DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

30 August 2000

Wednesday, 30 August 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.

RECONCILIATION PROCESS—ACKNOWLEDGMENT OF TRADITIONAL OWNERS

MR STANHOPE (Leader of the Opposition) (10.34): Mr Speaker, I move:

> That this Assembly reaffirms its support for the ongoing reconciliation process between Indigenous and non-Indigenous Australians and supports the erection of signs:
>
> (1) at each of the entrances to the ACT, acknowledging the traditional owners of this country; and
>
> (2) observing the traditional titles of Canberra's prominent landmarks.

Mr Speaker, the Reconciliation Committee for the Australian Capital Region, at its last meeting, passed a motion in support of a proposal to have Canberra's landmarks signposted with their traditional names. This is an issue that I have been pursuing with some interest for the last two years, and I believe that such a gesture would facilitate the ongoing reconciliation process between indigenous and non-indigenous Canberrans. As you are aware, the ACT government and this Assembly have made a number of commitments over the years to the reconciliation process, but it behoves us as an assembly and as a community to take whatever action we can to demonstrate our commitment to reconciliation.

Recognising the traditional names for Canberra's landmarks on signposts is a practical and easy way, in my opinion, for the government to demonstrate its respect for indigenous cultural heritage and its commitment to the ongoing reconciliation process. Many towns and cities across Australia already acknowledge the indigenous titles of various local landmarks and signs. As the nation's capital, I feel that we should be leading the way in terms of demonstrating respect for Australia's indigenous cultural heritage. By observing the traditional titles of Canberra's landmarks through signposting, the ACT government would be demonstrating a concrete commitment to that process.

As we move around other parts of Australia we do notice an increasing tendency by councils and other jurisdictions to acknowledge the owners of the traditional lands across which we pass from time to time. I believe, therefore, that it would be appropriate to erect at each of the entrances to the ACT a sign acknowledging the traditional owners of this country, the Ngunnawal people. Such a practical and tangible gesture would be easy to organise in consultation with the Ngunnawal community in the ACT and would mean a lot to that community as well to other members of the indigenous community and the whole of the Canberra community.

The second community progress report by the organising committee of the Journey of Healing on ACT action towards the 1997 Bringing them home report gives some indication of the length of the road we have yet to travel here in the ACT in relation to the recommendations of that report. The same can still be said to some extent in relation to the government's response to the black deaths in custody report. There are still aspects of each of those reports that have not been satisfactorily dealt with.

According to the Journey of Healing's second community report, for instance, the health and wellbeing of indigenous people within the ACT remains a matter of significant concern. I quote from the report:

> Substance abuse has been raised as an escalating problem within local Indigenous communities, as in the wider community. However, the only Indigenous worker in this area is a youth worker who cannot meet the demand. There is no equivalent worker for adults. We urgently need treatment and rehabilitation programs that are Indigenous controlled, because people are more likely to complete programs which are culturally appropriate.

In relation to self-determination, the report goes on to state:

> The ACT government has a number of Indigenous consultative committees. However we are concerned that it appears to be unwilling to move beyond consultation and towards self-management to empower Indigenous people.

The protection of indigenous cultural heritage is another key issue raised by the report, and I quote again from that report:

> An area that needs urgent attention is the active protection of local Indigenous sites. While these are theoretically protected by legislation, we understand that this does not always occur in practice and that some sites have been damaged or destroyed.

The report is also highly critical of the government's strategic planning and program development processes, and I quote again:

> It seems that program development, and in particular strategic planning, is not a priority for the ACT government. In our first progress report last year, we noted that the government was developing a number of strategic documents. Only one of those has been released—the Indigenous Employment Strategy, which contains only generalised intentions.

In summing up the report's findings, the Journey of Healing network asked the question, "Are we bringing them home?" Their conclusion was: "Not yet."

Having regard to the depth of the issues that we as a community need to deal with in relation to reconciliation and indigenous disadvantage, I believe it would be appropriate to initiate a gesture of good faith in indicating this Assembly's ongoing support for the reconciliation process. Whilst the importance of addressing all of these key concerns cannot be down-played, a gesture of goodwill, publicly acknowledging the importance of Canberra's indigenous cultural heritage, would go a long way towards fostering the community partnerships that will be required to address the systemic problems facing indigenous people in the ACT.

Signs acknowledging Canberra's indigenous cultural heritage alongside its status as the nation's capital would be symbolic of a genuine partnership between the ACT government and people and those members of its community that have indigenous heritage. Partnerships with the community will be pivotal if this government is ever to address some of the ongoing concerns that I have mentioned. Surely, erecting the signs should be seen as an exercise in promoting positive community partnerships.

I met recently with representatives of the Ngunnawal Land Council, including Ms Matilda House, Michael Bell, Agnes Shea and other members of those families. Ngunnawal people feel that now would be a particularly meaningful time to erect signs acknowledging the country's traditional owners, given the international focus on Canberra during the Olympics. The opening of the Federal Highway, scheduled to be finished before the Olympics, would be a great opportunity to unveil a sign at the border indicating to people that they are in Ngunnawal country and that the ACT was traditionally the land of the Ngunnawal people.

I have also undertaken to set up a joint meeting with the Ngunnawal Land Council and New South Wales Transport Minister Carl Scully to discuss the prospect of erecting signs at New South Wales boundaries of Ngunnawal country. I understand it is generally accepted by anthropologists and by members of the Ngunnawal community that the northern Ngunnawal boundary is somewhere in the vicinity of Lake George. I understand from members of the New South Wales Transport Department's indigenous consultative group that Mr Scully has endorsed and the New South Wales main roads authority has actively participated in the erection of signs throughout New South Wales along the traditional borders of the traditional lands of the various Aboriginal or indigenous tribes that exist in New South Wales.

I believe this is an opportunity for us to demonstrate in a tangible way the value and emphasis we place as a community on the acknowledgment and preservation of the ACT's indigenous cultural heritage. I note that in an article published in the *Chronicle* last week Ms Matilda House was quoted as saying:

> If Canberra wants to be part of the international and national picture, it has to be seen to be doing the right thing by its Indigenous people.

As I have mentioned, I believe that this is one small way of doing that. In proposing this motion and this initiative I want to emphasise that I am not in any way downplaying the importance of that range of other issues in relation to indigenous disadvantage that we confront here in the ACT. There is no doubt that two centuries of indigenous disadvantage have created here in the ACT, along with every other community or jurisdiction in Australia, a range of indicators of the extent to which indigenous people have suffered and continue to suffer. The fact is that indigenous life expectancy in the ACT is 28 years less than that of the non-indigenous population. A range of other indicators show us that those levels of disadvantage continue in relation to health, education, employment, housing and substance abuse.

I acknowledge the challenge that faces all of us in relation to those issues that go very much to the heart of the disadvantage that indigenous people suffer. I do not wish to downplay those by proposing this motion today. I think what is proposed in this motion is something that we can do quite easily. It is not costly and I think it has very significant

symbolic importance. I think it should be supported by the Assembly. I think it should be acted on by the government and it should be seen as a part of our response to and commitment to our reconciliation with indigenous people and vice versa. I commend the motion to the Assembly. I hope that it receives unanimous support and that the government acts on it.

MR SMYTH (Minister for Urban Services) (10.44): Mr Speaker, speaking on behalf of the government, the government considers it entirely appropriate for the Assembly to reaffirm its commitment to reconciliation. The government not only supports the principles of Mr Stanhope's motion; we really do understand the importance of such signage. I think Ms Tucker, probably in March last year, after she and I attended a book launch at the Aboriginal plaque up behind the Australian War Memorial, asked whether we would do it. I said, "Look, I have already spoken to the Chief Minister and the government would be delighted to do it." That is why I have to move an amendment to what Mr Stanhope has proposed today.

We have not found it as easy to put up such signage as we would have liked it be. I guess consultation with the Aboriginal community is the nub of this. The signage is certainly a powerful and important symbolic step towards reconciliation, and the government is willing to pursue it. However, we need to do it properly, and we need to make sure that the good intention behind the idea can actually be realised. Otherwise, through misunderstanding and insensitivity, we might run the risk of driving a wedge between the various groups that make up our local indigenous community.

An integral part of the government's approach to reconciliation is its consistent effort to obtain agreement with native title claimants in the ACT. That is being done in the spirit of reconciliation and in recognition of the disposition and the dislocation that many indigenous Australians have suffered. While we cannot change the fact of the dispossession, this government always seeks to be inclusive of all the local Aboriginal groups, all the local voices, and to recognise the cultural concerns and the differences that occur among the territory's Aboriginal people. The government understands that local Aboriginal people are still debating and negotiating these issues amongst themselves, and this includes the issues of traditional ownership, traditional titles and ,indeed, even the spelling of the word Ngunnawal.

The ACT government would certainly support signage that acknowledges the Aboriginal people who were the traditional owners and that observes traditional titles of the landmarks so long as the correct and appropriate names are known. These are matters of particular concern and sensitivity to the indigenous people. We have to take care and time in consulting with the right people in order to decide on the right words for the signage in the ACT.

This is interesting because there is some school of thought that says there are potentially three or four names that might have to appear on these signs. There are some that say that it is Wiradjuri territory and it extends into the ACT. Do we choose to spell Ngunnawal with one n or two? In the southern ACT it may be Walgalu territory. What we have to do is make sure we get it right. If you are serious about a spirit of reconciliation, putting up the wrong name, even with good intention, may drive wedges into these communities that none of us, I believe, would want to see happen.

So, whilst I cannot stress too much that what Mr Stanhope is saying is absolutely necessary and it is entirely appropriate that we do it, and I would hope that it would happen quickly, we have to wait until agreement on these matters has been reached between all the relevant groups in the ACT. I think indigenous people have a right to expect that respect. We should work with them to work out what is appropriate.

We run the risk of a great injustice to the Aboriginal people if we agree to the current motion. The current motion effectively tries to railroad this process through without proper consideration for the people it is trying to serve. It is very important that we make sure that this process is inclusive; that it is reconciling these groups, often to themselves as well as to us, and us to them. It is for that reason that I have circulated an amendment in my name. I move:

> Omit all words after "and supports", substitute the following words:
> ", subject to the agreement of all groups indigenous to the Canberra region, the erection of signs acknowledging the traditional owners of this country at major road entrances to the Territory, and recognising traditional titles of prominent Canberra landmarks.".

I would like to reconfirm the government's commitment to reconciliation. This government is keen to ensure that the wider reconciliation process continues. I think that is evident in organisations we have been supporting, such as the Canberra Journey of Healing network and Australians for Reconciliation, to build bridges and to foster a shared understanding between indigenous and all other Australians. I think it is evident in the government's public and practical support of Reconciliation Week, Mabo Day and NAIDOC Week.

It was evident in the statement of reconciliation that the Chief Minister made at Corroboree 2000 on 27 May this year when she received the Council for Aboriginal Reconciliation's document of reconciliation on behalf of the people of the ACT. I think it was also evident when the Chief Minister later handed over the ACT government's copy of the Australian Declaration Towards Reconciliation to Mrs Matilda House at a ceremony on 25 July this year. That was done so that the declaration could be circulated and displayed throughout the ACT community, to encourage people to think about what reconciliation means to them and about how they can contribute to that process. The government has also ensured that every ACT public library and every ACT government school can have its own copy to keep and to display.

Mr Speaker, in the future the Chief Minister will meet with Evelyn Scott, the Chair of the Council for Aboriginal Reconciliation, to discuss in detail the ACT government's response to the council's document and our commitment to the process. I have met with Ms Scott as well and made her aware that this government does support reconciliation. The Chief Minister will also be meeting with the co-chairs of the Reconciliation Committee for the Australian Capital Region on 4 September this year to discuss the committee's views on how reconciliation should progress.

The government will be happy to see the day when it can report that one of the practical steps, the erection of signs acknowledging the traditional owners of this country, has gone ahead, but we need to know that all of the ACT's Aboriginal people with an historic association with this land are happy with the signs which are put in place. After all, it is intended as a sign of respect to them, and we need their agreement to it.

MR HARGREAVES (10.51): Mr Speaker, this motion is about recognition. One of the issues about reconciliation is doing something concrete, something positive, about the reconciliation process. It goes a little bit beyond just saying sorry and then getting on with it. What it talks about is recognising what went before.

I have been to quite a number of functions around the town and I have been pleased to be able to listen to people saying thanks to the Ngunnawal people for the use of their land. It has been a hallmark of many an ALP forum that I have attended, and many a public meeting process. It does not occur at every one I go to, and more is the pity, but I think that is starting to demonstrate that the recognition is there.

We, the Assembly, and the political parties and independents that make it up, have an obligation to take a leadership role in this reconciliation process. One of the things that the ALP, for example, is doing as part of its policy formulation is to create within its structure an indigenous persons task force, and I would urge the Assembly to take note of the principle behind it. Hitherto we have been sitting in the driver's seat, heading down the road to reconciliation with indigenous people in the back seat. We have been in charge of the timetable, the direction, the speed and the destination. It is about time we stopped doing that and started putting the indigenous people in the driver's seat so they can dictate the pace, the direction and the destination. I am pleased to be able to say that the Australian Labor Party in the ACT has taken a lead in that way.

I am glad to see that the government is supporting the concept. It would have been a bit rich for them not too when you consider that we can stick up a sign at the entrance of the ACT on a major roadway displaying our technology and sister city relationship with Nara. We ought to do the same for the family relationship that we are trying to forge with our indigenous people in terms of the greater Australian family. It would have been a bit rich to deny our own family members something which we are happy to give an overseas adopted sister.

Mr Speaker, the end product of this motion will advertise loudly to everybody coming into our region our commitment to the reconciliation process and our recognition of prior ownership of the land. Interestingly, the title of that report Bringing them home talks about the stolen generations. Reconciliation addresses the stolen home, the land, the country.

I want to address Mr Smyth's amendment. I recognise the spirit in which the government is bringing forward this amendment, but I cannot see, for the life of me, why it is necessary. Firstly, the minister has mentioned that we have to acknowledge the Ngunnawal lands and that there are a couple of spellings for that. It is acknowledged that there are different opinions about where country boundaries exist within the various groups in the ACT, and that is certainly true.

It is also acknowledged that it is often difficult to obtain agreement on many issues within the groups that reside within the ACT. I am concerned that the phrase "subject to the agreement of all groups" will put a significant time barrier in the way of something we should be doing.

I am also concerned that we are saying "subject to the agreement of another group" when we, the Assembly, are supposed to be the leaders in this. We, in fact, represent not only the indigenous people in the ACT. We represent the non-indigenous people as well, and I believe that a lot of the non-indigenous people need to express their recognition of the lands in which they have their homes, their work and their recreation. The erection of these signs will do something for them as well.

I do not think we need to put the qualification on the motion. If you look at the motion, Mr Stanhope just uses the phrase "acknowledging the traditional owners of this country". Bringing to that the qualification that everybody has to agree means that there seems to be some approach to chopping up the area and saying, "This bit belongs to this person and this bit belongs to that one." Mr Speaker, that is a white man's concept. Borders are a white man's concept.

The fact is that the ACT and its region is made up of a number of countries. The people who lived here before us did not have a border staked out over which you did not cross. It may very well be that in the creation of signs acknowledging the ownership of these lands in previous times to greet people as they come into the territory there is this statement that the country in which the ACT is situated is made up of the countries of certain groups of Aboriginal or indigenous people. But if we stick a qualification in the motion it is making it subject to the agreement of all these people.

One of the reasons why they do not have agreement on where their lands were and who the traditional owners are is that their concepts of what is a border is different from our own. They believe that most of this particular piece of ground is theirs, or most of that particular piece of country is theirs. Perhaps, in the spirit of reconciliation and acknowledgment of ownership, we need to acknowledge that predominantly the ACT is situated in Ngunnawal land and it also has an overlap with other people's lands. The spelling matters not. We can spell it twice on a sign. We can acknowledge that there are two people in the same family who spell their names differently, as in my own family people pronounce our name differently.

I urge people to support Mr Stanhope's motion because, in my view, it does something real about recognising on whose land we sit. It addresses the fact that many, many moons ago somebody stole the land from these people. Whilst we are not going to go back to those times, we need to recognise their traditional ownership. Recognising the spirit of what Mr Smyth is trying to do, I nonetheless disagree with it and cannot give his amendment my support. I ask the Assembly to support Mr Stanhope's original motion.

MS TUCKER (11.00): The Greens will be supporting this motion moved by Mr Stanhope. As he said, it is based on a recent motion of the reconciliation committee. We see this motion and the idea of signage as a symbolic step to recognise that the human connection with this place did not begin with Lady Denman, nor even with the sheep farmers.

As Mr Stanhope has said, there are many areas which need more substantive work, including more support for housing, indigenous youth, health, et cetera, et cetera. We have had the debates often enough in this place, and the government would do well to listen to and act on what has come out of the community report card on the *Are we bringing them home in 2000 report*?

I might add that more substantive work could be done in the area of heritage places. The government could make a much stronger step towards reconciliation by devoting reasonable funding to the assessment of reports of Aboriginal places so that the minister can make decisions about listing places on the interim heritage register within the 14 days as required by the Land (Planning and Environment) Act. But, as to this motion, as long as this is done with proper consultation among all members of the indigenous community in the ACT, this could be a good symbolic step.

Alice Springs, for instance, includes interpretive signs showing names and stories from the local people and from geologists. Putting up these signs would educate people, thus building the most basic level of awareness of the indigenous connections to this place. The Greens would also like to see the government investigate changing the names of significant places along the lines of Ayres Rock being known by its traditional name of Uluru.

Full consultation, I stress, will be an essential part of the process, given the different versions of place names among the indigenous community, but there are always ways through. I welcome the opportunity to give in-principle support to renaming the signs, particularly as it implements a resolution of the ACT reconciliation committee. I also emphasise that it is absolutely vital to see concrete steps towards reconciliation and social justice taken in structural areas, not only the symbolic and educative.

I have an amendment to Mr Smyth's amendment. Mr Smyth, through his amendment, is saying that, unless all groups indigenous to the Canberra region are in agreement, this should not proceed. I want to amend that to say that this is subject to consultation with all groups indigenous to the Canberra region.

I want to do that because I think there is an interesting double standard here in some way because I do not see that you would normally do that with the broader community. You would not normally say we will only do a certain thing if every single interest group agrees, so why are we saying that to the indigenous community? They are a diverse community, obviously. Of course, as I have said several times in this short speech, we would want to ensure that the consultation process was good.

The government has a consultation protocol, which is good. They do not use it very often, but if they did use those principles it would mean that there was a proper feedback. There would be that loop showing what was done with the information that came in and that there was a respectful approach to people, whether they have different views or not. There would be a clear understanding of why the government took the position that they took. These fundamental principles of consultation which are respectful of the community and diversities within it would apply. I think that would be a good process, an appropriate process. That is why I have circulated this amendment to Mr Smyth's amendment.

MR SPEAKER: Do you wish to move that amendment, Ms Tucker? If so, do so now.

MS TUCKER: Sorry, yes. I move:

> Omit the words "the agreement of", substitute the words "consultation with".

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.05): I rise to indicate support for the thrust of what Mr Stanhope has put into his motion concerning reconciliation and the erection of road signs. There is no doubt that the problem of an unreconciled community is exacerbated when the indicators of prior occupation in this region are not there for the community to see. When people come to this place, particularly Europeans and non-indigenous people, they see street names, place names, the names of suburbs and the landmarks of the city, and in many cases they see European names. It is very easy for them to assume that the place was somehow barren and bare and devoid of human occupation beforehand, and to overlook the fact that there was prior occupation by Aboriginal people.

There is no doubt that, despite the dumping of the concept of terra nullius by the High Court of Australia some years ago, many Australians do think of places where they live, particularly urbanised parts of this country, as places that were just vacant land that was moved into and occupied by white settlers when white settlement occurred. It does behove us to remind all in the community that there has been a transition in the use of the land and that earlier occupants of the land left a mark for us to see today, if only in the sense of the names that these people used to describe particular landmarks. Mr Speaker, for that reason I think there should be an appropriate program to erect signage that will see acknowledgment of the earlier occupants of the land.

However, I commend Mr Smyth's amendment about discussion with the local indigenous people. I do not particularly object, I might say, to Ms Tucker's amendment. If she feels that consultation is necessary rather than agreement, I am not going to die in a ditch about it. But I will say this: it has been the government's intention for some time to base any program of this kind on full discussion with local indigenous groups. We have tried our best in the years that we have been in office not to allow the obvious differences between different indigenous groups in the ACT to become an opportunity to divide and conquer. Despite the fact that there are those differences which prevent Aboriginal people in this region speaking with one voice to the government and to other organisations, it is not our intention to allow that to become an opportunity to impose solutions to particular problems that may leave some members of those communities out of the process.

It would have been very easy in the case of a number of issues in the last few years to have taken the view of one or another indigenous group and have acted on that; to have crunched numbers or used a superior power of government to set aside the views of a different group. We have tried to avoid that, Mr Speaker, as much as we possibly can. I would say to the Assembly we should similarly, in this situation, very carefully consider the impact of erecting signage which does not reflect the consensus of the Aboriginal occupants of this area, the people who have ancestral ownership of this area.

Mr Smyth has drawn attention, for example, to the spelling of the word Ngunnawal. That is a matter which continues to be of great vexation to, in particular, two of the major groups representing local indigenous people. I would hate to think that a measure which was designed to foster reconciliation in the ACT region between white and black Australians became a device to heighten tensions between groups of black Australians.

I appreciate that consensus is not easy to achieve. It is a very slow and painful process. I know that some of us would like to see things happen instantly and to score a quick result on this so that we can point to it and say, "Look what we have done," but if by doing that we heighten those internal tensions I think we have not served the stated objective of this exercise. If the Assembly wants to say consultation rather than agreement, well, that is fine, but the government's clear intention is to try to work for consensus on these issues. We want to get agreement with Aboriginal people about the way in which these things should be achieved and to advance a program which has brought support, and hopefully at the same time achieve a strong measure of support from the non-indigenous community of this city as well.

We also need to be clear that there have been adverse reactions to the renaming of public places in other parts of Australia. I think the ACT community is particularly aware of the issues that give rise to this program of renaming places, or at least to giving dual names of places, and I think we should work towards making sure we bring along the non-indigenous community every bit as much as the indigenous community in this program.

I want to add, Mr Speaker, that the issue of signage is important because it relates to the use of the land and the acknowledgment of the prior occupation of the land, but far more fundamental to a program that looks at what we call the land is the issue of who actually owns the land. I do not think I need to remind members in great detail about the government's proposal to local indigenous people to make an acknowledgment of a form of native title by the granting of a lease over Namadgi National Park to local indigenous people. I point out that that offer is also predicated on agreement between Ngunnawal people on the way in which the title that is being offered will be held; agreement on what kind of trust or common body will hold the title which has been acknowledged or given, if you like, by the ACT community. In that process it is important not to pre-empt consensus, and I would urge members to consider that consensus is also important here as well.

Mr Speaker, I hope that we maintain a strong sense of reconciliation being a multipartisan approach in this place; that it is not the preserve of any one party or group or side of politics. It is a matter which of necessity must be worked out by all leaders of the community to demonstrate a way of being able to genuinely reconcile black and white in our community after two or more centuries of injustice and division, and I hope we will see a sense of working together on these sorts of proposals.

I have been concerned about the way in which I understand the regional reconciliation committee dealt with the issue of the renaming of signs in public places. I am told that the meeting of the regional committee which addressed this issue was called together at very short notice; that people were contacted about two hours before the meeting to discuss the matter; that there are usually government representatives on the reconciliation committee but because of the short time frame they were not able to attend the meeting; that neither of the co-chairs of the council or the committee were present for the meeting,

and that there is some continuing disagreement about underlying issues surrounding that matter. So I think it is very important that we work towards dealing with this in a consensual way, and if we do not have that it is important for us not to make decisions that would be counterproductive to the exercise at hand.

I commend the motion to the house, but I also commend Mr Smyth's amendment.

MR STANHOPE (Leader of the Opposition) (11.15): I want to make a few brief responses, Mr Speaker. I accept the point that has been made about consultation. I don't think there was any suggestion in the motion that I proposed that there would not be full and open consultation with representatives of indigenous people.

As we all know, within the Indigenous community, as there is within every other community, there is a range of tensions and disagreements. The Attorney has alluded to these. I think all of us in this place who take an interest in indigenous issues within the territory and who relate with the indigenous community are aware of the fact that there are differences of opinion and disagreements and tension, just as there are in most of the organisations and communities that we deal with. So there is nothing new about that, and of course there needs to be appropriate consultation with not just the representatives of Ngunnawal people but also the representative organisations of all indigenous people within the community. I just assume it is implicit in everything we do that there will be appropriate consultation; that we deal with issues in accordance with the consultation protocol that the government has in place and professes to abide by, so I think it's a given that there will be appropriate consultation.

Having said that, I have no difficulty with this motion being explicit about something that I image was implicit in any event, but I think the version suggested by Ms Tucker is much to be preferred. The notion that there would be the agreement of all groups, as Ms Tucker said, really does raise a whole new issue in relation to an appropriate formal method of consultation, and to some extent it invites division. I heard what the Attorney said about the need to seek consensus where possible, and the need for us to be respectful of the range of opinions that exist, but, for this Assembly to go out and say we will do something if we can get the agreement of every single person, in effect invites division. It seems to me to say, "Yes, we will agree to the erection of signs if every single person involved agrees to the erection of the signs."

Mr Humphries: It says groups, Jon, not persons.

MR STANHOPE: Groups. Fine. The Attorney say groups, but we haven't defined the groups. In a way it is a proposal that I find a touch offensive. To the extent that I think it almost invites division, it is almost designed to ensure that divisions that may exist in the broad community are exacerbated. It allows one of those groups simply to stand on their dignity and refuse even to work towards a consensus position. So "consultation" is much to be preferred to "the agreement". I think it is important that we not support Mr Smyth's amendment in its current form. I think Ms Tucker's amendment to Mr Smyth's amendment is quite acceptable, and the Labor Party would have no difficulty accepting that change to the motion to make explicit what we always imagined would happen in any event.

There are a couple of other points that I will make. The Attorney has some inside information on the activities of the reconciliation committee that were not available to me. I guess it is always disturbing to hear a government criticise the operations of an organisation such as the Reconciliation Committee for the Australian Capital Region. My awareness in relation to that committee's attitude to this issue was that they supported it.

The Attorney comes along now and says that perhaps it was not a very satisfactory process that arrived at the decision. That is news to me. I do wonder how the Attorney's intelligence on how the reconciliation committee operated on the day that it considered this issue and decided to support the notion of the erection of signs actually advances the debate. The Attorney says that neither of the co-chairs were in attendance at the meeting, but I am very aware of the views of Ms Matilda House, which I mentioned in my address to this motion.

Ms House, one of the co-chairs, is enthusiastic in her support for this notion. So the Attorney raises as an issue the fact that the co-chairs were not at the meeting of the reconciliation committee that said that they wanted this process to proceed, that they wanted signs erected.

Ms Matilda House, one of those co-chairs, is on the record as saying that she would like the signs in place before the Olympics in two weeks time. That is the view of one of the co-chairs. It is also the view, coincidentally, of the chair of the Ngunnawal Land Council, which role she also occupies. So I think there are some responses one can make.

The fact of the matter is that the Reconciliation Committee for the Australian Capital Region has endorsed the erection of signs at each of the borders of the ACT and in other appropriate locations throughout the ACT to indicate prior occupation of this area by the Ngunnawal people. That is the position of the reconciliation committee, it is the position of, as I understand it, both of the co-chairs of the reconciliation committee, and it is the position of the Ngunnawal Land Council.

I am pleased at the level of agreement within the Assembly about the appropriateness of this form of acknowledgment of prior occupation, and the particularly strong symbolic importance of this sort of action in the reconciliation process. I am pleased that the Assembly acknowledges that.

I am a little bit intrigued about the Attorney raising the issue of the Namadgi joint management plan and the need for us all to act in a bipartisan way. Two weeks ago I asked, through the Attorney's office, for a briefing by his department on progress with arrangements in relation to Namadgi National Park and I was refused. Quite frankly, Attorney, for you to stand here today and talk about the need for a bipartisan approach, and in that context raise the Namadgi National Park, when my staff approached your office two weeks ago and asked for a briefing on progress in relation to the Namadgi National Park joint plan of management and were told I could not be briefed because the issue was commercially confidential and too sensitive, does beggar your commitment to a bipartisan approach on indigenous issues within the territory.

Amendment (**Ms Tucker's**) to Mr Smyth's amendment agreed to.

Amendment (**Mr Smyth's**), as amended, agreed to.

Motion (**Mr Stanhope's**), as amended, agreed to.

DRAG-RACING—NEGOTIATIONS WITH CANBERRA INTERNATIONAL DRAGWAY

MR CORBELL (11.23): Mr Speaker, I move:

> That this Assembly, recognising the significant economic and social benefits drag-racing has brought to the ACT community, urges the ACT Government to enter into negotiations with the Canberra International Dragway to reach agreement for a suitable, permanent venue for drag-racing in the ACT.

Mr Speaker, this morning in Canberra 15 times Australian top fuel drag-racing champion, Mr Jim Reid, will be present outside the Canberra Centre with his Gregory's publication 5000-horsepower, 300 miles an hour, top fuel dragracer. Unfortunately, Mr Speaker, that is as far as he will get in the ACT at the moment.

Mr Speaker, the reason I am moving this motion today is that there is significant community of interest in the ACT that participates in a legitimate sporting activity which has no venue for that activity. We are all aware of the legal battles that have been fought between the Canberra International Dragway and the ACT and federal governments over the future of their drag-racing strip out near the Canberra Airport.

My motion today is not in any way intended to reflect on that battle. Instead, it is intended to send a positive signal from this Assembly on the need for a permanent drag-racing venue in the ACT—a venue which is suitable and a venue which provides those enthusiasts with a legitimate outlet for the pursuit of their sport and does so in a way which actually brings a beneficial return to the ACT community, both socially and economically.

The first part of my motion asks the Assembly to recognise the significant economic and social benefits that drag-racing brings to the ACT community. Mr Speaker, there is no doubt that drag-racing does do just that. It has been estimated that each year the ACT drag-racing facility, the Canberra International Dragway, brought in approximately $1.5 million in visitor revenue to the ACT.

The reason for that was that it attracted, by and large, a large number of competitors from interstate, particularly Sydney, which does not have its own drag-racing facility. Indeed, since the closure of the Canberra International Dragway, there has been no drag-racing facility in southern New South Wales, including Sydney, for enthusiasts to pursue their sport.

That is perhaps reinforced by the cancellation in February of this year of the world top fuel motorcycle drag-racing series. This series was held in Brisbane, Adelaide and Melbourne and attracted competitors from Great Britain, Europe, Scandinavia, the USA

and Australia. Unfortunately, Canberra missed out on this major international drag-racing event.

Mr Speaker, I am no revhead—I am sure that most people in the Assembly would recognise that—but I do recognise that it is important to provide in a place such as the ACT venues for people to perform and to experience their sports, the things that interest them, in a safe way. We do not have that at the moment.

That brings me to the second part of my motion, which is about recognising the social benefits that drag-racing brings to the ACT community. The provision of a permanent venue for drag-racing would allow people to pursue their legitimate sporting interests in a way which is safe and which does not have detrimental impacts on other members of the community. At the moment there is no legitimate outlet for drag-racing activity. I am sure that my colleague Mr Rugendyke would attest to the need to have outlets for people to pursue motor sport activities safely and keep them off our streets and away from our residential areas, where that sort of activity is unacceptable.

The provision of a permanent drag-racing facility would not only brings with it the significant economic benefit of around $1.5 million a year in visitor revenue, but also make sure that people had an outlet which was safe and which was away from those other members of the community who, understandably, do not like that sort of thing occurring outside their homes.

The ACT government really does need to get serious about finding a permanent location. This matter has dragged on for a long time. I understand that further legal action is being pursued by the dragway at this time. I am not interested in commenting on the legal aspects, but I am interested in getting a solution that meets the needs of drag-racing enthusiasts in the ACT and I am interested in this government getting serious about finding a suitable permanent location, not only for drag-racing but also for some other motor sport activities which are putting pressures on other parts of our community.

The continued growth of Summernats and the need to address the issues of Summernats, in particular the impact of noise on residential areas, have been raised by the organiser of Summernats and the co-location of drag-racing and other motor sport activity at a permanent new venue could be seen as taking the opportunity to come to terms with those issues.

I think it is incumbent upon the ACT government at least to consider the option and explore the option in serious negotiation with the Canberra International Dragway on what form of support it is prepared to provide to enable a permanent venue to be established. I understand that a report on a examination of potential sites was put together around five to six years ago and identified a number of sites, particularly one in the Majura Valley, which may have the potential for a permanent drag-racing facility.

I am no expert on the environmental, social and other aspects of those sites and I would expect those issues to be properly examined, but I do think it is important that the ACT government get serious about negotiating with the Canberra International Dragway to find and reach agreement on a suitable permanent venue for drag-racing in the ACT.

I understand that the ACT government has had one or two discussions with the Canberra International Dragway since the finding of the Federal Court a month or so ago. I am not sure what status those discussion now have, but I think it is important that this Assembly send a very clear message that it wants to see a solution to this problem, that it wants to see a solution that places these drag-racing enthusiasts with a suitable permanent venue for their activity which actually brings back the economic activity the territory has lost and which, at the same time, addresses the problem of dragracers, particularly some of the younger members of that community, going out onto our streets, rather than using a suitable purpose-built facility.

Mr Speaker, this is a positive motion. It is intended to send a clear message that this Assembly believes that it is absolutely important to have a permanent venue for drag-racing in the ACT so that we can restore not only the economic benefits but also the social benefits that come as a result of having this activity in the ACT.

MS TUCKER (11.33): I seek leave to move together the two amendments circulated in my name.

Leave granted.

MS TUCKER: I move:

> No 1—
> Omit "recognising the significant economic and social benefits drag-racing has brought to the ACT community".
>
> No 2—
> Add "which is sufficiently distant from residential areas to eliminate noise impacts and that could be leased by the dragway organisers at full market value.".

I have to be honest and say that the Greens have little sympathy for the so-called sport of drag-racing, which involves two vehicles at a time speeding as fast as possible down a straight quarter-mile track. Drag-racing is a supreme example of macho posturing over who has the most powerful and loudest vehicle and who can burn out the largest amount of tyre rubber. There is really no race involved; it is just a matter of which vehicle can accelerate faster, because by the time the dragracers have reached top speed they have virtually reached the end of the track and have to slow down again.

This sport is a waste or petrol and rubber and is a huge generator of noise. It adds nothing to improving the quality of life of the broader community or to ecological sustainability. Therefore, I cannot accept the implications of Mr Corbell's motion that drag-racing is somehow making a significant contribution to life in the ACT. The fact that drag-racing events generate revenue is no reason for encouraging them. I believe that we have to be a bit more discerning than that in assessing the contribution of a particular activity to human welfare.

No attempt has been made in the motion to acknowledge that drag-racing also has significant noise impacts and that there is a need to balance the rights of those people who want to participate in drag-racing against the rights of other residents not to be disturbed by this activity.

I am aware of the legal dispute between the government and the dragway organisers about leasing the current dragway next to Canberra Airport and that the dragway recently lost its claim to have the lease for the dragway extended, but I am not in a position to judge the merits of the case. I understand that the dragway feels that it has been hard done by and wants the government to make some redress for the loss of the lease, but I cannot support this motion as it is because of my fundamental concerns about the nature of the activity. I am therefore putting up some amendments which set some conditions on the negotiations called for.

In my first amendment I have sought to omit the preamble to the motion as it is really just a value judgment about the benefits of drag-racing which is unsubstantiated and unbalanced. Secondly, I do believe that if there is to be a dragway in the ACT, then it must fulfil two requirements. One is that it be located in a place that will have no noise impacts on existing residential areas. Members would be aware of the continuing dispute between the other motor racing venue in the ACT, Fairbairn Park, and residents of the Ridgeway in Queanbeyan over racing noise.

Mr Stefaniak: About three people.

MS TUCKER: There is also the annual dispute over the Summernats involving the residents of Watson and Dickson, and it involves more than three people. Mr Stefaniak interjects that it is about three people.

Mr Stefaniak: Three people at the Ridgeway, Ms Tucker.

MS TUCKER: He says that it is about three people at the Ridgeway. I think there are more than that. There are certainly a lot more than that in Watson. Not least is the new dispute regarding the location of the V8 supercar race right in the centre of Canberra. I do not want to be party to the creation of another inter-resident dispute over motor racing.

The other requirement I have is that the dragway must be financially self-supporting. I do not believe that drag-racing warrants government subsidisation through the provision of free or cheap land. If drag-racing is such an attractive activity that it is providing economic benefits for the ACT, then it should be able to generate its own funding and not rely on government welfare.

MR STEFANIAK (Minister for Education) (11.37): Mr Speaker, I will address the substantive motion first and look at the circulated amendments later. The only comment I would make at this stage in relation to Ms Tucker's amendments is about the reference to eliminating all noise impacts. I would point out that lots of studies done by David Lamont as sports minister and by my bureau since I have been sports minister have indicated that it probably would be impossible to eliminate noise impacts. I think you can minimise them. I simply make that point, but I do stress that we will be considering those amendments later.

In addressing the substantive motion, I accept that there is probably a lot of politics in what Mr Corbell is doing today—I will come to that in a minute—but I do not think that there is any great drama in it for the government as we are, in fact, already looking for

a suitable permanent venue for drag-racing in the ACT. Indeed, we have been looking for suitable permanent venues for motor sport generally in the ACT.

I have been aware since 1989 of problems in relation to Fairbairn Park, problems that have emanated from a very small bunch of elitists up in the Ridgeway. I think that it was quite reasonable for the residents of that place to be concerned about something like an Indianopolis 500 being put on at the old police driver training track at Sutton, which was proposed in about June 1990. It was not quite for an Indianopolis 500 facility, but it was certainly going to be a major facility and I was very keen to see it happen, along with Mr Arthur Hoyle from the Motorsport Council.

I can understand lots of people having concerns about that. I think that it is reasonable to have such concerns. Whilst it would have been an excellent facility, it did not go ahead. That took place in the course of the Alliance government. After that every effort was made—in fact, perhaps too much effort was made—to pander to the wishes of a very small number of people in a part of New South Wales.

I have been involved in this issue for 10 years. To my understanding, once the big proposals went by the wayside, the vast majority of the members of the Ridgeway were quite comfortable with what was at Fairbairn Park. Only a couple of people who seem to have an obsession with Fairbairn Park have been responsible for virtually all the complaints. Actually, they have cost the ACT's environment protection agency quite a lot of money over the years.

I would hope that the problems of Fairbairn Park have been resolved largely as a result of legislation passed in the dying days of the Third Assembly. Indeed, what happened then was reasonably acceptable to the motor sport people. I think they were quite comfortable with that provided it worked well. We had some argument about whether a 10-decibel limit would be better, but at the end of the day they were reasonably comfortable with what was proposed for there provided it worked well.

To date, and I see motor sport regularly, it has worked fairly well and I commend my colleague the Minister for Urban Services, who is the minister for the environment, for his efforts there. I think Mr Smyth has ensured that it works well and I trust whoever replaces him at whatever stage as minister for the environment will continue to do so because it does mean that the environment protection people have to do their job well and the system is quite reasonable if it works well. To date, it has and the motor sport people are pretty comfortable with it. I give full credit to Mr Smyth and his department for that.

I do not think Ms Tucker should talk to me about Fairbairn Park and the Ridgeway. I might say that I have not heard of any complaints from Oaks Estate in the ACT, which is actually closer, or other parts of Queanbeyan for several years. The motor sport people also have been making a very big effort to get their house in order and make improvements, and significant improvements have been made at Fairbairn Park.

Yes, it would be nice for everyone if there could be a better facility. That is certainly something we have done some work on and looked at. Yes, it would be nice for the drag-racing people if they could be part of that or some other facility. They are at the airport.

My understanding is that it was always to be a 10-year lease. I am not going to go into the ins and outs of that because it is before the court; but, quite clearly, the facility there had a limited lifespan. That is why the ACT government is, I am assured by my colleague the Minister for Urban Services, in fact looking for suitable permanent venues. That is actually happening and that is why the government is happy to support Mr Corbell's motion.

However, I think Mr Corbell probably did run off at the mouth a bit earlier on in relation to this matter. He has been somewhat embarrassed by the court action to date. I know that it is under appeal; I am aware of that. But we do have on the Supreme Court a learned judge who recently dismissed the legal action in relation to the Australian Capital Territory. I do not actually know what was said in relation to the Commonwealth.

Indeed, my colleague Mr Smyth can take great heart from the comments of the learned judge. I have not actually seen judges comment in this way for quite some time in relation to a government minister. Justice Cooper actually said:

> Having regard to the existence of the declaration of the land as national land, of which I find he was aware, the minister, acting honestly or honestly and reasonably, could not have concluded that the land was not required for a national land purpose.

I think there is a very good vindication of Mr Smyth and the territory there. That does, however, highlight in a rather glaring manner that the handling of that issue has been a bit of a disaster for Labor, the so-called alternative government. Really, I think that Mr Corbell should look very hard at that and not run off at the mouth so quickly in future. He did say on 30 June last year:

> If I had been the Minister I would have lived up to my obligations and the obligations of the ACT government and I would have made the determinations that the Territory is required to make under the dragway lease. That is what I would have done, and that is what any reasonable and fair government would do.

He went on to say on the same day, almost giving a legal opinion:

> ... under its current leasing arrangements it is entitled to the renewal of its lease next to the Canberra international airport site for 10 years. That is what it is legally entitled to and I am confident that the dragway will be successful in its action against the Government.

Very incautious words were spoken there because the judge had a different view. In fact, had the other side been in government and Mr Corbell been the minister, not only would he have ended up with egg on his face but also, quite clearly, if steps had been taken by the dragway to start building things there, the territory could have been faced with a significant compensation bill. I think it is very important for people to be a bit circumspect in this regard. When you have the government's solicitors and PALM giving legal advice, it would be handy to take it into account, rather than blindly ignoring it. We are seeing what has happened.

Whilst I appreciate what members of the opposition are actually doing here in their support for the dragway, which is much greater support for motor sport generally than I have seen in this place for some time, I think they do need to exercise caution in what they say and what they actually do. In fact, I wonder what action they have taken other than just bringing this matter to the Assembly and criticising the government. For example, I wonder whether the opposition has done what I did and what I think was done by my colleague Mr Smyth, who is nodding his head, and actually write to the relevant federal departments when the issue was first raised some years ago.

I wrote to the Minister for Defence, to some bureaucrat in Defence, to Jackie Kelly and to Margaret Reid as President of the Senate enlisting their support in doing all they could to assist the dragway in terms of getting that lease, which was a Commonwealth lease, reassigned to the dragway for 10 years. I wonder whether the opposition did that, too. I have some knowledge of this matter, having gone through it with them, and to my mind—I am expressing a personal view here—it is very much a matter for the Commonwealth, and I would think fairness would dictate that the Commonwealth should redo that lease and, whatever flows from that, so be it.

I am not going to go into that because I am uncertain as to the status of the appeal and what the learned judge said in relation to the Commonwealth part of it. But, quite clearly, I would be delighted if it ended up satisfactorily for the dragway in terms of the Commonwealth. Ultimately, whatever happens to the court case, the dragway will not remain at Fairbairn down the track. Fairbairn is developing and it would seem unlikely, given the attitude of the Commonwealth in this matter and whatever happens to this renewal, that it will go past there. The initial lease, at any rate, was for 10 years. So there is a very real need to look at other facilities, other suitable permanent venues, not just for drag-racing but for motor racing generally.

It is quite clear to me that motor sport in general is a very popular sport, as we have see from the V8 supercar race. Our Chief Minister was completely vindicated in her efforts to get that race. People love motor sport. It is one of the biggest sports followed by people in Australia. Drag-racing is very popular. I have been out to the track on a number of occasions. Lots of people like it. Lots of ordinary, average, law-abiding, decent Canberrans go out there and enjoy it.

I completely disagree with the rather negative and, I would say, elitist comments made by Ms Tucker in relation to that sport. From what I can see, it is well run and lots of people like it. *(Extension of time granted)* It is a question of balancing rights and lawful activity, and motor sport is a lawful activity. Balancing rights means doing just that, not coming down overly much in a heavy-handed way on one side or the other. Surely that is wrong. Ms Tucker believes in consultation. I would hope she believes in a fair go for all.

Ms Tucker: I am not saying ban it; I am just saying do not pay for it.

MR STEFANIAK: It does not sound like it, Kerrie. I think we do need a fair go for everything here. Blind Freddy could tell you that drag-racing brings significant economic and social benefits to the ACT community, as does motor sport generally. We have no drama with Mr Corbell's motion, although I think it has very much a political slant to it. The timing of this motion might be important to an event later today. My comments to him would be: next time, think it through a lot better than you have and give a lot more

credence to what the legal experts and the planners actually say. They are experts and they do have a lot of expertise.

MR SPEAKER: Order, please! Before I call Mr Berry, I would like to acknowledge the presence in the gallery of students from the CIT who are undertaking a year 12 course. Welcome to your Assembly.

MR BERRY (11.49): Mr Speaker, I move the following amendment to Ms Tucker's proposed amendment No 2:

> Omit all words after "eliminate noise impacts".

Labor will be opposing the first amendment proposed by Ms Tucker. I will deal with those amendments first.

As you would expect, Ms Tucker has been consistent on this issue. If she were to agree to any motion which recognised anything beneficial about drag-racing, her supporters would eat her alive. It is fair to say that drag-racing is not an environmentally friendly sport. In a perfect world in which we were all conducting environmentally friendly activities, drag-racing would not be there. But it does have significant economic and social benefits, as has been described by my colleague Mr Corbell, not the least of which is the economic benefits which have been denied the territory by the inaction of the Carnell government.

If there were a sport called duck shoving, this government would be well out in front through trying to dodge responsibility for this issue. If this government had been as sympathetic to the needs of the drag-racing community in the ACT as they have been to their friends at the Canberra International Airport, then I can assure you that there would be drag-racing happening now either at that site or somewhere else. Those are the facts of the matter.

If you had been as sympathetic to the punters who are using the drag-racing strip as you have been to your mates out at the Canberra International Airport, people would be buzzing up and down a one-quarter of a mile course either where it is today or where it might have been, subject to your sympathies. The trouble is that you did not have sympathy for this issue; you had more sympathy for your mates. If there were a drag-racing strip for duck shoving, you would be way out in front.

You have demonstrated that you were not sympathetic to the needs of the people who wanted to operate this facility. It is a facility, incidentally, that has not cost the government a cent. It has been built out there by ordinary punters who want to race their red-hot motor cars. There has been no provision of $7 million for a V8 car race out there. The races were returning money to the territory without the government putting any money into them. In fact, the organisers did not want any help from the government, because they knew that they would have obligations to the lot opposite once they took the money.

Mr Stefaniak: They have had some financial assistance, Wayne, but not a huge amount. I cannot remember the figure.

MR BERRY:. They have had some assistance; okay. I can remember some subsidies—I do not know whether they were anti-smoking, anti-drinking or something like that—coming from the health portfolio ages ago, but they were minor. I also remember the police promoting drag-racing. They had their own drag-racing car and they used to go out there with it to encourage people to drag-race on this strip, rather than on the streets, and they were doing a good job. The social impacts of this form of racing are well known. It gets youngsters and older fellows, mostly, off the streets; although Ms Splatt, the leading drag-racing woman in the country, would say that she has broken that mould, and she has.

Mr Speaker, drag-racing was something that members of the government have had no sympathy for. They cannot pretend that they have it all of a sudden. They had sympathy for their mates out at the airport. Terry Snow did not want this drag strip there and he got his way. That is essentially what happened. Of course, if the government had taken an entirely different view, we would not be having this debate today; so quit the duck shoving and cop the responsibility.

Mr Speaker, there have to be negotiations with this group. I know some of the people who are connected with this sport and I know that they have a strong commitment to their sport. These people are small operators in the scheme of things. They are nothing like the people from the V8 supercar race who have a reputation for bending the figures to suit themselves. These people are ordinary ACT punters who have not had a dollar from government and who have been out there—

Mr Humphries: That is not true.

MR BERRY: Okay, for some promotions, but they built the dragway with their own vehicles and their own equipment. They built the thing themselves.

Mr Humphries: Didn't they build it when you were in office?

MR BERRY: I do not know whether it was when I was in office.

Mr Humphries: I think it was while you were in office. You did not support them.

MR BERRY: They did it themselves. They did not ask for any support.

Mr Humphries: Oh, they did not ask for any support!

MR SPEAKER: Order! I do not want cross-conversation.

MR BERRY: They did not ask for any support because they are committed to their sport and they were providing a return of $1.5 million a year to the ACT community which has been cut off because of your particular sympathies. That is what it is all about; it is because of your particular sympathies. If these people had had your endorsement, as your mates at the airport have had on several other matters, they would have been racing their cars and $1.5 million would have been flowing every year into the territory. Stop denying it; everybody knows it. It is too late for you to ignore your lack of contribution to this sport.

I want to see the building of another motor sport facility which does not impact on the community. I want to see it built away from the community so that it will not cause any disquiet. Motor racing is noisy by its nature but it is also regulated by its own set of rules to limit noise impacts. We must adhere to the Environment Protection Act in the ACT. Whilst I support Ms Tucker's sentiments in relation to noise impacts, we are never going to get rid of all of them; but one expects that people should be protected by the Environment Protection Act in the same way as anybody else is protected.

I do not endorse the minister's comments about our Queanbeyan friends. They are as entitled to protection from environmental hazards as anybody else. To slam them here merely because they are not voters is a little rough and unnecessary. At the end of the day, a motor sport facility will have to be found in the ACT to provide for this outlet, if you like, for ordinary punters in the community, otherwise we will be faced with the problems of street racing and those sorts of things that other communities have faced in the past.

I think that is something the government should have thought about before they were so quick to hand out $7 million, $11 million or whatever the total will be for the V8 supercar race. If you had talked to the motor sport people in the ACT and given them the choice, I know what most of them would have done. They would have taken the money and had a facility of their own away from the community so that they can participate in their sport.

The people who participate in this activity as a form of recreation are not big business men and women. They are the ordinary punters out there who like to go fast. We live in a racy world and we have to accept that that is an ordinary part of life in the community. We worship the motor car, some of us more than others. Ms Tucker has indicated that she does not like them as much as some others in this place. Whilst I may have been a wannabe, I would never have gotten around to drag-racing. My motor cars would not be much good in that sort of event these days; you would beat them in a good pair of sandshoes.

The issue here is where the government's sympathies lie. What we are trying to do is to highlight here the need for the government to have some sympathy for this sport which makes a contribution to our community. It does not suit everybody, but it suits lots of people out there. It brings business to the ACT and creates jobs. The wishes of all those people who build engines, race cars and provide accommodation for people who visit the place ought to be respected.

It is about time the government at least matched the sympathy that it has given to the Canberra International Airport and provided a venue for these people. It should enter into negotiations with these people and show good sense in dealing with the issue, rather than having the Mexican stand-off that has been created and endorsed mostly by the government. *(Extension of time granted)*

On the issue of the leasing of a venue by dragway organisers being at full market value, there have to be negotiations with the ACT government now that they apparently have some newly found sympathies. I do not want to predict what the outcome would be. It would be wrong of me to try to do that in a dollar sense from this side of the chamber, but the negotiations would have to take into account the investment and commitment that

have been given to the drag strip that is out there. In that sense, the full market value argument put by Ms Tucker would constrain the government in its negotiations.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.00): Mr Speaker, I must say that I was delighted to have Mr Berry rise in this place and suggest, in effect, that everything the Labor Party had said in the past about how a government must obey the law, must recognise the law, must not break the law is now all going out the window. Apparently, it is now all right to ignore the views of courts and the law as made in the courts.

Mr Berry: I did not say that.

MR HUMPHRIES: I think that is what you did say, Mr Berry. We had a very clear decision from Mr Justice Cooper of the Supreme Court on 26 July this year that the ACT government did not have the power to grant a lease over that land. Mr Berry is running away, as he usually does when the pressure comes on. Oh, he is coming back now; wonderful!

Mr Quinlan: He knows what you are going to say.

MR HUMPHRIES: I know; that is why he is leaving. I am aware of that. In other words, had we granted a lease, as urged by Mr Corbell and others at the time that he raised these issues in the debate last year, when we had no power to grant the lease, we would have been breaking the law. Yet Mr Berry, who has time and again excoriated us on this question of breaking the law, now says, "Go ahead. Forget the courts; what do the courts know? Just get in there and do what you have to do. Stop the duck shoving; just get in there and do what you have to do. Forget about this pesky problem about the law."

Mr Speaker, I am surprised that the Labor Party has raised this matter. I am not surprised that most of the members of the Labor Party have abandoned the chamber, because they know what I am going to say about this matter. The fact is that the government's actions in this matter have been completely vindicated by the decision taken in the Supreme Court last month. Every decision that Mr Smyth took as planning minister in respect of that site has been affirmed by the Supreme Court. Mr Justice Cooper said, and this is a fairly unusual sort of statement to get from a judge of the court:

> Having regard to the existence of the declaration of the land as national land, of which I find he was aware, the minister, acting honestly or honestly and reasonably, could not have concluded that the land was not required for a national land purpose.

That is absolutely crystal clear. We should be thankful for the fact that Mr Corbell was not sitting over here as planning minister to grant a lease, which he said he would have done if he had been in Mr Smyth's shoes, which the Supreme Court has found was beyond the powers of the ACT government to do. That is what the court found, Mr Speaker.

Apparently, this matter is now going on appeal to the Federal Court. The advice to me from the Government Solicitor's Office is that the result is extremely unlikely to be changed as a result of that matter going to appeal. In other words, the government's

decision not to grant a lease has been appropriate; there is no question of duck shoving or refusing to make a decision.

Mr Corbell: You don't grant the lease.

MR HUMPHRIES: You know perfectly well, Mr Corbell, what the decision says and you know perfectly well that the government had no power to do what you urged it to do. That was the effect of the court's decision.

Mr Corbell: It is on appeal and you know that.

MR HUMPHRIES: You were very emphatic before that the government was wrong. Are you now prepared to continue to argue that the government was wrong, notwithstanding what the Supreme Court has decided?

Mr Corbell: All I am saying is that the matter is on appeal.

MR HUMPHRIES: We will see. I think we have got a concession from Mr Corbell. Mr Corbell finds the Federal Court deciding—

Mr Corbell: You can think whatever you like, Mr Humphries.

MR HUMPHRIES: Yes, I know, and I probably will, Mr Corbell. But when the Federal Court finds as the Supreme Court found, and the advice of the Government Solicitor is that it will find in that way, I assume that Mr Corbell will come back to this place and concede that what he argued the government should do was inaccurate and wrong.

Mr Speaker, the government's position with respect to the amendments before the house is that it will oppose Mr Berry's amendment and support the second of Ms Tucker's, but not the first. As far as the first of her amendments is concerned, I am not sure what the extent of economic benefits and social benefits might be from drag-racing, but I concede that there would be some economic benefits to the ACT and they ought to be acknowledged. We have said as much in the past. Although we do not concede that they are of anything like the same economic order as the benefits of something such as the V8 races that were held here early this year, we certainly think that it is worth acknowledging that there are some benefits entailed in drag-racing.

As far as the second amendment is concerned, let me emphasise most emphatically that I think that it is appropriate to conduct these negotiations on the basis that the government assists to some degree, but not to the extent of providing subsidised land for the purposes of these operations. I think it is appropriate in these circumstances to offer the land at full market value and also to be fully cognisant of the noise impacts which drag-racing can have in this community.

We have worked hard to try to find some solutions to problems of motor sport racing in general in this community. I remind members how very emphatic Mr Corbell was as environment spokesman for the Labor Party in, I think, the last Assembly when it came to the issue of how the government must not compromise the question of motor racing noise impacts on the people of Queanbeyan, in particular those in the Ridgeway.

I think that Mr Corbell ought to consider carefully whether he should now put aside this question of the noise impact, as he proposes to do presumably by supporting Mr Berry's amendment to eliminate the effect of the amendment of Ms Tucker. I think that there is a case for ensuring that we do proceed on the basis that we eliminate noise impacts, and that we provide the lease at full market value and I think that we ought to ensure that we get with that a reasonable basis on which to proceed on a permanent basis with drag-racing in the ACT.

Mr Speaker, the government will continue to do what it has done to date, which is first of all to accept the state of the law, which is that we cannot provide for the issuing of any further leases over the land previously occupied at Fairbairn. Secondly, we will continue negotiations and discussions with the drag-racing organisation on an alternative site. Therefore, the motion that Mr Corbell has moved is, in a sense, quite redundant in that exactly what is being urged in the form of his motion now before the chamber is already being done and has been being done for some.

I wrote to Mr Devlin some time ago inviting him to hold discussions with the infrastructure and asset management group of my department and I understand that those discussions have been proceeding. I might indicate that the present discussions are centring upon lot 6/11 in the Majura Valley or an area close by that area. I am not sure at this stage how that conforms with the noise impact implications of Ms Tucker's amendments, but I certainly think that it is worth exploring a suitable site in that region. That is certainly the kind of area which has been suggested by the people from the Canberra International Dragway, so I assume that it is an area or an offer that they could live with.

Mr Speaker, I affirm that it is important for us to be able to negotiate a suitable outcome based on the law of the territory as it has now been clarified by the Supreme Court and to find some basis on which to settle this outstanding matter.

MR QUINLAN (12.10): Mr Speaker, I will not take long. I was very pleased to hear Mr Humphries. I think what I heard was that he virtually agreed with everything in the motion and wanted to have a previous debate in relation to a specific lease. I am rather disappointed that we have to go through the ritual with Mr Humphries nearly every time of creating straw men which are then to be destroyed.

I do not have the benefit of the detail of the judgment brought down in the Supreme Court, but I do not think that it did preclude the government from getting on with the job of sorting out the problem. It may have made some specific references to a lease, but I do not think that there is any mention of a specific lease in Mr Corbell's motion. However, Mr Humphries took up the time of this place effectively arguing with himself, as he does so often. If he keeps up with it, he may well go blind.

I have to agree with the person on a call-back program that the ABC was running today on one other issue who referred to the fact that this government thrives on claims of revenue generation for whatever stunt or event it happens to be fostering. The government uses the most exaggerated figures when it suits; but all of a sudden the figures that are being put forward, apparently unchallenged, at this stage for revenue generation by drag-racing in the ACT are not particularly relevant. I find that rather interesting.

I refer now to Mr Stefaniak's accusation that Mr Corbell has involved himself in some political stunt today. Here we have Mr Stefaniak, a minister in the Carnell government which lives day by day on stunts and photo calls, accusing Mr Corbell of putting on a political stunt. Mr Stefaniak, give us a break! The budget brought down in this place this year has $3 million worth of so-called building social capital funding for 19 programs, at minimum 19 stunts and photo calls; so please, of all people, for any minister of the Carnell government to accuse anybody else of involving himself in a political stunt is to really stretch the credibility of this house.

It may well be that drag-racing could go a lot further if the promoters could strap Mrs Carnell into one the vehicles wearing a pretty suit and a multicoloured helmet and get five cameras out there. One zip and there would be a couple of million dollars, not a problem in the world. Please do not accuse other people in this place of putting on political stunts. I challenge members opposite to go outside at lunchtime and tell the drag-racing people themselves that they are putting on a political stunt today.

MR SPEAKER: Ms Tucker, I propose to split your two amendments, if you are happy with that, as it is tidier to do so. Therefore, I put the question: That Mr Berry's amendment to Ms Tucker's proposed amendment No 2 be agreed to.

MR CORBELL (12.14.): Mr Speaker, I am pleased that there appears to be some agreement from the government that it is important to support this motion. I am pleased to hear that the government does believe that significant economic and social benefit is derived from those people who participate in drag-racing activities and I am pleased that the government believes that it is important to negotiate for a suitable permanent venue.

But what did we actually hear from the government, apart from saying that they thought this was a good idea? They kept on saying that it was a good thing, but what did they actually do to demonstrate that they had actually done anything to make it a good idea and to turn that good idea into some reality? Mr Speaker, all we heard was that there had been some negotiations to date, but the government really did not have any clear ideas. I must admit that there was a somewhat half-hearted response from the government on this issue.

The very purpose of my proposal this morning is to make sure that it is more that just half-hearted, to make sure that it is more than just a paltry attempt to address the concerns that have been legitimately raised by the Canberra International Dragway. Hopefully, following the passage of the motion this morning, the government will adopt with some more vigour the need to address this issue.

I want to respond briefly to a comment made by Mr Humphries. It is almost inevitable that you have to in any debate in this place. Mr Humphries should have a very clear understanding that the amendment moved by Mr Berry recognises the need to do everything possible to eliminate noise impact. We support that half of Ms Tucker's amendment No 2. Mr Humphries is quite wrong when he suggests that the Labor Party does not believe that noise impacts have to be addressed; of course they do.

The Labor Party has been consistent in the approach that it has taken in relation to Fairbairn Park and the impact of noise on people at the Ridgeway, across the border in Queanbeyan. I must say in relation to Fairbairn Park and the Ridgeway that I am sure Mr Stefaniak, as the minister for sport, would not be half as virulent if they actually voted in the ACT. Perhaps the convenience of an arbitrary line between Fairbairn Park and the Ridgeway makes all the difference to the level of vitriol that Mr Stefaniak levels in this place at those individuals, but I am sure that members can judge that for themselves.

Mr Speaker, the amendments to be moved by Mr Rugendyke are ones that I will welcome. He recognises that it is not just about drag-racing, but it is also about other motor sport activities that are having detrimental impacts.

Mr Stefaniak: Read my comments about the McKellar sports club, where I was critical of some local residents in my electorate.

MR CORBELL: I do not know where that came from, Mr Speaker. Obviously, I hit a nerve. Mr Rugendyke understands that there are issues such as Summernats that do have impacts on nearby residential areas and that it is simply not tenable for the future as far as we can predict to have that event continuing there if it continues to grow and if it continues to create problems with noise and other issues that are of concern to people in nearby residential areas.

We have to learn and work at new ways of accommodating that sort of event in a way which does not have the impact that increasingly it does on residential areas. At least Mr Rugendyke has brought a sensible approach to this debate and I thank him for his proposals. Certainly, the Labor Party will be quite prepared to support Mr Rugendyke's amendments.

Mr Speaker, the bottom line is that drag-racing is a legitimate sporting activity. I am no revhead but, I recognise that the people who undertake those sorts of activities have the right to undertake them in a safe manner and in a manner which does not impact on other residents of the city in a detrimental way. I have moved this motion to ensure that we have a permanent, safe and suitable venue for drag-racing in the ACT.

I thank those members who have indicated their support and I commend the motion to the Assembly.

Question put:

> That amendment No 1 (**Ms Tucker's**) be agreed to.

The Assembly voted—

Ayes, 1	Noes, 16
Ms Tucker	Mr Berry Ms Carnell Mr Corbell Mr Cornwell Mr Hargreaves Mr Hird Mr Humphries Mr Kaine Mr Moore Mr Osborne Mr Quinlan Mr Rugendyke Mr Smyth Mr Stanhope Mr Stefaniak Mr Wood

Question so resolved in the negative.

Amendment negatived.

Question put:

That the amendment (**Mr Berry's)** to proposed amendment No 2 (**Ms Tucker's**) be agreed to.

The Assembly voted—

Ayes, 6	Noes, 11
Mr Berry Mr Corbell Mr Hargreaves Mr Quinlan Mr Stanhope Mr Wood	Ms Carnell Mr Cornwell Mr Hird Mr Humphries Mr Kaine Mr Moore Mr Osborne Mr Rugendyke Mr Smyth Mr Stefaniak Ms Tucker

Question so resolved in the negative.

Amendment negatived.

Amendment No 2 (**Ms Tucker's**) agreed to.

MR RUGENDYKE (12.25): Mr Speaker, I seek leave to move my amendments together.

Leave granted.

MR RUGENDYKE: I move:

> No. 1—
> After "Dragway", insert "and other representatives of Motor Racing in the ACT".
>
> No. 2—
> Omit the word "drag" (last occurring), substitute "motor".

I believe that it is important to support Mr Corbell's motion because of the benefits that the drag-racing industry and motor racing in general bring to the ACT. I share the sentiments of Mr Corbell and others about the problems that have been experienced by the drag-racing industry and I do believe that it is important that the rest of the industry not be let down.

My first amendment seeks to include other representatives of the motor racing industry in the ACT in negotiations for a site for motor racing. I think that Mr Henry of Summernats would be interested in being included in those discussions. It might be applicable to other specialty areas of the motor racing industry, such as motorcycle racing, go carts and hill climbs, as well as drag-racing. Mr Speaker, I think it is important to include those.

I seem to recall that a report has been done on identifying an appropriate site for motor racing. As I recall, the report was done by the Bureau of Sport, Recreation and Racing in about 1991 and it did identify a site in the ACT directly north of the airport and south of the old police driver training unit and the secret squirrel sheds there.

Mr Kaine: Right in the middle of the artillery range. You will have to dodge the shells.

MR RUGENDYKE: It was to be south of the artillery range, Mr Kaine. If I had a vision for motor racing in the ACT, it would be that a whole range of motor sports could be amalgamated in one area, dovetailing together in one large area. If that could be arranged, I believe that the failure of the Eastern Creek racetrack could be gazumped by the ACT and the ACT would be able to host many magnificent motor racing sports here, drag-racing included.

Mr Speaker, my second amendment seeks to take the word "drag" out of the motion and substitute "motor". I think that is also appropriate for my vision, if there is one, to have a permanent venue for motor racing as a whole in the ACT. It may be difficult for agreement to be reached on a suitable permanent site, but I would certainly hope that that could be achieved. Mr Speaker, I commend my amendments to the house and thank others for their support.

MR SPEAKER: Mr Rugendyke, standing order 140 reads:

> Every amendment must be relevant to the question which it is proposed to amend.

Your amendments are out of order because they broaden the scope to a much greater extent than I believe the existing motion would allow. However, there are two options for the Assembly, as I am conscious of the fact that a couple of members of the Assembly have already made mention of your foreshadowed amendments. Mr Rugendyke, you can at some time in the future put a substantive motion on the notice paper or the Assembly can, if it wishes, suggest that we put aside standing order 140 in this matter and allow your amendments to come forward now. It is up to the Assembly. I just need a motion on that point. What is the wish of the Assembly?

Suspension of Standing Orders

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

> That so much of the standing orders be suspended as would allow Mr Rugendyke's amendments to be considered.

MR STEFANIAK (Minister for Education) (12.31): I will be very brief, Mr Speaker. The government is quite happy with Mr Rugendyke's first amendment. The second one might be a bit of a problem simply because the motion as it currently stands talks about leasing a site to the dragway at full market value. Whilst the dragway is a commercial concern, the vast majority of motor sport in the territory is not a commercial concern. It is like any other amateur sport.

Clearly, if a suitable permanent site for motor racing generally were to be found, some consideration would need to be given to those amateur clubs, just like it is given to any other amateur sporting group where the government actually kicks in with some financial assistance. I think that the second amendment might well lump in motor sport generally with what is, at the end of the day, a commercial operation.

The bureau has, as Mr Rugendyke said, done some extensive studies on eliminating noise impacts. Whilst we can certainly minimise a lot of the noise impacts, I do not know whether we could completely eliminate them if we lumped in all of the motor sports and that, again, might be a bit of a problem.

The government is quite happy to support the first amendment. It can see no drama at all arising if other representatives of motor racing are included in terms of looking for a site for drag-racing. I think that it would be important if it were a different site from where motor sport generally might be looking. But we do see a few problems with lumping in all of motor sport, especially as most of the bodies are amateur; so we would not support Mr Rugendyke's second amendment. I share his aims and appreciate where his heart lies in terms of this matter, but I think it might cause undue problems if that amendment were to get up.

MS TUCKER (12.32): I support the sentiments of Mr Rugendyke's amendments. I think that it is important that we find a site for motor sport generally in the ACT. Obviously, the amendments that I put should apply to motor sport in general. I must say that I was very interested in Mr Stefaniak's comments about people at the Ridgeway. Basically, his interjection was that even if it were in his electorate he would not care because it was from only three voters. If that is how the minister thinks—

Mr Stefaniak: No, not quite. It involves three people; that is a minority.

MS TUCKER: Three people, right. What he is saying is that he, as a minister of this government, does not actually look at the issue on the merits of the issue; he looks at the number of votes. That is a very interesting comment.

Mr Stefaniak: I take a point of order, Mr Speaker.

MR SPEAKER: I am about to suspend the Assembly for lunch and this matter can be taken up afterwards.

MS TUCKER: Basically, I think that Mr Rugendyke's amendments are good ones and I support them.

MR SPEAKER: I understand that it is the wish of the Assembly to suspend the sitting for lunch.

Mr Corbell: I think that we can resolve the motion now.

MR SPEAKER: I am entirely in the Assembly's hands. Is it the wish of the Assembly that I put the question on each of Mr Rugendyke's amendments seriatim? There being no objection, that course will be followed.

Amendment No 1 (**Mr Rugendyke's**) agreed to.

Question put:

> That amendment No 2 (**Mr Rugendyke's**) be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Motion, as amended, agreed to.

PERSONAL EXPLANATIONS

MR STEFANIAK (Minister for Education): I am sorry to do so at this hour, Mr Speaker, but I wish to invoke standing order 46 to make a personal explanation.

MR SPEAKER: Proceed.

MR STEFANIAK: Thank you. Ms Tucker indicated that, because there were only three votes in a issue, that had affected my attitude. That is why I said what I did, Mr Speaker. In saying that there are about three people in the Ridgeway who complain regularly about motor sport noise at Fairbairn Park, my comment in relation to that is that I find the attitude of three people who affect the enjoyment of thousands to be somewhat distasteful and something I do not agree with. It has nothing to do with votes. Also, there are a large number of people in the Ridgeway who are quite happy with the arrangements at Fairbairn Park. It has nothing to do with votes, Ms Tucker.

The point I made to Mr Corbell in relation to that matter when I raised the issue of the McKellar soccer club was that I am quite happy to disagree with people in my own electorate and say so publicly, regardless of whether they vote for me or not, if I believe in something strongly enough; so I resent the insinuations of both members, which is why I have made this personal explanation.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, I seek also to make a personal explanation under standing order 46.

MR SPEAKER: Please proceed.

MR HUMPHRIES: In the debate earlier about Aboriginal reconciliation, I indicated that I understood that the two co-chairs of the regional reconciliation committee were not in attendance at the meeting at which the proposal about signage was brought forward. I have been advised since that, in fact, one of the co-chairs, Mr Wilson, was indeed present at the meeting, and I apologise for my error.

Sitting suspended from 12.39 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Bruce Stadium—Olympic Football

MR STANHOPE: My question is to the Chief Minister. In September 1997 the Chief Minister told the Assembly the cost to the ACT of hosting Olympic soccer in Canberra was in the order of $10 million. That figure was confirmed by her spokesman in a report in the *Canberra Times* on 30 September last year. On 1 October the *Canberra Times* reported the figure was closer to $13 million, given the added cost of security services. This morning the Chief Minister told ABC radio the cost was around $13 million, plus a revenue guarantee of $5.2 million offset by ticket sales. Can the Chief Minister tell the Assembly and the Canberra community if that figure includes the cost of returfing Bruce Stadium, and whether it includes the cost of returfing the stadium twice. Despite the Chief Minister's attempt this morning to shift the blame to SOCOG and the Olympic Unit in her department, will she confirm that it is the government's responsibility, under its contract with SOCOG, to ensure the pitch at Bruce is playable?

MS CARNELL: The costs of holding the Olympics are, as reported to various estimates committees of this Assembly in many situations, around about $13 million. The exact figure is $13.77 million, which includes the fee of $4.71 million payable to SOCOG over three years for support services provided by SOCOG to the territory, as specified by the memorandum of understanding.

Also included in the $13.77 million is $5.38 million for meeting the ACT's commitment to provide a range of logistic services to support the tournament, and $3.68 million in security costs. In addition, the ACT has committed to underwrite ticket sales with a revenue guarantee to SOCOG of $5.286 million.

Mr Speaker, those are the figures that have been given to this Assembly and to members on a number of occasions. They remain the same. My understanding is that the cost of replacing the pitch was able to be met within those figures.

Ovals Redevelopment Scheme

MR CORBELL: My question is to the Treasurer. Treasurer, the list of papers that I have in front of me includes 10 documents held by your department relating to plans for the redevelopment of Canberra's ovals. These 10 documents are all dated before 22 June when the Estimates Committee requested of you a list of all papers held by your department in relation to the ovals redevelopment scheme. Treasurer, why were not these documents provided to the Estimates Committee when they were called for?

MR HUMPHRIES: Since you put it that way, Mr Corbell, I am very happy to give you some information about the documents concerned. As I understand it, it is true that the documents Mr Corbell refers to were dated before 22 June. However, as I understand it, they were not documents which were at the time of their creation written documents, or rather documents on paper, because they were emails between various parts of the ACT government.

At the time that Mr Corbell's committee sought the tabling of documents, or papers, by the government in relation to the ovals—ovals that were to be released from the Department of Education and Community Services—the emails referred to were not on the relevant department's file. So when the document was—

Mr Corbell: This is brilliant.

MR HUMPHRIES: Sorry, it is true—they were not.

Mr Stanhope: It is disgraceful.

MR HUMPHRIES: I am sorry, it might be disgraceful but it is true. The only document that was on the file at the time was the document that was provided to the committee on 23 June.

I might remind members that the request for the documents concerned was in a letter by Mr Corbell to me dated 22 June, and it was requested that the documents be supplied to the committee by 2 p.m. the following day, Friday 23 June. In the circumstances, although I regret the fact that the department did not pick up that there were emails as well, I do not really blame them for not picking up in the space of just the few hours that there were also emails that had to be, technically, included in the matter. I might point out that what Mr Corbell's committee asked for were papers rather than documents.

Those documents were supplied as a result of Mr Corbell's FOI request. He has those documents now. I suspect that in future, if a complete search of available documents of whatever kind is required, it might be helpful if a little more than 24 hours notice were given to produce them.

Mr Stanhope: Did you tell the committee you did not do a complete search?

MR HUMPHRIES: I did not know at the time.

MR SPEAKER: Supplementary, Mr Corbell?

Mr Stanhope: Or you did not know—

MR SPEAKER: Mr Stanhope, would you stop interjecting.

MR CORBELL: That was an extraordinary answer, Mr Speaker. My supplementary is this: the Treasurer has indicated that the documents that were not supplied were email documents. How then does he explain this document, dated 22 February this year: a written minute to Mr Lincoln Hawkins, the Executive Director of Planning and Land Management, from Ms Julie McKinnon, the executive director in one area of his department, identifying low maintenance ovals as studies for infill sites?

MR HUMPHRIES: Mr Speaker, I have supplied all the documents that I was advised were on the file at the time.

Mr Quinlan: *Yes, Minister*.

MR HUMPHRIES: I have since had confirmation—

Mr Corbell: This is not an email.

MR HUMPHRIES: Mr Speaker, why do they ask a question if they do not want the answer?

MR SPEAKER: Order! Gentlemen of the opposition, I heard a comment about *Yes, Minister*. You are all being very courageous at the moment. I suggest you do not push your luck.

MR HUMPHRIES: Mr Speaker, my advice as of today is that my department made a more detailed and extensive search, locating the additional information subsequently provided to Mr Corbell. This included eight emails not on file as of 23 June 2000 as well as some information dated after the Estimates Committee request.

Mr Corbell, you might be surprised to learn that ministers do not actually—

Mr Corbell: What about this?

MR HUMPHRIES: Listen and you will find out, Mr Corbell. Ministers do not actually sit down and—

Mr Corbell: Has the department told you about that document?

MR HUMPHRIES: Would you wait, please. The department does not—

Mr Corbell: It is a pretty unconvincing argument to date.

MR SPEAKER: Order, Mr Corbell! Would you mind listening to the answer. You may not like it but you should at least—

Mr Corbell: That goes without saying, Mr Speaker. There has to be a prize for it.

MR SPEAKER: You should at least give the Treasurer the courtesy of listening to the answer.

MR HUMPHRIES: Ministers do not personally maintain files. I do not have the department's files sitting in my office. I was advised, as of today, that the documents referred to were all the documents on file at the time. You say that is not the case; my advise is that it is. I will go back and ask my department about the document. I assume you are going to table it so we can see what document it is.

Mr Corbell: I am very happy to.

MR HUMPHRIES: I will find out whether there was a further document which was not tabled.

MR SPEAKER: Mr Corbell, would you like to table that document.

Mr Corbell: Yes.

Leave granted.

Mr Corbell: I table the following document:

> Infill sites—Copy of minute relating to studies for infill sites, dated 2 February 2000, from Executive Director, Department of Treasury and Infrastructure to Executive Director, Planning and Land Management, Department of Urban Services.

Ministerial Responsibility

MR KAINE: My question is to the Chief Minister. The response of the Attorney-General to the previous question is quite pertinent to the question I am about to ask because it relates to ministerial responsibility within parliamentary democracy. Perhaps I am naive enough to believe that we still operate under the concept of parliamentary democracy in the territory.

I want to refer to some comments that the Chief Minister made on this matter in 1994. In an interview on ABC radio on 24 November 1994 the Chief Minister said:

> Our whole system of government is based upon ministers being responsible for what happens in their departments.

In May of that year, in respect of the VITAB inquiry, she made other comments:

> I believe it would be up to a government that I was a minister in to ensure that absolute accountability was in place ...

Finally, she said:

> At the end of the day the minister is responsible.

Chief Minister, having regard to that background, can you outline for my edification and for the edification of other members of this place what you now understand to be inherent in the concept of ministerial accountability and responsibility?

MS CARNELL: Mr Speaker, I am very happy to reiterate those comments totally. It is interesting, though, that in 1994 the view of the Assembly was that Mr Berry should not be sacked for his lack of taking responsibility for a particular contract that was signed in his department. If you remember, that was the view of the Assembly because Mr Berry was not held responsible to that extent for that issue. In the end the Assembly chose to move a motion of no confidence in Mr Berry because he misled the Assembly.

Mr Speaker, I think the same issues continue to be the case. There is no doubt at all that issues in our various departments are our responsibility and we will do everything in our power to sort out any problems that exist. But there will always be mistakes that happen in large organisations. There will always be things that do not go right. There might even be grass that dies, Mr Speaker. At the end of the day it is not about pointing the finger,

talking about blame. It is about solving the problem. And that is the approach that this government will continue to take.

MR KAINE: Mr Speaker, I have a supplementary question. Since the Chief Minister chose deliberately not to answer my question, I ask her—

MR SPEAKER: It is her option, Mr Kaine, how she answers the question.

MR KAINE: Mr Speaker, it is not her option. I am begging your pardon.

MR SPEAKER: How she answers the question is her option.

MR KAINE: I would like an honest answer to my supplementary question. Is your concept of the principle of ministerial responsibility, which you so clearly enunciated in 1994, still the same, or do you now have an understanding of that responsibility as being a moveable feast—you can blame somebody else, SOCOG, the opposition or snow on the football field?

MR SPEAKER: Chief Minister, I think that is a very difficult question.

MS CARNELL: Mr Speaker, maybe I can make it a bit clearer for Mr Kaine. We believe that the same rules apply now as probably have applied throughout the Assembly, and certainly applied with regard to Mr Berry. Ministers are responsible for acts that they take and for other, I suppose, actions that they ought reasonably have known about—if they were incorrect, wrong, criminal or whatever. Mr Speaker, there is no way—

Mr Kaine: And the Attorney-General didn't know that he was being conned by his senior public servants?

MR SPEAKER: Order, please! Mr Kaine, you have asked a supplementary.

MS CARNELL: Mr Speaker, it would be absolute rubbish if we were to get to a situation in this place where somehow it would be a minister's responsibility if the grass dies at Bruce Stadium, if a patient dies in a hospital, if somebody that people thought was guilty gets off in a criminal trial, or if somebody has a car accident in one of the streets that Brendan is responsible for.

Bruce Stadium—Olympic Football

MR QUINLAN: My question to the Chief Minister relates to the Bruce Stadium playing surface. Today's *Canberra Times* quotes the President of the Australian Olympic Committee, Mr John Coates, as stating that the ACT government had ignored games organisers' advice on the grass and "took the cheap option" in securing turf from Cairns. This claim was confirmed by Mr Graham Richardson at today's National Press Club luncheon. The newspaper quotes you as acknowledging that SOCOG had warned that the Cairns option was "not without risk". Today I have heard you state, and distinctly imply, that the acquisition of Cairns turf was a joint decision. There are clear contradictions in these sets of statements. Which statements are true, which statements are falsehoods?

MS CARNELL: Mr Speaker, it may help if I read a letter from SOCOG.

MR SPEAKER: Thank you. You may answer the question as you see fit.

MS CARNELL: That will answer the question, Mr Speaker. The letter to Sue Baker-Finch from Mr Peter Morris, who is the director of soccer for SOCOG, says:

> Dear Sue,
>
> Thank you for your letter dated July 31, 2000 advising of the proposal to fully returf Bruce Stadium commencing next Tuesday, August 7.
>
> Your letter doesn't make it clear from where the replacement turf will be sourced, however, we understand that a combination of turf currently growing in Cairns and Camden will be used. As we have discussed, our turf consultant, Ray Young, believes that such a proposal is not without some risk, given the comparatively short growing time the Cairns turf has enjoyed. However, Ray's position cannot, of course, be proven and equally, neither can his alternative proposals (such as regeneration of the existing turf) be proven to be without risk. In short, it seems that whatever strategy is pursued, some risk is involved.
>
> Given these circumstances, we will support the decision to fully replace the turf and work cooperatively with your representatives and consultants towards making this strategy work and achieving the best possible pitch conditions for the Olympics.
>
> As you point out, with the replacement program in place, there is no impediment to staging the Raiders' game at the stadium this Friday. We therefore have no objections to this taking place, provided any disruption or damage to the overlay works caused by staging this game is made good at your expense. By copy of this fax, I ask Steve to work closely with ground management to ensure any disruption or damage to the overlay works is avoided.
>
> We at SOCOG sincerely hope that the Raiders' game on Friday night is a huge success, as indeed we intend the Olympic football sessions in Canberra to be come September.
>
> With kind regards
>
> Peter Morris.

As I say, Peter Morris is director of soccer. The letter is dated 1 August.

MR SPEAKER: Supplementary?

MR QUINLAN: Thank you, Mr Speaker. I would still like to know why, given the contents of that letter and risks attributed to the Cairns option—and the fact that you stated that we did not take a cheap option, so it was not money—why did we buy Cairns grass? Secondly, how is it now possible with only two weeks to go that we can fix it? Why did we not, in the first instance, take the strategy that we are now about to take? Why did we not take the safest and surest strategy, given our investment in the whole exercise?

MS CARNELL: Mr Speaker, I am not an expert on turf and nor is anybody else in this place. The option that was decided on was taken on expert advice—the advice given by both the people who normally do the turf at Bruce Stadium and also an independent expert that was employed for this particular purpose. What that letter says is that all options that were available came with some risk. Therefore, SOCOG agreed to go down the proposed option that was put on the table by our Olympics Unit.

SOCOG did not say in their letter or in any other letter that there was a safer option available. The fact is that the turf that may now be sourced from Melbourne was not available at that time. What they said is there was a risk—

Mr Quinlan: A specific risk.

MS CARNELL: No. They said there was a risk. Mr Speaker, let me read it again. They go on to say:

> In short, it seems that whatever strategy is pursued, some risk is involved.

So whichever way they went at that stage, there was risk involved. Therefore, they say:

> Given these circumstances, we will support the decision to fully replace the turf …

Mr Speaker, this was a decision that obviously took into account expert opinion. It was regarded as the best option at the time. It has not worked. There is no doubt about that. The grass has not regenerated as quickly as the experts said it would. I am sorry that did not happen. But I would have to say the sensible approach from here is not to bellyache like those opposite but to get behind the whole approach of fixing the problem, and that is what the government is doing.

Information and Advanced Technology

MR HIRD: Mr Speaker, I know you are always in control of the house. My question is to the Chief Minister, Mrs Carnell. I refer to the government's decision to focus on developing Canberra as a centre for information and advanced technology. Chief Minister, how successful has this strategy been? Can you also confirm that the ACT has one of the fastest growing computer service industries within Australia?

MS CARNELL: I thank Mr Hird for the question. However, I would have to say that he is wrong because we do not have one of the fastest growing IT industries in the country—we actually have the fastest growing IT industry in the country.

Mr Stanhope: And the slowest growing grass.

MR SPEAKER: Mr Stanhope, you are the Leader of the Opposition. I expect you to act in a responsible manner appropriate to your position. If you continue to interject, I will warn you and then eventually, if you continue, I will name you. Thank you.

MS CARNELL: Members will, I am sure—probably with the exception of those opposite—be very interested to hear about a remarkable report released this week by the Australian Bureau of Statistics which looked at the size and the growth of the computing

services industry in this country. This survey confirms beyond any shadow of doubt the remarkable growth of Canberra as an information technology hub under this government, and we are very proud of that. This is despite the territory's relatively small population base. We might not actually be a silicone valley just yet but I think we could maybe already almost call ourselves a silicone gully, and growing very quickly into a valley.

The Bureau of Statistics found that the growth rate of ACT computing services was the highest in Australia over the past four years. It also found that the territory's share of business, employment and income were all well above our share of the national population. According to the ABS the computer services industry in the ACT grew by a massive 23 per cent between 1995-96 and 1998-99—faster than any other state or territory—compared with a national annualised growth rate of 15 per cent over the same period.

As at June 1999 there were 729 computing services businesses in the ACT, or about 5 per cent of the total number of companies across Australia, even though the territory's share of the national population is only 1.6 per cent. These businesses employed 4,205 people in Canberra, which represents about 6 per cent of the total national employment in this industry—again, well above the ACT's share of the Australian population. The annualised growth in employment in the computing services industry in Canberra was 24 per cent between 1995-96 and 1998-99, the fastest in Australia.

Total income from the industry in Canberra in 1998-99 was $622.3 million, representing 6 per cent of the total income generated nationally. The annualised growth rate in income of these Canberra businesses was 26 per cent, well above the rates of any other state or territory and the national growth rate of just 9 per cent. While the industry average income per business nationally was $711,000, firms operating in the ACT earned an average of $853,600 per business, the highest of all states or territories.

It is interesting to note the perception that we have got a lot of computing services businesses that are really smaller than other computing services businesses in Australia. But these figures show that not only do we have more but they are actually on average bigger than similar businesses in other parts of Australia.

When we came to government five years ago we committed ourselves to a long-term plan of helping to diversify the business base and targeting new and emerging industries for growth. We recognised early that this city's future lay in encouraging the expansion of smart, clean private sector industries such as information technology.

Mr Quinlan suggested a moment ago—and, of course, Mr Speaker, we do not listen to interjections—that this has got nothing to do with the ACT government; that it is all to do with outsourcing; that the reason we have this huge amount of growth in the ACT is outsourcing. But they have attacked outsourcing. They suggested that outsourcing was the worst thing that had ever happened to the ACT. They are simply not consistent.

I heard the Labor Party say that this government does not know anything about business. In fact, Mr Quinlan said yesterday that we did not understand business and that we did not know how to generate more business or employment in the ACT. Well, Mr Speaker, we now have the highest growth rate and the lowest unemployment rate in this country.

It obviously shows that this government does have the right strategy, the right vision and is achieving the knowledge-based economy that Mr Quinlan himself has talked about.

MR SPEAKER: Supplementary?

MR HIRD: This is amazing. This is absolutely fantastic, Mr Speaker.

MR SPEAKER: A supplementary without a preamble.

MR HIRD: Chief Minister, given that outsourcing by the Commonwealth has helped with this amazing growth of the private sector, would you agree that Canberra has managed to hang on to more than its fair share of outsourcing work?

MS CARNELL: Mr Speaker, I would agree with that. It is interesting that we have held on to outsourcing work in Canberra and those businesses have then grown to provide services not just to the federal government but right around the world.

Just in the last month CSC, who came to Canberra because of outsourcing, set up in Canberra one of their three worldwide research and development bases. Why did they do that? Was that to do with federal government outsourcing? It was not directly to do with that at all. It was because they see Canberra as a great place to do business and a great place to do research and development.

It was not that long ago that, again, those opposite indicated that we would be doomed, that Canberra would be a ghost town—remember that, Mr Speaker?—that we would all be ruined, that we were going to have job losses, and that the city was going to die. I can remember Mr Berry talking about the whole of Canberra going across the border in removalist trucks because of the nasty federal government. Now we hear from those opposite that, because of the federal government, we have got growth in this city.

Mr Speaker, remember all the insults from those opposite about our business incentive scheme, about the Fujitsus, the IBMs, the EDSs, the Compucats? What has happened is that they are employing. What has happened is those companies have grown and expanded in this city. They have achieved what we needed them to achieve, and that is lots of spin-offs into new companies, which is great news for Canberra.

But I think the real issue of this question today is those opposite. They have just been chronically inconsistent. We heard them say just now that what has happened is nothing to do with this government—the fact that we have got the lowest unemployment rate and the fastest growing IT industry is nothing to do with us at all. But if the grass dies it is our fault.

Bruce Stadium—Olympic Football

MR BERRY: My question to the Chief Minister relates to our Olympic Games soccer bid. Mr Speaker, I have a present for the Chief Minister to remind her what happens to tropical plants when they come to the ACT.

MR SPEAKER: You can put that down. Put that down and remove it immediately.

MR BERRY: I will send that to her suite shortly. It will—

MR SPEAKER: Remove it immediately.

MR BERRY: It will come back with a bit of care and attention, and judicious pruning, but it should be returned to an environment closer to its own. Mr Speaker, I am sure you will be able to manage that with the new-found knowledge about what happens to tropical plants which come to the ACT.

Mr Speaker, in 1997 the Chief Minister announced our Olympic Games soccer bid and she stressed the benefits for Canberra being an Olympic city. These included $23 million in direct benefits from the matches to be played here. I have to remind the Chief Minister that at that stage she promised us eight to 11 games in a redeveloped Bruce Stadium that was to hold 40,000 people. Promises, promises. The Chief Minister said at the time that "one of the greatest benefits to Canberra is going to be the significant media coverage of the national capital right around the world". Did anybody look at the TV last night? It was a good idea not to, and probably it would not be a good idea to do so tonight either.

MR SPEAKER: Ask your question.

MR BERRY: These benefits for Canberra have been quoted in hundreds of millions of dollars. What is the estimated cost to Canberra of the negative media coverage of the Bruce Stadium fiasco, in particular the most recent problem with the turf? I point to your soon to be received present from me to give you an idea of what happened to the turf. What is the impact of the humiliation on the people of the ACT who have had to tolerate Canberra bashing for decades? When will you take responsibility for this?

MR SPEAKER: Chief Minister, this is a rhetorical question.

Ms Carnell: It is—it is an opinion.

MR SPEAKER: Mr Berry, would you like to ask your supplementary? And please do not raise that plant again.

MR BERRY: I have not got it in my hand.

MR SPEAKER: My only regret is it is not man-eating.

MR BERRY: Mr Speaker, it has come into a warmer environment, and I can see that it is coming back. What is the estimated cost to Canberra of the negative media coverage of the Bruce Stadium fiasco, in particular the most recent problem with the turf? That question is not rhetorical—it gets to the issues.

MR SPEAKER: I am afraid it is, Mr Berry. It is a rhetorical question.

MR BERRY: It is no different to Harold's question—that nonsense we have just had.

MR SPEAKER: I do not know how the Chief Minister could possibly answer that question.

Mr Quinlan: She did not mind making the claim before about how much it was going to bring in.

Mr Kaine: She did not have any trouble with dorothy's rhetorical question.

MR SPEAKER: Hypothetical matters under standing order 117(b)(vii) are out of order. I call Mr Osborne.

Mr Berry: Mr Speaker, are you going to give me a supplementary?

MR SPEAKER: You have just had a supplementary.

Mr Berry: No, I have not. I asked the question. That was a repeat of the question.

Ms Carnell: You cannot have a supplementary to an out-of-order question.

Mr Moore: "Supplementary" means attached to the previous question.

MR SPEAKER: That is right. Sit down. Mr Osborne, please.

Australian Football League Matches in Canberra

MR OSBORNE: Mr Speaker, sometimes when I come into question time I look at the public gallery and I am staggered that it is not full.

MR SPEAKER: Just ask your question, Mr Osborne. It may be your preface to the question that is clearing the public gallery. I suggest you get on with your question, please.

MR OSBORNE: I think that might be the reason behind Mr Berry's hair loss. He is from the tropical north as well.

MR SPEAKER: Never mind—get on with it.

MR OSBORNE: So if you move back it might grow back.

Mr Berry: If you start with hair jokes, you will be leaving the door open, old son. I will start talking about front-rower jokes.

MR SPEAKER: Order! Mr Osborne, please.

MR OSBORNE: My question is to the Chief Minister and it is not about Bruce. I listened with interest to the Chief Minister's comments this morning about negotiations between CTEC, I think, and the Kangaroos football club regarding AFL matches to be played here next year. I understand there is an issue over guarantees. Could you tell us how much money the Kangaroos are chasing? Are you able to tell us just how these negotiations are going and whether or not we will have some matches here next year?

MS CARNELL: Starting with your last question, I certainly hope so. The number of games that are up for grabs, shall we say, are two Ansett Cup games and two home and away games. The two home and away games would both be games between the Kangaroos and other teams. One of the Ansett Cup games would be a Kangaroos game and the other one would probably be a Swans game of some description.

Mr Quinlan: The Bombers.

MS CARNELL: Well, that is what we are hoping for—a Swans/Bombers game, which would be great.

The negotiations are continuing—that is the best I can say at the moment. It is certainly true that the requests that the Kangaroos have on the table are significantly higher than any guarantee ever offered to any other football team per game at this stage and we do not believe that that is appropriate. So we are in negotiations. There is a problem in that the Tasmanian government has put a million dollars on the table for three years, basically for six games, and that is a lot of money. We certainly do not plan to offer that sort of money and so we are trying to negotiate a better outcome for the ACT. But I think it would probably be better if we did not put on the table right now what our current position is.

I think it would be great for Canberra, I think it would be wonderful for Australian rules in Canberra and I think that the Kangaroos would get a huge amount out of it. The opportunities to tap into junior football in the ACT, to increase their club membership and their club following—something that they desperately need to do—would be a benefit to them. The benefit to the ACT of having an elite AFL team having at least some of its games here in Canberra I believe would greatly contribute to lifting the profile of the sport in the ACT.

Bruce Stadium—Olympic Football

MR WOOD: Mr Speaker, my question is to the Chief Minister. I have got my tickets to the opening match of the Olympic football at Bruce Stadium. I am looking forward to going, and I expect to go. Surely if the Melbourne Cricket Ground can be returfed successfully so can Bruce Stadium, which has had so much more practice at it. But a fair question arises. It is obvious people would like reassurance about the certainty of getting a refund if matches are transferred. This is especially important from the government's point of view, from everybody's point of view, if any more tickets are to be sold, after all that advertising, in the next fortnight.

I have read the fine print about refunds but there are too many ifs, buts and maybes for me to work out. I note that Mr Coates of the AOC is reported as saying that ticket refunds are going to be a legal issue between the AOC and the ACT government. Chief Minister, to reassure me and other ticket holders and to maintain Bruce ticket sales, I ask: if matches are transferred from the ACT, first, will there be refunds and, secondly, whose responsibility will that be?

MS CARNELL: Obviously if people buy tickets for Canberra and there are no Canberra games then refunds will occur. That is simple. But the fact is there will be Canberra games. Mr Wood made the point at the beginning of his question that the MCG will be

returfed after the grand final on Saturday, and that is regarded as quite safe. It is true that Bruce Stadium can similarly be returfed, if that is the decision that SOCOG takes. So there will be soccer in Canberra. As Michael Knight's office said this morning, they will do absolutely everything possible to ensure that soccer stays in Canberra. That is the view of everybody, except a couple of those opposite, obviously.

MR SPEAKER: Mr Wood.

MR WOOD: Mr Speaker, the second part of the question was not answered. I hope it does not come to that but are you confident that people will be buying tickets in the next fortnight?

MS CARNELL: I did not actually answer that but I am happy to—

MR SPEAKER: That is a rhetorical question. I am sorry, I cannot allow that. I call Mr Hargreaves.

Crime Statistics

MR HARGREAVES: Mr Speaker, my question through you is to the Minister for Justice and Community Safety. Minister, yesterday you rambled on about how the ACT crime figures for vehicle thefts and home burglaries had dropped. Furthermore, you implied that my article in the *Chronicle* was a media beat-up because I used my former campaign director who also happened to work in the Woden area.

Minister, it is obvious that you do not think there is a problem. So what do you say to the woman who had her front teeth knocked out in the Woden car park a few weeks ago or the members of the public who were threatened by a person with a syringe at the Woden shopping centre last Friday night? Also what do you say to the woman who was punched twice in the face by a man in the Woden car park just last Thursday night? Are you going to say to them that these things never happened? Are you going to say to them that the crime figures are going down, so do not worry about it? And if there is no problem or if the problem is getting lesser, why are departments, private firms and businesses employing security guards to escort workers to their cars at night-time?

MR HUMPHRIES: Mr Speaker, I cannot blame Mr Hargreaves for smarting a bit after what he had to say yesterday about this subject. I think what he was exposed as doing in this place was demonstrably disgraceful and an abuse of the privileged position which a member of the Legislative Assembly enjoys. Statements are able to be made to the media about matters that people apparently take seriously on the basis that they come from members of the Legislative Assembly.

I do not for one instant downplay the seriousness of any incident of crime in this community, whether it is a person having their teeth knocked out, as Mr Hargreaves just referred to, somebody being robbed, somebody's house being broken into or somebody's car being stolen. I can assure you that there is no government anywhere in the world—not even in the Vatican City where I understand crimes also take place—that can confidently promise their citizens a crime-free community.

So if Mr Hargreaves wants to take cheap shots because crimes occur in our city, then I am vulnerable. But we take some comfort in knowing that the next time you people are over here, on this side of the chamber, you will be vulnerable to exactly the same kind of cheap shot.

The question is not what happens to individuals, serious and distressing though that may be. The question is what can we as a community do to reduce the incidence of crime across the board. Crime is a problem for this community—it has been for many years. We are addressing that problem in a way which I think is responsible. We are putting extra resources into policing, we are funding crime prevention initiatives and we are offering support—physical, financial and moral—to the Federal Police, who are at the front line of this problem.

I made the point yesterday that Mr Hargreaves does no service to this community or to the police that are providing security and safety on the streets of this city by making the comments he has made in this place and in the media over the last few months. Attacks on the police, attacks on the efforts made to reduce crime in this community and attacks on—

Mr Hargreaves: I have not attacked the police. You are Gary-ing me again. You are becoming a chronic Gary-er.

MR HUMPHRIES: No, I am not Gary-ing you. I quoted Mr Hargreaves accurately and completely yesterday. Perhaps you did not describe the police as the Keystone Cops. I have Gary-ed you, have I? I must have Gary-ed you by saying that you were describing the police as the Keystone Cops. I am dreadfully sorry if I suggested that. I will have to go back and check my memory by referring to *Hansard*. Obviously my memory is erroneous.

Mr Smyth: And the bovver boys. Who said "bovver boys"?

MR HUMPHRIES: That is right—and I thought you called the police bovver boys as well. It must be my memory. I am getting a bit old, you understand; my memory is failing a little bit. Mr Speaker, I will have to withdraw those suggestions. Mr Hargreaves has never made any suggestion casting aspersions on the quality of our police in this city, apparently. Apparently that is the case—that he has never made such assertions.

Mr Speaker, I stand by my view that we have the best police force in the country working for us in this city. They are the best bar none. I will support their work. If they make mistakes, I will tell them about it. But while they are doing a good job, as they are at the moment, they have this governments complete support.

Mr Stanhope: Well we need them while terror stalks the city at night. You need a good police force when you have got terror stalking the city at night.

MR SPEAKER: Would you like to make a ministerial statement, Mr Stanhope?

Mr Stanhope: Yes, I look forward to the day.

MR SPEAKER: Well I suggest you will have to wait until you move to the other side of the chamber. In the meantime, your colleague, Mr Hargreaves, would like to ask a supplementary.

MR HARGREAVES: Thank you very much, Mr Speaker. My supplementary is: in light of the minister's comments about a media beat-up, if I arrange a meeting, will you come to down to Woden with me and meet these concerned workers and allay their fears? After all, it is your electorate. You can feel free to bring your campaign director, provided he or she is a worker in the area to whom the tales of personal violence are given. Will you come down with me?

MR HUMPHRIES: Mr Speaker, I have never been afraid throughout my political career to face public meetings on any subject whatsoever and I do not intend to change my approach at this stage. If you want to talk to people about crime, I am very happy to be there to discuss the facts with them, and to emphasise what are the facts and what is the fiction.

North Watson Woodland

MS TUCKER: My question to the Minister for Urban Services relates to the woodland in north Watson. Minister, you will recall that the Watson Community Association recently released a report on the ecological values of the north Watson woodland, which recommended that the woodland be incorporated into Canberra Nature Park. At the time you said in the media that the flora and fauna committee had visited this site and said that the site was not worthy of inclusion in the Canberra Nature Park. Could you provide us with more detail of the flora and fauna committee's assessment of north Watson? Could you tell us when the committee actually visited the site and will you table the assessment they provided to you of the ecological value of the north Watson woodland? I do not want you to tell me about the action plan for grassy woodlands—I know about that. I want to know what specific assessment the flora and fauna committee did on the north Watson site.

MR SMYTH: Ms Tucker asks a question and then says that I cannot answer it. She might not want to hear the answer but the reality is that this work was done in conjunction with action plan No 10 that relates to yellow box/red gums. That is what it was assessed under. The assessments were done across all of Canberra and, based on those assessments, certain areas were to be put aside and other areas were not to be put aside.

This is a curious situation. You have a process that ends up putting aside an extra 100 hectares into reserves, based on assessment, based on a scientific process, based on information gathered, but when it does not pick up the site that you have a particular interest in there is something wrong with the process. We have a process that has been set in place as a result of this government's legislation. This government was the first and I understand still the only jurisdiction in Australia to have completed all its action plans for endangered species or biological communities. That assessment led to 100 hectares, including 18 hectares on the other side of Antill Street, which contain valuable yellow box/red gum woodlands that need to be kept, being included in the reserve.

The flora and fauna committee are responsible for developing these plans. They have done those plans and I have complete confidence in them. They have said that north Watson woodland does not need to be included. That is not to deny that there are not some significant trees on that site, and we are aware of that, but it is not yellow box/red gum grassy woodland.

What will be the position when we go to develop that area, and we should? Mr Corbell told us in the debate on Kinlyside in regard to all the areas being put aside for development as residential that we could not have rural/residential in Kinlyside because the government would get a lesser return and it would use up valuable residential land. But now what we hear is that we need to do more work on Kinlyside, which is a site that has not been assessed, because there are some significant communities there and that rural/residential may be the most desirable outcome for protecting the environment of the yellow box/red gum in the ACT. But the work has been done, the process is good and it has led to 100 hectares being put aside. The flora and fauna committee presided over that and I am very happy with the work they have done.

MR SPEAKER: Ms Tucker.

MS TUCKER: I was so helpful—I really tried to help the minister understand the question but I guess he has just damned himself with his answer. The minister said that he thought that the woodlands did have some significant trees. Will you guarantee that those trees will be assessed for the significant tree register that you announced yesterday before you proceed with any more plans for development?

MR SMYTH: Mr Speaker, I have said all along that we concede that there are some significant trees there, but it is the understory that has gone. The understory has been grazed out in it bears no similarity to what you would expect to find in yellow box/red gum. We know that through appropriate development controls you can save significant trees. We have said all along that those trees would be taken into account when that land is released for development, and we will do our best to preserve those trees that deserve to be saved.

Bruce Stadium—Olympic Football

MR RUGENDYKE: My question to the Chief Minister relates to Bruce Stadium. Chief Minister, recently I found a copy of a report from the ABC website of 24 May this year, which is headlined "Docklands may run out of grass". The two subjects interviewed were representatives of the former Docklands Stadium managers, Nationwide Venue Management, the organisation recently sacked from Bruce Stadium, and also turf provider StrathAyr. One of the reasons that StrathAyr was forced to source this botched turf from Cairns was that it had not anticipated the amounts of replacement turf needed on the troubled Docklands playing field.

Can the Chief Minister confirm that Melbourne-based StrathAyr is contracted to provide the turf at Bruce Stadium? Could she also confirm that the turf was transported on a two-day journey from Cairns on the back of a semi-trailer that was not refrigerated?

MS CARNELL: Yes it is. I think it is public knowledge that StrathAyr are the people who provide the grass, but they also provided the turf for a whole range of other stadiums in Australia. They are a large operator. They are not the experts, though, that were engaged by the Olympics Unit. The Olympics Unit did employ an independent expert to give advice on what was the best sort of turf to lay at Bruce Stadium and whether the turf from Cairns was, again, up to speed, or whether it was not.

I actually do not know how the turf got to Canberra from Cairns. That would be the responsibility of the company itself. I understand there were some delays which could have caused some of the issues involved. But there is an independent turf horticulturist who was part of the whole process. StrathAyr were not regarded as the experts; they were regarded as the supplier.

MR SPEAKER: Thank you, supplementary.

MR RUGENDYKE: The Chief Minister might be able to take on notice how the turf was brought from Cairns. Could you provide today, Chief Minister, an appraisal of the standard of workmanship, the quality of the turf when it arrived from Cairns and whether any penalty clauses will be invoked against StrathAyr for the poor quality of turf provided?

MS CARNELL: The answer is no, I cannot. I will provide that as soon as it is available. But obviously at this stage, when no final decisions have been taken by SOCOG in terms of the future of StrathAyr and the current turf, it would be very inappropriate for me to make any comments as this could significantly legally disadvantage the territory in the future.

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

MR SPEAKER: Members, I would like to correct a ruling I made a little earlier. I referred to a question by Mr Wood as being rhetorical and ruled it out of order. In fact I should have referred to it as being hypothetical. Mr Wood looked a bit puzzled about that and he was quite right. I apologise to Mr Wood. However, my ruling still stands.

PRESENTATION OF PAPER

Ms Carnell presented the following paper:

> Cultural Facilities Corporation Act, pursuant to subsection 29 (3)—Cultural Facilities Corporation—Quarterly report for the fourth quarter of 1999-2000: 1 April to 30 June 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 instruments—

Long term contracts:

Suzanne Birtles, dated 30 June 2000.
Kenneth Archer, dated 25 July 2000.
Peter Garrison, dated 9 August 2000.
Stephen Bramah, dated 3 August 2000.
Bradley Page, dated 16 February 2000.

Temporary contracts:

David Marshall, dated 29 June 2000.
Gordon Lowe, dated 6 July 2000.
Graeme Dowell, dated 3 July 2000.
Margaret Summers, dated 19 July 2000.
Meredith Whitton, dated 4 August 2000.
Garrick Calnan, dated 16 August 2000.
Stephen Ryan, dated 30 June 2000.
Robert McConchie (2), dated 26 June 2000 and 16 August 2000.

Schedule D variation:

Allan Hird, dated 4 August 2000.
Hugo Harmstorf, dated 26 July 2000.
Allan Eggins, dated 19 July 2000.
Pamela Davoren, dated 26 and 27 July 2000.
Jeffrey Mason, dated 4 August 2000.
Elizabeth Fowler, dated 1 August 2000.
Alan Towill, dated 1 August 2000.
Phillip Thompson, dated 1 August 2000.
Kenneth Norris, dated 21 June 2000.
Robert McConchie, dated 10 May and 1 June 2000.

I ask for leave to make a brief statement with regard to the contracts.

Leave granted.

MS CARNELL: I ask members, as I always do, to respect the confidentiality of the information provided in the contracts that I am distributing today.

PRESENTATION OF PAPERS

Ms Carnell presented the following papers:

Remuneration Tribunal Act, pursuant to section 12—Determinations, together with statements for:
Master of the Supreme Court, Chief Magistrate, Magistrates and Special Magistrates—Travel allowances—Determination No. 60, dated 20 July 2000.
Members of the Legislative Assembly for the Australian Capital Territory—Presiding Members—Determination No. 61, dated 20 July 2000.

Members of the Legislative Assembly for the Australian Capital Territory—Determination No. 62, dated 20 July 2000.
Part-time holders of public offices—Kingston Foreshore Development Authority—Determination No. 63, dated 20 July 2000.
Part-time holders of public offices—Finance and Investment Advisory Board—Determination No. 64, dated 20 July 2000.
Chief Executives and Executives—Determination No. 65, dated 20 July 2000.
Full-time holders of public offices—Determination No. 66, dated 20 July 2000.
Commissioner for Public Administration—Travel Allowances—Determination No. 67, dated 20 July 2000.

Executive vehicles—
Administering Chief Executive Guidelines for the Management and Use of Executive Vehicles—August 2000.
Copy of minute from the Director, Public Sector Group to the Chief Minister, dated 22 February 2000, concerning arrangements for a replacement car.

CHIEF MINISTER—MOTOR VEHICLE

MS CARNELL (Chief Minister): I ask for leave to make a short statement with regard to my car.

Leave granted.

MS CARNELL: Thank you very much. Mr Speaker, during the June sittings Mr Berry placed a question on notice concerning my car. The question included a request to table a copy of the agreement for the arrangements for my car, a Toyota Celica. I am happy to meet this request.

Under Remuneration Tribunal Determination No 30 I may, in special circumstances, approve vehicles other than those specified under that determination. Under the ACT government car policy, small cars are those with an engine capacity of up to and including 1.8 litres. The special circumstances in this case are that there are no Australian manufactured cars in this category now. The reason for my choice of the motor vehicle is that I have a strong view about the importance of using more economical and fuel-efficient smaller vehicles.

Mr Quinlan: Oh, give us a break. Why aren't you in a Pulsar then?

MS CARNELL: Mr Speaker, I am interested in the comments made by those opposite. As members will realise, I have always used small cars as long as I have been in this Assembly. In choosing a car for my own use I have exercised the discretion conferred on me under Remuneration Tribunal Determination No 30. This is a discretion I have exercised on a number of other occasions to meet the needs of members of the Assembly.

Given changes in car manufacturing in Australia, it has been necessary to widen the range of cars available to ACT government agencies to maintain the option of small car choice. As members would be aware, on a number of occasions I have noted publicly

that there are only two four-cylinder vehicles still made in Australia, and I am advised that each of these has an engine capacity of 2.2 litres.

I am pleased that this greater flexibility has been built into the Remuneration Tribunal's latest determination on government-provided vehicles for members of the Legislative Assembly and public service executives. The Remuneration Tribunal's determination dealing with government-provided cars for public service executives permits the chief executive of my department to issue guidelines on the provision of these cars. I have attached, for the information of members, a copy of the Administering Chief Executive Guidelines for the Management and Use of Executive Vehicles.

PRESENTATION OF PAPERS

Mr Humphries presented the following papers:

> Financial Management Act, pursuant to subsection 26 (4)—Consolidated Financial Management Report for the month and financial year to date ending 31 July 2000.
>
> **Ownership Agreement—**
> 2000-20001 Ownership Agreement between the Treasurer and the Commissioner for Occupational Health and Safety, dated 10 and 22 August 2000.

OWNERSHIP AGREEMENT—TREASURER AND COMMISSIONER FOR OCCUPATIONAL HEALTH AND SAFETY

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): I ask for leave to make a statement in relation to the ownership agreement.

Leave granted.

MR HUMPHRIES: Members will recall that ACT WorkCover was established as a separate department under the Financial Management Act 1996 on 24 June this year by an amendment to the Occupational Health and Safety Act 1989. This agreement is for the period 24 June 2000 to 30 June 2001 and includes the five working days for which the department was in existence during the 1999-2000 financial year. I commend the ACT WorkCover ownership agreement to the Assembly.

FINANCIAL MANAGEMENT ACT—FINANCIAL MANAGEMENT GUIDELINES 2000
Papers 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 papers:

> Financial Management Act—Financial Management Guidelines 2000, together with an explanatory memorandum.

I ask for leave to make a statement in relation to the guidelines.

Leave granted.

MR HUMPHRIES: Mr Speaker, these guidelines are issued in accordance with section 67 of the Financial Management Act 1996. The act allows me, as Treasurer, to issue guidelines to prescribe matters within the scope of the act. Such guidelines are a disallowable instrument for the purposes of the Subordinate Laws Act 1989.

I have issued these guidelines to define the meaning of debt instrument as securities and commercial paper having at least the Standard and Poor's short-term A2 or long-term AA ratings; define the meaning of a prescribed investment as a debt instrument, a loan to a territory entity or an investment in territory-owned property; prescribe ACT Executive, ACT Forests, ACT Housing, ACTION, ACT WorkCover, Central Financing Unit, InTACT and Superannuation Unit as separate departments; and prescribe the Office of Financial Management as a department for the period of 1 July 1999 to 6 August 1999 for the preparation, auditing and tabling of financial reports.

These guidelines repeal the Financial Management Guidelines issued on 3 June 1999 and as amended on 27 June 1999, and have been refined to reflect the updated departmental structure and provide clarity.

Mr Quinlan: What is that about?

MR HUMPHRIES: Have a read and find out.

FINANCIAL MANAGEMENT ACT—AUTHORISATION OF EXPENDITURE FOR 1999-2000
Papers 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 papers:

> Financial Management Act, pursuant to section 18—Authorisation of expenditure in 1999-2000, including the Statement of Reasons for Expenditure against the Treasurer's Advance.

I ask for leave to make a statement in relation to the authorisation.

Leave granted.

MR HUMPHRIES: As required under the Financial Management Act 1996, I have tabled a copy of the authorisations for the expenditure under section 18 of the act and a statement of the reasons relating to the expenditure. Section 18 of the act allows the Treasurer to authorise expenditure from the Treasurer's Advance. The authorisation may be to provide for expenditure in excess of an amount already specifically appropriated, or an expenditure for which there is no appropriation. The act states that where the

Treasurer has authorised expenditure under section 18, a copy of the authorisation and a statement of reasons relating to the expenditure is to be laid before the Legislative Assembly as soon as practicable after the end of the financial year.

The 1999-2000 Appropriation Act provided $18.1 million for the Treasurer's Advance. The final expenditure against the Treasurer's Advance in the 1999-2000 financial year totalled $6.873 million, leaving $11.227 million unallocated. I commend these papers to the Assembly.

FINANCIAL MANAGEMENT ACT—APPROVALS OF GUARANTEES
Papers and Ministerial Statement

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

> Financial Management Act, pursuant to subsection 47 (2)—Approvals of guarantees (2) 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 and a loan under the New Enterprise Loan Guarantee Scheme.

I ask for leave to make a statement.

Leave granted.

MR HUMPHRIES: The underlying principle of this 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 attached FMA instrument has been approved by the chief executive, Department of Treasury and Infrastructure, as delegate, pursuant to the small business loans scheme. One loan guarantee is for Mr Michael John Gill, the owner of Cre-8-IVE, an ACT company that will offer a one stop service for sandblasting or beadblasting, powdercoating and metal polishing for all vehicles and street machines, metal work preparation for gates, grilles, fencing and household goods et cetera, and fiddly work not considered by other business. That sounds like an ad; I should be on the radio, Mr Speaker.

The other loan guarantee is for Ms Joanne Wheelahan, the owner of the Naturopathic Dispensary, an ACT company that will offer a dispensary of herbal remedies in various forms to the general public. The service and products will include consultation, over the counter consultation, homeopathics, herbal mixes, herbal tablets, dried herbs, ointments, vitamin and mineral tablets. Some of the opposition might need to avail themselves of some of remedies, I feel, in the future.

Mr Corbell: Perhaps the grass at Bruce will too.

MR HUMPHRIES: Perhaps herbs could be helpful. 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, including this loan, loans to the value of $99,570 have been approved under the scheme.

2000-2001 CAPITAL WORKS PROGRAM—CALL TENDER REPORT
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:

> 2000-2001 Capital Works Program—Call Tender Report (incorporating the Call Tender Schedule).

I ask for leave to make a statement in relation to this paper.

Leave granted.

MR HUMPHRIES: I thank members. I present to the Assembly for the information of members the Call Tender Report for the 2000-2001 capital works program. The report has been introduced in line with the reforms to the government's capital works program.

As well as being a useful tool for the government in monitoring progress of the capital works program, the report has been provided to key industry groups such as the MBA, HIA and the Property Council of Australia. It will inform these groups of proposed tender and construction dates for projects being undertaken by the ACT government in 2000-2001. In turn, these groups will be able to pass this information on to their members for their own planning needs.

Mr Speaker, the response from the construction industry following the re-introduction of the call tender schedule last year has been positive. I am confident that these users will again find it a valuable tool in their annual and long-term planning and budgeting. I commend the capital works call tender report to the Assembly.

PRESENTATION OF PAPER

Mr Smyth presented the following paper:

> Purchase agreement between the Minister for Urban Services and the Commissioner for Occupational Health and Safety, dated 10 August 2000.

INDEPENDENT COMPETITION AND REGULATORY COMMISSION ACT—INDEPENDENT COMPETITION AND REGULATORY COMMISSION REPORT—TAXI FARES FOR 2000-2001—FINAL PRICE DIRECTION
Paper and Ministerial Statement

MR SMYTH (Minister for Urban Services): I present the following paper:

> Independent Competition and Regulatory Commission Act, pursuant to section 24—Independent Competition and Regulatory Commission Report—Taxi Fares for 2000-2001—Final Price Direction—June 2000.

I ask for leave to make a statement in relation to the price direction.

Leave granted.

MR SMYTH: Mr Speaker, this report is the first review of taxi fares by the commission and I thank the senior commissioner, Mr Paul Baxter, for his report. The government referred taxi prices to the commission to meet the price oversight requirements of the national competition policy. The terms of reference required investigation into the maximum taxi fares for taxi services provided within the ACT for a period of between three to five years, and the recommended method or formula that may be used.

Mr Speaker, I welcome the commissioner's direction on taxi fares. In summary, the commissioner directed that a 7.71 per cent increase in average taxi charges, based on cost increases over the last 12 months, be applied; that the impact of the goods and services tax be set at 7.85 per cent, reflecting underlying cost savings which ACCC guidelines state should flow through to taxi users; and the introduction of three flag fall and kilometre rates to address standard taxis for a single hiring and a multiple hiring and for the high occupancy taxis carrying six or more passengers.

The introduction of these fare categories reflects the wider range of vehicle types now in use as taxis. The ACT government's policy of increasing the wheelchair accessible taxi fleet has also benefited the public by providing vehicles with the capacity to meet the needs of larger groups wishing to travel together.

Mr Speaker, the commission decided that, rather than set a five-year price path using the taxi industry price index model, it will set a one-year price path, and in the coming year will undertake a major study into the most appropriate method for determining prices in this industry. The commission will also consider the outcome of the national competition policy review of taxi and hire car legislation.

The commission's inquiry and report help to ensure that the government is setting maximum taxi fares through an open and transparent process. This accountability comes in part from the very nature of the commission's inquiry process, with its important element of broad community consultation into taxi fares and its subsequent analysis of the information.

The commission's consultation and review period ensured that a large cross-section of the community could express their views about taxi services. The commission released the draft price direction in May 2000, called for public submissions for consideration,

and released the final price direction in June of this year. The new taxi fare structure commenced on 1 July 2000.

I am also pleased to advise that a further survey will be undertaken later this year to assess community satisfaction with taxi services in the ACT. This will build on the base data provided in the initial 1999 survey. These surveys, and analysis of the outcome, will assist the commission in its future determinations.

The government welcomes the commissioner's price direction and looks forward to future determinations and associated recommendations concerning the methodology for setting of taxi fares. I commend the commission's 2000-2001 price direction for taxi fares to the Assembly.

FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE
Final Report on Proposed ACTEW/AGL Partnership Agreement

MR QUINLAN (3.44): I present the following reports:

> Finance and Public Administration—Standing Committee (incorporating the Public Accounts Committee)—Finance Committee Report No 8—
> Final Report on proposed ACTEW/AGL partnership agreement, dated 29 august 2000, together with a copy of the extracts of the minutes of proceedings.
>
> Report on proposed ACTEW/AGL partnership—Report by ACTEW/AGL to the Standing Committee on Finance and Public Administration (incorporating the Public Accounts Committee)—August 2000.

I move:

> That the committee's report be noted.

We had some debate regarding the merger yesterday, so I will not take up too much of the Assembly's time today. I would like to repeat yesterday's expression of gratitude to the various officers who attended committee meetings and provided briefings and information, particularly those from ACTEW, but also the officers of departments and the probity auditor who was appointed. The committee had nothing but cooperation, except for a couple of hiccups when we thought that officers found themselves constrained for a little while. Generally, the information flow was good.

The committee set out to provide a reporting process and to dovetail with the reporting process that was the responsibility of government. Unfortunately, we were gazumped a bit there yesterday, as it is the government's wont to make everything a media event, and damn the parliamentary procedure.

The report and the reports that were tabled by government yesterday are recommended reading to all members of the Assembly. This is, in terms of finance and economics at least, the biggest decision that I think has been taken since local government by local government. It is no doubt, therefore, a candidate to be revisited and dissected at a later date. I do think that members who participated in the decision ought to avail themselves

of the information that they received over the last couple of days. In particular, I think they need to come to terms with the fact that we have not necessarily realised in this joint venture all of the promise that was made. We only have a partnership.

There are some genuine problems with having only a partnership in place. Glossy and glowing promises were made about what ACTEW might do in terms of growth on the national front. I think commonsense will dictate that they will not be realised at the same magnitude, at least, that could have been inferred from what has been said in this place, particularly by the Chief Minister.

However, the officers who were involved in the process have to be congratulated on the job they have done within the constraints of the decision that was taken. It is by no means the fault of anybody who has been directly involved in this that the rosy promises will not be realised. It is in no way their fault that in the future the loss of control of ACTEW altogether, or at least the electricity supply in the ACT, remains a distinct possibility, if not probability, as a function of where we have landed today.

We have ameliorated, I think, at a fairly heavy price, some of the risk to which ACTEW was exposed. We have not taken the optimum option that was offered by AGL, for whatever reasons. That may never really be explained, or never be conceded, at least, within this place.

I do want to thank the other members of the Finance and Public Administration Committee, you, Mr Speaker, and Mr Kaine. This was not an easy task. This job involved getting one's head around a lot of information at a fairly cracking pace. Literally legions of lawyers, financial advisers and accountants were involved in the process.

As the detail panned out, it was no simple matter to understand, comprehend and assimilate the information that came forward. I think the committee as a whole has done a very creditable job.

I would also like to thank successive secretaries of the committee, Mr Bill Symington, who has now moved on from this place, and Ms Judith Henderson, for the support they gave the committee and for the timely preparation of papers, particularly the timely preparation of correspondence that was necessary for us to prepare in very short time in order that we remained abreast of the project as it unfolded. It is to the credit of the committee that it has, quite clearly, played a role in the accountability for this process, and I think it has had a clear and direct influence for the better on the final product.

I commend this report to the Assembly.

Question resolved in the affirmative.

LIQUOR AMENDMENT BILL (NO 2) 1999

Debate resumed from 16 February 2000, on motion by **Mr Quinlan:**

> That this bill be agreed to in principle.

MR RUGENDYKE (3.51): Mr Speaker, I rise to support this bill. The intention obviously is to provide immunity to hotel proprietors and club proprietors and organisations and to prevent them from being implicated in civil or criminal proceedings in the event that the machines that are in their premises give a different reading from what the subject might receive when he gets pulled up by the police outside.

I have complete faith in the machines within the clubs. I believe that they bear the appropriate standard and conform to the appropriate standard, although I am not sure which specific one it is. It is a national standard that they do conform with. I think the most recent types of machines are of a very good standard and should be used to give people the opportunity to test their breath before leaving a licensed premise in order to give an indication of whether they are able to drive. I think it is a good thing, and I support the bill.

MS TUCKER (3.53): The Greens also will be supporting this bill because it is about basic responsibility and public information. It simply puts the responsibility on licensees to ensure that breath analysis equipment installed in premises is accurate, but also that users are aware that the results of such analysis are not accepted in law. It is a sensible bill. We support it.

MR QUINLAN (3.54), in reply: Given it is obvious that the bill has general support, I will not take up too much of the Assembly's time. I introduced the bill and made a speech in relation to it, so I will leave that as a matter of record. Thank you.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.55): I move amendment No 1 circulated in my name, and I present the explanatory memorandum for the amendment. The amendment reads:

> No 1—
> Clause 4, page 2, line 29, proposed new paragraph 177A (3) (b), after "instrument" insert "MAY NOT BE ACCURATE and".

Mr Speaker, this amendment changes the words which appear in the notice which must be displayed on any machine which is designed to test breath. The sign presently provided for reads in part: "Readings given by this instrument are not accepted by the police or the courts." My amendment inserts words to create the following sentence:

"Readings given by this instrument may not be accurate and are not accepted by the police or the courts."

I move the amendment, as I indicated before, simply to warn members of the community that there is a real danger that such instruments can give false readings. There is a danger, which must be accepted by the person who undertakes to use the machine, that the machine may not be accurate.

The whole point of this legislation, of course, is to exonerate licensees, and manufacturers, for that matter, from liability in the event that a person who uses the machine gets an inaccurate reading, or misunderstands the reading, or in some way is put at a disadvantage or loss reliant on the information provided to them on the reading of the machine. Rather than let people be misled about the extent of the accuracy of the information on the machine, the warning makes it clear that they should not be totally reliant and totally comfortable with the reading.

I might indicate to members that there was some research conducted by a company called Research Solutions a few years ago and which was done by students at the Royal Melbourne Institute of Technology. They surveyed 203 hoteliers and club managers in Victoria. The survey purported to show that a staggering 100 per cent of the club managers or owners had no confidence in the accuracy of readings in the breath analysing machines. Fifty per cent of the hoteliers believed that the machines were inaccurate on top of that. There are other surveys in New South Wales which show a rather high degree of confidence on the part of licensees in the accuracy of the machines in that state. The truth may well lie somewhere between those two points.

The point is that not even the manufacturers can guarantee the accuracy of the machines at all times. The machines receive quite heavy use on some occasions and can be subject to some vandalism. It is important that people understand that they take a risk, notwithstanding what the reading might show. That is the basis of the government's amendment, and I commend it to the Assembly.

MR QUINLAN (3.58): Mr Speaker, I do not have any major objection with this inclusion in the notice. It may be a little bit pedantic, and I rather think that Mr Humphries is relying on some dated research.

There is one point that I do want to make. Mr Humphries said that the whole point of this legislation is to exonerate licensees. That is not the point of this legislation. The point of this legislation is to encourage licensees to provide this facility, hoping and trusting that it will reduce the number of people who take to their vehicles after being on the premises and having a few drinks. It is not just if they happen to be picked up by the police. It is any action that they may take. At least there is some chance that they may become alerted to the fact that they are over the limit and should act accordingly.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.59): Mr Speaker, I move amendment No 2 circulated in my name. It reads as follows:

No 2—
Clause 4, page 3, line 8, after proposed new subsection 177A (5) insert the following new subsection:
"(6) This section expires 2 years after it commences.".

This amendment simply puts a sunset clause in the legislation. Mr Speaker, I think it is important that we consider that there are risks in this process and it needs to be assessed carefully. We must force ourselves to consider the evidence available from the use of these machines in drinking establishments and so on in the ACT by inserting into the legislation a sunset clause that will require us to come back and revisit the issue prior to the expiry of the sunset clause. The sunset clause, in a sense, is a prompt or a reminder to the legislature to reconsider an issue after a period of time.

I think in this case it behoves us to do that because the machines presumably will play an important role in clubs and drinking establishments. People want to have some idea of how they are being used by other people. There no doubt will be claims and accusations about the way in which the machines are operated. We want to be able to test that fairly empirically if we can.

I hope at the end of the two-year period proposed to be able to come back and say, "This is what has happened during the life of these machines. This is what the experience has been. This is how the community has reacted to them. This is how the courts and the police have interacted with them." On that basis the Assembly can decide whether to renew the protections offered to the machines in the legislation.

I commend the amendment to the house. I hope members will see it as a chance to get more information on the subject and to leave the issue of the use of these machines open for the duration of that trial period so that we can return to the issue in two years time.

MR QUINLAN (4.01): Mr Speaker, I do not accept this amendment. I think it is an exercise in pedantry. The government is saying, "You can have some legislation, but we are going to change something in it." It is a bit of one-upmanship, I believe. Mr Humphries, if you want to have the legislation reviewed, I would prefer that you get out your diary and write down, "In two years time I must bring forward the idea of having a review." Some of the problems that you have talked about and that may arise are the very reasons why I would not want to accept a sunset clause in this bill. I would like these provisions to remain in place until they are removed.

There is nothing to stop any sort of review at a later date, but, Mr Humphries, your office is not noted for getting much done on time. If you are still in power there is the risk that the legislation will lapse while people are thinking about it, or maybe because they have simply forgotten that there should be a review. So it would seem to me, for much the same reasoning that you have put this amendment forward, that it should be voted down.

Certainly, we should review this legislation. We should review other legislation if necessary. We should review other provisions that we have put through this place in terms of any area, law and order or whatever, to see whether they have had a positive impact. That would be the positive way of doing it. If you put a sunset clause in this you provide for the possibility that the legislation will lapse. No-one will notice that it has

lapsed, and then the mere fact that it has lapsed will become the centrepiece of some court case that this legislation is designed to obviate.

If commonsense is to prevail here today, these provisions should stay in place until some review. I am happy to see a review take place in one years time, two years time or beyond. If a review demonstrates that these provisions are not good law in light of the circumstances and in light of the facts that emerge from a review, we should repeal them. By making the repeal process automatic we are taking a little bit of a risk here of creating a hiatus where we could get problems much like the problems that came up with the calibration of breathalyser equipment in the past. We could get those forms of court cases again. I request that you withdraw this amendment for those reasons. It just does not make sense, Mr Humphries.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.04): Mr Speaker, the amendment does make sense. I would refer Mr Quinlan to the very arguments that his party used on a similar piece of legislation relating to criminal acts a few years ago when—

Mr Quinlan: It is not about criminal acts.

MR HUMPHRIES: It is about criminal acts. Drinking and driving are criminal acts, Mr Quinlan.

Mr Quinlan: This is not about criminal acts.

MR HUMPHRIES: Okay, have it your way, but I am saying to you that this touches on the operation of the criminal law.

Mr Quinlan: When are you going to actually squarely address a point in this place?

MR SPEAKER: Order! Mr Humphries has the call.

MR HUMPHRIES: I am sorry you have to be personal about this, Mr Quinlan, but I am telling you that there is a precedent—

Mr Berry: Mock indignation, I think.

Mr Quinlan: You will go blind.

MR SPEAKER: Settle down.

MR HUMPHRIES: Mr Speaker, during debate on the move-on powers in this place nine or 10 years ago—I think it was 10 years ago—members opposite argued passionately that legislation of this kind ought to have sunset clauses in it to force the parliament to go back—

Mr Quinlan: This is not legislation of that kind.

MR HUMPHRIES: I think it is significant legislation which needs to be tested. You have conceded, Mr Quinlan, that it needs to be tested as well to see what kind of experience we have with this.

Mr Quinlan: That is punitive legislation that you were talking about.

MR HUMPHRIES: No, it was not punitive legislation. Mr Speaker, Mr Quinlan can make distinctions if he wishes, but I think that we have here a significant piece of legislation—

Mr Corbell: You don't because it is an inconvenience.

MR SPEAKER: Settle down, please.

MR HUMPHRIES: Thank you, Mr Speaker. I think this legislation is significant. This legislation has the potential, if it is not used properly, to encourage people to drink and drive. That is a potentially dangerous outcome of this legislation. The government is supporting this bill but it wants its operation to be reviewed. On the same basis that you people argued for a sunset clause on the move-on powers, I argue that it is appropriate to have a sunset clause in this so that we can ensure that that testing and monitoring of the situation does occur. Go back and see what you said on that occasion. The arguments you have used today against a sunset clause were the diametric opposite of what you were then arguing were the reasons for a sunset clause. Mr Speaker, I would urge that on this house.

MS TUCKER (4.07): I do not think I will support this amendment moved by Mr Humphries. I understand that New South Wales and Victoria have had these machines for around 5 years. I don't know if there has been a formal review, but the AHA, through its New South Wales counterparts, is saying that they have been successful. There certainly doesn't appear to be any clear evidence that they have been a disaster in any way. It is not as though Mr Quinlan is suddenly inventing something that nobody else has tried. If there is a sunset clause I would be concerned that you would see licensees reluctant to invest funds in this. I do not know how important this measure will be, but any measure is important to reduce the cost to our community from drink driving.

MR RUGENDYKE (4.09): I have listened carefully to the reasoning for a sunset clause in this bill. I think I can sum it up quite simply by saying that I do not think we need a sunset clause on the move-on powers, and nor do I really think we need a sunset clause in this bill.

Amendment negatived.

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

Bill, as amended, agreed to.

MAGISTRATES COURT AMENDMENT BILL 2000

Debate resumed from 10 May 2000, on motion by **Mr Berry:**

That this bill be agreed to in principle.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.10): The government has concerns about this bill of Mr Berry's in that it is meant to provide some protections to teachers in schools in the ACT who may feel the need—

Mr Berry: All workers.

MR HUMPHRIES: All right, all workers in schools in the ACT.

Mr Berry: And outside.

MR HUMPHRIES: You say outside. I am not quite sure how that occurs. Mr Berry, in his presentation speech, made particular reference to schools and teachers. He can explain to me afterwards how his bill affects people outside schools, but I understand that the main purpose of this bill is to provide protection to people in ACT schools.

The purpose of the bill is to permit an employer to make an application for a restraining order under part X of the Magistrates Court Act on behalf of an employee. Mr Berry indicated that the amendments were proposed primarily to address concerns raised by teachers about threats of violence and damage in ACT schools. The amendments of course apply—and I think this is Mr Berry's point—to any employee, whether in the public or private sector.

In recent days the government has been looking at the operation of restraining orders and protection orders under ACT legislation. There has been a series of Supreme Court cases dealing with restraining orders which reveal a number of technical difficulties with the operation of current provisions, and they indicate that a general review of restraining orders is needed in the ACT. That in now under way.

It has become apparent in the discussions about the way in which Mr Berry's amendments are brought forward and would seem to operate that restraining orders under part X of the Magistrates Court Act 1930 are not well adapted to deal with the problems confronting schools at the moment. Restraining orders are used to prevent a person from acting against the person or property of another person, known as the aggrieved person. There must be an aggrieved person for a restraining order to be issued.

It appears that in some cases involving threats of violence in a school context, however, that the threat is generalised. There are instances, for example, where a threat has been made against a specific person but that person has been unwilling to be the aggrieved person for a restraining order application. The lack of a specific target for the threatened violence in some cases and the unwillingness of some threatened people to be the aggrieved person in other cases make the use of restraining orders problematic in a number of cases involving schools.

That is the basis on which there ought to be a review of the operation of restraining orders. As I said, that is occurring. The amendments proposed by Mr Berry are predicated on the existence of an aggrieved person on whose behalf an application can be made by that person's employer.

In the context of school violence, Mr Berry has assumed that a teacher would be the aggrieved person. The department of education has indicated that, while teachers may be present when threats are made, the threats may be directed against one or more students or may be generalised threats which are not directed at that teacher, with the result that he or she cannot be an aggrieved person within the meaning of part X of the Magistrates Court Act 1930. The education department has also indicated that in some cases teachers are unwilling to be the aggrieved person.

Mr Berry's amendments do not dispense with the requirement that a teacher must be the aggrieved person, and therefore they do not address teachers' concerns. Contrary to what Mr Berry said when he presented this bill, if a teacher does make an application for a restraining order, he or she is not required to disclose a home address. The school's address is sufficient. Mr Berry said in his presentation speech that he was concerned about teachers having to give a home address which would identify where they might be found by, say, disgruntled students who were wishing to take—

Mr Quinlan: They do not have access to the phone book, of course!

MR HUMPHRIES: Teachers might not be recorded in the phone book.

Mr Quinlan: In that case they are all gone then.

MR HUMPHRIES: Mr Quinlan, I do not know what your problem is, but I will explain why that point does not hold water, if you care to listen, which you obviously do not. If a teacher is in the phone book, then the problem Mr Berry raised does not arise in any case. Mr Berry was concerned about teachers being identified at their home address. If they have a phone number and an address in the phone book, the issue does not arise, does it?

If on the other hand a teacher is not identified in that way, and there is a concern about the teacher being identified in the course of a proceeding or proceedings in the court, Mr Berry need not be concerned, because there is not a requirement of a person making an application for a restraining order to give a home address. The person may give a school address. A home address would be included only—

Mr Berry: They have to give their name, though. That is the problem.

MR HUMPHRIES: I will come back to that in a moment. I will deal with the question of a home address first. A home address would be included in the application only where the applicant sought to restrain the respondent from approaching or entering that home address. In other words, if the aggrieved student, say, had been coming to the teacher's home and banging on the door or throwing rocks at the windows or whatever, then of course you would need to name the address. Naturally, the student would know the address already. An order in such terms would not be sought unless the respondent already knew the relevant address.

Rather than trying to adapt the existing restraining order provisions to deal with violence in schools, I think it may be more effective to develop a solution aimed specifically at this problem. A possible solution would be to include in the Schools Authority Act a specific power for an ACT government school principal, for example, or a delegate of that person to order that a person not come within a certain distance of a school or not do certain things in relation to that school. Alternatively, the legislation could give that generalised power to other parties, perhaps to the chief executive of the Department of Education and Community Services. A breach of an order like that would obviously be an offence.

In his presentation speech, Mr Berry acknowledged that the primary motivation for his amendments was representations made to him by the Australian Education Union. He did not refer to any other unions and there are not any other unions we are aware of that have called for amendments of this type to address potential violence in other employment contexts. I am not aware of any cases.

Mr Berry needs to be aware that at the present time it is possible for police officers, on behalf of an aggrieved person, to make an application for a restraining order if the aggrieved person, for example, is hesitant or unwilling to be involved in those court proceedings. In a situation where there is a generalised threat against a school or against students in a school, it is possible for the matter to be dealt with adequately under present ACT law, through the intervention of a police officer making an application of that kind to protect, if you like, the position of people who are not willing to appear in the proceedings in the court.

I do not believe it would be appropriate to expand the number of categories of people who can apply for restraining orders to include parties other than the police and the aggrieved parties, the parties being threatened. The possibility of allowing employers to make applications for restraining orders to deal with workplace-based threats could be considered in the context of the review that I have spoken about. Perhaps that would be appropriate. But that is a different scheme to the one which Mr Berry has brought forward today.

Mr Berry: This is just opposition for opposition's sake, Gary.

MR HUMPHRIES: No, it is not. I am sorry you see it that way. We have an intention to deal with this issue, and we have already indicated that there will be a review for that purpose. If Mr Berry was concerned about teachers having to put their home addresses on applications—

MR BERRY: No.

MR HUMPHRIES: You said that in your presentation speech. You said you were concerned about that issue. I can assure you it is not the issue. You do not have to put your home address on that application unless an order is necessary to provide protection against a person coming to that home address. Naturally, it has to be provided in those circumstances.

The fact that your amendment enables an employer to make an application does not relieve the court of the need to know who the aggrieved parties are. Let us take as an example a teacher and a class that have been threatened in a generalised way by malcontent student Y. Malcontent student Y has come to the school and made threats against the teacher and the class. The teacher and the class are concerned about the nature of the threat, are not keen to get involved in restraining orders in the court and go to their employer and want their employer to go to court and make an application on their behalf.

That can now be done by a police officer. Even under Mr Berry's bill, if it passes, it will not be possible for the employer to go to the court and apply for the restraining order without naming the teacher and the students concerned. He has to name the teacher and students. That is the clear advice I have received. Your bill, Mr Berry, does not relieve the court of the obligation to know who it is the order is being made out to protect. You can say to malcontent student Y, "You must not approach Mr X and Mr Z." But in the present circumstances you cannot say that they may not approach a particular place or particular class of people who are not named. You must also name the people who are part of that class or who are found in that place. The order can be made out to the effect of saying, "You may not approach the school when those students are in that class." That is an acceptable order, because the students concerned are named in the order and listed in the order.

At the present time Mr Berry's bill would not have the effect of allowing the students or teacher or whoever was being protected not to be named. If they have to be named, the purpose of the bill is defeated. This is not opposition for opposition's sake. It makes more sense to draft an amendment which has the effect of providing a protection around a place rather than around people, if that is what Mr Berry wants to achieve.

Without naming particular students, a court could order that student Y not come to a school during school hours, say, or not come within a certain distance of sportsfields where students were engaged in sporting activities. That might be an acceptable outcome, but it is not the outcome you achieve with your bill, Mr Berry. I think you need to go back and reconsider your bill. The government is not opposed to the general concept of what Mr Berry is trying to do.

Mr Stefaniak: We are very supportive of it.

MR HUMPHRIES: Mr Stefaniak indicates that his department has been concerned about this issue for some time. My advice is very clear. Your bill does not obviate the need to name individuals who appear in court and who have to be the subject of court orders. You cannot issue a generalised restraining or protection order. It needs to be specific about who it is protecting. As a result, I think Mr Berry should reconsider the bill, perhaps adjourn the debate and allow the bill to be further considered, with amendments.

MS TUCKER (4.24): I have been listening to the debate. I think we are all concerned about the fundamental issue here, and I am concerned after hearing Mr Humphries' comments. I will listen to what Mr Berry says, but I would like to know from Mr Humphries what the timeframe is for the review that he has mentioned. Maybe he

could give an indication to the Assembly about that, because it is an issue that needs to be addressed.

If what Mr Berry has proposed can be improved, which is what Mr Humphries has basically said, then it would be sensible, in my view, to adjourn this debate. If Mr Berry does not want to do that, then I will have to oppose the bill, unless he has some stunning argument in response. I will listen to the debate, but I am concerned enough to consider not voting for this bill.

MR RUGENDYKE (4.25): I have advised Mr Berry that I support the bill. I am advised by Mr Berry that the intention of the bill and what the bill does is to allow a school as an entity, for example, to take out a restraining order. My practical policing experience is that that is a very necessary thing. The Attorney-General has outlined circumstances which seem to indicate that the bill is not quite as I believe Mr Berry intended. However, I believe it is important to have a piece of legislation that does what I had hoped the bill would do. Like Ms Tucker, I believe it would be appropriate to adjourn this debate, unless it can be shown that what the Attorney has told us is incorrect.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Ms Tucker asked me a question, and I can provide more information about the matter. I seek leave to speak again very briefly.

Leave granted.

MR HUMPHRIES: Ms Tucker asked me about the review timetable. I am advised that the aim is to complete the review in time to introduce an amendment to deal with the problem by the end of this year. I cannot immediately see it, but I am told it is in the legislative program. That is the timeframe the government is working to.

MR BERRY (4.27), in reply: I will deal first with support for the matter and who has been consulted. I have consulted a range of unions that represent employees. In that sense, representatives of employees have been consulted. I also took the time to write to the Bar Association. I have a letter from the Bar Association. It reads as follows:

> Thank you for your letter of 15 May 2000 and the copy of the Bill.
>
> The amendments proposed by you seem to the ACT Bar Association to be very sensible and to achieve the object intended. Accordingly, your proposal has the support of the ACT Bar Association and we thank you for bringing such a judicious amendment into existence.

I seek leave to table the following paper:

> Magistrates Court (Amendment) Bill 2000—Copy of letter from President, The Australian Capital Territory Bar Association to Mr Wayne Berry MLA, Shadow Minister for Education, Employment, Industrial Relations and Tourism, dated 17 May 2000.

Leave granted.

MR BERRY: Next, I will deal with the issues raised by Mr Humphries. Mr Humphries is working under the misapprehension that this bill applies only to teachers. It goes far wider than that. It did start with a proposition put to me by the AEU in relation to teachers, but on sitting down and considering the matter it became quite clear that this was an issue that could present a problem for employees in any enterprise. So it was felt most appropriate to provide an avenue for an aggrieved person to be, if you like, represented by an employer, or replaced by an employer, in an application before the courts.

Mr Humphries raised a red herring about students. If teachers and students were threatened in any way, it would be entirely up to the teacher to ask the employer, which might be the chief executive of the Department of Education and Community Services, to deal with the matter. Students would not necessarily be part of the process.

Mr Humphries failed to make it clear that proposed new section 198B has special requirements for applications by the Community Advocate or an employer. It reads:

> Despite paragraph 286(1)(b) of the *Magistrates Court Jurisdiction Act 1982* (which is about the service of affidavits on parties), an affidavit is not to be served on another party to a proceeding under this Part if the only matter sworn is an aggrieved person's consent to the making of the application by the person's employer.

I need to emphasise that point, because subsection (2) of the proposed new section deals with an application by an employer of an aggrieved person and points out that the court can proceed only if satisfied that the aggrieved person consents to the making of the application. I emphasise again that the name of the aggrieved person—the employee in this case—is not to be included in any document served on another party to the order. My legislation goes a step further. Subsection (4) of the proposed new section reads:

> Subsection (3) is not to be taken to limit the ways in which the court may be satisfied that the aggrieved person consents to the making of an application.

This leaves it open to the courts to ensure that the identity of a person does not fall into the wrong hands, the wrong hands in this case being a party served with an affidavit. An affidavit served on a party will not contain the names of aggrieved persons, in this legislation employees.

Mr Humphries also tried to make the point that we could have these requirements under the Education Act. That is something that crossed my mind. But that was when I was considering applying my legislation only to teachers. I eventually wanted it to go wider than that. That is why I have dealt with this matter under the Magistrates Court Act—to deal with all employees. You will note that "employer" has been defined in the bill to ensure it is clear that the interpretation of employer is quite wide. "Employer" means a person who engages an individual under a contract of service, a contract for services, an apprenticeship or a training agreement under the Vocational Education and Training Act. It is quite wide. This is specifically aimed at ensuring that the identity of aggrieved persons is protected by this legislation.

Mr Humphries: How does it do that?

MR BERRY: Proposed new section 198B sets all those requirements out.

Mr Humphries: Where does it say you cannot know the aggrieved person?

MR BERRY: I just went through that, Gary. Weren't you listening, for heaven's sake?

Mr Humphries: I was, but you did not say. You did not tell me. Where does it say you cannot know the aggrieved person?

MR BERRY: Have a look at 198B. Read the lot. If you are still relatively uninformed, come back to me.

Mr Humphries: I am, I am afraid. I cannot see where it says you do not have to name an aggrieved person.

MR BERRY: It says:

> Despite paragraph 286(1)(b) of the *Magistrates Court Jurisdiction Act 1982* (which is about the service of affidavits on parties), an affidavit is not to be served on another party to a proceeding under this Part if the only matter sworn is an aggrieved person's consent to the making of the application by the person's employer.

Mr Humphries: It does not say you should not name the aggrieved party.

MR BERRY: That will not make the aggrieved person's identity available. Mr Humphries also said that names could be kept secret by the Magistrates Court. That may be the case. But keeping addresses secret is not the issue. The issue here is that the names of the teachers will be known. The person who takes out the affidavit and puts the evidence before the court will be the one who is identified. You do not have to be Einstein to find out where somebody lives if you know who they are. If you cannot find their address in the phone book or on the electoral roll, you can follow them home. It is as simple as that. This is about keeping the names of individuals confidential. This is the advice I was given as a precursor to the development of this bill.

I suspect—Mr Humphries protests the opposite—that this is just opposition for opposition's sake. He is talking about a review in the education system. I am not interested in that. I want to see this apply more widely. This legislation has been drafted to protect all employees by ensuring that their identities are kept confidential in proceedings of this sort. This is not just about the education system, the subject of the review Mr Humphries is talking about. I want something wider than that. That is why I drew up this legislation.

I think Mr Humphries is grasping at straws. I am happy to consider further amendments if his review turns something else up in the future, but I am not prepared to wait at this stage for a review of the nature proposed by Mr Humphries. The review he is talking about, as far as I can make out, applies only to the education system.

Mr Humphries: No. It is more.

MR BERRY: He protests that it is more than that. This bill covers all employees in the territory. It ensures that their identities are kept as confidential as possible. The Bar Association say that the legislation is okay and will achieve the results intended. I am happy to accept their support on this. I am happy to accept that the people who drafted this bill think it will deliver the goods so far as that is possible. The legislation should be passed. If you come up with something else in your review, Mr Humphries, I will be happy to consider it.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Deputy Speaker, I seek leave to speak again

Leave granted.

MR HUMPHRIES: I will be quite brief. I emphasise again that what I have raised is a concern which has been expressed to me by my department about the operation of this bill. The government has every intention of supporting the intention of what Mr Berry is trying to do, but we do not believe it is achieved by this bill. We are attempting to review the operation of these orders at the moment to achieve this result.

Mr Berry is saying this bill applies more widely than just to teachers. I accept that. The inference I took from the earlier speech obviously was mistaken, and I acknowledge that. But on my reading of the terms of this bill, we do not have an exemption from the requirement to name aggrieved parties. I refer in particular to proposed new subsection 198B(3), which Mr Berry quoted. It is about an affidavit which contains an aggrieved person's consent to the making of the order. Bear in mind that a person for whom an order is made needs to consent to that. You cannot get an order in favour of somebody without them agreeing to that.

The fact that that person has given their consent in an affidavit is a piece of information which does not need to be provided to other parties in the proceedings. That is what 198B(3) says, as I read it. It does not obviate the need for the court to consider who the aggrieved parties are and to name them in the court order. If you think about it, logically that is how restraining orders have to work. They restrain somebody from doing something to somebody else. As far as I am aware, you cannot have restraining orders against animals or against buildings. They have to be against people.

Mr Berry: You do not understand this. I will come back to it.

MR DEPUTY SPEAKER: I do not think we are making progress here.

MR HUMPHRIES: No, I do not think I am, Mr Deputy Speaker. But I have to emphasise that the arrangement in the present restraining order scheme is to protect people. They are the aggrieved persons. You must name the aggrieved persons in the restraining orders. Notwithstanding that an employer can make an application on behalf of an aggrieved person, the aggrieved person must still be named, both in the application and in the order. The anonymity which Mr Berry has argued for is not achieved by his bill. It is not achieved by proposed new subsection 198B(3). You can read that to see it does not achieve that. It protects the identity of the aggrieved parties in respect of one piece of information in the process leading up to a court decision, but the court itself still

has to be satisfied as to who the aggrieved people are and to name them in the court order.

MR DEPUTY SPEAKER: Mr Berry, you will want to seek leave, I guess.

MR BERRY: Yes, of course I will.

MR DEPUTY SPEAKER: Members have to read the standing orders or review them, one or the other.

Leave granted.

MR BERRY: If an order is taken out in relation to a particular person and the particular person is the aggrieved person, of course their identity is going to be exposed.

Mr Humphries: That is always the case.

MR BERRY: That is always the case. There is nothing new in that. That is the position that you are arguing. But if an employer—the education department, the health department or whatever—take out an application in relation to a place of work—

Mr Humphries: They cannot without having a person as well.

MR BERRY: They can in this case because it says in proposed subsection (2):

> The court may proceed with an application by an employer of an aggrieved person only if satisfied that the aggrieved person consents…

From that point, it deals with the application by an employer. It does not deal with the application by the aggrieved person. All the aggrieved person has to do is consent to the employer. That is what it says. It is quite clearly set out in much the same way as it applies to the Community Advocate. The court has to be satisfied the Community Advocate is an appropriate person to proceed, say, on behalf of a juvenile, and in the case of employees the court has to be satisfied that the employee consents to an employer proceeding. You have that wall built between publicity of the person's name and address—

Mr Humphries: Where?

MR BERRY: In proposed section 198B it is very clear. All the court has to do is satisfy itself that the aggrieved person consents and the law specifically prohibits the publication of the name. If somebody makes an application in respect of themselves, it is a bit hard to hide their identity, but in the case of an application to keep people away from a certain place then of course—

Mr Humphries: You cannot do that under present law. You have to name a person as well.

MR BERRY: This legislation, I am advised, provides for an aggrieved person's identity to be protected. The Bar Association agrees with me. I will accept what the Bar Association says, if you leave the politics aside. The people who draft laws tell me this bill will deliver the goods. The Bar Association tells me it will deliver the goods. I can only rely on their advice, and I intend to proceed with the bill. It is up to members whether they want to provide this protection or they do not.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the affirmative.

Detail Stage

Clause 1.

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

DISCHARGE OF ORDER OF THE DAY

MR CORBELL (4.48): Mr Deputy Speaker, I ask for leave of the Assembly to move a motion to discharge an order of the day, private members business.

Leave granted.

MR CORBELL: I move:

> That order of the day No. 9, private members business, relating to the Land (Planning and Environment) Legislation Amendment Bill 1999, be discharged from the notice paper.

AIR POLLUTION—WOOD HEATING

[COGNATE BILL:

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT BILL 2000]

MR DEPUTY SPEAKER: Is it the wish of the Assembly to debate this notice concurrently with the Environment Protection Legislation Amendment Bill 2000? There being no objection, that course will be followed. I remind members that in debating private members business notice No 3 they may also address their remarks to private members business, order of the day No 3.

MS TUCKER (4.49): I move:

> That this Assembly, noting the recent CSIRO study which found that atmospheric particle concentrations over Canberra in Winter were two times greater than Sydney, Melbourne, Brisbane and Adelaide because of smoke from wood burning, calls on the Government to:
>
> (1) review the ACT's existing air pollution monitoring system to ensure that it is adequate for detecting concentrations of particles down to 2.5 micrometres in diameter across Canberra on a continuous basis;
>
> (2) initiate an air pollution warning system to request households with wood heating to use alternative forms of heating (where practicable) on days of high air pollution, similar to the "Don't Light Tonight" program of the NSW Environment Protection Agency;
>
> (3) investigate measures that the ACT Government could adopt to assist low-income households which rely on wood heating to install less-polluting heating systems;
>
> (4) report back to the Assembly by the end of October 2000 on action it has taken in response to this motion.

This motion is half of the package of measures I have put forward to address the significant environmental impacts of firewood heating in the ACT. The firewood issue has two parts. There is the input side, or where the firewood comes from, and there is the output side, or the smoke pollution that is produced when the firewood is burned.

I have already tabled a bill which addresses the input side by requiring firewood sellers to have an environmental authorisation. To recap on this bill: a condition of the authorisation would be that fuel wood sellers would have to comply with the substantive provisions of the existing code of practice. This involves promotion of mixed loads and correct burning practices, firewood being sold by weight only, only seasoned wood being sold and the source of wood being disclosed. The effects of this bill would be to ensure that ACT residents are given basic information about the firewood they buy, basic information about how best to use it, and a level of protection that they are getting the type and amount of wood that they think they are buying. The requirement for an environmental authorisation will create a level playing field across all firewood sellers and eliminate fly-by-night operators who are not prepared to act responsibly.

The motion now before us addresses the output side of the issue—the smoke pollution produced from wood fires. Anyone who travels around Canberra on a winter's night, particularly in the Tuggeranong Valley, can see and smell the smoke haze. Canberra's

topography and climate are conducive to poor atmospheric dispersion in winter, with low-level inversions forming on clear nights if wind speeds are low. Surrounding hills exacerbate the problem of accumulation of air pollutants because dispersion is poor. Still nights and low-level inversions also increase the incidence of nuisance smoke flowing from a chimney directly into a neighbour's home. For those people who live next door to houses with wood fires and have to constantly breathe smoke, it can be a major health problem.

I am not saying that we should ban firewood heating, as I am aware that many people have no choice but to rely on the fireplaces or wood stoves that are already in their homes for heating. Over time I hope that the current extent of firewood heating in the ACT will reduce as householders move to alternative forms of heating or make their houses more energy efficient. However, for the foreseeable future we will have to cope with smoke pollution. My motion is therefore about reducing the impacts of wood smoke.

There always will be debate about what is an acceptable level of pollution, as there is uncertainty about the direct links between particular levels of pollutants and public health impacts. Judgments are also made about what is an acceptable level of risk across the community. However, it has become clear that the level of wood smoke in the ACT is way above accepted pollution standards in other cities. A recent CSIRO study on air pollution called "Air pollution size counts" by Dr Malita Keywood identified for the first time in Australia the chemical makeup of different sized particles in the air. Burning wood creates tiny particles which can penetrate deep into the lungs and which contain toxic and cancer-causing chemicals. Chemicals include lead, black carbon and complex organic compounds.

Dr Keywood and colleagues measured levels of particles smaller than 10 microns in diameter in Sydney, Melbourne, Adelaide, Brisbane, Canberra and Launceston. Despite the cities' smaller size, average concentrations in Canberra and Launceston were two and three times greater than in the other four cities, with smaller particles down to 2.5 microns in diameter making up a larger proportion of the particle concentration in Launceston and Canberra because of the prevalence of wood smoke in these two cities.

The Armidale Air Quality Group, whose city has the same problem with wood smoke as we do, over 1999 analysed air quality measurements from the monitoring site in Monash against the pollution index used by the New South Wales EPA to classify air quality levels over Sydney. It found that Monash had at least 76 days over the winter of 1999 that would be classified as high pollution days in Sydney, all due to high particle levels from wood smoke. The number of days is probably higher, perhaps up to 100, because measurements were not available for about a month within that period. By comparison, Sydney had only five days of high pollution over that period, according to the EPA index.

Numerous health studies around the world have confirmed the association between fine particulate air pollution and adverse respiratory and cardiac health effects, with impacts similar to those of cigarette smoking. It is also the case that the smaller particles are more likely than larger particles to be responsible for adverse health impacts. It is much harder for the body to catch and eliminate the small particles, so such particles get trapped in the lungs.

The EPAs In New South Wales and Victoria have established systems for alerting people about high pollution days. They have established pollution indexes, and when the indexes reach a certain level and weather conditions do not allow pollution dispersion, then a public air pollution warning is issued. The New South Wales EPA have taken this a step further with their Don't Light Tonight campaign. On days with high levels of particulate pollution, the EPA issue Don't Light Tonight notices, calling on those people with wood heating to voluntarily use other forms of heating if they have that option so that the overall pollution load can be reduced.

If they can have such a pollution monitoring and notification system in Sydney, which has a significantly less problem with wood smoke than the ACT, then surely we should have such a system here. That is why I am calling on the government in the first two points of my motion to review the existing air quality monitoring network in the ACT so that it is capable of detecting the smallest particles of concern, those down to 2.5 microns, and capable of generating air pollution warnings in real time. I would also like the government to establish a similar public notification system to the Don't Light Tonight system in Sydney.

The third point in my motion reflects a different aspect of this problem, which is how to reduce the level of wood smoke pollution in the longer term. There are already emissions standards for wood heaters, but technically it is not possible to eliminate all smoke pollution from wood fires. The ideal is to reduce the number of wood heaters in the ACT, or at least to have them used less often. This raises an equity issue. If we were to ban wood heating, then this would put financial pressure on those people who rely on this form of heating to meet the capital cost of new heating systems. Tenants in particular have no choice but to rely on the heating their landlords provide.

I am therefore asking the government to investigate ways of assisting low-income households to install less polluting heating systems. There are a number of precedents for governments subsidising environmental improvements in the area of energy efficiency and greenhouse. The government already provides rebates for the purchase of rainwater tanks and efficient shower heads. Some other states offer rebates for the installation of solar hot water heaters, and the federal government offers rebates for the installation of photovoltaic systems on residential buildings. It might also be possible to offer low or no-interest loans. I do not have a preference for the particular form of assistance, but it does deserve further investigation.

Firewood burning is a significant environmental issue in the ACT, which unfortunately you could say has been kept on the backburner for far too long. In 1991, the then Standing Committee on Conservation, Heritage and Environment undertook an inquiry into firewood heating in the ACT. Mr Moore and Mr Humphries were on that committee. That inquiry recommended the same things we are debating here today, things such as registration of firewood sellers and air quality warnings. The 1995 *ACT State of the Environment Report* also recommended air pollution alerts and licensing of firewood merchants. How long do the ACT public have to put up with smoke over the city every winter and the inaction of members of this place, in particular the government?

I acknowledge that the government released a firewood strategy in 1999, but the voluntary approach adopted by government has not achieved much change. It is now time to take stronger efforts to reduce wood smoke pollution so that by next winter we will have the necessary systems in place to make a difference to the levels of wood smoke we have been suffering for years.

MR SMYTH (Minister for Urban Services) (4.59): The government will oppose the motion and it will oppose the bill. The recent CSIRO study Ms Tucker referred to was done in 1997. It focused on the way information is gathered, not necessarily on the information. From this it was concluded that part of the concentrations in Canberra over winter are two times greater than those in Sydney and Melbourne. That is an interesting assumption to make. We have to look at what the study compared. It compared measurements taken in Sydney from August to November in 1996.

Ms Tucker: I said we had measurements in 1999.

MR SMYTH: The CSIRO report that you spoke of was published in 1997. The analysis in Liverpool in Sydney was done in August/September 1996. The Monash examples were from monitoring in May/June 1997. So we are not comparing levels at the same time of the year, in the same season and in the same weather conditions. It is now late August and it is much warmer and much clearer. To compare the high-use period of May/June 1997 with the potentially lower use period of August/September 1996 is not a fair comparison. Wind and therefore pollution dispersal are much higher in August/September. Pollution going into the air over Liverpool in August/September 1996 was potentially dispersing faster.

We do not know that, because the report does not tell us what the prevailing weather conditions at the time were. It does not tell us what the weather patterns were or what the comparisons between the two seasons were. The primary purpose of the report was to look at the analysis systems. The samples were collected for 26 days in Monash; they were collected for 32 days in Liverpool. With such short periods of measurement, it is also possible that the period for Canberra may have been a particularly cold period—I do not recall. The period for Sydney may have been particularly good—I do not recall.

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 SMYTH: It does not change the fact that Sydney's pollution levels are normally much worse than Canberra's. This information is just a distortion. This is selective use of material to push a wheelbarrow. The results for Canberra were not good, but I believe they were not as bad as for Sydney.

Ms Tucker jumps the gun. In paragraph (1) of the motion she wants a review of the ACT's existing air pollution monitoring system to ensure that it is adequate for detecting concentrations of particles down to 2.5 micrometers in diameter across Canberra on a continuous basis. This is premature, because under the ambient air quality NEPM there is a requirement that particles of less than 10 microns be monitored on a continual basis.

However, the ACT, like many other jurisdictions, only monitors particles every six days in accordance with the standard required. There is, however, a move nationally to collect continuous real-time data on particles using a nationally agreed method. When that agreed method is reached, the ACT government will ensure the agreed methodology is implemented. We are committed to the NEPM. In relation to particles of 2.5 microns and less, there is no requirement currently under the NEPM, but a review will commence in 2001. At this stage we comply with the standard, and under the NEPM we will look at future actions.

Ms Tucker says that we should initiate an air pollution warning system to request households with wood heating to use alternative forms of heating. We already have a strategy. Ms Tucker alluded to the firewood strategy and the code of practice. Since the strategy was launched in February last year is, data given to me by the department shows a 30 per cent decrease in the air pollution. The strategy is already working. How are we getting it to work? We are getting it to work through the voluntary better use of wood burners, and we are getting the industry to come on board and make sure that they are doing the right thing as well.

The reduction of smoke emissions from wood heaters is a key component of the ongoing community awareness. Teaching people how to use their wood burners appropriately is a very important issue. It is surprising how many people do not set a good fire. They do not understand what your fire does when you put the dampener on. We are saying, "Use your fire to best advantage. Reduce your wood. Increase the amount of heat you generate. Reduce the amount of air pollution." The initial advice I have from the department is that this is starting to work. We have seen a 30 per cent reduction since the introduction of this strategy last year.

We suggest that people let their wood heaters go out at night, but if they want to burn their fires overnight they should do so with a bright flame to make sure that smoke emissions are reduced. That is particularly important for older heaters. Shutting off the air supply to older heaters causes the wood to smoulder, creating some of the pollution.

The strategy includes the firework industry code of practice. We want to minimise the harm caused by harvesting hardwoods for firewood. There are other elements to our firewood strategy. It is not just about by how much we will reduce. It is also about protecting remnant stands of hardwoods. The code promotes a mixed use of hardwood and softwood loads, in accordance with the heater specifications. That is one of the dilemmas.

Most of the heaters in Australia have only been accredited to use hardwood. It is only recently that we have started accrediting them for both hardwood and softwood, which burn at different rates and at different temperatures. We want people to use the correct firewood in their heater to make sure they get the best value out of it. We have a strategy in place, and the trend analysis of the average monthly air monitoring data which correlates to visual distance indicates that since 1997 there has been a 30 per cent reduction in visible particles in the Tuggeranong Valley.

Ms Tucker asks that the government investigate giving low-income households that rely on wood heating assistance to install less polluting heating systems. There are some 10,000 households in the ACT that we believe use solid fuel heaters. We need to get

them using their heaters properly before we look at replacement schemes. You would also have to look at the cost of providing replacement heating as the main source of heating to a family household. Multiply $1,000, maybe $2,000, by 10,000 households and you are looking at a very large sum of money. The responsible thing would be to make sure that we get people using their heaters far more effectively.

Ms Tucker made the glib assertion that we have put this issue on the backburner. It is not on the back burner. If this issue is on the backburner, why does the ACT government have a firewood strategy? Why do we have a monitoring group? Why is it an issue at ANZECC, the highest environmental forum in the land. At the most recent meeting of ANZECC, in July, what was on the agenda? Firewood. What was the issue? Pollution and protection of remnant stands of hardwoods across the nation.

The ACT has led the way on this. I wrote either early last year or the year before to all ministers in Australia responsible for the standards concerning wood heaters in Australia to make sure that we were taking into account the alternative use of pine plantation timbers. We did not get a very warm reception, I have to say. Most of them did not see it as an issue, but we have persisted. We have shown through our strategy that we are addressing this need perhaps the best way that you can—by making people responsible for it themselves, making them understand that it affects where they live and that they have a responsibility. Based on the trend data, we have seen a reduction of over 30 per cent since 1997.

Ms Tucker used the word "inaction". Through a voluntary process, we have got people to use their heaters properly, and we are seeing the results of that even as we speak. ANZECC has now looked at what the ACT has done and they have said that this is an issue. We have set up a committee of ANZECC to report back to ANZECC in December. Why? Because it is an important issue and because we know that we need to do something before the start of next season.

This season is over for selling our strategy or having an effect, but we have an opportunity to get ready for next year's season, and it is very important that we do. It is very important that the Assembly understand that the government has been working very hard and to compliment the working group, the public servants, the trainers and particularly the public who have taken note of the strategy to the extent that we can already see an effect. We can already see a decline in the pollution by over 30 per cent, based on the statistics given to me.

Ms Tucker says that we should legislate to license traders. Again, she is jumping the gun. The current season is virtually over. Any effect that we will have in passing legislation here today will impact on next season. Across Australia we are looking for further information to make sure that we get this right. The ACT is leading the way on this. The ACT recently gave a presentation at Ballarat, where a report on our strategy was given and well received by all jurisdictions. The report was made available to all ministers at ANZECC recently, and the federal minister, Robert Hill, complimented the ACT on the interest, on the leadership and on the outcomes we have achieved.

Mr Corbell: What a surprise!

MR SMYTH: Senator Hill wanted this issue on the agenda because of his concern for remnant woodlands. He sees it as a big problem. When we see some of the figures that are bandied around for the tonnes of hardwood used every year, it should be an issue of interest for all of us.

We should defeat this motion today. It is not appropriate to support it. What we have in place is addressing all of the issues that Ms Tucker has raised. In using a "recent" CSIRO report, one done in 1997, you are comparing apples and oranges. You are comparing different cities at different times of the year in different seasons for different lengths of time. It is most unjust to make a broad assertion that Canberra is twice as bad as Sydney, when it is just not so.

There are flaws in the bill. Through ANZECC we are attempting to come up with a nationally consistent approach to harvesting and selling firewood. It is a great achievement that the Commonwealth and states and territories, both Liberal and Labor, are willing to work together on this, and we will have some answers in December. That leaves us plenty of time before next year's season, if necessary, to implement Ms Tucker's bill, but it is not appropriate to do it now.

Why is it not appropriate to do it now? It does not solve the problem. Yet again, we would be bringing in legislation that affects small business. They would have to put in a weighbridge, at tremendous expense. Go across the border to Queanbeyan. They do not have weighbridge. Businesses can deal straight into the Canberra market from Queanbeyan as well as they can from Mitchell, Hume or Fyshwick, I can assure you. If the Assembly imposes on small business in a way that drive jobs out of the ACT but does not solve the problem, then it is making bad law. If next year there is a nationally consistent approach that required licensing for everybody across the country, there will be absolutely no reason for traders to go across the border in an attempt to avoid what this Assembly may pass today. It is very important that we understand that.

The code of practice is a voluntary code under the ACT firewood strategy. It has been adopted by merchants who supply about 40 per cent of the firewood in the ACT. Over two seasons, we have 40 per cent voluntary adherence, and we are continuing to work with the other traders. This legislation will not stop the fly-by-nighters who are going to come across the border. Consistent legislation in New South Wales and across the country would.

We have to look at compliance as well. Forty-six complaints have been recorded this year, of which 19 have been in Tuggeranong. This compares with over 80 complaints, approximately 30 in Tuggeranong, last year. *(Extension of time granted.)* At this stage, about two-thirds of the way through the season, we are seeing fewer complaints already, so you can say that the strategy is having effect. We must continue to educate. It does take time to change people's habits, but already we are having an effect.

The proposed sale by weight as a compulsory condition of the authorisation would put extra costs on small business. As I have said, if we do not have consistent legislation across the border, traders will simply retreat across the border. I do not think anybody wants to see that. This proposal is not the answer. With a little bit of patience and a national approach, we can achieve a far better outcome for everybody.

There are also some technical issues with the drafting of the definitions in this bill. It is not clear whether all wood would be considered wood taken from a tree, and it is not clear whether wood that has not yet been burnt is wood that is cut and burnt for fuel. The bill refers to seasoned wood, without giving a definition of what seasoned wood is. The whole issue of what is seasoned wood and what wood produces the least pollution is complex. Discussion is still going on in the scientific community as to what is seasoned wood. The question of how to regulate pollution from firewood needs much more careful consideration before we can get to that definition.

We now have a national task force. The ACT government, which Ms Tucker asserts has put this on the backburner and been inactive, has been able to get this on the agenda at a national level. In light of what we have done, a national task force has been established by ANZECC. We will be looking at these decisions in December when we get the report from the task force, so it would be appropriate not to go flying off the handle at this stage, particularly when this season is already over and when we may be able to do something that gives a far better outcome for all of us in the long term.

The ACT already does its monitoring. As soon as the standards for down to 2.5 microns are available, we will follow what the NEPM suggests we should do. We are already working with the population to make sure that they get better value out of their wood and do not waste the wood they purchase; that they get better heat out of it and we all get less pollution. We are already seeing the results of that. The surveys are showing that we are getting some 30 per cent less pollution.

We could look at measures to assist low-income households, but there are 10,000 households using wood heating. I would prefer to see the report of the working group before we follow that path. Should this get up, we can report back to the Assembly by the end of October, but I do not see the value of it when work is being done nationally.

Legislating in isolation can sometimes be very appropriate. But acting in isolation when we know that many people are looking for a national solution is quite silly. We are jumping to conclusions based on a 1997 report that compared different cities over two years at different parts of the season to come to a conclusion that Canberra has worse pollution than Sydney. It is patently not true.

We should vote no to the motion. I would be happy for debate on Ms Tucker's legislation to be adjourned until we have the results of the work being done. If it is adjourned, we can come back early next year and, in light of what we find out from the ANZECC investigation, still have time to put in place a licensing system. To jump the gun now would be silly.

My preference would be that the Assembly not vote in favour of the motion and that we adjourn the debate on the legislation. Should Ms Tucker move to bring forward the legislation against the national scene, that is her prerogative. In that case the government would vote against it until such time as we have the appropriate amount of information to make sure that we get it right.

MR CORBELL (5.18): Wood smoke causes irritation of the eyes and the respiratory tract. It causes headaches. It can cause bronchial congestion. It can particularly affect people with breathing difficulties and asthma. Particulates which are resultant of incomplete combustion of wood can contribute to carcinogenic compounds and lead to a small but not insignificant cancer risk. Wood smoke has a particular effect on young people and the elderly.

That is the context in which we are debating this legislation and this motion today. It is not just about an aesthetic problem of wood smoke drifting over someone's backyard. It is about a problem which has a direct health impact on people in our community. In that context, I am very disappointed in the minister's response. The minister's response was to find just about every reason possible that he thinks this should not be done. That is not good enough for a minister for the environment and it is not something that this Assembly should accept.

Mr Smyth: That is a very poor misrepresentation, and you know it.

MR CORBELL: Minister, I heard you in silence, and I would ask you to do me the same courtesy. The argument Mr Smyth mounted in relation to the figures and data that Ms Tucker presented in her speech is wrong. This can be very clearly demonstrated. Data from the New South Wales Environment Protection Agency showed that Sydney East, which includes the CBD of Sydney, had five days with high pollution. In contrast, Monash in the Tuggeranong Valley had 76 days of high pollution, all due to high particle wood smoke levels. That was in 1999.

If you look also at the data from the monitoring site at Monash between January 1997 and July 1999, you will see that levels of particle pollution increased after the introduction of the ACT firewood strategy. I know that the minister is very keen to feed a story to Mr Rugendyke, but I think it is important to listen to the debate. The minister has had his opportunity to present his argument. This chart shows that the level of particle pollution increased after the introduction of the ACT firewood strategy. The fact is that the firewood strategy is not having the effect the minister would like it to have.

The firewood strategy and the code of practice are voluntary. There are only three wood merchants in the ACT abiding by the code of practice. There are 24 wood merchants in the ACT. Only three abide by the code of practice. The majority of all timber sold in the ACT is not sold by merchants who use the code of practice. That is a classic example of market failure. There is no other way of putting it.

For that reason this Assembly has to consider whether allowing the market to regulate itself is satisfactory. Labor does not believe it is. Labor believes that there is a need for a mandatory code of practice. The code of practice outlined in Ms Tucker's bill as part of an environmental authorisations process is, we believe, a very sensible process. The requirements are not onerous, but they will have a significant impact.

I move back to Ms Tucker's motion. We also have the issue of increased public education. The minister's argument is that the code of practice is working and is the public education process that should continue to work. Wood merchants who abide by the industry code of practice distribute a pamphlet which helps people with information on how to use their wood heater in the most efficient way. That is commendable,

but when the majority of people in the ACT do not buy timber from wood merchants who distribute this leaflet it is relatively meaningless.

We need to ensure that there is an appropriate way of providing better education to people on how to use their wood heaters efficiently, and we need to provide greater information to people on the impact of using wood heaters on certain nights of the year when there is a higher pollution risk. In particular, we should be looking at measures, as outlined in Ms Tucker's motion, such as the Don't Light Tonight programs—advisory programs asking people to consider whether or not they need to use a wood heater on particular evenings when there is the capacity for an inversion layer and for pollution to remain in areas such as Tuggeranong but also other parts of the city.

Clearly, there are equity issues associated with this. For those people who rely on wood heating to heat their house, not lighting on a cold winter's night is not an option, and that is completely understandable. That is why it is important to look at measures to assist low-income households and those households that rely solely on wood heating to install other heating devices that do not have the same impact as wood heaters do. Many people in Canberra own wood heaters, but many people in Canberra also use other forms of heating as the main way of heating their house. Wood heaters often perform more of an aesthetic function than a function of heating the home. That is why a program like Don't Light Tonight would have a considerable effect. It would encourage people to use their discretion and not light their wood heaters on evenings when there is a high pollution risk. People in Canberra understand these issues and, with better information from government, there is a much greater capacity for them to respond positively.

The issue is relatively clear. We need to look at ways of responding to what is effectively an issue of market failure as well as a significant environmental issue. The industry is not capable of effectively regulating itself. I think that has already been demonstrated. The level of pollution in the Tuggeranong Valley has increased since the introduction of the firewood strategy. Unless serious moves are made to reduce the use of hardwood timbers as stock for wood fire material, we will continue to see a major impact on the native timber stands of the inner areas of the country which are continually harvested, often in very inappropriate ways, to meet the market demand for timber for wood fires. These are the issues we need to address.

The government strategy is not adequate. A stronger stance is required, and the Labor Party will be supporting this motion and Ms Tucker's legislation.

MR STANHOPE (Leader of the Opposition) (5.27): I wish to speak only very briefly in support of the motion and the comments made by my colleague Mr Corbell, to emphasise, as has already been mentioned, the significant potential health implications of the matter we are debating here. It is, I think, in the minds of many who take great joy from fires in their homes that there is an impact, an environmental price, and that some people, particularly neighbours and others, might be susceptible to the impact of this form of pollution on their health. Therefore, we should seek and search out some responses to a worsening situation here in the ACT.

I am one of those who, along with many of us, have enjoyed an open wood fire from time to time. Perhaps in later years, as we have become a little bit more conscience of some of the impacts, we have dwelt on the appropriateness of an unregulated and

unknowing pursuit of wood fires as a form of heating and those other advantages that people do like to gain and do gain from wood fires. It is a difficult issue, and I know there is some resistance in some quarters to this degree of regulation of this form of activity.

Unfortunately—and I think we are all aware of this as we drive around Canberra at different times of the year, and particularly at different times of the day or night—a significant pollution layer is created by the burning of wood in Canberra homes. It is an issue in relation to which the legislature does need to respond, and we need to respond in a mature and appropriate way.

The case has been made very well by Ms Tucker and by Mr Corbell. I simply wanted to reinforce the significant health implications of fine particle pollution for some people. As does cigarette smoking, it impacts more gravely upon some people than others. Some people have a predisposition to a more serious health or respiratory response to this form of pollution than do other.

I—I am sure I am not alone—receive representations, particularly from neighbours of people with open fires that burn wood that is perhaps not suitable for the purpose or less than optimum for the purpose in relation to the more visible forms of pollution and damage that occur as a result of lighting of fires in homes. I have had some quite vigorous representations in relation to the need for us to take this issue of smoke and pollution far more seriously. I think these steps are reasonable. They are reasonable and incremental steps along the road to greater regulation of this issue. I support the motion.

MR STEFANIAK (Minister for Education) (5.31): I support my colleague Mr Smyth. It is too early for what Ms Tucker proposes, in light of the national task force established by ANZECC. This debate should be adjourned to the autumn sittings. There are a number of sides to this argument. Having grown up in Canberra, I recall that as a 16-year-old I had to chop wood for the heater before we went to gas. I am not unfamiliar with wood heaters.

There is a significance for industry. We do have regard to the legitimate rights of small business people. I do not think anyone makes much money from the sale of wood. Whilst some regulation is desirable to ensure quality, there are other factors.

I think it is worth while reading out a letter I received from the Australian Home Heating Association Inc of Beaumaris, dated 29 August, via K. Jenkinson, their administration officer. It relates to Ms Tucker's motion and the Environment Protection Legislation Amendment Bill 2000, which we are dealing with concurrently. The letter states:

> We understand that MLA Kerry Tucker will present this Amendment to the Assembly tomorrow (30th August).
>
> As an industry association working with manufactures, retailers and fuel merchants involved in wood heating we would like to take this opportunity of advising you of one of the concerns in relation to this amendment i.e.
>
> <u>Licensed sellers of fire wood will be required to:</u>
>
> * promote the use of a wider range of woods, including plantation timber and pine.

> The industry is concerned that if consumers are encouraged to use softwood as a fuel, firstly they will be invalidating the product warranty and secondly they are going against an existing legislation to reduce emissions.
>
> The manufacturers of wood heaters must have their heaters manufactured and certified to Australian Standards covering emissions and efficiency. Part of this certification is to place a metal plate on each heater advising the consumer of the type of fuel to be used. 99% of the 350 plus heaters are tested to hardwood. The cost of this to our industry has been in excess of $9,000,000.00. To now change the rules would again incur an enormous financial burden to an important Australian Industry.
>
> We would ask that this requirement of licensed firewood sellers be carefully monitored to ensure that information to the consumer is not misleading in relation to what is achieved by using softwood in certified wood heaters.
>
> Our member fuel merchants, retailers and manufactures in the ACT have been actively involved in the process of this licensing and we trust that you take heed of advice from within the industry on this particular point.
>
> Yours sincerely,
>
> *Kay Jenkinson*
> *Administration Officer.*

I table the following paper:

> Environment Protection Legislation Amendment Bill 2000—Licence sale and supply of firewood—Copy of letter, dated 29 August 2000, from Administration Officer, Australian Home Heating Association Inc to Mr Bill Stefaniak MLA.

I think there are a number of factors here. Work is happening nationally, as my colleague said, through ANZECC. I think it would be better to address this issue nationally rather than the ACT leading the charge and perhaps getting certain things wrong in the process. There are a number of not terribly well-off individuals. This is a difficult industry for people who sell wood.

Whilst I have not seen any figures, my colleague Mr Smyth has indicated that he feels that Sydney is far worse than Canberra. From the times I have been to Sydney, I think commonsense would dictate that. It is difficult to make a simple comparison of Sydney data and Monash data. Sydney sea breezes tend to disperse any pollution, and Canberra inversions tend to concentrate pollution. Despite that, I think we are blessed here in Canberra with a wonderful environment.

I have recently come back from China, where pollution is quite staggering. Chinese parents who have kids in our schools are so highly impressed with this place it is not funny. They are impressed particularly with the fact that we are a safe city and an environmentally clean city. I think we are far more environmentally clean than Sydney. I find the figures Ms Tucker gave amazing.

Quite a number of people would be affected, perhaps adversely, if we were to rush in.

MR RUGENDYKE (5.36): Mr Speaker, at first blush it did not appear to me that there was much of a problem with this legislation. My concern was mainly about whether or not I would still be able to go out with my chainsaw and trailer and get a load of firewood. I was advised that I probably could. I was also told that there had been a lot of consultation with the industry and that this legislation came about as a result of that consultation, but I do not think we have heard a great deal of evidence of that.

Concerns have been brought up about whether or not we should wait for national legislation, whether we would be able to go to Queanbeyan and get our firewood, whether we should burden firewood sales people by requiring them to build weighbridges and whether we should allow people to burn pine. To me that seems to be anathema. One of the lousiest woods you can find to burn in a fireplace is pine. Blowed if I know how you would come back with a trailer load of pine and be happy.

I have listened carefully to the debate. I agree that Tuggeranong suffers from inversion layers. I have seen the photographs. I know that smoke irritates some people. I also know that there are a damn lot of people who get a lot of comfort from sitting in front of an open fire or a good stringy-bark fire. I have never known anyone to sit in front of a pine fire. I think it needs more work.

I also received the letter from Ms Jenkinson that Mr Stefaniak received and that concerned me. Once again, the use of pine was brought up.

The person who sells the wood has to work out how much of each type of wood is in the load. I would be happy to see this debate adjourned until the national strategy is worked out. so that we do not unnecessarily burden ACT small businesses or people with wood fires.

MS TUCKER (5.40), in reply: I will respond to the later comments first. Mr Stefaniak argued that Sydney has sea breezes so it is different. I cannot for the life of me see how he thinks he has supported the Liberal side of this debate by saying that. That is obviously one of the issues. Because of our climate, we have a much greater problem with the number of days. If you recall, I said that there were 76 days—that was with a month's data missing—of a very high level of pollution.

Mr Rugendyke said that smoke from wood fires might cause irritation to a few people but lots of people like a wood fire. Smoke is more than irritation. It has severe health repercussions, leading in Sydney, according to data, to premature death. If you are sick with a respiratory weakness, this level of pollution in a prolonged situation has such a bad effect that authorities warn people not to go outside if it is over a certain level. That is why Sydney councils have a Don't Light Tonight campaign. It is a serious health issue. I was glad to see Mr Stanhope, as shadow minister for health, speak. I am sorry Mr Moore has not chosen to come down to the chamber. This is a health issue as well as an environment issue.

Mr Rugendyke also said that he does not like pine. This motion promotes mixed loads, not pure pine. He might be interested to know that more wood is burnt than is woodchipped. He does not claim to be a greenie, but he might be interested to know that more wood is disappearing due to burning than to woodchipping. It is a major problem in

the ACT. Mr Rugendyke told us that he likes to go out with his chainsaw and get his wood and that he likes to burn a bit of stringy-bark but does not like pine because it does not burn as well.

What I have been trying to stress at length on both occasion I have spoken on this is that this is having a very serious impact on remnant woodland in the region. People advertise in the paper the fact they have driven 800 kilometres to Canberra. It is destroying remnant woodland and destroying species, causing greater danger for species and extinction. But Mr Rugendyke wants to know that he can sit in front of his fire. To him, that is more important. He is allowed to have that view.

I come to Mr Smyth's arguments. Mr Smyth is about the Liberal Party's ideological commitment not to impose regulation on industry and their reluctance to impose further costs on government agencies. We know that this will have cost implications and we know that this government is so obsessed with having their budget surplus and so on. The minister for the environment has a greater commitment to that than to protecting the environment of the ACT and region—I stress "region", although that may not seem relevant to Mr Smyth—and the health of the people in the ACT. It is disturbing to see that level of argument from a minister who supposedly represents the environment.

Mr Smyth argued that I am pre-empting and that we should wait for a nationally consistent approach. That is quite hilarious from this government when it has said to the federal government, "Don't you tell us you want a national approach to Internet gambling. We are leading the way. We want the revenue." When we want the revenue, we do not have a national approach. But this is not about revenue. This is about protecting the environment and the health of people in the ACT community, so suddenly Mr Smyth, of the same government, wants a national approach.

Many of us are aware that the Australia and New Zealand Conservation Council do not necessarily make decisions quickly. We think this is a critical issue. In fact, many people in Mr Smyth's electorate are saying it is a critical issue. Many people are concerned about how this government is failing to take a greater role in ensuring we have a more responsible approach.

Mr Stefaniak read out a letter from the industry that creates stoves and so on, saying that it is not a good idea to promote mixed loads, which is part of the voluntary code of practice that Mr Smyth told us is working so well. Mr Stefaniak has contradicted Mr Smyth's claim that the voluntary code of practice is working so well.

The other argument from the minister for the environment was that we are meeting the standard for measuring fine particle pollution, and therefore we should not have to do anymore. This is saying, "We only do what we have to do, even if we know it is inadequate." This is the government that likes to claim it is leading the way in IT outsourcing, in industry or whatever. But when it comes to this issue, we do not want to lead the way. We only comply with the level that we have to comply with.

Mr Smyth also claimed that my data was old. The CSIRO report I referred to was only released in May 2000 and used the best data available at the time. That is reasonable for a scientific study of that depth. What came out of that study is relevant in any debate on the issue. But I also referred to a much more recent study that showed that, compared to

five or six days in Sydney, we had 76 days of high levels of fine particle pollution, and that was with a month missing. Once again, we see a reluctance from Mr Smyth and arguments that do not hold weight.

Mr Rugendyke thinks the industry has not been consulted. Mr Corbell made it quite clear that there are members of the industry who are acting responsibly and who are supportive of this legislation. Whenever you have voluntary regulation in industry, those members of the industry who are responsible and observe the standards start lobbying for mandatory regulation. They are going to be disadvantaged when other members of the same industry refuse to take that responsibility and therefore quite often can produce their product more cheaply.

What are we trying to achieve? We are trying to achieve a better standard in the industry, and those members of the industry who are responsible support that. I would have thought the minister for the environment would be interested in that, when he likes to open all sorts of events supposedly dealing with endangered ecological communities in our region.

Mr Smyth also said our legislation will stop the fly-by-nighters. As I understand it, it will because it is about the supply of wood in the ACT. Anyone who supplies wood in the ACT will have to have an authorisation. We have dealt with that in the legislation.

I find it very interesting that Mr Smyth is so reluctant to deal with this motion. We are not banning anything. All we are asking for is greater monitoring and a greater concern about members of our community who are being impacted upon by fine particle pollution. We are asking for an improvement in monitoring and understanding of the impacts. I cannot see why a minister who has a responsibility in this area—Mr Moore should have been here to speak—would not support that.

The legislation is exactly what Mr Smyth has already supported through his voluntary code of practice. It makes it mandatory. It has the support of those members of the industry who are being responsible. It is very disappointing that Mr Smyth is refusing to take that on. I think it is about the ideological commitment to not having these sorts of regulations imposed on industry, regardless of the benefits to the environment or to the health of people in the ACT. It is probably also about costs. They do not want to have any more costs to deal with in government agencies if they can avoid it.

Question put:

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

The Assembly voted—

Ayes, 10	Noes, 7
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Kaine	Mr Humphries
Mr Osborne	Mr Moore
Mr Quinlan	Mr Smyth
Mr Rugendyke	Mr Stefaniak
Mr Stanhope	
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT BILL 2000

Debate resumed from 28 June 2000, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

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

> That the debate be adjourned.

MS TUCKER: I seek leave to speak to the motion.

Leave granted.

MS TUCKER: I cannot believe Mr Smyth just did that. It is a tactic of the government, if it has not got the numbers, to try to adjourn debate on an issue. I understand that the bill will be receiving the support of a majority of the members here. It is about something that we need to be dealing with now. The issue is an issue that is current. People in the community are very concerned about it now because it is winter. I have got a very strong sense that this government will try anything so that it does not lose on this issue. I think that the government is being totally irresponsible and I ask members not to support the adjournment of this debate.

MR CORBELL: I seek leave to speak to the motion for the adjournment of the debate.

Leave granted.

MR CORBELL: Mr Speaker, the government's proposal to adjourn debate on this bill is unacceptable. It is unacceptable, if for nothing else, in that it will, effectively, result in Canberra having another winter without any concrete measures being taken to reduce the issue of wood smoke pollution in Canberra. Despite the minister's comments in an earlier debate, the fact is that unless this legislation is dealt with in this sitting, we will

have a situation whereby it will be too late to deal in any substantive way with the regulation of this industry and the issue of wood smoke before winter of next year.

The minister has stood in this place and said that he thinks that it should be dealt with in the autumn sitting. The autumn sitting would be too late. I can hear the minister's reply now: "There is not time to have it in place before winter 2001." Clearly, the minister's attempt to adjourn debate on the bill today simply highlights that it is the government's agenda to put off this change until at least after winter of next year.

That is not good enough for the people who face problems with asthma, who face problems with breathing difficulty and who face all the other problems associated with wood smoke pollution. For that reason, Mr Speaker, the Assembly should not support the adjournment of the debate today.

MR SMYTH (Minister for Urban Services): I seek leave to speak to the motion, Mr Speaker.

Leave granted.

MR SMYTH: Mr Speaker, as I said in the earlier debate, there is work being done on a national scale that may even make things better. The industry has been put on notice. It knows that by December we will have the report of the working group of ANZECC and knows that it faces the possibility of legislation. Why? It is because it was raised in the work of the ACT firewood working group. The issue has been there for the whole time.

Mr Berry: You just want to see what the rest of the country thinks about us.

Ms Tucker: Listen to your constituents.

MR SPEAKER: Order, please. This debate is generating more heat than light.

MR SMYTH: That is because of the lack of oxygen of some of the participants, Mr Speaker, which makes the point. By December we will know whether such legislation is necessary and whether it can be implemented. The industry is on notice. It will know by then. There will be plenty of time. We can pass the legislation on the first sitting day of next year and it can affect the season next year. But an even better outcome would be to have the information that will become available in December.

It is appropriate to go out for extra consultation to make sure that we get a nationally consistent approach. Contrary to Ms Tucker's opinion, the ACT is pushing hard on this issue. We have not shirked our duty. We are the ones who got it onto the national agenda and we are the ones who will carry through with it. This government is leading on it and we may get a better outcome.

Question put:

> That the debate be adjourned.

The Assembly voted—

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

Question so resolved in the negative.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.00): Mr Speaker, I am quite concerned that by passing this bill today we will affect dramatically the firewood retail industry in the ACT without adequate consultation with the industry and without a clear understanding of the implications of what it means to the people who are selling firewood in this territory at the moment. This legislation imposes on firewood sellers a regime which they do not have to experience if they operate out of New South Wales.

Ms Tucker: What has been the point of your code of practice, then?

MR HUMPHRIES: The fact is that our code of practice does not cover a number of the elements that are in this legislation, including, for example, sale by weight. If we pass this legislation, we are going to say that firewood needs to be sold by weight, not by volume.

Ms Carnell: Not by a truckload.

MR HUMPHRIES: Not by a truckload. You cannot say any more, "I want a truckload of firewood." You have to say, "I want 1.2 tonnes of firewood," or 600 kilograms or whatever it might be. To provide for that kind of sale, you will need to do one of two things, as I understand it. Either you will need to be able to access a weighbridge to weigh the firewood which is going to be sold to a particular person, because people do not have scales large enough to weigh this amount of firewood, or you will have to operate in an environment in which the legislation does not affect you, namely, in New South Wales. As I understand it, and I am open to correction, this regime of licensing is to apply to people who operate in the ACT.

Ms Tucker: Sell or supply in the ACT.

MR HUMPHRIES: Sell or supply in the ACT.

Ms Tucker: If they are coming from outside, they have to—

MR HUMPHRIES: No, I am sorry. It is a matter of contract law. If an operator with a business in New South Wales selling firewood—based, say, in Queanbeyan—receives a telephone call saying, "Can you please supply me with a truckload of firewood?" and the operator says, "Yes, I will supply you with a truckload of firewood. Send me a cheque or give me your credit card details," whatever it might be, or if the person goes out to Queanbeyan and hands over the cash, the transaction occurs in New South Wales. The firewood is supplied from New South Wales, the transaction occurs in New South Wales and the person will not need to be covered by the ACT licensing regime. If you are in the business of selling firewood, it may well be attractive for you to operate on that basis.

Mr Moore: It is not hard to move the business.

MR HUMPHRIES: Not at all; that is right. It is not hard at all to move the business. In fact, I dare say that you might even be able to achieve it by obtaining an address in Queanbeyan which becomes the address from which you operate, even if you do not necessarily have to live there.

I have not explored the details of this bill and I do not know exactly how it might operate, but the fact is that these sorts of businesses are not businesses based in large buildings with a huge amount of infrastructure. As I understand it, it is basically all about trucks and chainsaws. If you have those facilities, you can operate wherever you want to. People are going to base themselves in Queanbeyan to avoid a regime of legislation which they have not been consulted about. Ms Tucker has not, as I understand it, consulted these businesses about these changes—

Ms Tucker: We have, actually—a lot.

MR HUMPHRIES: I have had correspondence from the Australian Home Heating Association, which has urged us not to support this legislation.

Ms Tucker: We know about them.

MR HUMPHRIES: I do not know of any other businesses that consider that they are happy with this legislation. If we are going to do go ahead, we are going to change the face of this industry in the ACT without warning and in a way which is going to disadvantage ACT-based businesses. I do not want that to happen, to be perfectly frank. I think that that is right outside the onus that falls on us as legislators to behave in a responsible way and to consider carefully what it is we do in this place that affects people who are making a living out there out of these sorts of activities; in particular, as it affects small businesses.

These are not major companies that have profit margins that can absorb sudden changes in government regulation and a bit more red tape that costs them a bit of money. These are businesses which actually depend entirely for their viability on the number of sales they make each year. Mr Speaker, I think it is irresponsible of the Assembly to pass legislation in these terms, absolutely irresponsible.

It is not as if no framework for improvement of this regime is presently being considered. The Minister for Urban Services made it clear that this matter has been on the agenda of the national environment and conservation council, the Australian and New Zealand Environment and Conservation Council, for some time—

Mr Kaine: For too long.

MR HUMPHRIES: Perhaps for too long. Mr Kaine, as a former minister for the environment, would be aware that these things move very slowly, far too slowly on occasions. But the minister has indicated that he believes that this matter is likely to be resolved in the near future by the council, by the national environment ministers. If that achieves a synchronisation of our legislation with that of New South Wales, then we have achieved a resolution of the problem that I just drew attention to.

Is it not better to wait for that, particularly given the fact that we are now ending the 2000 firewood season anyway? By the time this bill is up and running, the firewood season will be over and no-one will be buying firewood. By the time the next season comes around in 2001, we should be able to deal with this issue. I cannot promise, obviously, but we should be able to. If we have not dealt with the issue, then we can come back and vote on Ms Tucker's legislation. What have we got to lose by using the summer months, the months between the end of this season and the beginning of next season, to talk to the industry, to see what happens at the national level and try to negotiate some better outcome than passing this legislation through the house in haste today? I think that we are not serving our community well if we do not take a step back from this approach.

MR CORBELL (6.08): As usual when the government finds itself in a little bit of trouble, standard defence number one is that the world will end if we pass it today. That is the defence we have heard from the Attorney-General this afternoon. The reality is, of course, that nothing of the sort will occur. These are not dramatic changes. In fact, they simply make mandatory what is already voluntary. How significant a change is that? I think it will have a significant effect in terms of the ability to control problems to do with wood smoke pollution; but in terms of the sorts of ideas that we are debating, there is nothing new or dramatic in it.

The minister also says that we are passing this legislation in haste. This legislation was not introduced yesterday. This legislation has been on the table for some time. Unlike the government, which introduced bills yesterday and wants them debated next week, Ms Tucker has at least done a courtesy to this place in introducing this legislation some time ago—indeed, before the winter recess—and giving members an opportunity properly to examine it. The argument that we are passing this legislation in haste is a nonsense; it is an absolute nonsense.

Mr Speaker, the other argument that was presented by the Attorney-General was that this bill would have an adverse impact on small business and it would result in businesses having to go over the border. Certainly, it is my understanding that any business wishing to sell firewood in the ACT will require an environmental authorisation under the Environment Protection Act, and a requirement of that authorisation, as proposed by Ms Tucker's legislation, will be to abide by the conditions which are currently voluntary in the voluntary code of practice. One is, as far as possible, to offer customers the choice

of mixed wood loads. That is not requiring people to burn pine instead of native hardwood; it is saying where they have a heater capable of burning softwood as well as hardwood, wood merchants should be making those types of timbers available. That is what it means, Mr Speaker.

These are not dramatic changes. These are changes which are already part of the voluntary code of practice, but the issue we have to address in this place is that the voluntary code of practice is not working, that only three of the 24 merchants in the ACT are participating in the voluntary code of practice, that people with respiratory illness are seriously affected by wood smoke pollution, and that the level of wood smoke pollution in the Tuggeranong Valley rose after the introduction of the ACT's voluntary code. I think the arguments are compelling. I think the government's attempt to delay the legislation put forward by Ms Tucker today have been a disgrace and this Assembly should support the legislation.

MS TUCKER (6.12), in reply: Our legislation does cover the sale or supply, or cutting, storing or seasoning in preparation for the sale or supply, of firewood in the territory; so we have dealt with the issue that Mr Humphries was so concerned about in his response. It is interesting to me that Mrs Carnell and Mr Humphries are asking whether we have consulted. They are, as I understand it, members of the government which set up this working party which consulted extensively before it came up with the voluntary code of practice.

The work has been done. We know how the industry feels. We know that those in the industry who are acting responsibly—I think there might be more than three of them, but not many more; there may be eight of them—are concerned, for the reasons I have already outlined. Of course the work has been done. This is just about showing some kind of leadership on an issue that is causing a very serious environmental problem and a very serious health problem for people in the ACT. It is quite a scandal that this government is trying now to do absolutely anything it can to stop it.

The question of a national approach is a joke. How many meetings do we have year after year where we try to have a national approach taken? Mr Humphries said that he cannot guarantee one will be taken. Of course he cannot guarantee what will be decided at a national meeting on these sorts of issues. What we are doing with this legislation is showing that we do care about the environment and we do care about the health of the ACT community. The voluntary code of practice has failed. We are not changing it; we are putting it into place in a way that the government already has supported and consulted on. The only issue that is different is that it is mandatory.

The government seems to be saying, "We have a voluntary code of practice and we do not care if it is not working because the industry does not like it. We do not want to pass legislation because the industry does not like it." What possible credibility can a government have in introducing a voluntary code of practice which is obviously failing terribly and then saying that the industry will not like it if we try to do something about it and that is that? That is what this government is caring about, not the environment or the health of the people in the ACT.

Question put:

That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMES AMENDMENT BILL 2000

Debate resumed from 1 March 2000, on motion by **Mr Rugendyke**:

That this bill be agreed to in principle.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.18): Mr Speaker, the government will support this bill. It is legislation which further clarifies the arrangements with respect to disclosure of the law to those who are in a position to purchase knives so that young people in particular understand clearly what they are and are not entitled to do with respect to knives. It is also the case that sellers of knives will have a better understanding of what they may be in a position to be able to do or not do by virtue of that signage being up at points of sale.

I think that it is important for people to understand where the law positions them. We now have clear signage available and regularly used for the point of sale of tobacco products and I think that it is appropriate to make sure that similar signage is available for knives as well; so the government commends this amendment. The bill sets out the requirements for the dimensions of the sign and the size and type of lettering of the sign. Proposed new section 497 would supplement section 496 of the Crimes Act, which prohibits a person selling a knife to an underage person.

A display would make the event more public. The proposed sign would make the public more aware of the prohibition. Public awareness of the prohibition to sell knives to minors would facilitate the reporting by a member of the public to the police of a retailer who contravened the provision. Given that the Assembly has supported a ban on the sale of knives, I think it is appropriate to have appropriate signage that goes with it.

I think it is true to say that most sellers of knives already abide by the prohibition. The new provision will potentially expose unscrupulous sellers who decide that it is appropriate for them in certain circumstances to make those sales. Hopefully, it will allow members of the public to be more aware of those breaches, perhaps through reporting the people concerned to the police. An incidental benefit arising from the proposed display of a sign is that an underage person would also become aware of the prohibition. It would also assist those who sell knives to deal with underage customers who are not aware. They can tap the sign and say, "Sorry, this is the law, I cannot assist you." The proposed requirement to display a sign is, as I said, analogous to the requirement under the tobacco regulations to display a sign about the sale of tobacco products.

Mr Speaker, we are concerned that the breadth of the definition of "knife" in the Crimes Act may result in the obligation to erect the proposed signs being imposed inappropriately. For example, it is possible that a person selling plastic knives or a food outlet serving knives for the consumption of food, such as a McDonald's outlet, would need to erect the proposed signs if the bill were enacted in its current form.

To avoid any ambiguity or inappropriate application, I will be moving a government amendment to the bill to provide for exclusion from the proposed section 497 of a person or knife of a kind specified in or ascertained in accordance with the regulations. The amendment will provide sufficient flexibility to prevent any inappropriate application of the obligation to put up a proposed sign. But the bill as it stands is generally supportable and I will move that amendment in the detail stage.

MR STANHOPE (Leader of the Opposition) (6.22): As the Attorney-General has indicated, Mr Rugendyke's bill is designed to complement the 1998 amendment of the Crimes Act which makes it an offence to possess a knife or sell knives to minors. As a bit of background, prior to 1987 sections 493 to 500 of the Crimes Act dealt with the possession of offensive weapons or disabling substances. These provisions were rewritten in 1987 as sections 493 and 494. An offensive weapon was then defined as anything made or adapted for use in causing bodily injury or intended for that use by the person who has it in his or her possession. The other sections were omitted as unnecessary.

The 1998 amendments inserted the current sections 496 and 497 about the possession of knives and the sale of knives to minors. It was felt that the definition of "offensive weapon" was not clear enough to cover a knife. Section 496, which is about possession, includes a reasonable excuse defence but section 497, about the sale of knives to minors, is an absolute offence. The amendment by Mr Rugendyke in 1998 defined knives as a knife blade, a razor blade or any other blade but not including a knife of a class or description excluded from this definition by the regulations. To date, there are no regulations made under this section of the act.

It is interesting and perhaps relevant to the debate to note that, whilst a knife is defined as a knife blade, a razor blade or any other blade, the *Macquarie Dictionary* definition of a knife, which I think is relevant to refer to in order to make some sense of the provision in the Crimes Act, is:

> ... a cutting instrument, consisting essentially of a thin blade (usually of steel and with a sharp edge) attached to a handle...any blade for cutting, as in a tool or machine.

I think that those definitions mean—I do not know whether the Attorney's department has looked at this issue—that it is probably an offence to sell, say, razor blades to a boy or a girl under the age of 16, whether or not they are at shaving age, for the purpose of shaving and I think that it is probably an offence to sell to a boy or girl under the age of 16 craft implements, such as leather or wood engraving tools for use at school, or potentially even scissors or other implements that children would use at school.

I make those comments basically to reflect a concern that I have always had about this sort of law-making and this sort of provision once we actually get away from the offensive weapon and into a specific prohibition, say, in relation to knives. I know the evil that we are seeking to address here, namely, the evil of kids in particular carrying knives around and thinking that they are tough. We do need to stop that. It was on that basis primarily that the Labor Party supported the amendments when they came before us, but it was with some disquiet. The disquiet went to this difficulty of definition.

But what we are discussing here is a proposal that retailers display in the immediate vicinity of a knife for sale a sign of not less than 210 millimetres by 145 millimetres which states in writing that it is an offence to sell a knife to a person under the age of 16 years. I have had a brief discussion with Mr Rugendyke about an amendment which I will move in a minute. I accept the sense of having a sign, and the Attorney has indicated that the Liberal Party also does. I was concerned, however, by that part of Mr Rugendyke's bill which says that the sign must be displayed in the immediate vicinity of each place where knives are displayed for sale.

I think that on a reasonable reading of the definition of "knife" that is included within the Crimes Act it is potentially the case that a major store such as Kmart would have to erect 50, 60 or more signs if you went through every part of Kmart that sells a knife as defined in both the Oxford and Macquarie dictionaries. Even a suburban supermarket might be required to erect 20 or so signs, one at the razor blades, one at the scissors, one at the hardware down the back, one for the bread and butter knives, one for the carving knives, one for the secateurs and so on.

I am proposing and I will move in due course an amendment to provide that, in fact, the sign is to be erected at the point of sale. There really does need to be only the one sign at the point of sale and that does achieve the purpose that we are seeking to address here. The one advantage and perhaps difficulty of erecting a sign in the vicinity of the knives as defined would more starkly draw to the attention of the retailer the range and scope of the prohibition that the Crimes Act now does provide and perhaps impose on him that discipline to ensure that at least the act is not offended against.

I will move that amendment. I have had a discussion with Mr Rugendyke and he has indicated that, in fact, his intention was that there be a sign just at that point of sale and that he is quite happy with the amendment. I look forward to his support of the amendment and that of other members of the Assembly.

MR RUGENDYKE (6.26), in reply: In closing the debate, I thank members for their support on this small amendment to the act. I do acknowledge that Mr Stanhope's recasting of proposed new subsection 497(1) brings a degree of sense to the intention of the legislation. In fact, I had thought when I had my amendment drafted that it did indicate point of sale, but I do understand the concern that use of the words "in the immediate vicinity" could mean that we need a sign for the Stanley knives, the fishing knives and the other knives, as Mr Stanhope suggested.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as whole.

MR STANHOPE (Leader of the Opposition)(6.27): I move:

> Clause 4, page 2, line 11, proposed new subsection 497 (1), omit the subsection, substitute the following subsection:
>
> "(1) A person who sells knives by retail must ensure that a sign complying with subsections (2), (3) and (4) is clearly visible to a person at the place, or each place, where such a sale is made.
>
> Maximum penalty: 5 penalty units.".

I have addressed the issue that I wish to address in relation to the amendment and Mr Rugendyke has acknowledged that.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.28): I move:

> Clause 4, page 2, line 23, after proposed new subsection 497 (4), insert the following new subsection:
>
> "(5) Subsection (1) does not apply to a person, or a knife, of a kind specified in, or ascertained in accordance with, the regulations.".

I present a supplementary explanatory memorandum in relation to the amendment. Mr Speaker, I have also adverted to what my amendment is about. It is to allow certain types of knives or certain types of people selling knives to be exempted by regulation from the scope of the legislation. As members have mentioned, the selling of razor blades by a pharmacist obviously would not be a matter that should be caught by this

legislation. In order to have the flexibility to prevent unintended consequences, I would commend the amendment I moved to the house.

MR RUGENDYKE (6.29): Mr Speaker, I support Mr Humphries' amendment to allow for the removal of certain objects from the legislation. It is a sensible amendment and I support it.

Amendment agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Assembly adjourned at 6.30 pm