficiently targeted minority groups to hold them responsible for nearly every possible form of social ill. It is a system that is popular with the more conservative and less tolerant, and it is a system that I am concerned is now being embraced in Australia.

In studying the impact that mandatory sentencing has had on the American people, I came across an editorial by Adam J. Smith, associate director of America's Drug Reform Coordination Network. It gave a commentary on the findings of a recent report by the American Justice Policy Institute which found that by the middle of this year America's prison population was due to reach two million. The report found that more than half of those people would be non-violent offenders.

The editorial is quite telling in terms of the effects mandatory sentencing has had on minority groups in the US. No other nation on earth, or any in history, as far as anyone can tell, has ever incarcerated so large a percentage of its citizens. In 1970 there were fewer than 200,000 people behind bars in the United States. By 1980 that number had grown to 315,000. Between 1980 and 1990 that number rose to 740,000. Ten years later the Americans are pushing on to two million people in jail.

Mr Hargreaves: They have arrived there.

MR STANHOPE: My colleagues tells me that they have arrived at the figure of two million people. In the span of 30 years there has been a tenfold increase in the number of people in a prison system that has subsequently become an industry unto itself.

In the editorial Adam Smith goes on to state:

> … it seems that cages have become our one-size-fits-all answer to nearly every persistent social ill. Poverty, mental illness, substance abuse, all have become fodder for the prison-industrial complex. Hundreds of thousands of people have been removed from the unemployment statistics, from the rolls of understaffed mental health services, from overcrowded poor neighborhoods. People who self-medicate, who don't fit in, who show a preference for the wrong intoxicants. All of them have a home in one of our many correctional institutions …
>
> We are a nation of jailers ... and of jailed. We have zero-tolerance, and we brag about it. Our leaders ride to power on the backs of the convicted. Brown backs, black backs, for the most part. We have created powerful lobbies of people whose livelihoods depend on putting more of their fellow citizens in cages, for longer stretches of their lives, and we cannot seem to appease those lobbies fast enough.
>
> This is America, home of the free, at the dawn of the new millennium. We are a nation singular in our urge to punish, and in our willingness to indulge that urge. But we are paying for that indulgence.
>
> We are paying with our tax dollars, both what we spend to catch, convict and incarcerate the two million and what we fail to collect from their potential wages. We are paying in distrust of our system and of our institutions among those groups, Black and Latino mostly, against whom we have chosen to enforce the most punitive of our laws. We are paying with our futures, in the education dollars that have gone, in state after state, into the building and running of prisons, more so every year. And we are paying with our souls, scarred and hardened by our growing willingness to accept that which we know is immoral and inhumane and corrupt.

Today, with less than 5 per cent of the world's population, the United States houses 25 per cent of the world's inmates. A large percentage come from marginalised minority groups. Indeed, an ABC documentary on Monday of this week revealed that in California one in three black American men between the ages of 15 and 25 have been incarcerated. It was claimed in that documentary on the ABC this week that within the next seven or

eight years it is expected that 50 per cent of all black American males in California will be under some form of justice system restraint. It is reported that there have been no long-term, identifiable impacts of mandatory sentencing on property crime in California.

I think all members would agree that Mr Smith paints a fairly bleak picture and one that is well worth considering, given this government's obvious moves for the construction of a new ACT prison to be privately run. This example of mandatory sentencing reported by Mr Smith is the example that Western Australia and the Northern Territory seem bent on following with their mandatory sentencing legislation as it impacts on youths.

The impact on the indigenous minority is already clear. A recent report from the Northern Territory confirmed that since the introduction of mandatory sentencing the number of juveniles jailed in the territory has increased by 145 per cent. Almost all of them have been Aboriginal. There has been no resultant reduction in rates of crime or property offences.

ABS statistics indicate that 67 per cent of all prisoners in the Northern Territory are indigenous. Imprisonment rates for indigenous people in Western Australia are 21 times those for non-indigenous people. All of this is after a $40 million royal commission that said imprisonment should be a last resort.

A 17-year-old Aboriginal youth was recently sentenced to 12 months imprisonment after his third stealing conviction—for taking a packet of biscuits. It is ironic that in Australia's colonial days people were transported from England and incarcerated here for stealing a loaf of bread to feed their families. After centuries of development the equivalent is now a packet of biscuits.

Mr Hargreaves: Haven't we come a long way?

MR STANHOPE: Perhaps he have not come a long way at all, Mr Hargreaves. This is not merely a debate about states rights anymore. It is a debate about the type of country we want it to be at the start of the new millennium. It is also a debate about the messages we want to send to our children about dealing with disadvantaged sectors of society. Do we seek to help them, or is it merely a case of out of site, out of mind? Do we seek to identify the reasons for societal problems and institute preventative initiatives, or are we merely concerned with finding a convenient scapegoat that we can blame it all on? In terms of states rights, I believe this is one of those most extreme, urgent and compelling cases that the Chief Minister was referring to in the government's submission to the Senate inquiry. I believe we must act now to defend our basic egalitarian ideals.

In this unfolding chapter in our history, the questions to be asked are: how long will it take us to acknowledge the discriminatory impact of mandatory sentencing on indigenous youth, and how will history judge us for our actions, or indeed our perceived inaction? Ms Tucker has already used a most apposite quote in relation to this issue in an earlier debate to sum up the situation, when she said that all that is necessary for the triumph of evil is that good people do nothing. Today there is an opportunity for members to do something to prevent this sort of injustice from prevailing in the future.

Historical precedent is also relevant in terms of the federal government's inaccurate and divisive submission to the Senate inquiry into the stolen generation. In that submission the federal government sought to deny the systematic and forcible removal of Aboriginal children from their families by simply saying in one part of that submission:

> There was never a generation of stolen children.

This statement constitutes a national disgrace, and the offending submission should be rejected. The claim contained within that submissions that only 10 per cent of Aboriginal people suffered from the removal policies is based on the wilful misuse of statistics. The ABS survey referred to was based only on a small sample. The sampling was undertaken in 1994, by which time many of the people affected by the policies at the height of this practice would have died, particularly because of the appallingly low life expectancies that indigenous people experience in Australia. Furthermore, between 1991 and 1996 there was a huge increase of 33 per cent in the number of people in Australia declaring their Aboriginality in the census. But only those who declared their indigenous dissent up to 1991 were included in the ABS survey.

Even more disturbing is the absence of any acknowledgment that more than one person in the family or community may have suffered from the forcible removal of another close to them. Hence, siblings, grandparents, parents and friends of those removed were all affected, and some never saw each other again.

We acknowledge the impact the loss of loved ones has in our response to other aspects of national life—for instance, in our response to war. Every war, the First World War in particular but also most recently the Vietnam war, has affected the outlook of a whole generation, even though not the whole generation left our shores to fight in the war. We do not say that war impacts only on those who were there. We acknowledge also the pain and suffering of those who were left behind. Similarly, we need to recognise that the indigenous communities whose children were forcibly taken suffered a similar sense of grief and loss. In acknowledging this, we must also realise that there was more than one stolen generation.

In a letter to the *Canberra Times* on Monday of this week, a group of commissioners for the Human Rights and Equal Opportunity Commission, headed up by Professor Alice Tay, the current president, pointed out:

> Both sides of politics now accept the forced removal of indigenous Australians is a dark stain on our history.

The letter was written in response to recent comments from former Aboriginal Affairs Minister, Peter Howson. Given that both sides of politics have accepted the outcomes of the *Bringing them home* report, to deny the existence of the stolen generation in a government submission is nothing short of unconscionable. To deny the existence of the stolen generation is to deny indigenous people proper acknowledgment of their grief and suffering as a result of the forcible removal of Aboriginal children from their families. Given what has occurred, acknowledging their pain is the least we can do.

With regard to the stolen generation, I agree with my federal colleague Mr Daryl Melham, who recently said:

> National shame, as well as national pride, can and should exist in relation to past acts and omissions, at least when done or made in the name of the community or with authority of government. Where there is no room for national pride or national shame about the past, there can be no national soul.

Australians do feel ashamed about the forcible removal of Aboriginal children from their families in the same way they feel pride when they think of the Anzacs. The Commonwealth government's attempt to deny the past merely exacerbates that feeling of national shame, and the offending submission should be rejected to prevent further damage to national pride.

In terms of both mandatory sentencing and the stolen generation, will we choose to learn from history or will we perpetuate the tradition of societal injustice? Will history judge us as the good people who did nothing, allowing evil to triumph, or will we learn the lessons of history and face up to our responsibilities with regard to government policies, both past and present?

The Commonwealth government must commit itself to redressing injustices, both past and present, faced by indigenous Australians if true reconciliation is ever to be achieved. Part of that process must involve the adoption of the Council for Aboriginal Reconciliation's *Declaration Towards Reconciliation*. In September 1991 the Commonwealth parliament passed legislation that established the Council for Aboriginal Reconciliation. The legislation was passed unanimously in both houses. The council's declaration towards reconciliation has been developed in close consultation with the Australian people over almost a decade. Clearly, the council has a mandate to determine the final wording of the declaration, and it is not up to any prevailing government of the day to intervene to adapt the wording to suit its own political objectives. The process of reconciliation belongs to the Australian people.

I would ask the members of this Assembly to reflect on how they would like to be judged by history as they consider the three issues contained within this motion: mandatory sentencing, denial of the stolen generation, and the Howard government's rejection of the *Declaration Towards Reconciliation*. Following the release of the draft document for reconciliation last year, the Chief Minister moved a motion congratulating the council on its initiative. *(Extension of time granted.)* In speaking to the motion, the Chief Minister made the following statement:

> … this Assembly has been more than happy, and perceived it appropriate, to say sorry … and to do everything we can as an Assembly to ensure that the reconciliation process does continue and is a grass roots indication of what every Australian believes, and that is that indigenous people in this country are a very integral part of the future of this nation, just as they were an integral part of the past.

On the coming weekend the Chief Minister, representing the people of the ACT, will stand with all the other state and territory leaders at Bennelong Point, and together they will accept the *Declaration Towards Reconciliation* on behalf of all Australians.

Accepting the document requires a commitment to achieving tangible outcomes. It must be more than a token gesture. If this motion is passed, we will be doing everything we can. If it is not passed, then I believe history will judge us as the people who did nothing.

MS CARNELL (Chief Minister) (5.24): This government considers it entirely appropriate for the Legislative Assembly to reaffirm its commitment to reconciliation. While this government agrees with the broad sentiments of Mr Stanhope's motion, we cannot agree with the actions that this motion suggests. I therefore propose to move an amendment which will provide the Assembly with an opportunity to make a positive statement about reconciliation prior to Reconciliation Week. I circulated that amendment earlier today.

There are three parts to Mr Stanhope's motion. The first we have debated before. This government believes that the Assembly should not support federal intervention to overturn mandatory sentencing laws. As I have stated before in this chamber, I believe it is true that a large percentage of the people in this Assembly do not support the sort of legislation that went through in the Northern Territory and Western Australian parliaments.

We have debated this before, and virtually everybody in this place believes that the legislation is simply inappropriate. It certainly would be not be passed or even contemplated in this place. However, because those laws did go through appropriately elected parliaments, then those parliaments are the appropriate avenue by which to repeal those laws.

It is not for the ACT government to tell those parliaments whether they have a good law or a bad law. From our perspective, it is a bad law and therefore would not be contemplated in this place. That is the task of the people who elected them. It is for the people of Western Australia or the Northern Territory to say, "This is not good enough. These are not appropriate laws. These are not laws we support." That is not the role of people who are not involved in the democratic process in those particular areas.

This Assembly has been very vocal about any suggestion that its power to make legislation should be fettered. Specifically, the Assembly has expressed its dissatisfaction with the Commonwealth government passing its euthanasia legislation. In fact, Mr Humphries, Mr Moore and many other people in this house said they believed it was inappropriate for the federal government to override Northern Territory law and potential ACT law.

Similarly, it would be inappropriate for this Assembly to suggest to the Commonwealth that they should override mandatory sentencing legislation that has been duly passed in the Northern Territory. Again, we have debated this before in this place. How would this Assembly feel if the federal government decided to override our X-rated video legislation, our supervised injecting place legislation, our legislation with regard to brothels or prostitution, or our legislation with regard to the rights of same-sex couples. There would be some people in this Assembly who would think that was probably quite a good deal, but I do not believe the majority of people in this place would support that

intervention by the Commonwealth. It is very hard to suggest that because we believe the laws in the Northern Territory or Western Australia are inappropriate the federal government should intervene.

It is not appropriate for the ACT government to comment on the legitimately made laws of democratically elected governments. We certainly can individually. No problems there at all. We do it all the time. But whether this Assembly, as a legislative unit, should get involved is another question. This government accepts that the federal government has the constitutional power to legislate to implement international instruments such as the Convention on the Rights of the Child. What is questioned is the propriety of the federal government in doing so in an area that is otherwise firmly the responsibility of the states and territories.

The ACT government submission to the Senate Legal and Constitutional References Committee advised the exercise of caution in legislating in areas of state and territory responsibility. The committee, in its 1995 inquiry into the Commonwealth power to make and implement treaties, itself raised this very issue. It specifically referred to the Convention on the Rights of the Child and the concern which Australia's ratification generated both in the wider community and with state and territory governments generally.

These concerns were squarely based on the fear that ratification would allow the Commonwealth to legislate in a particularly sensitive area that is very much the traditional province of the states and territories. If those laws are flawed, then let them be challenged through the appropriate channels or let the electors decide whether they are or are not appropriate in their particular state or territory.

If the federal government decides that it does need to legislate in this area, as it has the constitutional ability to do, then it should be a considered legislative response, subject to appropriate consultation. That is a debate we have had in this place before. It is important to restate, though, that nobody on this side of the house—at least nobody I know of—supports the legislation that has been passed in the Northern Territory or Western Australia. This is an issue of whether we should become involved in legislation in other states.

The second bit of Mr Stanhope's motion is with regard to the Commonwealth submission to the stolen generation inquiry. The ACT Assembly has been vocal in its acknowledgment of the effects of separation of Aboriginal and Torres Strait Islander children from their families. On 17 June 1997 members of the previous Assembly passed a motion in response to the *Bringing them home* report. This was an apology motion which acknowledged the effect of the hurt and distress inflicted on people as a result of the separation practices. This apology to all Aboriginal and Torres Strait Islander families and communities affected by the separation of children is just one of the many necessary steps on the path to true reconciliation.

This government is keen to ensure that the wider reconciliation process continues. This is evident in the continued support to organisations such as the Canberra Journey of Healing Network and Australians for Reconciliation in their work to build bridges and foster a shared understanding between indigenous and other Australians. The government

also provided a submission to the Senate Legal and Constitutional References Committee inquiry into the stolen generation, outlining actions taken to address recommendations of the *Bringing them home* report. This government has consistently made its position clear in relation to this issue and considers it inappropriate for us to be censuring another government. Similarly, we would have serious trouble in other governments attempting to censure us on issues that a majority in this place had passed.

The third issue is the Council for Aboriginal Reconciliation's *Australian Declaration Towards Reconciliation*. This part of the motion is simply premature. The *Australian Declaration Towards Reconciliation* is a component of the two documents scheduled to be launched as part of Corroboree 2000 this Saturday, May 27. I am pleased to be attending the Corroboree 2000 celebrations and will witness the launch of the documents *Corroboree 2000: Towards Reconciliation*, which includes the declaration, and *Roadmap for Reconciliation*, which includes four national strategies to advance reconciliation.

Following this, all governments will be in a position to give the documents due consideration, and I would hope we debate them in this place. All governments will then be invited to respond to the Council for Aboriginal Reconciliation prior to November 2000. It is expected that the council will then present its findings to the Commonwealth parliament.

As I said earlier, this government is keen to ensure that the wider reconciliation process continues. However, this motion, as it stands, does not advance the process which will be spelt out in the documents that will be handed to state and federal leaders on Saturday. The amendment I propose is an effort to capture the genuine goodwill of members of this Assembly towards reconciliation. It is, I believe, a timely expression of support and positive leadership by the Assembly at the beginning of Reconciliation Week. It is an opportunity to capture the spirit of reconciliation that we have all spoken about so often.

As I noted earlier, the government is supportive of Mr Stanhope's sentiments, to reaffirm the Assembly's support for ongoing reconciliation, but the action of writing to the Prime Minister on the issues raised is not, in the government's view, a progressive way forward. Instead, I suggest that we take this opportunity to write to the chair of the Council for Reconciliation expressing appreciation of, and support for, the work of the council over the years.

It is appropriate, as the Council for Reconciliation approaches the end of its term, that the extraordinary work of its council members be acknowledged and applauded. Throughout the years, under the leadership initially of Mr Patrick Dodson and more recently Mrs Evelyn Scott, the council has had discussions and negotiations with governments and communities across Australia. We can imagine that this has not always been an easy process.

Corroboree 2000 and the associated celebrations in Sydney and in towns and cities across Australia provide a unique opportunity for people of all backgrounds to celebrate the progress towards reconciliation and to publicly express individual commitment and support to the ongoing process, a support I am sure we all feel. As you know, I have the pleasure of representing the government at Corroboree 2000 in Sydney on Saturday, and

I am sure it will be a positive and affirming event. I know that other Assembly members will be involved in activities over the weekend and throughout Reconciliation Week, which commences with Sorry Day on Friday, 26 May, and ends with Mabo Day on 3 June 2000.

Once again, this year this government will arrange for Aboriginal and Torres Strait Islander flags to be flown with the Australian flag in Canberra throughout this period. As the council comes to the end of its term, I understand that it will make recommendations about the organisational structure that may guide the ongoing reconciliation process. In our letter to Mrs Scott, I suggest that we confirm that, whatever processes are put in place at a national level, members of this Assembly will work with the ACT community to progress the reconciliation process within the ACT and the region.

I hope I have laid out the reasons why I do not believe the approach by Mr Stanhope, although expressing appropriate sentiment, is appropriate to the reconciliation process the national council have put together. I ask members to have a look at the amendment closely. It will help the process rather than ride roughshod over the top of it.

MR SPEAKER: Would you like to formally move it, Chief Minister?

MS CARNELL: I move:

> Omit all words after "Chief Minister to write", substitute "to the Chair of the Council for Reconciliation advising her that this Assembly:
> (1) appreciates and commends the work of the council, since its inception, in progressing reconciliation between Australia's indigenous and non-indigenous peoples and believes that the work of the council has touched the life of all Australians;
> (2) congratulates the council on Corroboree 2000 and the related celebrations across Australia, as an opportunity for a public expression of support for reconciliation; and
> (3) reaffirms its commitment to progressing the reconciliation process in the ACT and region.".

MR HARGREAVES (5.37): A couple of days ago we received a visit from some Lanyon High School kids. In talking to them about the various parts of the Assembly, the education officer of the Assembly talked about the bar of the Assembly to Mr Rugendyke's right. When they asked what it was for, they were told about incidences when people had appeared at the bar. I was reminded of the occasion, even though I was not a member of this Assembly, when we heard in this Assembly how indigenous people felt about the terrible things that had occurred to them. I think it was the Chief Minister who said that there was not a dry eye in this chamber.

Before I go into the detail of this motion, I want to acknowledge that we are all coming from the same position. I want to acknowledge that all the people in this Assembly are deeply committed to doing the right thing for indigenous people. I do not want anybody to think or suggest that because we are arguing about process we differ in the principle or in the deepness of our feeling about the hurt that was perpetrated on indigenous people.

This issue is serious enough to reiterate some points made by members of this place in the debate on Ms Tucker's motion. In that debate Ms Tucker quoted from the government's submission on mandatory sentencing. She told us that the Chief Minister had written that she did not propose to address the policy issue of mandatory sentencing of juveniles, which she considered to be properly a matter for which each state and territory should legislate. That was reiterated tonight.

The Chief Minister indicated that what was disputed was the propriety of the Commonwealth seeking to exercise its power. The Chief Minister also said in her submission that the use of the treaties power to directly interfere in traditional state and territory areas of responsibility should be considered by the Commonwealth in only "the most extreme, urgent and compelling cases".

Can I suggest that the jailing of juveniles for trivial property offences is a most extreme case? Can I suggest that the suicide of a juvenile in a jail 1,500 kilometres from his community, a juvenile jailed for a very minor property offence, is a most extreme case? Can I suggest that the impact of mandatory sentencing, having such a disproportionate effect on the Aboriginal communities of Western Australia and the Northern Territory, in particular reflected in the disproportionate nature of jail inmates, represents a most extreme case?

Can I suggest that the unacceptable level of Aboriginal deaths in custody encouraged by this draconian legislation represents an extreme case? Further, can I suggest that the inactivity of that state and that territory to adequately address the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the implementation of these mandatory sentencing laws are contrary to the spirit of those recommendations and represent an urgency which satisfies the Chief Minister's criteria of urgent and extreme cases?

I find it a touch contradictory for the Chief Minister to say in this place that she does not believe there would be many people—there may be, she admitted—in this Assembly who would support mandatory sentencing. Firstly, mandatory sentencing has been shown to result in inmates committing suicide. Secondly, the burnout laws, two strikes and you are out—no car—are mandatory.

Let us look at mandatory sentencing. It has been proven to be a failure as a deterrent to crime. In the Northern Territory the number of juveniles jailed since mandatory sentencing was introduced three years ago has increased by 145 per cent. The Northern Australian Aboriginal Legal Service found there had been no reduction in crime but a big increase in imprisonment rates for minor offences and that the cost to the Northern Territory taxpayer increased by $5 million.

Mr Speaker, I will have to ask for an extension of time. I would like to wake everybody up. There is a lot of racket going on and I am having trouble getting your attention. This issue is serious enough for people—

MR SPEAKER: There are more people in the gallery, Mr Hargreaves, than there are in the chamber at the moment. I agree. If the noise is disturbing you, I will ask them to be quiet. Please continue.

MR HARGREAVES: Thank you very much, Mr Speaker. I would like the record to show how appalled I am.

Ms Carnell: I am here.

MR HARGREAVES: I acknowledge that the Chief Minister has sat through this whole debate and has participated. Mr Stefaniak has a 60 per cent rating, because he was not here during Mr Stanhope's speech. I find it appalling that people should not take this matter as seriously as Mr Stanhope or the Chief Minister have so far.

I will continue. I will go back and do that paragraph again, Mr Speaker. In the Northern Territory the number of juveniles jailed since mandatory sentencing was introduced three years ago has increased by 145 per cent. In the budget we talk about increases of 2 per cent or 3 per cent. Here we are talking about 145 per cent. The Northern Australian Aboriginal Legal Service found there had been no reduction in crime but a big increase in imprisonment rates for minor offences and that the cost to the Northern Territory taxpayer had increased by $5 million.

The Royal Commission into Aboriginal Deaths in Custody said that Western Australia had Australia's highest imprisonment and escape rates and that the rate of Aboriginal deaths in custody there was more than twice the national average. If we want a statistical reason for linking the ACT with Northern Territory laws, consider this: according to the Ignatius Centre for Social Policy and Research, Western Australia and the ACT have the highest ratio of Aboriginals aged 10 to 17 years in juvenile justice systems, and young Aboriginals in these areas are 27 times more likely to be in detention.

Ms Carnell: That is because we have six who have been regular.

MR HARGREAVES: If I may address that interjection under the breath, it matters not whether we have six people or one, or 15 or 45 or 137. We have only eight or maybe nine women who are ACT citizens incarcerated in New South Wales. That should not mean that we should give those women any less service when we design our new prison.

It should be obvious just from the two points I have just made that mandatory sentencing has contributed to an urgent, extreme and most compelling case for its abolition in those jurisdictions.

Can I, Mr Speaker, just talk briefly about a less emotional yet equally important point? The judiciary is separated from the legislature not by accident. The concept of separation of powers is no accident. Mandatory sentencing removes the discretion from the judiciary to deal differently with people presenting with differing mitigating circumstances. Mandatory sentencing is just that—mandatory. There is no choice for the judiciary. The penalty is determined by the legislature, with no room to move by the judiciary.

If a reason is needed for the Commonwealth to intervene, and if people killing themselves is insufficient, how about a piece of legislation which clearly contravenes the notion of separation of powers? When quizzed on the notion of separation of powers,

Joh Bjelke-Petersen did not know what it was. I ask whether this government or the federal government know what it is either.

I said in the previous debate that sometimes the sovereignty of the person must take precedence over the sovereignty of the state. I say the protection of life is more important than a state or territory's right to decide minimum sentences. Many respected organisations have implored the federal government to stop the deaths of young Aboriginal children in Northern Territory and Western Australian jails by using whatever power it has to overturn mandatory sentencing laws. This Assembly should join them.

Let me now turn to the stolen generation. The denial that such a generation existed is an abomination. Is there such a thing as a teenage generation? Is there such a thing as an older generation? Is there such a thing as generation X? When does a generation start and finish? The truth is that a generation is a general description for a significant identifiable portion of our community at a given point in time.

The Australian people have decried this denial of the stolen generation as a cowardly cop-out. It is a qualification which does not belong in the current thinking of reconciliation. It is reminiscent of One Nation theory. It is stupid, incorrect, insulting, insensitive, and it should be expunged from the debate on how we move forward to reconciliation.

Was there a generation that went to war in 1914-18? Was there a generation subjected to the national service lottery? Was there a generation lost in Russia, and from the Jewish people in World War II? Of course there was. And there is a stolen generation.

Has the federal government said that there was no generation of stolen children from Britain? I do not think so. Yet the private schools of Western Australia and elsewhere can be held responsible for the atrocities experienced in those institutions in the 1950s and 1960s, and this continues. The stolen generation occurred in less enlightened times—I hope. A denial of the existence on the basis of a 10 per cent level of the population is an indication that the times of enlightenment are not yet here.

Let us recognise that generation, apologise for the injustice to it and weep for it. Let us not leave this for another generation to address.

MR STEFANIAK (Minister for Education) (5.50): I seem to recall that not all that long ago we had a debate on mandatory sentencing. I also seem to recall that the Assembly then passed a motion which required the Chief Minister to do something, which she duly did. In that part of Mr Stanhope's motion, we are canvassing old ground. On that occasion members made their views quite plain. The government had a position. I do not think the government position necessarily won. The Chief Minister was required to do something, and she has advised me and she has advised the Assembly that she has done it. I cannot see the point in going over old ground on mandatory sentencing laws. That debate has already occurred.

The government's position on that has not changed. As the Chief Minister said, I do not think there is necessarily anyone here who would want to see enacted in the ACT the exact laws that have been introduced in the Northern Territory and Western Australia.

I see some merit perhaps in mandatory sentencing for very serious offences and, as Mr Hargreaves mentioned, in effect we have mandatory sentencing for PCA and traffic matters. That is not necessarily the same as they have in Western Australia and the Northern Territory.

Our position has been that the governments of Western Australia and the Northern Territory are democratically elected governments. They have made their decision regardless of what we think, and there is very little we can effectively do. I do not think we would particularly like it if they started butting into what we had done, whatever the rights and wrongs of it. However, we have had that argument and our sentiments have been passed on as a result of that motion.

I come now the stolen generation and reconciliation. As the Chief Minister has noted, the government cannot support this motion, although clearly we do support reconciliation. The Chief Minister has indicated today and on numerous other occasions that this government is committed unreservedly to the process of reconciliation. The government reaffirms its support here today, and will do so nationally at Corroboree 2000 in Sydney on Saturday, which event the Chief Minister is attending.

I mentioned in the earlier debate on indigenous education the comments made by Matilda House on the efforts of my department towards reconciliation. I mentioned a very good day at Macgregor Primary School celebrating Aboriginal culture. Members of the Aboriginal community participated in activities with the students. Mr Ben Blakeney, well known to members for his boomerang throwing, donated 400 boomerangs to the school and showed the kids how to paint them. He and his colleague who was there with him are both ex-servicemen who fought in Vietnam. Mr Blakeney's service goes back to the confrontation. Both he and his colleague fought in the infantry corps. I do not think you can ask more of any citizen than that they put themselves in a situation where they might lay down their life for their country.

Mr Hird: He could have been in ordnance.

MR STEFANIAK: It would have been a bit tricky there, but he might have been a bit safer there. Serving in the infantry corps as these two gentlemen did is about the most you can then ask of any citizen. These great guys were doing a wonderful job. There were also some younger Aboriginal people there doing a wonderful job with dance. They had about six or seven different stands, teaching the kids of the school, including some kids of Aboriginal or Torres Strait Islander background, about Aboriginal culture. I mentioned that earlier. That is another example of the government reaffirming its support for the process of reconciliation and getting all Australians together as Australians.

The government is pleased that the Council for Reconciliation will be launching its documents for reconciliation at the national event on the weekend. We are keen to take a good look at those documents, to understand the implications for the ACT and to take whatever steps are necessary and appropriate for the ACT in furthering the reconciliation process. These are important documents. They deserve proper attention and not a rushed or hasty disposal. One of the many steps on the path to reconciliation is to acknowledge the hurt and distress caused by the forced separation of families and to address the issues raised in the *Bringing them home* report, which we have done and will continue to do.

The Chief Minister, the government and this Assembly have all acknowledged, separately and together, the reality of the stolen generation. Apologies have been made to members of the stolen generation and their families. We will all remember the very moving speeches made and stories told at the bar of this Assembly last year. That is the only occasion on which the bar has been used.

People here have used the term "the stolen generation". For this Assembly, that term is not really a point of debate. People liken it to the lost generation of World War I. The term has been used in a lot of similar instances. It is not a problem here. We all know what we are talking about, and the Assembly's position has been made perfectly clear within the ACT and also to our interstate and federal counterparts, particularly by the Chief Minister, who has spoken about this issue at length on many occasions and in many different fora.

The ACT government has acknowledged the stolen generation, but we cannot force another jurisdiction to do the same. We cannot force another democratically elected government in this country to overturn its laws. If they tried that with us, we would rightly tell them where to go. Likewise, we cannot and we should not support one government's attempt to overturn another's laws. For that reason, the government does not support the part of the motion relating to mandatory sentencing. At any rate, we have already dealt with that and we lost. As I said earlier, the Chief Minister has dutifully written letters as the Assembly directed the government to do.

Furthermore, we need to make sure that debates like these do not make us lose the spirit of reconciliation. That is particularly important with the events of the next week, as the Chief Minister has indicated. Too often in recent times there has been a focus on semantics rather than the spirit and on shades of meaning rather than the big picture. Let us go back to the spirit. Let us focus on what we here in the Assembly can do to further the real reconciliation process in the ACT. It is particularly timely now, given what is going to occur over the next week. I have had a look through the Chief Minister's amendment. It is timely and appropriate, given that we have had large sections of this debate before. The amendment would effectively take us a further step forward, rather than harking back to a debate this Assembly had several weeks ago. I commend the Chief Minister's amendment to the motion as the most appropriate thing this Assembly can now do.

MS TUCKER: (5.57) I support this motion as put by Mr Stanhope, and I do not support the amendment by the Liberal government. The first point of Mr Stanhope's motion is related to the mandatory sentencing laws in the Northern Territory and Western Australia. It is true that we have had a full debate on that matter as a result of the motion I put in this place some time ago. Mr Stefaniak is not quite right in saying that Ms Carnell was instructed to take particular action as a result of that motion. I moved:

> That this Assembly condemns and dissociates itself from the ACT Government submission to the Senate Legal and Constitutional References Committee inquiry into mandatory sentencing laws because of the submission's failure to acknowledge that these laws:
> (1) are racially discriminatory in effect;

> (2) are inconsistent with recommendations of the Royal Commission into Aboriginal Deaths in Custody, which the Commonwealth and all States and Territories have agreed to implement;
> (3) are inconsistent with the goal of reconciliation with indigenous people, which the Commonwealth and all States and Territories have agreed to;
> (4) may be in breach of the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights; and
> (5) are manifestly unjust because they take away the possibility of individual circumstances being taken into account by magistrates and judges and alternative socially constructive rehabilitation options being pursued.

I actually called on the Assembly to condemn and dissociate itself from the ACT government's submission to the Senate Legal and Constitutional References Committee inquiry into mandatory sentencing laws, because of the submissions they were to acknowledge that these laws are racially discriminatory in effect; are inconsistent with recommendations of the Royal Commission into Aboriginal Deaths in Custody, which the Commonwealth and states and territories have agreed to implement; are inconsistent with the goal of reconciliation with indigenous people which the Commonwealth and all states and territories have agreed to; may be in breach of the United Nation Convention on the Rights of the Child and the International Covenant on Civil and Political Rights and are manifestly unjust because they take away the possibility of individual circumstances being taken into account by magistrates and judges and alternative socially constructive rehabilitation options being pursued.

That motion was supported by a majority of members of the ACT Assembly, and I understand the Secretariat of the Assembly informed the Senate of the motion. I personally also sent a copy of the motion to Senator McKiernan.

What we are seeing today in this motion from Mr Stanhope is a restatement of concern from this Assembly about the ACT government's position on this issue. Again tonight we have heard the states rights argument. We have heard about great commitment to reconciliation. I guess that is where it sticks in the throat of anyone who is genuinely committed to these issues. You cannot speak about reconciliation and separate yourself from issues such as mandatory sentencing or the statements on the stolen generation.

I know from the indigenous people I have spoken to that when they have heard the way that people have attempted to separate these issues they have been absolutely appalled. The churches of Australia have come out on the issue of mandatory sentencing. I raised this in the last debate. There is an issue here for men who claim to be men of faith in this place. When we debated abortion, I heard those men of faith deal with issues as moral issues. Mandatory sentencing is a moral issue. The churches of this country have said it, and these people still stand there and tell us it is a states rights issue. I am not going to go into all the detail of my arguments on this. I have done that fully in this place once already. If anyone is interested in seeing a fuller position, they can look at the previous debate.

The issue of the Senate Legal and Constitutional References Committee inquiry into the stolen generation is equally implicit in any genuine commitment to reconciliation. The hurt that has been done to indigenous people over the last month as a result of thoughtless statements from the federal government cannot be expressed in words. I have

spoken to indigenous people who were deeply traumatised by them. I tried to reassure them by saying that prime ministers come and go, and John Howard will probably go quite soon—we hope. They needed to understand that the Australian community did empathise with the pain of the stolen generation and were equally upset and that the majority of people in this country understand the pain that the Aboriginal people have suffered as a result of their children being torn away from families.

The third point, reconciliation, is also worth supporting. Reconciliation is absolutely critical for this country. It is one of the major issues for our country to address. I am very concerned about what has happened to that effort as a result of John Howard. I once again say to the indigenous community and to people who are committed to trying to work in harmony with indigenous people that John Howard does not count that much on this and we will continue to work on the issues.

MR BERRY (6.03): I seek leave to move a motion to suspend the house for an hour and a half.

Leave granted.

MR BERRY: I move:

> That the business of the Assembly be suspended until 7.30 p.m. for a meal break.

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

> That the question be now put.

Mr Humphries: Mr Speaker, I would submit that it is appropriate for you to use your discretion to refuse that motion. A member of the government wishes to make a brief comment.

MR SPEAKER: I decline to put the question, but be brief, please, Mr Minister.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.04): Mr Speaker, the comment made by Mr Berry that there was agreement or consensus that we should have a suspension is not accurate. There is not an agreement on that. I am not sure what the house is prepared to do, to be perfectly frank. I indicated to Mr Berry before that I would be happy to test that by moving the adjournment of the house. If the majority of members wish to have a dinner break, they can vote no to the adjournment. If they do not, they can vote yes to the adjournment.

Question resolved in the affirmative.

Sitting suspended from 6.05 to 7.35 pm

MR STANHOPE (Leader of the Opposition) (7.35): Mr Speaker, the motion that I moved is very straightforward. In recent years during this week we have recognised indigenous disadvantage in this nation through Sorry Day or the Journey of Healing. This year we are observing Sorry Day on the Friday of this week and Corroboree 2000 on the Saturday of this week. It is most appropriate therefore that we in this Assembly again focus on the importance of what it is that so many Australians are seeking to achieve in a reconciliation between indigenous Australians and non-indigenous Australians.

This is a process that has been formally pursued for the last 10 years through the work of the Council for Aboriginal Reconciliation. They have been 10 difficult years in which there have been some heated debates fraught with difficult issues for indigenous and non-indigenous Australians to grapple with and struggle to come to terms with.

In that decade, for instance, we have seen the proceedings and the outcomes of the Royal Commission into Aboriginal Deaths in Custody, a most significant piece of work. That royal commission drew to the attention of Australians the significant impacts on indigenous people of incarceration and the extent to which their disadvantage and the discrimination which they have suffered in Australia over two centuries has led to them being so appallingly represented in exposure to the criminal justice system. Indigenous Australians have been restrained in one form or another within the prisons of all the states and territories in Australia to the point where they are so incredibly over-represented. That circumstance, revealed through that inquiry into black deaths in custody, translated into the most appalling number of deaths of indigenous people in custody, people who represent one per cent or less of the Australian population.

Following that we saw the significant and traumatic inquiry into the stolen generations that culminated in the *Bringing them home* report. I think all members will be aware of how heart-rending, traumatic and trying that was for all those indigenous people affected by those programs, and how traumatic and trying it was for we non-indigenous Australians to become aware of the pain and the hurt that had been endured and which continues to be endured by indigenous Australians.

We have also seen the ongoing work and struggle of indigenous and non-indigenous Australians to come to some acceptance of reconciliation. It has been a very difficult road. In a formal sense Australians have been working for the last 10 years to develop a document of reconciliation. That culminates this weekend in the handing to all the state and territory leaders of Australia of a document of reconciliation prepared after enormous consultation and work by the Council for Aboriginal Reconciliation over this last decade.

Yet in that context, the culmination of those 10 years of work, the final agreement by the council on a form of words that they are prepared to present to the representatives of the Australian people, the government, we find at the time that that document of reconciliation is being formally handed to the representatives of the people of Australia that we still have in place in Western Australia and in the Northern Territory mandatory sentencing laws that impact so dramatically and in a proven racially discriminatory way against indigenous people.

In relation to the Senate inquiry into the stolen generation and the subsequent inquiry into the implementation of the *Bringing them home* report, the federal government, in a most offensive and gratuitously insulting way, represented to that committee that in fact there is no stolen generation of indigenous or Aboriginal people. That is an offensive and gratuitously insulting statement which must be rejected. No thinking or feeling person could possibly endorse it. We find that sort of statement being made by the federal Minister for Aboriginal Affairs in a context in which we are genuinely seeking to achieve reconciliation with indigenous people and we are genuinely engaging in that process.

We find in relation to the declaration from the Council for Aboriginal Reconciliation that the Prime Minister feels it is his prerogative to pre-emptively reject the declaration before it has been received and to present his own form of words which he knocked up in his office overnight.

I think in the most disparaging and patronising way, two weeks before the Council for Aboriginal Reconciliation is to present to the government, to the people of Australia, its proposed declaration of reconciliation, the Prime Minister unilaterally rejects it and presents his own form of words that permit him to shirk an apology. The Prime Minister, for what must simply be some poll-driven or ideological reason, cannot bear the thought of apologising to Aboriginal Australians.

That is the context in which we today debate a motion on reconciliation, a motion which this Assembly has debated over a number of years. The purpose of my motion today is to put some force to the protestations of this Assembly of its commitment to reconciliation. If the members of this place are wedded in a genuine and sincere way to the notion of reconciliation with indigenous Australians, there is absolutely no reason why they can refuse to endorse the motion that I propose.

This motion is a concrete indication of this Assembly's genuineness about reconciliation. It declares to the federal government that this Assembly, the people of this territory, find the mandatory sentencing regime, particularly in the Northern Territory, so offensive and so racially discriminatory in its impact that it simply cannot be permitted to remain on the statute books of one of the jurisdictions of this nation, and says that the federal government has an obligation to remove that stain from the statute books of this nation. That is what we are asking here today—that this Assembly, on behalf of the people of this territory, indicate to the Prime Minister that it is not acceptable to the people of the ACT that this racially discriminatory form of imprisonment or incarceration, particularly of Aboriginal youths, be allowed to persist.

The federal government does have the power to do that. We hear much of states rights and the sanctity of states rights, but there is no sanctity for states rights. When it comes to an arm-wrestle between states rights and human rights it is so easy to simply embrace states rights. There are examples in the past.

I challenge members of the government to suggest to me that they do not endorse the stand which the Keating government took in relation to laws then present in Tasmania that required that consenting homosexual males be imprisoned for up to 20 years for engaging in anal intercourse in Tasmania. Are members of the government or those who do not embrace this suggestion going to say to me that it was not appropriate for the

federal government to intervene to overturn that provision of the Tasmanian Crimes Act as recently as five years ago to remove that stain from the statute books of one of the jurisdictions of this nation? I am sure they will not. I am sure Mr Moore would not say that he is prepared to stand up and say that the federal government should not have intervened to overturn the provisions of the Tasmanian Crimes Act that prohibited homosexual men from engaging in consensual sexual intercourse.

So there are precedents. There are circumstances in which it is appropriate, and we all accept that. We all must accept that there will be cases where it is simply the only thing that can and should be done; that the Commonwealth should intervene in the most serious circumstances. The Chief Minister acknowledges that in her submission to the Senate—that she does not think this is a serious enough case. I simply cannot understand how one can conclude that this is not a serious enough case.

All we are asking in relation to Senator Herron's submission in relation to the *Bringing them home* report is that this Assembly, on behalf of the people of the ACT, indicate to the Prime Minister that it rejects the notion that there was no stolen generation in the context in which the term is used in that report. That is what we are asking. We are asking this Assembly to indicate to the Prime Minister that we reject that notion and that the Commonwealth should simply reject it by whatever means are available to them, perhaps by a supplementary submission or in some other way.

In relation to the document of reconciliation which the Chief Minister will receive this Saturday from the representatives of the Aboriginal people and the Council for Aboriginal Reconciliation, it seems to me quite ironic that she should not be prepared to indicate to the Prime Minister in this same week that she nevertheless is prepared to consider that his document is more authentic or more real or more worthy of consideration than that of the council.

The three proposals that are encompassed within this motion are all quite straightforward. They are concrete examples of what this Assembly can do to represent the fact that it is genuine about reconciliation; that it is not just paying lip service; that we are not simply going to move a motion once a year about our determination to continue to engage in the process of reconciliation, and when there are positive things that we can do to indicate the strength of our commitment to reconciliation we turn our back and refuse to do them.

This is a chance to stand up and say, "Yes, I genuinely want reconciliation with the indigenous people of Australia, and yes, I am prepared to take the hard yards to achieve it. I am prepared to stand out and say to governments that do not respect the rights of indigenous people that they are wrong, and that we are prepared to take those steps."

Question put:

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

The Assembly voted—

Ayes, 7	Noes, 8
Mr Cornwell	Mr Berry
Mr Hird	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Kaine	Mr Osborne
Mr Moore	Mr Quinlan
Mr Smyth	Mr Rugendyke
Mr Stefaniak	Mr Stanhope
	Ms Tucker

Question so resolved in the negative.

MR RUGENDYKE (7.53): Mr Speaker, I seek leave to move the amendment circulated in my name.

Leave granted.

MR RUGENDYKE: I move:

> Paragraph (1), after the word "laws" insert the words "relating to juveniles".

It may well be the case, Mr Speaker, that there are good reasons for mandatory sentencing to be used for offences such as rape, murder and persistent horrendous offences, but in my view certainly not in respect of children and juveniles. I will be supporting the motion together with my amendment. I commend the amendment to members.

MR STANHOPE (Leader of the Opposition) (7.54): I would like to respond briefly to Mr Rugendyke. I indicated to Mr Rugendyke before that I see, to some extent, the value of what he is saying. In terms of my objection to mandatory sentencing, I believe that it impacts most harshly and most unfairly on juveniles.

I think some of the case examples that we are all aware of are quite horrendous in their impact on young people. Young people who have stolen biscuits or petrol or who have been involved in very minor property crime have found themselves locked up for a year on their third offence. The implications and the impact are simply horrendous. As we all know, in the case of one young person it resulted in him committing suicide. So I understand the extent to which Mr Rugendyke is responding to the particularly harsh impact of the law on young people, and I respect him for his point of view in relation to that.

I object, however, quite fundamentally to mandatory sentencing, and I am inclined to maintain my position of objection to mandatory sentencing, whilst respecting Mr Rugendyke's view in relation to the position he puts.

MR MOORE (Minister for Health and Community Care) (7.56): Mr Speaker, in respect of this whole motion I stand aside from the government and respond as an Independent member. I will be supporting Mr Rugendyke's amendment because this section of Mr Stanhope's motion, I believe, can only be supported with Mr Rugendyke's amendment included.

I am always reluctant to ask the federal government to intervene in any way with a state or territory and with their law, with one exception, in principle, and that is when there is an international convention involved. What becomes very clear when we are talking about young people is that there is an international convention that is breached in terms of mandatory sentencing of young people. To me that seems self-evident. That is my interpretation. There may be other international conventions that I am not aware of that are breached by mandatory sentencing. Do not misunderstand me; I find mandatory sentencing appalling. I have put that position in this place on many occasions, but there is another step when we are talking about seeking intervention by the federal government.

As a rule there should be no intervention by the federal government unless there is a breach of an international convention. The examples Mr Stanhope gave earlier were about the breach of an international convention which gave the federal government the right to interfere with the laws in Tasmania. Indeed, that was the method. So, with Mr Rugendyke's amendment, I feel comfortable about supporting that particular section of the motion.

In some ways I find it disappointing that we are going down this path because it seems to me that if we had gone down the path of supporting an amendment by Mrs Carnell we would have had a more cooperative approach. When we are seeking reconciliation, that would have been a better way of dealing with this issue. That having been said, and it was a little bit of a reflection on a vote, I understand the very strong feelings that people have in this place about the reconciliation process and about the damage of mandatory sentencing, particularly on young people.

I will be able to support the motion with one other exception, and that is the third paragraph which reads:

> supports the adoption of the Council for Aboriginal Reconciliation's *Declaration Towards Reconciliation.*

I have not seen the *Australian Declaration Towards Reconciliation.* I have not read it. I do not believe any other member here has read it in its final form, and I cannot, for the life of me, see how you can take into your hands the responsibility to support something that you have not read. I am hoping that when it comes down Mr Stanhope will bring this matter before us again and I will be able to support it. I suspect that I will be able to support it. I know there have been drafts.

Mr Stanhope: It is on the web.

MR MOORE: I presume you have seen a draft version of it and are comfortable, but things can change. Mr Speaker, I thank members for their indulgence. I did get a little bit off the amendment. But with that in mind, I indicate now that I will be seeking to have

the motion divided into parts so that I can support the other parts of the motion. If it is not divided I will not be able to support the motion because I have not read the Australian *Declaration Towards Reconciliation*.

Mr KAINE (8.00): I will not be supporting Mr Rugendyke's amendment. No matter how the motion is amended I would still vote against paragraph (1) of this proposition anyway because I do not support the notion of the federal government intervening at will into the affairs of this territory. I do not agree with it interfering in the affairs of any of the states either under the guise of exercising the foreign power, and all of the other guises under which federal intervention takes place. I do not make an exception in this instance because it suits certain people in this place to try to make a political point. So, regardless of whether Mr Rugendyke's amendment gets up or not, I will not be supporting this motion, any part of it.

I will support Mr Moore's proposition that it should be dealt with seriatim because at least then I may be able to support one or more parts of it, but I certainly will not support it in its present form, whether amended or not in accordance with Mr Rugendyke's amendment.

MR HARGREAVES (8.01): Like Mr Stanhope, I recognise where Mr Rugendyke has come from in proposing this amendment and I fully understand it. I would just make a couple of other points though. One is that there is a disproportionate number of Aboriginal people in our jails. A lot of them are there because of the impact of mandatory sentencing, and a lot of them are very young adults. What we are actually doing is drawing a line, an arbitrary line, between an 18-year-old and a 17-year-old, saying that this should not happen.

From the work we have done on the Standing Committee on Justice and Community Safety, I am particularly conscious of the number of young men who have committed suicide in jail, and I suspect that it was directly attributable to the mandatory sentencing regimes. I have no difficulty with a person paying for a crime that they have committed if the justice that is dished out meets the crime that they committed; but I know in my heart that that is not so with a lot of young men and young women. We saw a rise in Queensland in the number of young women going to jail.

While ever we have this disproportionate number of Aboriginal people in our jails we have an attitudinal problem in this country. We have an abrogation of responsibility in this country. We almost have a racist approach to this in this country, and I think we should be making a statement loud and clear that we are not prepared to take that; that in fact we do not make a distinction between a young Aboriginal person of 16 years and a young Aboriginal of 18 years. I think it is sad that we would.

As I said before, Mr Speaker, I understand fully where Mr Rugendyke is coming from and I support what he is trying to do, but I just think we cannot make that distinction.

MR OSBORNE (8.03): I always find these types of debates interesting because at least the government is consistent on this issue. I remember a couple of years ago members of the Labor Party marching arm in arm on Parliament House with other leaders around the country when the federal government was going to overturn euthanasia. I find it

interesting. Nevertheless, I support in principle what Mr Stanhope is doing here, after that small shot at him.

Mr Stanhope: I can give you a distinction, mate. I can distinguish it easily.

MR OSBORNE: I am sure you can, but I thought I would make the point. I agree with what Mr Rugendyke is attempting to do. I have no problems with parliaments introducing mandatory sentencing laws. In fact, I have been involved in it myself for adults. But it is very clear that this issue has created major problems for juveniles, and obviously Mr Rugendyke is attempting to right that problem with his amendment.

I must admit to being in agreement with Mr Moore as well on paragraph (3), not that I like admitting that very often, Mr Speaker. I have not had the opportunity to have a look at the *Australian Declaration Towards Reconciliation.* I know that a copy is being waved around in the Assembly, but I have not had time to have a look at it. I am sure none of us have, so I probably will not be able to support that either, Mr Speaker. I just want to make the point that my support for this motion is conditional on Mr Rugendyke's amendment getting up, because I will not be supporting it if it does not.

MS TUCKER (8.05): There are a couple of comments I would like to make. Mr Moore, if I heard him correctly, was concerned that it was possibly appropriate to talk about the convention on the rights of the child, and therefore he would be supporting Mr Rugendyke in this matter. But there are other international conventions at work as well. My motion, when I put it to you here, talked about the discrimination in effect, which is of course the language you have to use when you have a law that, as the Chief Minister in Darwin says so often, is the same for everybody; but when you see a law that has a particular effect which is discriminatory because it will be one class of citizens that is affected, then that is seen to be discriminatory in effect, so it is broader than children.

The other issue here that is really important, and I did raise this last time, is that members need to be aware of the impact of these laws on women. If these members are so concerned about children and cycles of social disadvantage, they need to know that these laws are meaning that more women are imprisoned. They did not used to be in prison because they were caring for babies and children.

Mr Rugendyke: I supported you last time.

MS TUCKER: I know. So the point is that adult women are being separated from their children as a result of this law and they did not used to be. So members who keep talking about cycles of disadvantage and the cultural problems for the Aboriginal community have to understand that they are making it worse if they are separating these children from their mothers. It is just as basic as that. I do not have the figures with me here, but I certainly did read them out when I had the previous debate on the mandatory sentencing laws. There has been an incredibly high increase of imprisonment of women and it is causing a lot of distress to people in the Northern Territory particularly who are watching families being more traumatised by these laws.

The other issue Mr Moore raised was about what document we are talking about here, I guess. My understanding of Mr Stanhope's motion is that we are here supporting what is on the Internet and is available for people to look at, and they could have looked at, which is the original document that came out of the council. That is what I have understood this motion to be about, and it has been available. So if Mr Moore has not found the time to look at the document, that is not a reason to oppose the motion, unless he wants to see Mr Howard's version with the amendments; but that is not what this motion is about, to my understanding.

MR QUINLAN (8.08): Mr Speaker, I understand Mr Rugendyke's concerns for young people but I have a little problem in wrestling with the concept that you can grow out of justice. It is unjust. If mandatory sentencing is unjust to young people it is unjust for everybody, and I think Ms Tucker has made a very good point.

For the benefit of those members here who are interested in the content of the *Australian Declaration Towards Reconciliation*, I would like to use the rest of my time to read it in the interest of resolving this debate. It is one page. So, with your indulgence, Mr Speaker, the Council for Aboriginal Reconciliation's *Australian Declaration Towards Reconciliation* reads as follows:

> We, the peoples of Australia, of many origins as we are, make a commitment to go on together in a spirit of reconciliation.
> We value the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of lands and waters.
> We recognise this land and its waters were settled as colonies without treaty or consent.
> Reaffirming the human rights of all Australians, we respect and recognise continuing customary laws, beliefs and traditions.
> Through understanding the spiritual relationship between the land and its first peoples, we share our future and live in harmony.
> Our nation must have the courage to own the truth, to heal the wounds of its past so that we can move on together at peace with ourselves.
> Reconciliation must live in the hearts and minds of all Australians. Many steps have been taken, many steps remain as we learn our shared histories.
> As we walk the journey of healing, one part of the nation apologises and expresses its sorrow and sincere regret for the injustices of the past, so the other part accepts the apologies and forgives.
> We desire a future where all Australians enjoy their rights, accept their responsibilities, and have the opportunity to achieve their full potential.
> And so, we pledge ourselves to stop injustice, overcome disadvantage, and respect that Aboriginal and Torres Strait Islander peoples have the right to self-determination within the life of the nation. Our hope is for a united Australia that respects this land is ours; values the Aboriginal and Torres Strait Islander heritage, and provides justice and equity for all.

That is a fairly simple statement. I now trust that everybody can, at least, address it. Thank you, Mr Speaker.

MR MOORE (Minister for Health and Community Care): Mr Speaker, I ask for leave to make a very short statement.

Leave granted.

MR MOORE: Thank you, Mr Quinlan. That does clear the problem for me in respect of paragraph (3).

Question put:

> That the amendment (**Mr Rugendyke's**) be agreed to.

The Assembly voted—

Ayes, 14	Noes, 1
Mr Berry	Mr Kaine
Mr Corbell	
Mr Cornwell	
Mr Hargreaves	
Mr Hird	
Mr Humphries	
Mr Moore	
Mr Osborne	
Mr Quinlan	
Mr Rugendyke	
Mr Smyth	
Mr Stanhope	
Mr Stefaniak	
Ms Tucker	

Question so resolved in the affirmative.

MR KAINE (8.15): I seek leave to move an amendment.

Leave granted.

MR KAINE: I move:

> Line 3, introductory paragraph, omit all words after "Australians".

I suspect that there is a divided opinion in this place about various elements of Mr Stanhope's motion. Some of us will support some parts of it; others of us will not. I submit that on an issue such as this a vote which divides the Assembly virtually in half is no decision at all. I think there is one element of his motion that we could agree upon. Those are the first words which say, "That this Assembly reaffirms its support for the ongoing reconciliation process between indigenous and non-indigenous Australians." It is the words that follow that will divide this place on the issue.

I do not think it would do Mr Stanhope much good to have a motion that only half the people in this place support. It stands for nothing much whether the Chief Minister does what the motion asks us to do or not, but I think we should come up with a motion on which we are agreed unanimously. I submit that this amendment will achieve that.

MR OSBORNE (8.16): This is the way forward. This is the blueprint from the United Canberra Party.

Mr Quinlan: All or nothing.

MR OSBORNE: All or nothing. Come on. I have forgotten what I was going to say, Mr Speaker. I hear what Mr Kaine is saying, but I think paragraph (2) is very important. It is worth making the point. I was watching a television program last night on SBS. It was on the Magdalene houses in Ireland in the 1950s and 1960s. Single mothers were taken to these places when they were pregnant and their babies were taken away. The graphic pictures of these women in their 70s and 80s still grieving for what had happened moved me. I thought about this very issue last night as I watched that show, thinking what a disastrous policy it was. I remember a couple of weeks ago when that hoo-ha broke out about the government claiming there was not a complete generation stolen. They are probably right, Mr Speaker, but I think the way they handled it was insensitive and is well worth rejecting by this Assembly.

Mr Kaine: Are you going to support my motion?

MR OSBORNE: I look forward to developing the plan Mr Kaine has, but I will not be supporting it.

Question put:

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

The Assembly voted—

Ayes, 7	Noes, 8
Mr Cornwell	Mr Berry
Mr Hird	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Kaine	Mr Osborne
Mr Moore	Mr Quinlan
Mr Smyth	Mr Rugendyke
Mr Stefaniak	Mr Stanhope
	Ms Tucker

Question so resolved in the negative.

Mr Humphries: There was a request to take the motion seriatim, paragraphs (1), (2) and (3), and I would ask that that be the case.

Ordered—That the question be divided, each paragraph being put seriatim.

Introductory paragraph agreed to.

Question put:

> That paragraph (1), as amended, be agreed to.

The Assembly voted—

Ayes, 9	Noes, 6
Mr Berry	Mr Cornwell
Mr Corbell	Mr Hird
Mr Hargreaves	Mr Humphries
Mr Moore	Mr Kaine
Mr Osborne	Mr Smyth
Mr Quinlan	Mr Stefaniak
Mr Rugendyke	
Mr Stanhope	
Ms Tucker	

Question so resolved in the affirmative.

Paragraph (1), as amended, agreed to.

Paragraph (2) agreed to.

Paragraph (3) agreed to.

Motion, as amended, agreed to.

INTERACTIVE GAMBLING

MS TUCKER (8.26): I move:

> That this Assembly—
>
> (1) noting;
>
> (a) recommendation 28 of the report of the ACT Select Committee on Gambling, *'The Social and Economic Impact of Gambling in the ACT'* (March 1999);
>
> (b) the recommendations of the Senate Select Committee on Information Technologies' report on their inquiry into online gambling, *Netbets: A Review of online gambling in Australia* (March 2000);

(c) the key findings of the Productivity Commission's Final Report on their *Inquiry into Australia's Gambling Industries* (December 1999); and

(d) the Federal Government's call for national cooperation via the Ministerial Council on Gambling, to consider the impacts of online gambling before more licenses are granted;

(2) calls on the Gambling and Racing Commission to thoroughly investigate and report to the Assembly on:

(a) the issues of social and economic impact of online gambling;

(b) the adequacy of ACT legislation on all forms of online gambling, with particular reference to the costs of regulation, access to gaming sites, and the type of promotional activities undertaken both on and off the internet;

(c) the adequacy of the commission's powers and resources to undertake complete and thorough probity checks on applicants including the commission's power to require disclosure of information from applicants; to investigate and guide advertising standards; to conduct education campaigns and capacity to monitor patterns of use, trends, and problem gambling; and

(d) progress towards a code of practice for the gambling industry;

(3) directs the Minister not to grant any further interactive gambling licenses and not to grant any further authorisations to conduct interactive games, until the commission's report has been received and debated by the Assembly, and the findings have been addressed.

The introduction of Internet gambling is an issue for the Australian community to consider carefully. I have moved this motion tonight because increased gambling in our community is of great concern to many people. Even though it appears there is little interest in this place in understanding any of the issues, apart from the potential revenue gains, I believe it is important that the comments of members are on the record on this matter.

This government has obviously decided to issue interactive licences regardless of whether the Assembly agrees or not. Mr Humphries knew I had a motion on the notice paper but decided to go for it anyway. Yesterday at question time I asked what stage the licences were up to, has all the necessary work been done, and are these providers actually now licensed and able to provide the service. We have had several briefings from members of the commission and in one of the briefings the different stages were explained. I would have to say that the commission has been very helpful and I appreciated their willingness to explain what was happening with the regulation and legislation.

I asked this question because I have a sense of the different stages and the legislation makes it clear that the minister has some discretion. It appears from the answer that I got from Mr Humphries that in fact conditional licences are being given out. They are not actually live, active, or whatever the word is that is used—they are not ready to start operating right now. It looks as if it is the case that Mr Humphries rushed to grant this conditional licence in order to pre-empt debate in this Assembly and moves by the federal government.

I am also, of course, interested in exactly what the Gambling and Racing Commission's role is here. Clearly, the structure of the commission means that it has dual roles of regulation and giving policy advice. There is a need to understand in which role it is acting. Has the commission been able to look at the broader public interest issues in the process last week. I think it is reasonable for the minister to explain this to the Assembly. I would ask him to table for the information of the Assembly the records of communication between himself and the commission on this matter.

I would like to remind members that we set up the Gambling and Racing Commission to ensure that public interest was taken into account in policy decisions related to gambling; not just to take responsibility for the regulation. Mr Humphries seems very shy about asking for that advice on policy; he referred the issue of sports betting licence fees only after I raised it in the Assembly. Also, he did not seek advice from the gambling commission before he went to the ministerial meeting to put the ACT's position on the proposal for a moratorium.

One would have thought a minister of a minority government, which set up the Gambling and Racing Commission to ensure that the gambling industry is responsibly managed, might have had some interest in the considered views of such a commission as well as the views of the Assembly. One would have thought he would have done this particularly on an issue as fundamental as the proposal from the netbets Senate report, which called for a moratorium on further expansion of provision and online gambling opportunities in Australia until certain matters of consumer protection and social harm are addressed.

The main arguments that have been put against a ban or moratorium on online gambling are the difficulties of controlling the Internet and the lost opportunity costs relating to revenue to governments—in other words, we might as well cash in on online gambling because if we do not, someone else will. This is a morally bankrupt argument. If we agree as a community that an activity creates more social harm than good, surely we have an ethical responsibility to oppose it or at least to bring ethical considerations into the discussion.

Would proponents of that position behave in that way as individuals? For example, if they found themselves in a situation where law and order had broken down, would they as individuals make the choice to take advantage of the situation for personal gain because if they did not someone else would? A typical example of that is looting, which can occur when law and order breaks down.

The next question then is: if we do think we have the right to address the ethical questions, do we agree that this activity does create more social harm than good? Two recent national investigations of gambling—the Productivity Commission report and the Senate report on online gambling—certainly support the need for caution and concern. The netbets report noted inadequacies in regulations, which apply in the ACT as well despite the minister's constant claim that the ACT does not need to look at its regulations because they are so good.

The Senate committee's netbets report has reflected community concern about the social harm by recommending at least a moratorium until certain national consumer protection measures are in place. The level of knowledge about the new challenges of online

gambling is limited and hence so are our ideas about what it needed in the way of a regulatory system or, indeed, other means of dealing with the problems.

The issue of problem gambling in this emerging technology is also addressed in recommendation 5 of this committee. Recommendation 5 said:

> Because of the potential dangers to consumers of this rapidly expanding industry, the Senate should again promptly review the recommended policy changes in the sector to measure the effectiveness of these recommendations and to examine the effect on the community of any new online gambling opportunities including interactive television.

The Productivity Commission report also should have caused serious alarm bells to ring for anyone who was even vaguely interested in social harm related to gambling. The Productivity Commission's key findings include criticisms of the regulatory system Australia-wide, particular needs, and arguments for a national approach. Their work included the first national survey of problem gambling, which sampled 10,600 people and 40 agencies. Their specific criticisms, highlighted in the recommendations, are that existing arrangements are inadequate to ensure the informed consent of consumers or to ameliorate the risks of problem gambling.

The report said that around 130,000 Australians—about one per cent of the adult population—are estimated to have severe problems with their gambling. A further 160,000 adults are estimated to have moderate problems, which may not require "treatment" but warrant policy concern. Taken together, problem gamblers represent just over 290,000 people or 2.1 per cent of Australian adults. Problem gamblers comprise 15 per cent of regular non-lottery gamblers and account for about $3.5 billion in expenditure annually—about one-third of the gambling industry's market. They lose on average around $12,000 each year compared with just under $650 for other gamblers.

The costs include financial and emotional impact on gamblers and on others, with on average at least five other people affected to varying degrees. For example, one in 10 said they have contemplated suicide due to gambling and nearly half those in counselling reported losing time from work or study in the past year due to gambling.

The main source of national benefit from the liberalisation of gambling has been the consumer gains through access to a service that gives people enjoyment. Net gains in jobs and economic activity are small when account is taken of the impact on other industries of the diversion of consumer spending to gambling.

I would like to stress that point to this government, which is so enthusiastic about supporting and in fact subsidising the private sector. Do you care that the increased spending on gambling is having a negative impact on the business community, or is the easy money that is got through taxes worth a lot more to you? Is it the case that you know politically it is easier to stay quiet on the real consequences of gambling activity than it is to find other ways of raising revenue?

Is there a link between online gambling and problem gambling? The Productivity Commission thinks so. One of the key findings was: "Internet gambling offers the potential consumer benefits, as well as new risks for problem gambling." They said that effective managed liberalisation would require the assistance of the Commonwealth government—an argument for a national approach.

Is there a connection? On page 144 of *E-commerce beyond 2000*, the National Office for the Information Economy said:

> The Productivity Commission's report asserts that gambling is a supply driven industry: the more outlets there are, the more money will be gambled. The development of Internet gambling, which brings the means to gamble into the home, vastly increases the number of outlets and it follows that substantially more money will be bet.

If Internet gambling grows to about $1 billion by 2003, one could postulate that between 50 and 70 per cent would be diverted from traditional channels. I will quote page 145:

> The National Office for the Information Economy estimates that increasing provision of online gambling will result in an increase in the total amount of gambling in Australia of between 30 and 50 per cent.

A select committee of this Assembly investigated gambling in March 1999. This investigation focused on poker machines and interactive gambling was mentioned only in section 4.84 to 4.87. I have noticed that Mr Humphries is suddenly a great supporter of my original concerns about problem gambling and poker machines, although I do not recall the government being so supportive at the various times I tried to raise these issues in the last Assembly and this Assembly. But suddenly, yes, this government knows there are problems with poker machines. If you look at the amount of money this government has directed towards gambling problems, these claims look hollow indeed.

In fact, what the government is saying now is that there are problems with poker machines but there are not with online gambling. How you can possibly support that statement, I cannot imagine. It is a new form of gambling and no-one knows how much it will be picked up or by which groups. It may well attract a new client group. It is obviously going to be easy for younger people to use this medium.

You may be interested to know, Mr Humphries, that in the recent youth week activities one of the most popular courses for young people was the financial management course. That is because they have trouble managing finances. Young people often live for the moment. For heaven's sake, you claim there will not be the same problems, yet you do not even understand the impact of current gambling activity even though, if it were interested, the government has had years to look at it.

Understanding the social and economic impact of gambling is one of the tasks set for the gambling commission in line with their responsibility to provide advice on gambling and protection of consumers and the public interest. What was absolutely clear from our

committee inquiry was that this government does not have a full understanding of the problems associated with gambling opportunities. What is absolutely clear is that we cannot possibly say what the problems of this new emerging technology will be.

I also remind members of the recommendation of the select committee. Recommendation 28 states:

> The committee recommends that the ACT Gambling and Racing Commission produce a comprehensive discussion paper on interactive gambling in the ACT.

And at 4.91, in its summary of the issues, the committee said:

> The Committee has concerns about the potential social implications of interactive gambling and sees a need for the Commission to do more work on this.

Despite claims from the minister that the ACT legislation is the best in the country, it is clear that our regime is still in development phase. The Interactive Gambling Act was established in 1998 with comments on all sides that it would need to be reviewed as the area was changing fast. I certainly made comments. I notice that Mr Humphries has put out a press release claiming I had changed my position. But it was quite clear from my position at that time that I acknowledged that this was emerging technology and would need to be reviewed and that we did not have enough information at that time. We certainly have more information now with the report of the Productivity Commission and particularly the Senate report on Internet gambling. This is significant new information that has come to us since our committee reported.

As I have said, the Gambling and Racing Commission has only just been established and it is apparent that there are issues in respect of the way it operates. In fact, we have chosen a model which is seen by the Productivity Commission to be less favourable because of the dual roles of the commission, and that may be something this Assembly will have to look at again.

The commission, which is assessing applications, is still developing instructions to applicants. I understand that it has lots of work to do yet on its code of conduct for the industry. I have been told this is about 12 months away. Let us remember that the Productivity Commission has described all Australian gambling laws as "deficient".

The Senate committee's recommendations on problem gambling, which is one of the social impacts with which the ACT committee was concerned, suggest a range of specific measures for a way to better regulate the industry. The Senate committee and the Productivity Commission are the best resources we currently have. We really owe it to the people who voted for us—those who are very likely to be concerned about gambling—to make the most of this and to instruct the gambling commission to investigate its regulatory regime, powers and resources in light of these reports, and that is what this motion is about.

The level of detail that the Senate committee has recommended is only found, on some matters, in the commission's instructions to applicants. This is not a piece of regulation. What it does is ask a series of questions and requires the applicants to write an essay explaining the problems of gambling. The answers are then the basis for the minister's decision.

There are details on some of the issues raised by the commission but there are also serious gaps. There is no discussion, for example, of secure ways to ensure that the person logging in to play is in fact the registered player. There is no discussion of "near miss signals", which encourage a player to feel they have just missed out. These are not detailed but they may be important ways to stop the gambling operators encouraging more gambling. (*Extension of time granted.*)

The big problem with these questions and requirements is that there are not always clear criteria spelt out against which these answers can be tested, which is a basic requirement if they are to be applied consistently. The gambling commission is working on developing questions in the absence of these criteria in legislation and regulation. In other words, we are just beginning to develop a system here.

The uncontrollable nature of the Internet is used to argue the futility of a ban. But this is conveniently forgotten when the same people argue the benefits of a regulated system which will supposedly address problem gambling by such mechanisms as exclusion provisions. There will still be opportunities for gamblers to place bets with offshore providers. Whether a person loses their money here or offshore I imagine will be an academic point to those who suffer the consequences. We need to be really clear that by supporting limitless opportunities for more and more gambling opportunities in our community we are saying as legislators that we approve of the activity, that we are not concerned about the social and economic fallout.

Protestations that gambling is just entertainment and that responsible delivery of services will deal with the few problem gamblers ring hollow. We have been hearing this argument for so long and yet we have seen little real commitment from industry or government to deal with the problems. It is doubtful whether government and industry responses to problem gambling are effective and there has not been any serious evaluation of current responses. The industry uses aggressive marketing strategies to encourage more gambling and state and territory governments have been complicit in this.

Community agencies that attempt to deal with the problems have not been overwhelmed by offers of funding. Nor have governments shown a huge interest in understanding what the actual costs of increased gambling are to the community or in evaluating current programs and responses. The evidence is clear, however, that if gambling opportunities increase so will problem gamblers. There are some benefits to regulation if privacy and fair dealing are guaranteed but there does not appear to have been a very rigorous approach on this matter either.

The fee set by the ACT government for sports betting licences was only $10,000. I have asked a series of questions about this, including what has the ACT government estimated the cost of actually maintaining a regulated licence to be? There is an answer to those questions, which I will not read out but which I seek leave to table.

Leave granted.

MS TUCKER: I present the following paper:

> Sports betting licence fees—Copy of answer to question on notice No. 247 asked of the Treasurer by Ms Tucker on 30 March 2000.

What is interesting, in summary, is that in the answer Mr Humphries acknowledged that the broader costs of research and education would not be taken into account. Interestingly, the answer also shows that the desire to be competitive with other jurisdictions is a consideration.

It is very important to understand what the impact is of competition between states and territories trying to attract the private providers because this competition impacts on the revenue received and on regulation and therefore on public policy. A representative of the Internet industry who spoke at the Press Club this week alluded to this problem of competition between states, and on this we definitely agree. We have seen diminishing revenue to government as a result of this pressure through lowering taxes, tax breaks for high rollers and so on. This diminishing revenue in turn leads to greater reason for government to encourage more gambling activity.

I did notice as well that this representative from the Internet industry said that if Australia bans the activity or presents excessive barriers to entry, operators will go offshore. One has to wonder where the line will be drawn between excessive barriers and not excessive barriers. Obviously this is highly relevant to the debate as consumer protection mechanisms, if effective, could certainly be seen as a barrier.

I think this is another reason why we should have a national approach. I have heard this government and Mr Humphries himself bemoan the fact that there is this competition between states and territories in other areas. It is industry that benefits and states and territories that lose because the revenue is obviously diminished. In this instance there is an opportunity to have a national approach—you could prevent that competition from occurring.

A moratorium is a statement that as a society we want time to consider the ramifications and develop a consistent approach across Australia to mitigate harm. A ban is a clear statement from governments that it is no longer acceptable to further legitimise gambling by giving the seal of approval to more and more gambling operators. But I believe a moratorium is a necessary first step to allow proper consideration of the issues.

It is not true that I am taking a position on a ban, as Mr Humphries' press release also said. What I am representing here and what I said in the *Canberra Times* article was what the two positions represented—a moratorium or a ban. I want to have the opportunity to

look at these issues. I do not feel well enough informed to say definitely that it should be a ban. But what is absolutely clear is that we need time to look at this because there are too many unresolved issues.

Whether the approach agreed upon is an open regulated market or a ban, it will obviously be more difficult to implement new policy directions once more and more providers have been entrenched, and that is another reason why we need to take a breath here and stop entrenching more people in the market. Obviously we will cause ourselves to be exposed in terms of compensation and so on if we do change it significantly.

I understand that Mr Quinlan is going to move some amendments to my motion. I will speak to them briefly at that time.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.47): Every so often a strain or an attribute of the Greens emerges which has much to do with the Luddite movement of the 19th century. People who belonged to this movement ran around with hammers and other implements and smashed machinery because they believed that machines were evil and were going to destroy society; that it was wrong to have these sorts of terrible things changing the world, disturbing their settled and accepted view of the world. We see this emerge from time to time from the Greens. We see opposition to genetically modified food, nuclear power, certain sorts of chemicals and things like that. There is the view that, "No, this technology is bad. You must stop this. Turn back the tide, stop it all from happening."

I can understand an almost obsessive concern with the precautionary principle—the principle that "if we haven't had 55 reports on the subject we should not be going ahead and doing it".

Ms Tucker: We have had two and they said, "Be careful."

MR HUMPHRIES: It is a reasonable approach to take in some circumstances. On occasions I have been seen to put my hand up and say, "I am in favour of the precautionary principle being used in this particular case."

Fundamentally, what Ms Tucker fails to understand is that this government in particular is not saying, as she has claimed, that we do not believe there will be any problems with Internet gambling. We are not claiming that we have understood the implications of this industry or the implications of the use of the Internet in other features of our lives. We are not saying any of that. What we are saying is that the Internet is not a kind of a creature waiting at the door to enter our house and we have to decide whether or not to open the door and let it in. The Internet is here. It has come in, it is already pervasive throughout the lives of every single person in this chamber and more or less every single person in this community. As a result of that, Internet gaming is also pervasive throughout this community and every other community in the world that is online.

So the idea of saying, "Let us stop the merry-go-round and have a little think about whether we want to go ahead with all of this" is completely and utterly missing the point. If we do not proceed to regulate the Internet, and regulate gambling providers in particular on the Internet, people will not be prevented from having that access and the

access that they obtain will be, of course, not to regulated Internet gambling providers but to unregulated providers. It will be to unregulated providers in places like the Caribbean, Bermuda, Asia and other small and out of the way places where regulation is non-existent. These sites are the ones that will take the money of people. They will not care how many hours a day these people might gamble on the Internet. They will not necessarily be able to provide a very good service to people in terms of paying winnings. They will not necessarily be an honest and reputable provider of the service, and people will get ripped off. Those people who are problem gamblers in particular will have absolutely no safety net under them as they proceed to satisfy their addictions.

I do not believe that we should leave people in that parlous position. I believe that if we have got the power to be able to prevent the harm that is associated with excessive gambling, we should do something about it. Not only do I believe that, but once upon a time Kerrie Tucker believed that as well. I quote from the speech that Ms Tucker gave on 25 June 1998 in support of the government's Interactive Gambling Act.

Ms Tucker: I have already dealt with that. Why don't you listen. It needs to be monitored and we need to—

MR HUMPHRIES: Ms Tucker, will you please put a sock in it and listen to what I have to say. I know it is painful, but listen to what I have to say. Ms Tucker said:

> The Greens will be supporting this legislation … I think this bill is really important and I congratulate the Government for bringing it forward. It will need ongoing monitoring and possible amendments down the track ... the Greens and I are happy with that because I believe that the nature of the industry requires them.

That is, the amendments. She continued:

> Legislation is necessary because this area of gambling just cannot be left unregulated.

What Ms Tucker is saying today is: "Let's leave it unregulated. Let's freeze this legislation, let's not proceed, let's not worry about it going forward."

I do not generally quote the Premier of Victoria, Mr Bracks, but yesterday he put out a release on this subject. To paraphrase him, he said that online gambling is utterly inevitable because this is a medium which anybody who wants to get hold of it can, and there is not a damned thing we can do about it. And he is right.

I am not saying, the government has never said, that there are no problems with Internet gambling. What we have said is there is a problem with trying to stop Internet gambling. If we are going to make sure in particular that Australians who might be considering betting on such sites are not ripped off and are protected if they have an excessive gambling habit, then we should be putting in place regulation which ensures that those protections in place. If we freeze the licences for a long period, as Ms Tucker suggests in her motion, we will end up denying people that protection. That is simply nonsense.

I have to say I am not greatly less critical of my colleagues in the federal government on this matter. They have engaged in a bit of a stunt on the question of the Internet. A few weeks ago they came to the ministerial council on gambling—a council which the federal government itself set up and said should be a vehicle for consensus decision-making on issues affecting the national perspective on gambling—and said, "We want the states and territories to agree to a moratorium of 12 months on Internet gambling so that we can assess the viability of putting in place a ban on access to sites to stop Internet gambling as a growing phenomenon in our community."

Ms Tucker: That is not what the Senate committee said.

MR HUMPHRIES: I was at the council meeting, Kerrie. I know what happened there, for goodness sake.

Ms Tucker: I said it is not what the Senate Committee said.

MR HUMPHRIES: The ministerial council is what I am talking about.

Ms Tucker: I know. I am not though. I am talking about the Senate committee.

MR HUMPHRIES: I was there and that is what the federal government put to the meeting. With the exception of New South Wales, the states and territories rejected that proposal. New South Wales agreed with the federal government position—no other state and territory did, and nor did we. We made it very clear that if there was a consensus decision at the ministerial council on gambling it was that there should be no ban on Internet gambling, and no 12-month moratorium.

The federal government walked out of that meeting and some weeks later said, "We are going to proceed with the Internet gambling ban anyway." They eventually said this. After we had issued two licences under our own legislation, they came back and said, "Well, we do actually want to proceed with this matter," and have asked us not to issue any further licences.

It should be on the record, though, that at the meeting the Commonwealth sought consensus. It failed to achieve consensus. After the meeting, and at the meeting for that matter, it gave no clear indication of what it would do in the absence of consensus. It did not indicate clearly that it would proceed with a federally imposed ban.

In those circumstances, the ACT decided to proceed as it had indicated it was going to proceed quite some time ago—in fact, two years ago when the Interactive Gambling Act was passed with, I think, unanimous support in this Assembly. We said we were going to issue the licences we had been working 18 months to prepare and issue, and we did. The day after the licences were issued, the federal government said, "Well, we are actually going to have a ban, or try to have a ban, and we ask you not to issue any further licences, or at least to cooperate with us in the process from this point on."

That in itself is also a significant turnaround on the part of the federal government, because on 18 December 1996 the minister for communications, Senator Alston, in writing to at least one of the gambling and racing ministers of Australia, said in respect of Internet gambling:

> I applaud you … for developing a draft set of principles for a national regulatory model. The Federal Government recognises that the regulation of gaming and gambling products and services is a matter for State and Territory governments.

That was the view of the federal minister in December 1996. Now apparently they have changed their mind. Ms Tucker appears to have changed her mind as well on the subject of regulating the Internet. I think those who have had this Damascus-like conversion need to answer a fundamental question. This is the question in particular that the Commonwealth could not answer when it came forward to the council meeting and proposed the ban. The questions is: how do you effect a ban on access to certain sites, many of them overseas-based sites, by Australian Internet users? How do you prevent somebody from getting that access?

The Commonwealth tried to answer that question by coming to the meeting with an expert from the CSIRO to brief ministers on what the Internet could and could not do; what could and could not be done with respect to the Internet. I have to say to you that I was sitting next to ministers from Queensland and Tasmania, and after the briefing they both turned to me and said, "Well, that proves it; they can't do it, can they?" And we all agreed. The briefing proved in fact they had no clear idea of how an effective ban could be put in place.

Mr Moore: They can't.

MR HUMPHRIES: Mr Moore says they cannot do it. The Internet is an international phenomenon. You prevent access to it by taking away somebody's modem. If the Commonwealth want to come along with a pair of snippers and cut everybody's modem—the libraries and the workplaces, and all the other places in the community from which the Internet is accessible—they will succeed in getting the ban in place. Short of that, I cannot see how they will do it. I asked the Commonwealth to explain clearly how they would do it. They said that they could not, that they want 12 months to think about how they could do it.

I put to the Commonwealth at that meeting that the evidence was already clear that it could not be done. They had already tried to do it, not in respect of gambling but in respect of so-called Internet sites of a pornographic or offensive nature. Under legislation which was passed in the middle of last year, sites were ordered to be taken down to prevent Australians having access to them. Fair enough; perhaps a laudable intention. What the Commonwealth has actually achieved with that is spectacular failure. Something like three million sites around the world are estimated to qualify as offensive or pornographic sites.

Ms Tucker: Twelve million pages, actually.

MR HUMPHRIES: Twelve million pages, Ms Tucker assures me. I believe that that is probably true. As at the time of the ministerial council meeting a few weeks ago the Commonwealth had succeeded in getting Australian Internet service providers to take down 12 million pages, or about 100 of those three million sites. So there are still 2,999,900 sites left to go. I believe that that is a spectacular admission of failure on that question.

So I say to Ms Tucker that if she wants there to be some stalling of this process, and that is essentially what she is calling for in her motion, I think she owes it to the technology literate community in which she lives to explain how she is going to achieve the kind of ban which she refers to, by implication at least, in paragraph 1(d) of her motion. I do not believe that question has been answered, and in the absence of a clear answer I do not believe that we should put our mechanism on hold.

I have seen Mr Quinlan's amendment to have, in effect, issues referred to the Gambling and Racing Commission for report to the Assembly. I believe that his amendments are reasonable, and I indicate we will support them.

I want to make a couple of quick points. Ms Tucker says I did not seek the views of the commission before the council meeting. That is untrue. (*Extension of time granted.*) At the officers meeting the day before the ministerial council meeting the Commonwealth formally put to the states and territories that there was going to be a proposed ban on access to Internet gambling sites. On the night of that meeting of officers I met with the chief executive and the chairman of the Gambling and Racing Commission. I was fully briefed by them and sought their views. The next day, both of those of gentlemen came to the council meeting with me, sat either side of me, and advised me throughout the meeting on issues that were being raised. So it is quite untrue to say that there has been no consultation with the commission.

Ms Tucker says I have been suddenly supportive of her position on poker machines. I do not believe there is any evidence of any difference of view on my part about poker machines. I have long regarded poker machines as being a much more significant problem in this community with respect to gambling than any other aspect of gambling in our community.

Ms Tucker: Why did you not support my original inquiry request?

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! Mr Humphries has the call. Ms Tucker, come to order.

MR HUMPHRIES: Ms Tucker has raised the question of an inquiry by the commission. There are reasons why I think it may not be appropriate for the commission to conduct, or it will be extremely—

MR TEMPORARY DEPUTY SPEAKER: Order! Mr Humphries, address your remarks to the chair, sir.

MR HUMPHRIES: It might not be possible, Mr Temporary Deputy Speaker, to address a wide-ranging issue such as poker machines via an inquiry of the kind that Ms Tucker has raised. However, I can indicate that I have asked the commission to consider that issue and to give me advice on the subject.

Again, I say that the argument that we need time to look at these issue is nonsense. We have had the time. The Internet is not new; it has been with us for a long time. I think we have had more than adequate time. I support the idea of an examination of the issues raised in this motion and Mr Quinlan's amendments. But that should not be a long drawn out matter. I believe it ought to be possible to receive this back from the commission in such a way as to allow us to proceed to implement the legislation which this Assembly, with the support of people like Ms Tucker, has passed already.

MR KAINE (9.05): I listened carefully to what Ms Tucker said in support of her motion and also to what the minister said in response. I think the minister placed far too much emphasis in this debate on what the Commonwealth said or did not say, and wants to do or does not want to do. I have read Ms Tucker's motion carefully and what the Commonwealth said or did not say, or wants to do or does not want to do, is irrelevant. Ms Tucker is not asking the minister to do what the Commonwealth wants to do. In fact, paragraph (2) is the essence, the substance, of her motion in that it specifically addressed the question of the local scene.

Paragraph (2) firstly calls upon the Gambling and Racing Commission to investigate and report on issues of social and economic impact. I do not know why Mr Quinlan's amendment proposes to delete that because I think they are relevant issues. Secondly, the commission is called on to investigate the adequacy of ACT legislation, and this is a legitimate request; thirdly, to investigate the adequacy of the commission's powers and resources to undertake and complete certain things; and, fourthly, to evaluate the progress towards a code of practice for the gambling industry. Those are four issues that are of no concern to anybody but this community. What the Commonwealth might be thinking of doing or whether or not it is playing the game straight are of no relevance whatsoever to that request that Ms Tucker is making. She is not seeking a moratorium along the lines of what the Commonwealth is apparently seeking to impose.

So I do not have any difficulty at all with Ms Tucker's motion. I think it is a perfectly reasonable thing to ask our gambling commission to look at these issues and tell us what the status is. The minister did not really address those issues at all. He was more concerned to talk about the ministerial council meeting that he went to. That is relevant, but not relevant to Ms Tucker's motion.

I suppose the closest you could come to reaching the conclusion that Ms Tucker is seeking some sort of moratorium is the wording of paragraph (3) of the motion, which provides that she does not want any further interactive gambling licences to be granted until the commission's report has been received.

Ms Tucker: And debated.

MR KAINE: And debated. The minister noted that this need not necessarily be a long process and I would agree. The commission should be able to look at these questions and come back with a report to inform us of the status in a fairly short time. I do not think it is unreasonable, given the controversial nature of this issue, to ask the government not to issue any more licences until we are satisfied that the issues raised by Ms Tucker in paragraph (2) of her motion have been properly addressed. I do not think there is anything unreasonable about that at all. I do not understand why the minister would speak against it and I cannot understand why any member of the government would vote against it. It is a perfectly legitimate and perfectly reasonable request.

I support what Ms Tucker is proposing and I do not see anything that impacts in any way on the government's ability to deal with the question in the relatively short term. I cannot see what their objection could possibly be. I would ask the minister to seriously consider supporting Ms Tucker's motion, leaving it at that, and getting on with the job.

MR QUINLAN (9.09): I wish I had access to Mr Humphries' little look-up system, and the resources to maintain and use it. Every now and then I would like to be able to go back a couple of years and access quotes.

I must say that I do savour the moment of Kerry Tucker concurring with John Howard on a particular issue, given that Mr Howard, who is in a 1950s time warp, is still probably coming to terms with electric office machines. I do recall that this issue was on the business paper at the last sitting of the Assembly. We had a quite unnecessary filibuster that day, as we have had today, that precluded us addressing it and, in the meantime, we saw the granting of two licences. I think the government, and Mr Humphries in particular, were a bit out of order granting licences in that intermediate period, given that there had been an obvious tactic to fill up private members' business day at the last sitting.

I do not know enough about Internet gambling to say precisely whether it can be controlled, contained or constrained. However, I have got a pretty good idea that it cannot. I have surfed the Net and I have found a couple of sites. I have even got an enthusiastic response sitting in my email in-tray, and all I did was answer the question: "Do you want a little free play?" All you have got to do is give them everything but your blood group and you receive some encouragement to play from time to time.

There has been a fair amount of negotiation between Ms Tucker and me and a lot of what is in her motion is a function of that negotiation. I appreciate the time and the goodwill that that has involved.

I cannot see that we can constrain Internet gambling. My knowledge, and I suspect the knowledge of most Assembly members, on this subject is limited. I expect that now our Gambling and Racing Commission has been in place for some time, they will have better idea. I want to see this place receive their opinion, firstly, as to the degree to which Internet gambling can be regulated and controlled; secondly, how promotions of Internet gambling can be regulated and controlled; and, thirdly, whether they are satisfied with the capacity and the access to information they have to conduct adequate probity checks. So, in fact, I would like to see this motion say, "We would like to know what the commission knows now."

I do not believe that Mr Howard's 12 months' moratorium will achieve much at all. I believe that he has had time to at least follow that up with some sort of expert opinion that says, "Yes we can in fact enforce this moratorium for 12 months." But we have seen nothing. We have just got Mr Howard's very old-fashioned views. I have to say I am pleased to see that Mr Humphries is at loggerheads with Mr Howard—that gives me a little bit of vicarious delight.

Mr Temporary Deputy Speaker, I seek leave to make a minor alteration to the amendments circulated in my name.

Leave granted.

MR QUINLAN: The first amendment to paragraph (2) seeks to omit the words "to thoroughly investigate and". I would like to leave the word "to" in the motion. The amendment will now read:

> Paragraph (2), omit the words "thoroughly investigate and".

I now seek leave to move the amendments together.

Leave granted.

MR QUINLAN: I move:

> No. 1: Paragraph (2), omit the words "thoroughly investigate and".
> No. 2: Paragraph (2) (a), omit the paragraph.
> No. 3: Paragraph (2) (b), omit the word "online" and substitute "interactive".

In the first case, the term "thoroughly investigate" could mean to launch into a PhD thesis and take as much time as is necessary. It is just so open-ended it could take forever and I doubt very much whether it could take a reasonably short time. I think we really should address this question fairly promptly.

Similarly, the second amendment seeks to remove part (a) of paragraph 2. Again, those few words imply a comprehensive study and as a result our moratorium might be extended beyond that of Mr Howard's, God forbid!

The third amendment seeks to replace the term "online" with the term "interactive". This is to distinguish between the communication of sports bets et cetera, which is a very common occurrence right now, and interactive gambling, where you are actually playing a game contemporaneously with the provider. All of these amendments seek to make the requirement that we are imposing upon the commission manageable and they address Internet gambling without casting the net too wide. I commend my amendments to the Assembly.

MS TUCKER (9:18): I would like to speak to the amendments. Amendment No 2 seeks to omit the words "the issues of social and economic impact of online gambling". Mr Kaine said it—and I find that pretty extraordinary. We set up the Gambling and

Racing Commission to look at those issues. I remember that being a matter of very strong focus in the debates of our select committee. I understand that that is going to be supported tonight but I just want to put on the record that I think that is a concern.

Mr Quinlan did not want it thoroughly investigated. I can live with that. I am assuming the Gambling and Racing Commission will do a thorough job, that they will not have to be told particularly to do that. So just to ask them to report is okay; I do not have a problem with that.

I find it very interesting, though, that Mr Quinlan wants to use the term "interactive gambling"; he does not want to include sports betting. I remind members again—and I informed Mr Humphries today that his name is on this; he thinks it might have been a misprint but it is not—of the government's response to the Allen Consulting Group policy review of the bookmakers legislation. It is interesting to read recommendation 7.2, which states:

> The suitability requirements for sports bookmakers should mirror those for holders of interactive gambling licences under the Interactive Gambling Act.

The government's response was that it support this and its comments were:

> The sports betting industry has grown rapidly over recent years aided by the development of the Internet-based platforms. Many new gambling service providers use the Internet as a principal means of providing sports betting products. In addition, there are many service providers who propose to supply a suite of Internet-based gambling products, encompassing gaming and wagering options. It is therefore appropriate that the suitability requirements applying to applicants for a sports betting licence should be consistent with those applying to applicants for an interactive gaming licence. This consistent approach will streamline the licensing processes within the Gambling and Racing Commission.

So that seems to me to be saying pretty clearly that there are very similar issues in both forms of Internet gambling. I think this is a strange amendment as well, but I understand that that is going to get up too. I just want to put on the record though that I think that is an inappropriate amendment.

MR RUGENDYKE (9.20): I will speak briefly to the motion and to Mr Quinlan's amendments. We were asked to note several things. Some of us had not noted some of the things that were raised in the last debate and perhaps some of us have not noted some of the things that have been put forward in this debate. Maybe Ms Tucker will send us a copy of, for example, *Netbets: A review of on-line gambling in Australia.* I will have a look at and note parts (c) and (d) of paragraph (1).

The motion also calls on the Gambling and Racing Commission to do certain things. Mr Quinlan's amendment No 2 seeks to omit paragraph (2)(a), which refers to "the issues of social and economic impact of online gambling". It strikes me that part (a) is a wise provision. The ACT inquiry studied the social and economic impact of gambling

in its various forms and if we failed to notice online gambling, we may have slipped up badly. Maybe, Mr Temporary Deputy Speaker, we can finally unshackle ourselves from being locked into inquiring into that matter. I support the removal of part (a).

I note that we have very wise and eminently experienced and skilled members of the Gambling and Racing Commission and they will certainly be able to handle the tasks that have been outlined in the motion. I have complete faith in the Gambling and Racing Commission. I am sure that an admirable job will be done by those members.

MR TEMPORARY DEPUTY SPEAKER: You would not be playing to the gallery, Mr Rugendyke, would you?

MR RUGENDYKE: Mr Temporary Deputy Speaker, as always, I address my comments to the chair. I recognise my dear friend and ex-colleague Mr Tony Curtis, who is in the gallery. The Gambling and Racing Commission will do a thoroughly good job in respect of parts (b), (c) and (d) of paragraph (2). I note that the Licensed Clubs Association have come out with a code of practice for the gambling industry. Part (d) will be a good walk-up start for them.

Paragraph (3) of the motion directs the minister not to grant any further interactive gambling licences until the commission's report has been received and debated by the Assembly. Two have got through the net. I think it would be wise to put on hold the granting any more until can see how successful the legislation that we passed, I think in 1998, to cover these sorts of things has been in handling these two licences. I think it is wise that we monitor these couple of licences until the commission's report has been received and debated by the Assembly, and the findings have been addressed. Mr Quinlan's amendments make sense of yet another full page complex motion that tries lock us into things we may not necessarily want to be locked into. However, I do support the motion.

Amendments (**Mr Quinlan's**) agreed to.

MS TUCKER (9.26): Mr Temporary Deputy Speaker, I wish to close the debate. I would like to respond to a few of the issues that were raised. I have already addressed Mr Humphries' allegations that I was being inconsistent on the issue of interactive gambling. Apparently he was not listening. In case he is listening now upstairs, I point out that he actually read it out himself. I did say in that initial speech on the legislation that the legislation will need ongoing monitoring and possibly amendments down the track because the industry is changing quickly.

That is exactly what this motion today reflects. As Mr Kaine pointed out, Mr Humphries also seemed to try to lump me squarely into the position of the federal government. I have already explained that I am not taking a position on a ban at this point. We may well do so. The Greens are still looking at the issue. They are interested in having more information before they take such a position, and this motion hopefully will assist to some degree in providing that information from the gambling commission. The Senate committee did not recommend a moratorium in order to have a ban. If you read the report you will find that the Senate committee recommended a moratorium so that there could

be a national approach to these issues. It is thought that a national approach would be useful. In my speech on the motion I put a number of arguments to support why it would be useful.

Mr Rugendyke feels that he does not really know what I am asking him to note. With respect, I think members have a responsibility to know what is on the notice paper, particularly if a motion requires people to note particular documents. I also believe that I gave Mr Rugendyke the recommendations of the Senate committee when we considered sports betting and wagering; maybe I am incorrect there. But I find that frustrating. This was also the case with Mr Moore, who said he did not want to support Mr Stanhope's motion because he had not seen the reconciliation document. Well, it was available on the Internet, so that is not an excuse for not supporting something.

Mr Rugendyde: I am supporting it.

MS TUCKER: Yes, I know you are. Mr Rugendyke claims that he is supporting it. I appreciate his support on this but I am just commenting on the fact that if something is on the Notice Paper members have a responsibility to understand what is being asked.

Mr Humphries raised quite a few issues. He accused the Greens of being Luddites, which is really not addressing any of the issues and it is incredibly incorrect. He gave two wonderful other examples of what he considered was a Luddite reaction, which were nuclear power and genetic modification. If Mr Humphries is interested, I will give him a list of the scientists who are expressing grave concerns about both of those technologies. We have had a very concerning example of a recent incredibly slack approach by this Australian government involving supposedly very highly regulated trials of genetically modified seeds. Guess what? The crops were found ripped up in the local tip. You could perhaps use that as an analogy for this great enthusiasm for the new technology coming from people like Mr Humphries. "It is fine, let us do it, it is going to save the world," but, woops, later on we find out what has happened. Our stance on both nuclear power and genetic modification is now being supported by very significant scientific opinion.

Mr Humphries also was very scathing about apparently people's ability—and my ability—to understand the Internet. Mr Quinlan, I think, made that inference, too. He argued very strongly that this cannot happen. In one way I find that ironic, too, because this industry, we are told, is advancing so incredibly quickly in every other way, whether it is developing viruses or whatever. But suddenly there is great negativity in the statements from the same people who are otherwise saying how wonderfully innovative and developing this industry is. This negativity is based on the possibility of this technology being able to actually impose any kind of barrier.

Mr Humphries talked a fair bit about the failure of the attempt by the federal government to filter pornographic sites. Indeed, that has been a problem. Mr Humphries needs to understand; maybe I could explain this to him. I have read the CSIRO report on the issue of filtering. For his information the paper is entitled *Access Prevention Techniques for Internet Content Filtering* and it was prepared for the National Office for the Information Economy in December 1999. It is interesting to note that this was a paper and not a report—I understand that the authors themselves did not want it to be called a report—

on the issue of filtering for pornographic sites. If Mr Humphries reads this report —and I know I am just a Luddite, but I have read it—we could have a discussion about it.

What is totally clear —and I find this very interesting—is that this report involved four pornographic sites. There is a really big difference. I think about 12 million pages of pornographic material are available. The very big difference between that and sites for Internet gambling is that pornographic sites are not necessarily commercial. Pornographic material can be between individuals or whatever. But if you have an Internet gambling site, it is a commercial enterprise. You want to advertise it, you are not going to hide it. You are not going to have a lot of trouble finding those sites.

A number of filtering mechanisms have been developed. There were problems with the pornography sites because, as I said, there are so many and they are hard to track. The filtering products that are available include keyword filtering, which is using words; packet filtering, which is basically where you look at the content which is delivered over the Internet in packets of information; and URL filtering—that is a really quite interesting one because URL filtering, which is the most common form, basically involves the filtering of a site based on its URL, which is its address. This report was not as condemning of the possibility of URL filtering.

People are telling us that it is impossible, that there needs to be a lot more work done. In fact, this report says that itself. This report says:

> There has not been a lot of interest in research or development of technology in filtering.

So there is work to be done here. If people are seriously interested in having a ban and there is enthusiasm and commitment, then I think the technology would probably be able to be developed. So obviously a whole lot of issues needs to be addressed. I imagine the federal government would be very interested in exploring those possibilities if they are wanting to have a ban.

Mr Humphries also seemed to be of the view that I was saying, "Let's leave it unregulated," and I think that is what you call getting "Gary-ed". What I am asking for is some understanding of the consequences of this. The Senate committee requested the moratorium to give time for a national approach and a considered look at how we can do all that is possible to ensure a consistent, quality response to issues of privacy and secure electronic pathways and to obtain wins when they occur, which, by the way, is not very often. Those things are obviously useful for gamblers, who want to know their privacy is secured and who want to know they can win. But we know most people do not win and we know that, because of the nature of the Internet, problem gamblers will have a choice.

I do understand the Internet, Mr Humphries. I imagine that Mr Humphries is listening to this debate in his office upstairs. As someone who understands the Internet—and Mr Humphries just explained this to me anyway—I know that a problem gambler would not want to go with a licensed provider in the ACT because there have been too many barriers set up. The gambler can go offshore. There is no way with the Internet as it is

anyway that you can claim that having licensed providers in the ACT is going to deal with all the issues of problem gambling. It will deal only with gamblers who want to set limits on themselves, and if they want to do that that is fine.

Mr Humphries has entered the chamber—welcome back. I was at an industry luncheon at the Press Club on Tuesday where we talked about these very issues and I raised the question of the important issue of problem gambling. Gamblers are given the ability to set a limit. So if I am a gambler I can set a limit on how much I will be allowed to gamble, say, for a week or a month. That is good if a person is disciplined and the limit is reasonable, but what no regulator can do and what no Internet provider can do, unless someone is going to suggest incredible invasion of privacy, is determine whether or not that limit is appropriate for that person's income. (*Extension of time granted.*) It will be families who will suffer. So once again personal life decisions will be still made by the gambler in respect of setting a limit.

Self-exclusion is another interesting one. I was talking to a counsellor in Victoria who told me that the exclusion provisions are not necessarily going to deal with a lot of the problems of severe problem gambling because particularly in the ethnic community there has been a big increase in domestic violence related to gambling stress. If you have violence in a family as a result of a member of that family having gambling problems, then obviously they are not going to risk greater violence by going as a third person and seeking the exclusion of that person.

So what I am trying to explain here is that this matter is very complicated. I am not saying what Mr Humphries seemed to be saying, that it is impossible to do anything in respect of the Internet. It is not. It is clear that you can do certain things. But you are not dealing with the overall social issues of problem gambling. As a government, what you are doing is saying once again, "Gambling is good. We are going to legitimise another form of gambling and we are going to make sure that your privacy is protected." Once again, this is another example of governments being complicit with the industry in encouraging another form of gambling.

I have already briefly covered the revenue issue pressures on governments which have caused them to continually seek new forms of gambling because of diminishing revenue which has resulted from competition and so on. I will conclude with that. I am glad that we are going to get something referred to the gambling commission, even though it is not as comprehensive as I would have liked. I thank members for their support.

Motion, as amended, agreed to.

PERSONAL EXPLANATION

MR MOORE (Minister for Health and Community Care): Mr Speaker, before I move the motion to adjourn, I would like to clarify some things I said this morning in respect of which I think I may have inadvertently misled the house. There are two issues, Mr Speaker. I indicated that Dr Bammer was the person who was doing the pre-trial

evaluation work. In fact, although it is the National Centre of Epidemiology, Population and Health, the particular academic involved is a Mr David MacDonald and not Dr Bammer herself.

In respect of the second issue, I indicated to the Assembly that the calls for expressions of interest had been advertised. Indeed, I had seen the proposed advertisement and that was fine. I am told that in fact it will appear in this coming Saturday's paper. So it has not actually been advertised at this stage. It will be advertised on Saturday.

ADJOURNMENT

Question (by **Mr Moore**) put:

> That the Assembly do now adjourn.

The Assembly voted—

Ayes 7	Noes, 8
Mr Cornwell	Mr Berry
Mr Hird	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Moore	Mr Kaine
Mr Rugendyke	Mr Osborne
Mr Smyth	Mr Quinlan
Mr Stefaniak	Mr Stanhope
	Ms Tucker

Question so resolved in the negative.

CONSIDERATION OF EXECUTIVE BUSINESS
Suspension of Standing and Temporary Orders

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

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 1, executive business, relating to the Occupational Health and Safety Amendment Bill 2000 (No 2) being called on immediately after the resolution of any question relating to the conclusion of consideration of order of the day No 2, private members business, relating to the Occupational Health and Safety (Amendment) Bill 2000.

OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 2000

[COGNATE BILL:

OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 2)]

Debate resumed from 29 March 2000, on motion by **Mr Berry**:

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 Occupational Health and Safety Amendment Bill 2000 (No 2)? There being no objection, that course will be followed. I remind members that in debating order of the day No 2 they may also address their remarks to executive business order of the day No 1.

MR SMYTH (Minister for Urban Services) (9.45): Mr Speaker, on 7 December last year the Assembly considered two quite different approaches to giving effect to the recommendation of the coroner in his report into the death of Katie Bender that the WorkCover organisation be constituted as a statutory authority.

The government brought to the table a comprehensive approach. It was a bill for a statutory authority, a clearly defined organisation with all the powers and accountabilities necessary to enable the general manager and staff to get on with the work of making sure that the territory had safe workplaces. It fully met the coroner's recommendation on the structure for WorkCover. Employing staff and paying bills were all fully covered in our approach. Both the Financial Management Act and the Public Sector Management Act were included and applied.

Mr Berry came to the Assembly with a more simple concept—to create a single statutory position of commissioner under the Occupational Health and Safety Act with the commissioner to negotiate with a chief executive for resources to carry out the functions.

Mr Speaker, the government appreciates that the Assembly in passing Mr Berry's bill was attracted to an apparently uncomplicated approach which promised to give the commissioner independence in the daily delivery of this important regulatory function. We all know how important independence in this function is: the coroner made that clear. Mr Tom Sherman focused on it in his report. The need for real independence is beyond doubt.

As my department has sought to implement the legislation, serious problems have emerged with this approach in terms of achieving the independence for the commissioner that the Assembly expressly desired. Why? It is because the commissioner has no powers to engage and manage staff or to transact financial matters. The commissioner is completely reliant on a chief executive to provide all these resources. This does not separate the commissioner from departmental control, which was a key issue in the coroner's findings and report.

Mr Berry is aware of the shortcomings in the legislation, but he appears to think that they relate only to staffing matters. He tabled on 29 March 2000 an amendment to the Occupational Health and Safety Act to give the commissioner all the powers of a chief executive in relation to staff assisting him or her as if the staff were employed in a department under the control of the commissioner. This is a straightforward amendment.

Let me take you to the words that he uses, because they are very important indeed. Mr Berry seeks to give the commissioner all the powers of a chief executive over staff as if—this is the important phrase—the staff were employed in a department under the control of the commissioner, but the commissioner is not in charge of a department, an agency or, indeed, any other body defined under any laws of this territory.

Yes, my advice is that Mr Berry's latest bill certainly would give the commissioner powers in relation to staff, but he still has not given the commissioner an agency—a department, if you like. I am advised that the staff that the commissioner may engage would still have to be attached to a department. This creates a new accountability problem. The chief executive of the department that the staff would be attached to would then be accountable for their management. But the chief executive would have no ability to direct the commissioner in respect of the staffing decisions he or she may make. This level of ambiguity is not right.

Members also will have noticed that Mr Berry's bill does not simply add the employment powers for the commissioner to the act. These powers replace the existing provision that the commissioner may make arrangements with the chief executive for the use of the services of the staff or facilities of an administrative unit of a territory authority.

The effect of this is that the commissioner has no access to financial management services and holds no financial management powers. The commissioner cannot arrange for office accommodation or interstate travel, buy pens and pencils and even pay staff their salaries. Mr Speaker, this is a nonsense. In fact, it means that the staffing powers are meaningless. You cannot hire staff if you cannot pay them.

Mr Speaker, I am sure that members of the Assembly will agree that the bill as presented by Mr Berry is unworkable. It does not bring independence to the commissioner. In fact, it makes the commissioner's position completely unworkable and we must fix this quickly to enable a properly independent commissioner position to be implemented late in June.

In contrast, the bill which I tabled on 9 May—the Occupational Health and Safety Amendment Bill 2000 (No 2)—gives the proper independence to the commissioner being sought by the Assembly when passing Mr Berry's original bill in December 1999. In constructing this bill, the government has been particularly mindful that the Assembly was explicit in December last year that an independent commissioner was required. The Assembly also clearly preferred a simple and efficient approach in delivering the necessary independence.

Against this background, the findings of the coroner also cannot be ignored. We must remember that the coroner was particularly concerned about inappropriate departmental interference. It was for this reason that he recommended that WorkCover be constituted as a statutory authority independent of any departmental control.

Mr Speaker, the bill the government now brings before the Assembly maintains the functions, powers, roles and references to other laws that are established for the commissioner in the Occupational Health and Safety Act. It maintains the accountability requirements and the relationships. The tabling in the Assembly and the funding for the costs of any directions issued to the commissioner by the minister remains. The requirements for annual and quarterly reports are all there.

We have not changed the existing requirements. We have given the commissioner an organisation. This bill creates the commissioner as both an individual and a corporation sole. In other words, the commissioner is a single person authority: no boards of management are involved here. No-one, other than a minister using the existing clearly defined role and accountability to the Assembly under the act, sits above the commissioner.

This structure gives the commissioner real management independence. Clause 25H of the bill provides that the corporation has perpetual succession, may sue and be sued, has all the privileges and immunities of the territory, has all the powers of an individual and may enter into contracts, acquire, hold or dispose and deal with property. Importantly, it also declares the commissioner to be a territory instrumentality for the Public Sector Management Act.

I draw members' attention to the note in the bill after clause 25H(3). It says:

> The commissioner is a Territory authority for the Financial Management Act 1996 (see Financial Management Act 1996, s 3, def of a Territory authority).

Mr Speaker, this places beyond doubt that the commissioner will have all the necessary powers under the Financial Management Act and the Public Sector Management Act to conduct the functions allocated to the commissioner. Under our arrangements, the commissioner will not be beholden to a chief executive for resources, and no chief executive will be accountable for management actions of the commissioner. The commissioner will not have a board of management to deal with or through. All the accountability and responsibility chains are clear and appropriate.

The government has also taken a comprehensive approach in assessing the arrangements for the commissioner. It is for that reason that members will see that we have inserted two additional provisions. At clause 25D we have enabled the minister to grant the commissioner leave of absence from duty. The act as currently framed gives no such power. We have also added at clause 25E the ability for the executive to add to the conditions of employment for the commissioner beyond those provided under other laws of the territory. While minor, this provision would enable the executive to have some discretion to add to conditions of service enjoyed by the commissioner. It does not remove the commissioner from the coverage of the Remuneration Tribunal Act, but supplements it.

Mr Speaker, the government wants to move quickly to complete the process of implementing the new arrangements for the delivery of occupational health and safety and workers compensation regulatory services. The Occupational Health and Safety (Amendment) Act (No 2), which established the commissioner's position, comes into effect on 23 June this year. Members will note that this government bill to create the corporation sole is tied to commencement of the act. In other words, the bill will not delay the implementation of the new independent arrangements sought by the Assembly.

Indeed, to achieve effective implementation of the commissioner position it is important that we deal with this bill now. The reason is simple. This is the last sitting week available before the 23 June commencement date. If we fail to deal with this matter now, the commissioner will not have appropriate resource management powers for the functions allocated to the position.

This situation will remain for as long as it takes the Assembly to return to the matter. That would clearly be at odds with the Assembly's original and unmistakable intention for the commissioner to be independent. As a territory instrumentality, the commissioner will have to maintain a separate audited set of accounts, report on these annually, and provide to the Treasurer a statement of intent for the coming financial year. These are standard provisions under the Financial Management Act.

As I have just mentioned, members will note that this bill, if passed by the Assembly, will commence on 23 June this year, just one week short of the completion of the current financial year. I am advised that the effect of this would be to require the commissioner to provide the Treasurer with a statement of intent for the one week period as well as to provide fully audited financial statements for the same period. This is clearly an administrative detail which, in this very short transition period, adds no value to good government or accountability generally.

Mr Speaker, please let me emphasise the following: I therefore foreshadow to members that should the Occupational Health and Safety Amendment Bill 2000 (No 2) be agreed to, then the government will, under section 3, part 2 of the Financial Management Act, declare the Occupational Health and Safety Commissioner not to be an authority for the purpose of the Financial Management Act for the period 23 June to 30 June 2000 only, simply to avoid that burden which I do not believe anybody here intended to be placed on the commissioner.

Mr Berry on several occasions in this Assembly asked the government to explain what is deficient about his bill. He cites that he used the Auditor-General Act to obtain the staffing powers provisions he proposes for the commissioner. He has suggested that, if his amendment is inadequate, then the government had best look at the Auditor-General Act to remove any problems there as well.

Mr Berry, there are no problems with the Auditor-General's resource management powers under his act. You have missed the point. You have not appreciated that your amendment to the Occupational Health and Safety Act did not give the commissioner any powers under the Financial Management Act. You also have not understood that, to effectively discharge chief executive powers, the commissioner needs to administer an

agency created at law. This is created for the Auditor-General at section 21 of the act. Your bill fails to grant the commissioner an agency to administer. The government's bill does that, Mr Speaker, and it does it in such a way that it also gives effect to the coroner's recommendation for a statutory authority.

Mr Speaker, the approach that the government has brought to the Assembly is simple and efficient. It fixes the problems that the government has encountered in implementing the act and it delivers to the Assembly the simple independent model that it explicitly sought in December last year. It also delivers on the coroner's recommendation for a statutory authority. I hope that Mr Berry now sees that after being briefed on these problems by my department.

The government has not brought this bill on as a political game; it is serious. It is about addressing serious deficiencies in Mr Berry's bill. He has now proposed further amendments following the government's briefing. So we have a bill from Mr Berry to which he raises amendments, to which he raises a second set of amendments. Mr Speaker, we are doing this quite simply so that the will of the Assembly can be implemented and the wishes of the coroner can be met.

Mr Speaker, I have some advice here. Today, Mr Berry circulated some amendments. They are amendments that he has put together after advice from my department. I have to congratulate the officers responsible on the way that they have been briefing members. This advice is from the Government Solicitor and, oddly enough, it gives us four options. There are some questions asked and it gives some options on implementation. It lists the options from the best down to the least satisfactory and, oddly enough, the advice from the Government Solicitor is that the government's option is the best option. It is quite curious, Mr Speaker, that the option that Mr Berry puts forward is rated as the least effective.

Mr Berry's bill is ad hoc at best. Mr Berry, either for ego or from ignorance, refuses to admit that there are flaws in his bill, even though we have confirmation that there are flaws from the fact that already he has had to bring forward two sets of amendments. Mr Speaker, the wishes of the coroner are still not met in Mr Berry's amendments, although I do concede that his amendments will make his bill somewhat more effective. It is not the best model. It does not meet what the coroner suggested. I do not believe that it meets what the Assembly wanted put in place in the first instance. Mr Speaker, I table the Government Solicitor's advice, for the information of members.

It is important that we get this matter right because on 23 June this function will start. I believe that the options that Mr Berry brings forward are still inadequate. They really do not give effect to what the Assembly wanted. They certainly do not meet what the coroner saw as an overriding need to put in place an independent statutory body. We can actually do that now. We can do it, and it is based on a model already used, for instance, for the Commissioner for Housing. The corporation sole gives effect to what the Assembly wanted. The government's bill should be supported. Mr Berry's amendments will only leave us with a second-rate commissioner.

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

> That the debate be now adjourned.

The Assembly voted—

Ayes, 7	Noes, 8
Mr Cornwell	Mr Berry
Mr Hird	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Moore	Mr Kaine
Mr Osborne	Mr Quinlan
Mr Smyth	Mr Rugendyke
Mr Stefaniak	Mr Stanhope
	Ms Tucker

Question so resolved in the negative.

Mr Kaine: Mr Speaker, it would seem that Mr Rugendyke might have voted incorrectly. He may want to recast his vote.

Mr Humphries: Mr Speaker, on the basis of mistake, I ask for the motion to be recommitted.

MR SPEAKER: Mr Rugendyke, is it your wish to have the vote recalled?

Mr Rugendyke: Yes.

Mr Quinlan: I rise to a point of order, Mr Speaker. Is it appropriate for you to call, unsolicited, a member of this Assembly?

MR SPEAKER: No, I had to ask the person concerned whether he wished to have the vote recalled.

Mr Quinlan: I have to observe that things are getting fairly wild and woolly in here on that side.

MR SPEAKER: It is six minutes past 10. Mr Quinlan, standing order 165 reads:

> In case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the Assembly shall proceed to another vote.

Mr Quinlan: What confusion?

MR SPEAKER: Is it the wish of the Assembly to have a recall of the vote?

Government members: Yes.

Opposition members: No.

MR SPEAKER: Very well, we will put that to a division, if that is your wish. It is entirely up to you.

Mr Moore: I rise to a point of order, Mr Speaker. Standing order 165 says:

> In case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the Assembly shall proceed to another vote.

It is not a question of asking whether we want to; it says that we shall, so you need to do it.

MR SPEAKER: Except that I am advised that there was no confusion or error. The vote was correct.

Mr Moore: On that point, Mr Speaker, you asked Mr Rugendyke, who indicated that he was confused. Therefore, we have an error.

Mr Kaine: On that point of order, Mr Speaker: I precipitated this because it was my observation that Mr Rugendyke was confused. It was obvious from his body language that he had voted mistakenly. That is why I brought the matter up in the first place. You asked Mr Rugendyke whether my observation was correct and he said yes. I do not think there is any doubt about the fact that there was confusion.

MR SPEAKER: The easiest way to overcome this is to call Mr Berry, and I do. Please continue with the debate, Mr Berry.

MR BERRY (10.09)**:** Mr Speaker—

Mr Humphries: Are you ruling, Mr Speaker, that we can or cannot have a further division?

MR SPEAKER: I am ruling that we are going to continue with this debate.

Mr Humphries: Mr Speaker, in that case, can I move that the Assembly do now adjourn?

MR BERRY: Can you interrupt the speaker? I have the call.

Mr Humphries: Now I have got it.

MR BERRY: Do I still have the call?

MR SPEAKER: You have the call. You may continue and then I will call Mr Humphries.

MR BERRY: Thank you, Mr Speaker. I must say from listening to Mr Smyth's contribution to the debate that this was his idea and I am the villain in the story. Mr Speaker, it is obvious that there has been a conversion on the road to Damascus. All of a sudden, Mr Smyth is seemingly committed to a sensible idea that came out of this Assembly. I am very pleased to see that he has accepted the decision of the Assembly and is seeking to implement it. But I would hope that he would not misrepresent the contributions that have been made by me in this debate in relation to the matter.

I know that it would suit his politics to try to create the impression that there was something wrong with Labor's approach in relation to this matter. Mr Smyth fails to mention, of course, that Labor's move for an independent statutory officer in the form of an occupational health and safety commissioner was well and truly in place before the coroner reported. We recognised the need for it long before the coroner reported because of gross interference from, firstly, public servants, as reported in the coroner's inquiry, and from ministers' officers in the operations of occupational health and safety inspectors. Mr Speaker, it was extremely important that we move towards—

Mr Humphries: Mr Speaker, I rise to a point of order. Mr Berry, by rising to speak at this point, is closing the debate.

MR SPEAKER: Correct.

Mr Humphries: There are other members who are interested in speaking in this debate. Mr Berry has no right to rise at this point to close the debate while other members wish to speak in it.

MR BERRY: Mr Speaker, people can make a contribution more than once in this debate.

Mr Humphries: No, you cannot, not in the in-principle debate. You are closing the debate.

MR SPEAKER: You are closing the debate, Mr Berry; that is the situation.

Mr Moore: That is what you are doing. Everyone is tired and you are proceeding with this silly game.

MR BERRY: Who is proceeding with a silly game?

Mr Humphries: Mr Speaker, on the basis that Mr Berry is not entitled to rise at this point while other members wish to speak in the debate, he, with respect, does not have the right to—

MR BERRY: I am entitled to rise. I was called.

Mr Humphries: No, you are not entitled to rise and speak if you are closing the debate and other members wish to speak in the debate.

MR SPEAKER: You were called all right, but you are closing the debate.

Mr Humphries: You are closing the debate when other members wish to speak in the debate. You have no right to close the debate before the debate is finished. Mr Speaker, on the basis that Mr Berry does not have the right to rise in the chamber at this point—

MR BERRY: I do have the right.

MR SPEAKER: No, you do not have the right. You are closing the debate.

Mr Humphries: On that basis, Mr Speaker, I rise and move that the Assembly do now adjourn.

MR SPEAKER: Mr Berry, I wish to ascertain whether there are other members who wish to participate in this debate.

MR BERRY: Maybe I can be of assistance, Mr Speaker. I seek leave to move two amendments which have been circulated in my name.

MR SPEAKER: We are still in the in-principle stage.

MR BERRY: Okay. Mr Speaker, I seek leave to speak.

MR SPEAKER: To speak without closing the debate?

Mr BERRY: Yes.

Leave not granted.

MR SPEAKER: You will be called later in the debate anyway.

Mr Berry: I understand that.

MR SPEAKER: Okay. Mr Humphries, if you are going to move anything you have to move initially that the debate be adjourned.

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

ADJOURNMENT

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

> That the Assembly do now adjourn.

Private Members Business

MR BERRY (10.15): Mr Speaker, as I said earlier when I was speaking to this matter, this has been an outrageous misrepresentation of the factual situation in relation to the Occupational Health and Safety Commission. It was a matter of significant

embarrassment for the government that Labor brought forward this bill and exposed them. Mr Smyth, of course, is in denial when he refuses to acknowledge that I have two amendments in front of me, a quite appropriate course to take in relation to the matter. Let me say this: one of—

MR SPEAKER: You must be careful not to address your remarks to the bill.

MR BERRY: Indeed, Mr Speaker, but this is one of the most appalling episodes in which the government has been desperate to avoid talking about this matter. Mr Smyth says it's important that we deal with it now, but Mr Humphries doesn't want to deal with it at all. Now, of course, tomorrow is a busy day, and members of this Assembly will want to respond to the budget. The government would be very happy to clog up the debate tomorrow with this sort of debate, so that there can be no criticism of its budget, though there is plenty of room for it.

Mr Speaker, in relation to the general contribution to this matter, I'm not going to telegraph my punches now. There is adequate room to criticise the government's bill, as I will do in due course given the opportunity, because it is merely a shallow attempt to be the last mark on the post, so to speak, in relation to occupational health and safety. Mr Speaker, the government's approach to the adjournment of this debate and this house in relation to this matter, notwithstanding the fact that this is private members business, is another example—as was the case last week, when we were involved in private members business—of the way the government interferes in private members business to adjourn he house. We have had another episode tonight. This was just another shabby episode that will go on the record for posterity, demonstrating the small-mindedness and the mean-spirited nature of those opposite.

HIV/AIDS—Statistics

MR STANHOPE (Leader of the Opposition) (10.18): I would like to spend these minutes in the adjournment debate reflecting on the fact that last Sunday, 21 May, was International AIDS Candlelight Memorial Day. I think it is relevant that we address the issue of HIV and AIDS in the Assembly. It is an issue that hasn't been the subject of debate in this house, that I can recall, in the time that I have been here. The international statistics in relation to HIV/AIDS, however, really are quite horrific, and are becoming worse and worse. I think we should reflect on some of those statistics in relation to the infection of people around the world with HIV and AIDS.

I think we should also reflect on the response of Australia, as a nation, and of other industrialised and more wealthy nations around the world, in relation to the AIDS epidemic that is so dreadfully affecting so many nations in the world. At the moment, in the world, there are 33½ million people living with HIV. There are 1.2 million children under the age of 15 living with HIV—over a million children; 5.6 million people acquired the HIV infection in 1999 and, of those, 570,000 were children. It is feared that nine out of 10 HIV-positive people in the world may not know that they are infected. The proportion of HIV-positive people who are female has risen from 7 per cent, in 1985, to 50 per cent in some nations at present.

Some 16.3 million people have died from HIV/AIDS since the beginning of the pandemic; 2.6 million died from AIDS in 1999, and AIDS is now the leading cause of death in Africa and the number one infectious disease killer in the world. I think they are appalling statistics, Mr Speaker, and I think everybody in this Assembly would agree with that.

The reason I raised these statistics today is, as I said, to acknowledge the fact that last Sunday was an international memorial day to honour the memory of those lost to AIDS, and to show support for

people around the world living with HIV and AIDS. I raise it today, most specifically in the Assembly, because of the depressing need to raise awareness within the community of the impact that HIV and AIDS is having in some nations.

Some nations in Africa have infection rates as high as 25 per cent of the population, and it is feared that this is now beginning to be the case in Asia. The AIDS epidemic is, more clearly than ever, not a problem of minorities, but is becoming a threat to all of humankind. I take some of these statements from the International AIDS Candlelight Memorial information bulletin.

The deadliness of this disease is matched by the challenge it presents to the economic survival of entire nations, to the stability of societies and to progress in upholding human rights everywhere. Tens of millions of people living with HIV might have avoided infection if they had been given the facts about transmission and prevention. I think it is very important that we continue to talk about AIDS, that we do seek to raise here in Australia an acknowledgment that other nations around the world are being decimated by this disease.

I think there is a genuine concern that there are those who do have the wherewithal, those who are privileged to live in the wealthier nations of the world, and who do have access to those medicines and drugs that impact so positively on people living with HIV, but that these things are not available to so many people. So many people in some of the nations afflicted so grievously with AIDS don't have available to them any of the drugs, the care or the medical attention required. This is a terrible epidemic that is threatening the survival of some nations. It is something that we need to keep at the forefront of our thinking.

Private Members Business

MR CORBELL (10.23): I wanted to raise, in the adjournment debate this evening, the government's increasing tendency, over the past two sitting weeks particularly, to continually frustrate, delay and draw out private members business. Today we have seen deliberate attempts by the government, on repeated occasions, to frustrate the business of this place with propositions put forward by non-executive members. We have seen a motion from Mr Hird that has effectively chewed up considerable amounts of private members business time for what is no more than a motion of self-congratulation by the government.

This place should always be prepared to consider motions from all non-executive members, but they should always be motions that are put forward in good faith. What we saw today was simply an attempt by this government to frustrate private members business. The only reason we are here at this hour this evening, Mr Speaker, is that in private members business last Wednesday the government closed down the Assembly early, when there had been an agreement to progress to a later hour.

We would not be here so late this evening if we had had the opportunity to properly debate the items that were on the agenda last Wednesday. Because we were not able to do that, those items came back this Wednesday, and now we are here, at this hour, because of members' desire to get them through. The government gets a lot of time for its business in this place. Private members still get relatively less time, though they have far more than in many other parliaments. For that reason, it is quite disappointing and, indeed, a mark of the lack of cooperation this government is extending to this Assembly, that it continues to frustrate private members business in this way.

Last week we saw an early adjournment. This week we saw the introduction of motions designed to slow down private members business. Last week we also saw an MPI during private members business: not during the days when the government had business, only on the days when non-executive members had business.

Mr Hird: What about the times you've brought on MPIs during government business?

MR CORBELL: That was the only time, Mr Hird, that you brought on an MPI. Indeed the only time you ever bring on an MPI, Mr Hird, is during non-executive business. The reason is that this government is not prepared to allow non-executive members a reasonable period of time to deal with this business.

I want to indicate, on behalf of my colleagues, that we have a growing sense of frustration with this government's attitude to private members business. They obviously don't like the fact that they are continually suffering defeats during private members business, and that they are continually seeing their positions undermined and not accepted by the majority of this Assembly. They obviously find private members business somewhat embarrassing.

Mr Smyth: Hang on, why don't you accept the majority?

MR CORBELL: Mr Smyth really should be quiet on this matter, because he, more than anyone else, has suffered embarrassing defeats in private members business. The most obvious of those is the one that the government has just shut down, and that is the debate on Mr Berry's occupational health and safety commission bill. Mr Smyth fought tooth and nail to defeat that bill. He was unsuccessful, and yet he came back a second time with some spurious amendment, claiming that Mr Berry's bill was inadequate.

This simply highlights this government's growing embarrassment at its inability to win the argument on the floor of the Assembly during private members business, and its lack of cooperation and goodwill towards the Assembly in allowing private members—non-executive members—adequate time to deal with their bills. Need I say any more? This is just another sign of arrogance from this government.

ACT Brumbies

MR HIRD (10.27): We have to talk about two things. Mr Corbell may well leave the chamber but, as I understand it, this side of the house is a minority government, so it needs other people. I know that on numerous occasions the opposition has brought on MPIs during government business. Mr Corbell should read and understand standing orders, and the procedures and practices of this place, and then he can come in and lecture like a tutor or a teacher.

What I wish to comment on is the Brumbies, who are playing this Saturday. There was some concern that the Australian Rugby Choir were not going to perform in the main arena. The Brumbies have now capitulated, and will allow the choir to perform.

Mr Speaker, I would also like to inform you—I know that you are interested in this—that the Brumbies flag flies on State Circle in the city.

I also want to thank the management of the Brumbies for honouring their undertakings, and for saying that the Bruce Stadium facility is one of the best, not only in Australia, but the world, for this type of sport. They had the opportunity of going into the metropolitan area of Sydney, which would have given them another $500,000, but they turned it down so that they could perform this Saturday at Bruce Stadium.

Those opposite, who are not here to listen to this, have always pointed the finger at the government, but they never look back to see what they did when they were in office. They have short memories. Anyway, go the Brumbies, and I urge everyone to be there next Saturday. If you can't be there on Saturday, watch it on Foxtel.

Private Members Business

MR SMYTH (Minister for Urban Services) (10.29): The absolute gall of Mr Corbell in saying that this government are arrogant, and that we refuse to accept majority rulings of the Assembly, is just astounding. How contrary is he? We are a minority government. A majority of members passed the adjournment last Wednesday on private members day, and shut the Assembly. The government, with seven members, cannot do that.

Mr Corbell can't have it both ways. He says that we are arrogant because we should accept the will of the Assembly but, when it doesn't go his way, he says that everybody else got it wrong. Mr Corbell is contrary. It really is sad that he would prop up here tonight and say these things, because last Wednesday, on private members day, the majority of the Assembly—not the government—shut down the Assembly. We can't do it on our own; we are in a minority.

He talks about the arrogance of the government and what it does. What about the arrogance—or perhaps it was the laziness—of the opposition that yesterday saw, for instance, three of the government bills being shut down? How is the government to achieve its agenda when the opposition, particularly the Labor Party, never seems to be ready. I don't know whether that's arrogance or whether that's laziness; that is something

for them to answer. The reality is that this government works very well with the crossbenches, and endeavours to work well with the Labor Party. We are not arrogant; we are endeavouring to get on and do business as best we can.

The little tanty thrown by Mr Corbell about arrogance is really inappropriate. He says that we should accept the majority decision. Well, we do. A majority voted tonight to finish this. What he doesn't accept is that, last Wednesday, a majority of the Assembly voted to shut down the Assembly.

Question resolved in the affirmative.

Assembly adjourned at 10.31 pm