



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

13 August 1992

## Thursday, 13 August 1992

### Petitions:

Circus animals .....	1621
Circus animals .....	1621
Occupational Health and Safety (Amendment) Bill 1992 .....	1622
Law Officer Bill 1992 .....	1624
Milk Authority (Amendment) Bill (No 2) 1992 .....	1626
Housing Assistance Act - Determination No 68 of 1992 .....	1627
Animal Welfare Bill 1992 - proposed select committee .....	1631
Estimates - select committee .....	1648
Animal Welfare Bill 1992 .....	1648
Reflections on votes .....	1656

### Questions without notice:

Naval communications station .....	1656
HIV and AIDS .....	1657
Police force .....	1659
Parking restrictions .....	1659
Land tax .....	1660
Healthy cities program .....	1660
City Health Centre - pathology services .....	1661
Penalty units .....	1662
Secondary colleges - future directions .....	1662
ACTEW - community criticism .....	1663
Parking - Commonwealth vehicles .....	1664
Secondary schools - condom vending machines .....	1664
Belconnen Remand Centre - HIV education courses .....	1665
Canberra Grammar School .....	1666
Podiatry services .....	1666
Allegations against members .....	1667
Minister for the Environment Land and Planning (Motion of censure) .....	1667
Animal Welfare Bill 1992 .....	1672

### Adjournment:

Retirement of Mr Bill Spellman .....	1718
Retirement of Mr Bill Spellman .....	1719
Retirement of Mr Bill Spellman .....	1720
Downtowner bus service .....	1720

### Answers to questions:

Walter Oswald Watt Memorial Fund (Question No 90) .....	1721
Laws binding the Crown (Question No 100) .....	1722
Woden Valley Hospital - case-mix index (Question No 181) .....	1724
Courts - police witnesses (Question No 195) .....	1725

Thursday, 13 August 1992

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**MADAM SPEAKER** (Ms McRae) took the chair at 10.30 am and read the prayer.

### PETITIONS

**The Clerk:** The following petitions have been lodged for presentation:

By **Mr Westende** and **Mr Stevenson**, from 2,716 and 22 residents, respectively, requesting that the Assembly legislate to permit the use of exotic and other animals in circuses.

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

#### Circus Animals

*The petition read as follows:*

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.

The petition of certain residents of the ACT drew to the attention of the Assembly that we support the traditional circus that has exotic and other animals as part of its presentations as long as strict conditions are applied in terms of the welfare of the animals.

Your petitioners therefore request the Assembly to legislate to permit the use of exotic and other animals in circuses.

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Petitions received.

13 August 1992

## OCCUPATIONAL HEALTH AND SAFETY (AMENDMENT) BILL 1992

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (10.32): I present the Occupational Health and Safety (Amendment) Bill 1992.

Title read by Clerk.

**MR BERRY:** I move:

That this Bill be agreed to in principle.

Madam Speaker, this Bill seeks to extend the Occupational Health and Safety Act to cover more of our Territory's workers. Simply put, it will extend the coverage of the Act from workplaces with more than 20 employees to workplaces with more than 10 employees. Last weekend I heard on the news that a gas blast under the canteen of a textile factory in Turkey killed 32 workers. The explosion was caused by the build-up of methane gas that went unchecked, resulting in an accident that could easily have been prevented.

In the 1990s the situation in Australia is somewhat different. For many years there has been an increasing awareness among both workers and employers of the benefits of a safe workplace. Labor believes that it is the right of every worker to go home at the end of the day as well as they were when they went to work. Preventing injury in the workplace saves pain, lost working life, and the long court cases that in reality cannot compensate for the ruining of a worker's personal and family life - something that the Liberals have not been committed to in the past. Employers also benefit financially from a safe workplace. That, too, is not something that the Liberals have been long committed to.

**Mr De Domenico:** That is not true.

**MR BERRY:** Fewer accidents mean lower workers compensation premiums, higher worker morale, higher productivity and less need for retraining of injured or new staff. Mr De Domenico will have the opportunity to speak on this Bill at some time later if he could just be patient, although that is something that he has not been committed to in the past either.

During the 1980s the Federal and State governments introduced occupational health and safety legislation. This was a major step forward in enforcing the duty of care that employers have in the workplace. However, many conservative employer groups opposed the introduction of occupational health and safety legislation, progressive elements of which were also resisted by Liberal members opposite. In 1989 the first Follett Labor Government introduced the ACT's first Bill, the ACT Occupational Health and Safety Bill. There was an outcry from some sectors and some politicians. They criticised the cost and union involvement. Of course, there were some employers who supported it.

Now, both the employers who supported the legislation and those who opposed it are benefiting from the improved safety in the workplace. The best indication of the legislation's success is measured by the reduction in accidents, leading to an average 40 per cent reduction in workers compensation premiums.

Under Labor's Occupational Health and Safety Act workers have had fewer accidents and the employers have had lower employment costs. However, there is still room for improvements in workplace safety in the ACT. Now is the time to extend the coverage of the legislation to improve protection for more workers.

Division 1 of Part IV of the Occupational Health and Safety Act 1989 currently requires employers who employ more than 20 workers to establish designated work groups. Each designated work group must have an elected health and safety representative. The Occupational Health and Safety (Amendment) Bill 1992 amends the Occupational Health and Safety Act so that these provisions will apply to employers who employ 10 or more staff. Again there will be a small cost in training workplace safety representatives. However, with the benefit of hindsight, and understanding the improvements that the original legislation brought, I would expect everyone to support this legislation. Reducing the size of designated work groups from 20 to 10 will bring employee participation and responsibility to another 750 workplaces, or approximately 8,000 employees. It will cover sectors that until now have rarely been subject to the election of workplace safety delegates. These areas are the hospitality and retail sectors.

Since the introduction of the legislation the union movement has played a major role. The Trades and Labour Council has trained many workplace representatives, ensuring that employees themselves feel responsible for safety in the workplace. Labor's policy in preventing accidents in the workplace is clear. The dark ages of losing your job if you refused to work in unsafe conditions or the times when large accidents killed many workers because they were unaware of safety procedures are gone, thankfully. The gas build-up that claimed the lives of 32 Turkish workers could no doubt have been avoided. Labor will continue to support improvements in workplace safety.

The Opposition's policy towards occupational health and safety is also clear. A document put out shortly before the last election states:

An ACT Liberal administration will introduce occupational health and safety legislation that will ensure proper safety in the workplace.

The amendment being introduced today is a big step on the path to ensuring proper safety in the workplace and we therefore expect the Liberals' support. The document continues:

The legislation will not, however, lead to union-appointed "safety representatives" or union-controlled elections.

The unions, whether the Liberals like it or not, have played a supportive role in establishing the designated work groups. They have trained the representatives and have ensured that the workers are also responsible for their safety. The involvement of the unions has facilitated the improvements that have led to major benefits not only for the workers they represent but also for the employers. Finally, the Liberal document says:

The legislation will take into account a proper cost/benefit analysis of safety standards.

I do not believe that workers should accept unsafe working conditions on the ground that it might save costs. That is a short-sighted attitude, and I do not think anybody would disagree with that. A brief analysis of the last few years can give us an idea of the costs and benefits. In 1989-90, with the occupational

13 August 1992

health and safety legislation in place, there were 1,734 workers compensation claims for workplace injury in the ACT private sector. This resulted in 9,532 weeks of lost time, an amount equivalent to the loss of one worker's productivity for 183 years. The direct financial cost of that was approximately \$6m.

**Mr Kaine:** He was a pretty long-lived employee. At what age did he retire?

**MR BERRY:** The Leader of the Opposition seems to be amused by this. It would be better if he turned to making some supportive comments about this legislation.

**Mr Humphries:** At least he had a job, Trevor.

**MR BERRY:** I hear Mr Humphries say, "At least he had a job", which seems to suggest to me that Mr Humphries would trade off workplace safety in the interest of more dangerous jobs for workers.

In 1988-89, before the introduction of private sector occupational health and safety legislation, the financial cost to employers was approximately \$7.5m, with a level of lost time of 11,841 weeks.

**Mr De Domenico:** But there were more workers in the work force then too, Mr Berry, before Keating got them all to be on the dole.

**MADAM SPEAKER:** Order! Mr Berry, please continue.

**MR BERRY:** Thank you, Madam Speaker. As I have stated, the benefits brought by the legislation have been passed on directly to employers with an average 40 per cent reduction in premiums. In 1990, while in opposition, I introduced the same amendment. It was opposed. The injuries suffered by workers and the savings lost are gone forever as a result of the opposition to that amendment. Now is the chance to further reduce the number of injured and at the same time reduce employment costs. With the obvious improvements for workers and employers, I expect all members of this Assembly to support this amendment. I now present the explanatory memorandum for the Bill.

Debate (on motion by **Mr De Domenico**) adjourned.

### **LAW OFFICER BILL 1992**

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.41): Madam Speaker, I present the Law Officer Bill 1992.

Title read by Clerk.

**MR CONNOLLY:** Madam Speaker, I move:

That this Bill be agreed to in principle.

The Law Officer Bill 1992 confirms the inherent or common law powers of the ACT Attorney-General and ensures that the ACT Attorney-General is in an equivalent position to the Attorneys-General in each of the other Australian jurisdictions. The office of Attorney-General dates back to medieval England. Gary Humphries will like that bit. As monarchs could not appear in courts in

their own interest, the courts at first permitted any person desiring to do so to come forward to protect the King's rights in court. Before long, however, the King began to appoint attorneys to appear on his behalf. These officers were known as King's Attorneys. The office of King's Attorney was the forerunner of the modern office of Attorney-General of England.

A number of common law or inherent powers attach to the office of Attorney-General. These powers are prerogative powers which flow from the Attorney-General's role as first law officer and chief legal representative of the Crown. Many of the traditional powers of the Attorney-General have been modified by statute and are no longer as important as they once were. However, Australian Attorneys-General still exercise a number of important functions which contribute to the welfare of the government and the general community.

Examples of the functions with respect to the ACT are: To act as first law officer of the Crown and chief legal representative for the ACT and to provide legal advice to, and institute legal proceedings on behalf of, the ACT; to represent the Legislative Assembly in the prosecution of alleged contempts of the Assembly; to file a criminal information or indictment; to enter a nolle prosequi on an indictment; to enforce charitable or public trusts; to bring proceedings to enforce and protect public rights; to grant a fiat to give a private citizen standing to bring proceedings in the Attorney-General's name to enforce and protect public rights - and several such fiats have been granted in the ACT; to challenge the constitutional validity of any Commonwealth or State legislation which affects the public interest in the ACT; to institute proceedings for contempt when it is in the public interest to do so; and to apply for judicial review of a decision in order to deal with an error of law by a court or tribunal. The role of Attorney-General in each of the Australian jurisdictions is based on that of the Attorney-General of England, and each of the Attorneys-General exercises powers and functions which are consistent with those traditionally exercised by the Attorney-General of England.

Concern has been expressed, however, that the mode of appointment of the ACT Attorney might prevent the common law or inherent powers vesting in that office. This argument is based on the view that the powers of the Attorney-General are prerogative powers which Attorneys may exercise only as a consequence of their appointment by the Crown. In the ACT, the Attorney-General is appointed by the Chief Minister, who is appointed by this Assembly, rather than by the Crown or the Crown's representative.

It can be argued that the method of appointment of the Attorney-General does not determine whether the Attorney-General may exercise prerogative powers. The Australian Capital Territory (Self-Government) Act establishes both a Crown in right of the Territory and an ACT Executive. The Executive is, in accordance with the established framework of government in all other Australian jurisdictions, empowered to exercise the prerogative powers of the Crown on the Crown's behalf. It would be my view that, from that, it flows that such traditional powers do attach to this appointment, as they would to any other ministerial appointment under that system.

However, it is, in my opinion, necessary to enact legislation to confirm that the ACT Attorney-General has all the powers, duties and privileges normally inherent in the office of Attorney-General, as there have been remarks by various judges of the ACT Supreme Court which potentially cast doubt on whether

13 August 1992

some of the powers, in particular the power to grant a fiat, do indeed attach. There could be extraordinary cost and waste in litigation if proceedings were started to enforce a public right by way of a fiat and, at the end of the day, the point turned on whether there was power to grant such a fiat.

This Bill puts the issue beyond doubt and ensures that the ACT Attorney-General may exercise similar powers to those exercised by Attorneys-General in the Commonwealth, the States and the Northern Territory, or indeed that any Minister, for the time being exercising the administration of this Act, could exercise those powers. I note in passing that the Northern Territory has, by legislation, conferred similar powers upon the Northern Territory Attorney-General, even though the Administrator, that is, the Crown representative, appoints the Attorney in that jurisdiction. Madam Speaker, I present the explanatory memorandum for the Bill.

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

### **MILK AUTHORITY (AMENDMENT) BILL (NO. 2) 1992**

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.46): I present the Milk Authority (Amendment) Bill (No. 2) 1992.

Title read by Clerk.

**MR CONNOLLY**: I move:

That this Bill be agreed to in principle.

The Government has examined the definition of milk under the Milk Authority Act 1971 and identified the need to amend this definition to take into account changes which have occurred in milk marketing and production. The original definition was developed at a time when whole milk was the principal form of milk consumed. Since then there has been a proliferation of other forms of milk, including modified milks, flavoured milks and low fat milks which are produced by various processing methods including the removal of certain parts of whole milk and the addition of other ingredients.

Under the Milk Authority Act 1971 the Authority's functions are to engage in, regulate and control the supply, sale and distribution of milk in the Territory. The Authority has included a range of milks which compete with whole milk, including skim, modified and flavoured milks, within its responsibilities. The amended definition is designed to clarify the range of milks for which the Authority is responsible and to update the legislation to take account of changes which have occurred. It will also bring the Act more into line with the definitions adopted in other States. I now present the explanatory memorandum for the Bill.

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



**HOUSING ASSISTANCE ACT - DETERMINATION NO. 68 OF 1992**  
**Motion for Disallowance**

**MR CORNWELL** (10.48): I move:

That the determination of the Supported Accommodation Assistance Program, as contained in Determination No. 68 of 1992 and made under the *Housing Assistance Act 1987*, be disallowed.

Madam Speaker, the purpose of this motion for disallowance is to seek an improved means of dealing with the provision of the supported accommodation assistance program housing in the community in consultation with the local neighbourhood. At the moment the provision of such housing is surrounded by undue secrecy which, I believe, alienates the local community and can isolate the prospective tenants.

**Mr Berry:** You do not understand this.

**MR CORNWELL:** To support this I will give some examples, for the benefit of Mr Berry, among others. First of all, I would refer to Beirne Street, Monash, which is occupied by the Open Family Foundation.

**Mr Berry:** Madam Speaker, I rise to raise a point of order and to caution members opposite about the giving of addresses for residences that may be refuges of one sort or another, and to ensure that these addresses do not find their way onto the public record. If that happens, it could be of some discomfort and danger to people who occupy these sorts of residences from people from whom they are seeking protection. I would ask the member opposite to refrain from placing the addresses of these residences and refuges on the public record. I would hope that he would answer my call for caution in relation to this matter.

**MR CORNWELL:** Madam Speaker, in answer to Mr Berry's interjection, the one that I have just quoted is a well-known address.

**MADAM SPEAKER:** Excuse me, it was not an interjection; it was a point of order, and I do believe that we should heed Mr Berry's caution.

**Mr Kaine:** I raise a point of order, Madam Speaker. Perhaps, Madam Speaker, you can inform the Assembly under what standing order advice from the Minister can be put forth in the middle of somebody's speech. That was not a point of order; it was an interjection.

**Mr Connolly:** The point of order is that any member is perfectly free to be irresponsible and dangerous. We would request that they do not. I thought we had an arrangement with Mr Cornwell that we would not identify addresses of refuges, and I would hope that we would continue with that; but if you people want to be idiots, be so.

**MR CORNWELL:** If everybody would sit down, Madam Speaker - - -

**Mr Kaine:** Both of you are jumping the gun and neither of you is taking a point of order.

**MADAM SPEAKER:** Members, order!

13 August 1992

**MR CORNWELL:** Madam Speaker, if everybody would sit down, may I say that I do have an arrangement with the Attorney-General on this matter and my future comments will not include addresses.

**Mr Connolly:** Good.

**MR CORNWELL:** May we get on with the debate? The first example was in the suburb of Monash, as I said, and I am afraid that the residents found out about the establishment of this supported accommodation program by accident. Indeed, as stated in a question Mr Kaine asked on 12 December 1991, when they asked about consultation they were told that because it was not required by law no consultation would take place.

The second example is the fairly notorious Club Med in Fraser. That is the one with the swimming pool, the reverse cycle air-conditioning system, and the in-ground sprinkler system. I cannot express the problems more succinctly, more sympathetically or, indeed, more sensibly than to quote from a letter from a neighbour. I am obliged, Madam Speaker, not to identify the lady concerned because that may identify the address as well. I simply say that she wrote to Mrs Carnell, my colleague, on this matter. She was awarded the Order of Australia for services to women's affairs; so she cannot be regarded as an opponent of this supported accommodation program. I quote from the letter:

I am a neighbour of ... a property recently allocated by the Housing Trust for the purposes of Supportive Accommodation. It has become evident during the course of our negotiations with the Trust, there is a need for a reappraisal of the role they undertake in the provision of these facilities. The manner in which this property was purchased, the delays in the execution of the administrative actions and the inadequate public consultation has resulted not only in a waste of public funds but also created a negative response from the community and social isolation for the user. The purpose for which the community facilities have been provided has been defeated. The facility has not been blended into its residential surrounds either by its appearance or by social acceptance.

The current practices have resulted in active discrimination against the people required to accept the facilities as good neighbours, destroyed the trust necessary for goodwill to be established and prejudiced their most important asset. There needs to be a careful assessment of the current practice of the confidentiality and privacy requirements to ensure both financial and social accountability is more evident.

In our neighbourhood "Neighbourhood Watch" has been negated by the security associated with the operation of the facility. We do not know who are the occupiers or who are the intruders. If the nature of the service is such that it requires such a defensive form of security, then why was it located in a residential area, or why were the neighbours not provided with the same measure of protection? I do not believe the nature of the security carried out is necessary, if the neighbours were involved in the whole process of decision

making associated with the provision of this facility. For any person to gain entry to the property, all that is necessary is to hop over my side fence. If the Trust had been more responsive to the Social Contract that the neighbours offered, and allowed it to develop a more accepting response would have resulted. The result has been more active discrimination against the people most vulnerable and in need of the service.

I have no argument with anything that that woman has said in relation to this matter. Sadly, her comments about the Housing Trust also apply to the ACT Planning Authority because, when I asked a question of Mr Wood as to whether there had been breaches of the Planning Authority's criteria for siting supported accommodation in residential areas, I received a reply saying that there had been no breaches. Well, I have news for the Planning Authority or, perhaps, for Mr Wood, because it appears that the authority either does not know or seeks to hide from its own design and siting criteria.

I have now placed another question on notice highlighting what I believe is the Planning Authority's failure to follow their own guidelines. I would refer to two points: First of all, the maintenance of residential amenity for people living in the immediate area; and, secondly, the criterion that the building facade is to blend with the existing streetscape. I have asked whether they would explain why those two criteria have been breached by, firstly, failure to advise local residents of the occupation; secondly, the installation of full-scale security lighting; thirdly, security screening on the front windows of the property; and, fourthly, enclosing the open front verandah with timber frames and nylon mesh. I would also like to know why, at a minimum, the residents were not consulted on their views on design and siting conditions as it affects their residential amenity.

Unfortunately, the secrecy surrounding these issues of supported accommodation has clearly led, I believe, to arrogance - "arrogance" is the word - on the part of those who have the job of providing the accommodation, and I think that is rather sad. Unfortunately, this arrogance because of this secrecy raises very serious questions of public accountability. It has allowed the protection for neighbours to be ignored or abused, and whether or not there is any suggestion of the misuse of funds - I would not for a moment suggest that there is - the secrecy surrounding it leads to those suspicions. Very clearly, openness is much better insurance, and I believe that it is good insurance.

There needs to be an improved, more positive means of public consultation in order to create supportive and protective environments for the residents of supported accommodation houses.

**Mr Connolly:** "Not in my suburb" is the view that you are running.

**MR CORNWELL:** I will give an example of that in contrast, Mr Connolly, to show the difference that consultation can make. I refer to the house in Florey, Madam Speaker - a purpose built refuge. The neighbours were originally consulted about its use as a children's refuge. They were involved; they were supportive. After the function of the house was changed - without consultation, I might add - from a refuge to a holding station for Quamby and the new function affected the amenity of the neighbourhood, there were objections.

13 August 1992

Further along, that facility was closed, Madam Speaker. The house remained empty for two years, during which time the neighbours, in an effort to maintain the amenity of their neighbourhood, mowed the lawns and tended the gardens, until vandalism made the effort appear futile. In due course the house was auctioned. This is a very good example of the changed attitude of a group of people. The only thing that changed their attitude from being pro to anti was the lack of consultation when the purpose was changed.

Madam Speaker, Mr Connolly accuses people of being NIMBYs, but that really is an excuse. Give the people an opportunity to be involved in occurrences and developments in their own neighbourhood. I believe that that is fair and proper, and in fact it is what the regulations require. Supported accommodation of various types is now recognised as necessary. People realise that it has to go somewhere. However, people also have a right to have their legitimate concerns addressed. They have a right to be involved, as the current regulations supposedly allow, and they should be given the chance to be supportive and protective, as our writer earlier explained. Further, they have the right to be given the opportunity not to be NIMBYs, which can occur only after the event when they have not been consulted. I believe, Madam Speaker, that there is a need for more open dealings with local communities.

I conclude by quoting again from that lady's letter. She stated:

I believe it is time the Government addressed the issue of public consultation in a more positive manner and reviewed the way facilities, which are of vital community need are established within the framework of residential areas or other suitable locations. Otherwise the end result is to generate further mistrust, fear and anger. I would be grateful if you would take this matter up with the Assembly. Enclosed is a copy of the Social Contract we offered.

That contract was offered to the department. Madam Speaker, I am sorry that I had to take such a drastic step as to move for disallowance in order to bring this matter to the attention of the Assembly; but, unfortunately, earlier, more reasonable approaches by the community and me were totally unsuccessful. I will conclude my statement by seeking leave to table the social contract that was drawn up by the residents of Fraser and offered to the department. I seek leave to table that for the benefit and interest of not only the Assembly members but also, hopefully, the Minister for Housing and Community Services.

Leave granted.

**MR CORNWELL:** I thank members.

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

**ANIMAL WELFARE BILL 1992 - PROPOSED SELECT COMMITTEE**

**MR WESTENDE** (11.01): I move:

That -

- (1) the Assembly establish a Select Committee into the Animal Welfare Bill 1992 with the following Terms of Reference: (a) to examine the Animal Welfare Bill 1992 with a view to recommending clearer and more concise expression; (b) to undertake further community consultation on the Bill; and (c) to compare the Bill with any resolutions or national animal welfare code emerging from the meeting of Animal Welfare Ministers in Queensland in October;
- (2) the Select Committee consist of 3 members, with two members constituting a quorum; and
- (3) the Select Committee report to the Assembly not later than 26 November 1992.

Madam Speaker, we have indicated that we are in favour of an animal welfare Bill. I think we have also indicated that we are happy about a bipartisan approach on the subject. However, it has become clear on many occasions that this Government thinks - I repeat, thinks - it has all the answers. Madam Speaker, that, I believe, will become, if it is not already, the Achilles heel of this Labor Government. No matter how much this Government thinks that they are right, they will realise one day, especially around election day, that they are here at the behest of the electorate. It will be that day when they will get the answer on what the people of the ACT think about the lack of consultation and their actions on issues for which they do not have a mandate. A month or so ago it was the repeal of the Termination of Pregnancy Act; now we are faced with certain aspects of the Animal Welfare Bill, which this Government clearly does not have a mandate to legislate on.

Mr Lamont's amendment must be an embarrassment to the Government. If it is not, his speeches and public comments surely must be. It is a joke, not to be taken seriously, inaccurate, rude, insensitive and, last but not least, egotistical. Madam Speaker, the great pretender will fall flat on his face if he thinks that he can get away with such careless attention to the truth. Mr Lamont has quite effectively reduced the standing - - -

**Mr Lamont:** Madam Speaker, I take a point of order. I ask that Mr Westende withdraw that imputation and those words, "careless attention to the truth". The implication of that is quite clear.

**MADAM SPEAKER:** Yes; Mr Westende, you are imputing that Mr Lamont is lying. Would you withdraw that, please? That is my ruling, Mr Westende. Will you withdraw that, please?

**MR WESTENDE:** Madam Speaker, in deference to the Chair, I will withdraw that remark. Mr Lamont has quite effectively reduced the standing of this Government. He has quite effectively transformed an opportunity for real progress on this important subject into a confrontationist, divisive and destructive debate. Madam Speaker, the sensitivity of Mr Lamont in this regard has just been emphasised by his asking me to withdraw that remark. I must say,

13 August 1992

Madam Speaker, that from what I hear outside they do not agree with Mr Lamont. He is quite well aware of it and, naturally, he has to object when somebody questions his presentation of this matter. It is easy to see that Mr Lamont has brought to this Assembly the rough and tumble tactics that he learned so well in the Transport Workers Union. I am astonished by his rudeness, his unrefined manner and his shallowness.

Madam Speaker, one distinctive feature of the debate on the Animal Welfare Bill 1992 must surely be that the Bill is not good legislation as it is currently drafted. It has divided the Assembly; it has divided the community; it has concerned many people dealing with animals. It simply is not ready. It is half-baked. Let us be really serious about the important matter of animal welfare. Let us get our heads together and come up with a genuine, balanced, realistic concern for animals. Let us get away from the grandstanding of Lamont and his kind.

**Ms Ellis:** Mr Lamont, if you do not mind.

**MR WESTENDE:** Mr Lamont. Let us see whether we can produce a model of bipartisan legislation. I feel sure that there will be give and take. I know that if commonsense prevails we will set a model for Australia to follow, instead of an embarrassment. Yesterday morning's radio program on 2CN ran three to one against banning animals in circuses. Surely that is a sign that the community would wish to continue to enjoy and see the circus in a traditional way.

Madam Speaker, I repeat some of the reasons why this Bill should be referred to a committee for a full analysis. We should not be spending so much time on this Bill. We should, instead, be talking to those organisations which will be badly affected by this Bill and consulting them about how problems associated with it can best be solved. If my motion is passed, adequate time will be available for the entire community, for all persons connected with the animal movement. It is rather a pity that some sections of the community have not come forward earlier, either through ignorance of the contents of the Bill or for reasons not known to us. Even at this late stage it is not too late to get their opinions or advice.

Hence, Madam Speaker, I have moved the motion to establish the committee. I will reiterate some of the reasons why we feel that it is necessary to have a committee. If members are concerned about cost and so on, it could even be referred to an existing committee. Referring the Bill to a select committee will allow it to be examined in detail. I have said before, and I will say it again, that it is lacking in precise terminology; it is lacking in definitions, such as what is cruelty, what represents unnecessary pain, what is undue distress, what is meant by confine, what is meant by confine in relation to a device or contrivance, and what is meant by alleviation of pain. Some of those we discussed yesterday; but I repeat, Madam Speaker, that we are talking about a Bill for which the codes of practices have not even been drafted. I have said to you before that this Government does not have a mandate. If they are really genuine about animal welfare, what is so wrong about drafting the code of ethics first and then presenting it either as part of or as an appendix to the Bill?

Madam Speaker, these are not only the views and concerns of the Liberal Party; they are the concerns of the majority of the organisations involved with animals. The RSPCA is concerned about the issue of inspectors. The Australian Bushmen's Campdraft and Rodeo Association are concerned that they have not been consulted. The racing industry came out strongly yesterday in favour of having

this Bill deferred. The racing industry, we understand, brings some \$6m annually to the coffers of the ACT Government. Bartter Enterprises, as late as this morning, were on the radio, saying that 80 jobs might be lost if they have to close down or if this Bill goes through. We have already said enough about the Circus Federation. The Australian National University is concerned. The John Curtin School of Medical Research is concerned.

Madam Speaker, we are not opposed to an animal welfare Bill. But clearly this Bill is badly drafted; it is vague; it is lacking in community consultation. It is recognised that the Bill is a start in targeting the area of animal welfare, but the uncertainties of the Bill have to be addressed. They are causing unnecessary concerns in the community and unfair pronouncements against well-meaning, hardworking Australians. Madam Speaker, I commend my motion.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.11): Madam Speaker, we have had this debate. We had it yesterday when an effort was made to suspend standing orders to deal with it, and we have had it at other times in the debate on this legislation. The Government opposes this reference. I need say no more than that.

**MR KAINE** (Leader of the Opposition) (11.12): Madam Speaker, I, quite frankly, am concerned about this Bill and the ramifications of it. I am not prepared to have this very serious proposal shrugged off so lightly by the Government, as the Minister just did - "We have heard your arguments, so we do not care any more". That, Madam Speaker, is not good enough. Mr Westende spelt out in great detail, and very eloquently, that there are major problems with the Bill; that there is major concern out there amongst many groups - not just one or two - as to what the ramifications of this Bill are for them. To simply say, "We are going to ram this Bill through today and we do not care about those concerns; we have no concern whatsoever for the fact that it is a divisive issue in the community - - -

**Mr Cornwell:** The Government does not understand.

**MR KAINE:** They obviously do not understand. They obviously do not understand that there is already the beginning of a massive reaction against this Bill.

**Mr Lamont:** Filibuster, filibuster.

**MADAM SPEAKER:** Order!

**MR KAINE:** I am not interested in filibustering, Mr Lamont. I am interested in an intelligent debate.

**Mr Lamont:** You are.

**MR KAINE:** I am not interested in filibustering.

**Mr Lamont:** You are.

**MR KAINE:** You can keep repeating it, but it does not make it so. Of all the people in the Assembly, when you start making statements like that you have probably the least credibility of the lot. By all means keep repeating it, but you are not impressing anybody.

13 August 1992

**Mr Lamont:** You should take your own advice.

**MR KAINÉ:** I am taking my advice. I believe, Mr Lamont, that on this and many other issues I have a great deal of credibility in this community, very wide credibility. It is because of the fact that I have served this community for many years. People know that what they see is what they get. There is no secret agenda with me; what is on the table is what I am on about. I am really serious when I say, Madam Speaker, that this is a divisive issue and it is causing a lot of people a great deal of concern. When industries like the racing industry begin to say - - -

**Mr Lamont:** One person.

**MR KAINÉ:** A very significant person - not just some fly-by-night jockey, not some strapper, not some employee at the racecourse; a very eminent person in the racing industry, and one, as was pointed out a number of times yesterday, that your Government appointed to head up a statutory body because of his expertise and his qualifications in the industry. Do not shrug his opinion off lightly. I know that he has made approaches directly to you on this issue, and you shrugged him off like you are shrugging me and everybody else off.

Madam Speaker, it is not good enough to ram bad legislation through this Assembly, and this is bad legislation. The fact that it has taken so long to debate the first dozen clauses of it surely speaks for itself. People are not in this place simply to filibuster, and I object to and resent that sort of implication. We are here to take up issues on behalf of this community, and I wish the Government could say the same thing. On this particular matter the Government clearly are not interested in what the community thinks. They have no concern whatsoever for it, except for a very small minority who have a right to be concerned about welfare. We all are. Mr Westende did not refute that; he has a concern for animal welfare too. But this goes too far.

If the Government forces this through, it will live to regret the day that it does it. It can very easily demonstrate its good intent by allowing a select committee to examine these matters of concern. It does not have to take too long. We are not asking that the thing be deferred for 10 years. Mr Westende has put forward a reasonable and responsible proposal, and I think it is incumbent on the members of this Assembly to give that proposal very serious consideration.

**MS SZUTY (11.16):** Madam Speaker, I support the motion by Mr Westende to establish a select committee to examine the Animal Welfare Bill, although I support it rather reluctantly. My reluctance is due to the time that has already been taken on the Animal Welfare Bill and the extensive lead-up work which occurred prior to its preparation as a Bill for consideration by this Assembly. Another reason for my reluctance is an acknowledgment that extensive consultation has already taken place, and I really wonder whether further consultation is necessary.

However, there are advantages in adopting the select committee process in this instance. It is a more appropriate forum in which to discuss the detail of the Bill and may actually save this Assembly time, rather than having us discussing and debating each clause as it comes forward. The objectives of Mr Westende's motion are admirable. An examination of the Animal Welfare Bill with a view to recommending clearer and more concise expression will enable a select



committee to explore a wide range of possible scenarios in relation to the Bill - for example, from the point of view of the horseracing industry, which has raised a number of queries about how it would be affected by the legislation, and the point of view of many other groups and organisations connected and concerned with the welfare of animals.

Although extensive community consultation has already occurred, a slightly longer period of community consultation, now that the Bill has been tabled before the Assembly, will certainly not do any harm. Most importantly, if the select committee reports to the Legislative Assembly in November, it will enable feedback from the Ministers meeting in October to be taken into account in the committee's deliberations and will allow time for work to commence on the codes of practice that are so necessary for this legislation to become meaningful.

Mr Westende has proposed that the select committee comprise three members of this Assembly. While I would not volunteer for the select committee, I believe that it would be entirely reasonable for the Government to provide a member, for a member of the Opposition to be a member - most appropriately Mr Westende - and for Mr Stevenson to be the third member. It seems rather ironic to me that Mr Stevenson has chosen not to participate in any of the standing or select committees to date and yet has had much to say during the detail stage of this Bill. I support Mr Westende's motion to establish a select committee to examine the Animal Welfare Bill, and I urge fellow members to support it also.

**MR MOORE** (11.19): I thought I would say a couple of words. It is interesting to me that the Liberals stand up and say that it is absolutely critical that we have this select committee because this Bill is so terrible. If we go back and look at the *Hansard* of the in-principle debate, we will see exactly the opposite sort of thing. What we have now is a reaction which is pure political opportunism. We have seen that the Liberals can finally get together on something. They can actually act almost together on something. Having acted together on something, they actually realise that they can get some media coverage. They happen to have got it. Therefore, they think that they can now look back to the situation and say, "Forget what we said in the in-principle stage about this being a wonderful Bill".

Instead of dealing with the anomalies in the same way that we dealt with them in the planning and land management Bill - the Bill that Trevor Kaine and Gary Humphries supported going to an urgent Bill stage - they want to delay this even further. They want to delay it mainly because of political opportunism, because they can get a little more media attention through delaying it instead of trying to resolve these questions on the floor of the house. Why was there not a suggestion for a select committee five or six weeks ago? That was the opportunity to do it. At that stage that may well have been considered a very sensible solution. Now people's positions are polarised in such a way that I think a select committee on this issue would be just about unworkable.

**MR CORNWELL** (11.21): I reject Mr Moore's comments on this matter. He argues that the matter should not have been carried this far following agreement in principle. Madam Speaker, that was before the amendments started to come in. For the information of members of the Assembly, including Mr Moore, there are 19 government amendments being moved by the Minister. There were five corrections to the legislation put forward. There are seven amendments moved by Mr Lamont in addition to the 34 moved by Mr Westende.

13 August 1992

**Mr Kaine:** Mr Lamont does not even agree with the Government's Bill.

**MR CORNWELL:** Indeed. The point I am making is this: If the Government can put up 26 amendments to its own legislation, why should not this Assembly have doubts about the effectiveness of it and why should not its members quite properly believe that the matter should be referred to a select committee for further examination? This legislation gives people no faith whatsoever that the Government knows what it is doing in relation to the Animal Welfare Bill, and the evidence is there in the amendments that you people have put forward after the in-principle debate. So I reject Mr Moore's comments - - -

**Mr Kaine:** Sanctimonious comments.

**MR CORNWELL:** Indeed, sanctimonious comments. Mr Moore said that we are doing this for publicity. It seems to me, as Mr Kaine said earlier, that this is generating a great deal of publicity - much more, I am sure, than the Government intended, and certainly much more than Mr Moore intended, because he is getting publicity too and it is not in his best interests. It is no wonder Mr Moore wishes to close down the debate on the matter, because the longer it goes on the more he is going to be exposed as not really an Independent but a quasi Labor member or - - -

**Mr Kaine:** An appendage of the Government.

**MR CORNWELL:** As you say, an appendage of the Government.

**Mr Connolly:** No, he is not one of ours.

**MR CORNWELL:** I notice that Mr Connolly is at great pains to say no. I think the track record will show, however, Mr Connolly, just where Mr Moore stands in terms of this Assembly and the matters that come before it. I do not support his arguments, Madam Speaker. The evidence speaks for itself: Nineteen government amendments and seven put forward by Mr Lamont. It does not give me any assurance that the Government knows what it is doing with this piece of legislation.

**MR LAMONT (11.24):** Madam Speaker, I refer members assembled to *Hansard*, page 3890, of 23 October 1990. I will read this, if I may, Madam Speaker, because it will address the questions raised rather emotively, I might suggest, by Mr Westende, who appears to be deliberately playing the man rather than the issue.

**Mr De Domenico:** I take a point of order, Madam Speaker. I ask Mr Lamont to withdraw that statement - "deliberately playing the man" - because Mr Westende is not doing anything of the kind.

**Mr Connolly:** Oh, rubbish! His speech was just a litany of attack. He was attacking Mr Lamont's character, his demeanour - - -

**Mr De Domenico:** Just listen. You have the chance to find out the truth as well, if you listen. Mr Lamont is going to get a bit testy because he has been called all sorts of things. He stood up. He happens to be one of only two members of this Assembly who have been censured by this Assembly.

**Ms Follett:** What is the point of order?

**Mr De Domenico:** The point of order, Madam Speaker, is that I think Mr Lamont should withdraw the statement that Mr Westende "deliberately plays the man". He does not do that.

**Mr Wood:** You have to indicate that it is not parliamentary. Can you indicate that it is not parliamentary?

**Mr De Domenico:** I am prepared to listen to the Speaker, Mr Wood.

**MADAM SPEAKER:** The standing orders refer to unparliamentary language and to imputing improper motives. I do not believe that Mr Lamont intended to impute any improper motives in that statement. Please continue, Mr Lamont.

**MR LAMONT:** As I said, I refer you to page 3890 of *Hansard*. This followed the tabling of a ministerial paper by Mr DUBY, a Minister in Mr Kaine's Alliance Government and a ministerial colleague of Mr Humphries. I quote:

As part of the process of preparing the policy statement, two episodes of public consultation occurred, including the publication of a draft policy in 1989. The consultation resulted in the receipt of over 1,000 pages of representations. An advisory body was consulted throughout the process. It represented the main organisations involved in animal welfare matters in the ACT, including the RSPCA, Animal Liberation, the Rural Lessees Association, research bodies, pet shops, vets and general members of the public. I thank the members of the animal welfare representative working group for their dedicated and constructive contribution to the development of the policy statement.

The policy statement sets out in detail what action the Government intends to take in relation to animal welfare issues in the ACT. The Government -

Mr Kaine's Government -

believes that this is a comprehensive statement of policy that will put the ACT at the forefront in Australia in this area. The most important action in the policy statement is that a new Prevention of Cruelty to Animals Act will be prepared for the ACT.

What absolute hypocrisy it is, Madam Speaker, for the Opposition to suggest that this is an improper view.

Madam Speaker, I now go to the second great furphy put forward by Mr Westende when he addressed this matter. Twice this morning he has said, "Look at the great public ground swell. Look at Mark Giffard's phone-in yesterday morning; five to one, ten to one", or whatever the comment was. I am sorry; it was three or four to one. He did not actually name Mr Giffard, but I presume that that was what he was referring to. Madam Speaker, there were 13 calls yesterday in relation to this matter, 11 of those being from the ACT; seven were against and four were in favour. I certainly hope that you also take into account previous talkbacks where the order of people phoning in in support has been ten to one in favour of the action of the Government.

13 August 1992

**Mr Kaine:** But now they have seen your legislation.

**MR LAMONT:** Mr Kaine, you only need to go to the record, as I have done, to find out that what you have suggested this morning is definitely wrong. I also certainly hope that in preparing for any future debate on any economic matter your maths stand you in better stead than the furphy that you have put up this morning. You have deliberately attempted to filibuster on this issue and on this Bill. There is the opportunity; Mr Westende should take it and withdraw all of his amendments that have not already been dealt with. The simple fact is that you are repeating and repeating and repeating. Your arguments are repetitive; they lack judgment, in my view, and I believe that, in the interests of the proper business of this house, you should withdraw them.

**MR DE DOMENICO (11.29):** Madam Speaker, I was not going to say anything about this, but let us have a look at what Mr Lamont has said. Three years ago there was some great concern expressed by the then Minister, Mr DUBY - he was not a member of the Liberal Party - and by certain members of the Liberal Party, too, about animal welfare. Hear, hear; so there was, Madam Speaker. But in 1989 no-one saw this Bill that we are debating. It is the Bill that the Liberal Party is concerned with, Madam Speaker; not the principle of the Bill, but the actual Bill itself. It has more holes in it than Swiss cheese.

Mr Moore stands there, wryly shrugs his shoulders and smiles. Mr Moore, you have no credibility whatsoever, either in this Assembly or in the community. You have made more moves than Boris Spassky over the past 48 hours. You know that you have. You do not know where you are. You talk about the Liberal Party and political expediency, Mr Moore. If you want to commit political harakiri and then vie for votes with the Labor Party, that is your problem, Mr Moore. You have no credibility as far as the community is concerned.

Madam Speaker, what are we here for today? We are spending a lot of time - - -

**Mr Wood:** To filibuster; that is what you are here for.

**MR DE DOMENICO:** Thank you, Mr Wood. Mr Wood uses the word "filibuster". I am glad that you used the word "filibuster", Mr Wood. Whilst the unemployment level in this town is 8.4 per cent, let me suggest to you, Madam Speaker - - -

**Mr Wood:** You are taking up the recommendations of that leaked report, aren't you? You are taking up that leaked report. Make a distance between you and us.

**MADAM SPEAKER:** Order!

**MR DE DOMENICO:** Could you please protect me from that person over the other side of this Assembly, Madam Speaker?

**MADAM SPEAKER:** Mr De Domenico, I think I have already. Order, please!

**MR DE DOMENICO:** Thank you. Whilst Mr Wood might sit there and yell out "filibuster", let me tell him some facts. It is a fact, Mr Wood, that 8.4 per cent of this community is unemployed. If we allow this Bill to go through in its present form, Mr Wood, there will be another 80 people, at least, at Parkwood Eggs who, in their opinion, may have to be unemployed. We are sitting here listening to this garbage from the other side of the house. We ought to be getting on with debating the real issues in this Assembly.

This Liberal Party will stand up and continue to debate, clause by clause, if need be, any Bill which we believe is bad legislation, because the community demands that this Opposition stand up and do that. Let me assure you, Mr Wood, notwithstanding what you might think about filibustering - and you can use the word as often as you like - that we will continue to press hard the fact that this is legislation on the run; it is legislation pandering to a minority group; it is legislation which your own people, your own department, your own members, have amended time and time again since we started debating it.

The chairman of the ACT Racing Club, a gentleman your Government appointed as chairman of the TAB, said publicly that he thinks the legislation stinks. Mr Wood, you sat here in this Assembly yesterday and you said, "We do not care that only 28 per cent of the community support us; we do not care a hoot about that, because in time we are going to make sure that the rest of the community agree with us". That is what this debate is all about. This debate is all about the fact that this legislation is not worth the paper it is written on. This legislation has caused division in this community. This legislation is bad legislation. I am delighted to support my colleague's move to refer this bad legislation to a committee. Let us see what this situation is all about. Mr Wood, let me tell you - - -

**MADAM SPEAKER:** Mr De Domenico, I am sorry; I have to interrupt you. It being 45 minutes after the commencement of Assembly business, the debate is interrupted in accordance with standing order 77, as amended by temporary order, and the resumption of the debate is made an order of the day for the next sitting. It became automatic at 11.33 am.

**Mr Cornwell:** I warned about the gag on this.

**Mr Stevenson:** Madam Speaker, I move:

That so much of the standing orders - - -

**Mrs Grassby:** It is not a gag; it is the rule.

**MADAM SPEAKER:** It is a rule. Order! Mr Stevenson, could you just wait a moment. I would like to speak to the Clerk.

**Mr Cornwell:** I knew that this sort of thing was going to happen.

**Mr Wood:** You have fallen over, and Tony De Domenico made you fall over.

**MADAM SPEAKER:** Order! I would like to speak to the Clerk.

**Mr De Domenico:** A good try, Bill. A good try, mate. It does not work. It is called a gag.

**Ms Follett:** I raise a point of order, Madam Speaker.

**MADAM SPEAKER:** I am sorry; the meeting was suspended, Ms Follett. I do not believe that Mr De Domenico had a right to speak at all.

**Mrs Grassby:** I take a point of order. He said that it was a gag.

13 August 1992

**MADAM SPEAKER:** I am sorry; I had suspended the sitting so that I could listen to the Clerk, so Mr De Domenico was completely out of order in speaking. Would you all just wait until I have spoken to the Clerk.

Mr Stevenson, I would direct your attention to the amended standing order 77. Perhaps you would like to move under that one. The Clerk will show it to you. Mr De Domenico and company, it is not a gag; it is an appropriate cut-off point.

**MR STEVENSON (11.34):** Madam Speaker, I move:  
That the debate be extended by 30 minutes.

**Mr Berry:** It is out of order. He has to move to suspend standing orders.

**MADAM SPEAKER:** No. Under the amended standing order 77(e), Mr Stevenson is permitted to move that motion. The question before the Assembly is: That the debate be extended by 30 minutes. It is not to be debated. It is a question that has to be put to the Assembly, and I am putting it to the Assembly.

Question put:  
That the motion (**Mr Stevenson's**) be agreed to.

The Assembly voted -

*AYES, 9*

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Moore  
Mr Stevenson  
Ms Szuty  
Mr Westende

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Wood

Question so resolved in the affirmative.

**MADAM SPEAKER:** Mr De Domenico, I believe that you have the floor.

**MR DE DOMENICO:** Madam Speaker, thank you. I will conclude my comments by saying that having noted - - -

**Mr Wood:** Don't stuff it up this time.

**MR DE DOMENICO:** I quote the words the Minister used, "Don't stuff it up this time".

**Mr Wood:** Thank you for putting it on the record.

**MR DE DOMENICO:** Mr Wood, I suggest that you look at a mirror. Madam Speaker, my contribution is now finished.

**Ms Follett:** Madam Speaker, I reiterate my point of order. I feel that it will be in *Hansard* as you made a reference to the gag. Mr De Domenico did interject that your ruling was in effect a gag. I think that is a reflection on the Chair's ruling to which you responded, so it will be on the record. I ask him to withdraw that reflection.

**Mr De Domenico:** Speaking to that point of order, Madam Speaker: You correctly ruled, Madam Speaker, I believe, that you had suspended the proceedings in the house. My remark was made across to the other side of the floor whilst the house was suspended.

**MADAM SPEAKER:** Mr De Domenico, just to clarify a point: If it is to go into *Hansard*, even if the meeting is suspended, will you withdraw it?

**Mr De Domenico:** Yes.

**MADAM SPEAKER:** Thank you.

**Mr Kaine:** Except that it did not relate to the Speaker; it related to you. Let us put that on the record.

**MADAM SPEAKER:** That is fine; thank you.

**MR STEVENSON (11.40):** There are certain principles in this matter that are very important. It is unfortunate that personalities and our concern for different sides of legislation or different aspects of legislation enter into these things. I would like to highlight some relevant principles that we would all agree with. The first one is that time should not enter into the question when we talk about legislation - whether something takes five hours, five days, five weeks, five months or five years. The key is that the legislation be sound. That is the correct principle. While there are many things that it is important to debate in this Assembly - things like unemployment particularly - and we can do a lot by working together on these things, there is a Bill before the house and many people in the community are concerned about it. The fact that some of us may disagree with some of those viewpoints really does not enter into it. We need to fully debate these matters.

It is on record a number of times in this Assembly that legislation that we have passed has had flaws that we have had to change. The latest was the Bill to do with land tax that we were discussing before the Animal Welfare Bill came on. We could have done a better job at the time. Unfortunately, the time was not available during that debate. We can gain assistance from individuals and groups in the community who are affected by the legislation. Much has been made about Alliance Government statements about animal welfare, but these are really in-principle statements. There is an entirely different situation with an in-principle statement and the detailed statement of legislation.

Who would disagree in principle with looking after animals? You could go and ask Canberrans by the tens of thousands and you would not find anybody. So we agree with this. There are many things in this legislation that are excellent, that nearly everybody would agree with. I think that the unfortunate division that tends to show up in this Assembly - it may not necessarily be there, but it tends to show up - really detracts from the basic in-principle agreement that we have on protecting animals. The truth of the matter is that they cannot protect themselves, particularly when they are in domestic use. We need to be concerned about those things, and we are.

13 August 1992

Much has been said about whether the people phoning up programs were four to one against or ten to one for, or whatever. Once upon a time I used to think petitions were the best way to go about presenting to members of parliament the concerns of people within an electorate. Some time ago I changed my view on that. It has been proven by what has been presented to the parliament in petition form. You can get 10,000 people relatively easily - - -

**Mr Berry:** What is the relevance of this?

**MR STEVENSON:** It is very relevant. It is relatively easy to get 10,000 people to say that they think circuses should be banned and another 10,000 to say that they should not be. However, that never gives you a percentage of the community. When anybody contacts me over any issue and says, "We are going to get petitions", I say, "Well, that is fine. However, I would suggest that you survey 1,000 people. Make sure that the questions are relevant. Ask people on both sides. Then you can get a percentage. It might be fifty-fifty or 85 per cent one way or the other". I think that gives us the will of the people.

Granted, there are correct ways of running surveys and incorrect ways. They should be done correctly. It is terrible to suggest that you have done a survey and it shows one thing, when it has been a crook survey - particularly when you know it. Most people in the community agree - our survey result was 80 per cent to 12 per cent - that members should reflect the will of the people. I can understand why some people do not think that should be the case on various issues; nevertheless I certainly do, and most people in the community do.

There is another very important point that directly relates to putting this Bill to a committee. It is the responsibility that we have to enact sound legislation. I have raised the point about the horseracing industry. It was suggested that there was only one person in the horseracing industry who was concerned about it, Mr Jim Colquhoun.

**Mr Moore:** I raise a point of order, Madam Speaker. Under standing order 62, irrelevant or tedious repetition applies not only to members' own arguments but also to arguments put by other members. We really have heard the Colquhoun horseracing argument some 10 or 15 times in this house.

**MR STEVENSON:** I was just about to mention that it was not only Mr Colquhoun but also Mark Owens, the executive director. That is why I make the point. If I said that it was Mark Owens, someone would say, "Yes, we said that it was only one".

**MADAM SPEAKER:** Mr Stevenson, I would still like you to keep in mind the requirements of standing order 62, please.

**MR STEVENSON:** I truly think the points I make are principles and that they are totally and absolutely relevant - far more than some of the things that I or other people might say at different times. I did not just say "other people". There are principles involved with this legislation. We should not force legislation through. We truly should not force legislation through when there are clear flaws. No-one can logically tell me, when the racing industry acknowledges that some pain is caused in racing and when this legislation makes that an offence - - -



**Mr Wood:** It is because you do not understand it. It is as simple as that.

**MR STEVENSON:** Mr Wood said that I do not understand the legislation. Three times in this Assembly I have gone into detailed discussion with people who have drafted legislation. I can give the exact details of the Bills, if you wish. On each of those occasions, we found, after persistence, sometimes for half an hour with five different members of the department, that the particular points that I had been maintaining were relevant, and that unintended consequences were relevant. It is the unintended consequences. It takes a long time for some people to see some other viewpoint that they did not intend. It is not their intention. I am not saying that it is deliberate, for a second; but there are unintended consequences.

The only decent explanation we have had from members opposite is that these matters will be corrected by a code of practice. The codes of practice are absolutely excellent ideas. However, you create an offence, you say that someone is breaking the law, and then you say that you are going to develop codes of practice because you understand that some things that would be an offence in one industry may be allowed in another, like horse riding, like confinement in pet shops, and so on. You bring in the law and make offences before you have the codes of practice and you say that there are some exempt situations within different industries, like egg production, trotting, greyhounds, horseracing, pet shops and others. I have statements here from different people within some of these industries who say that they have concerns.

**Mr Berry:** How many?

**MR STEVENSON:** I have one from Colin Bates, the representative of the Pet Industry Joint Advisory Council and a pet store retailer. I will not read the statement; I do not have the time. The racing industry - not just Mr Colquhoun, but Mark Owens as well - is very concerned.

**Mr Wood:** Two.

**MR STEVENSON:** Okay; include egg production. How many? I did not hear a word. We stopped at two. We got to one; he mentioned two; and that is three. We have had the National Aquarium concerned. How many is that? Four. Granted, I have not yet got all the rest. I have other statements in the files. There was not time to prepare it all. Nevertheless, we definitely have four people. The Bill should go before a select committee. We are not saying, "Do not do it". No-one has said that. Just give some time; otherwise this should be called not the Animal Welfare Bill but the Animal Farewell Bill.

**MR HUMPHRIES (11.50):** Madam Speaker, I realise that this debate really is about securing Mr Moore's support. The Government is locked into a position and obviously the Opposition is as well. It is a question of persuading Mr Moore that there is a good case for making this reference to a select committee. Mr Moore prides himself on being a man of logic, I think, and I have an argument which I believe is logical. I hope he will listen to it and think about it very carefully.

This is one of the most unusual pieces of legislation the Assembly has ever considered. The reason that it is most unusual is basically due to one clause, clause 20. That clause does something which I have not seen happen anywhere else in legislation that has come before this Assembly. It allows a person to plead

13 August 1992

a defence to a charge arising out of an offence recorded in this legislation by referring to subordinate legislation made by a Minister under the Act. In other words, the offence a person gets charged with is recorded in the legislation itself made by the Assembly, but the defence that they use, saying, "No, my conduct is exempt under reasonable practice as per the code of practice", is made by subordinate legislation.

This legislation is in fact, on its face, very harsh. It is mitigated by the effect of codes of practice. The fact of life is, Madam Speaker, that the codes of practice do not yet exist. The codes of practice probably are no more than broad concepts as outlined in the 20 categories referred to in clause 21 of the legislation. The Minister himself has conceded that there are many provisions of this Bill which, by themselves, would cause offences but which will in due course be mitigated, modified and reduced in severity by the codes of practice. We are creating an extremely stringent arrangement for animal welfare if we pass this legislation and do not put the codes of practice in place straightaway to mitigate the effect of that.

**Mr Wood:** You do not understand.

**MR HUMPHRIES:** The Minister says that it is all right. But when are all the codes of practice going to be available? Before this legislation is gazetted? The Minister does not answer that question. I hope he does answer that question. If this comes into force before the codes of practice are available, we are making an extremely stiff rod for many people's backs. The racing industry's concerns have already been expressed. You have said, "Do not worry; the codes of practice will take care of that". But how long after this legislation comes into force will the codes of practice be available?

**Mr Kaine:** One year?

**MR HUMPHRIES:** One year? We had a 12-page Bill, the Food Bill, based on existing legislation, which took two years to come before the Assembly.

**Mr Wood:** There is nothing new in this, nothing new at all.

**MR HUMPHRIES:** Minister, I submit to you that there is a very real, important and urgent point here. Interject. When are the codes of practice going to be available?

**Mr Wood:** I will stand up with your leave and I will respond to it.

**MR HUMPHRIES:** All right. If you can assure me that they are going to be available by the time this Act is gazetted, I will be happy. I will sit down and I will be mollified. There will not be any problem. But if they are not available at the point when this legislation comes into force - every one of them - then we are creating an extremely unfair rule for those people who have to abide by that law.

I want to raise quickly two points that were raised earlier in debate, I think by Mr Moore. Why did we not raise these sorts of concerns about the Bill during the in-principle stage of the legislation? The answer is very simple and it was a point we raised constantly during the last sitting week of the last Assembly. There was too much legislation being brought forward too quickly to be able to do that.

**Mr Connolly:** You were previously complaining that there was not enough.

**MR HUMPHRIES:** Do not jest about this. We have raised points about the legislation, which you yourselves have conceded are good points, only by thorough scrutiny of this legislation. You, Mr Connolly, described a point we made on Tuesday about fishing as twaddle, to quote from page 114 of the draft *Hansard*. You have now conceded that we have a point and you are going to amend the legislation. Mr Lamont said about the same point:

That is such a long bow that not even you could carry the arrow.

**Mr Lamont:** True.

**MR HUMPHRIES:** No, Mr Lamont, it is not true. The fact is that it is not such a long bow after all. It is not twaddle, and you know it, because you are amending the legislation. That is basically the product of the careful scrutiny we have had to give the Bill since the legislation was debated in principle. That is why it was not raised during that stage.

Why was not a select committee created five or six weeks ago to refer this to? The answer again is very simple. Up until the death knell of the last sitting, it was still assumed that we were going to debate the Animal Welfare Bill to completion. It was not clear until the very last minute that we would not be doing that; that in fact it would be adjourned until the following session, namely, this session. That is why it did not happen.

Madam Speaker, this is a dangerous piece of procedure. If we do not have those codes of practice in place, then we have a real problem of creating unnecessarily harsh law which we cannot mitigate in any way, except by creation of those codes. The Minister might say, "I have been advised that some of the codes will be available by the time that the Bill is gazetted". Even if that is the case, even if that advice has been received - - -

**Mr Wood:** So you realise what the process is, but you have not admitted it until this moment.

**MR HUMPHRIES:** No, I have not denied it. I accept that your administration is working very hard.

**Mr Wood:** So you have been running a line. Now you know what is going to be said to you.

**MADAM SPEAKER:** Order!

**MR HUMPHRIES:** I accept that the Minister's department is working very hard to get those codes of practice in place, but I also accept that the people in his department are fallible and they are capable of encountering delays they do not anticipate. If that is the case, then we expose members of the community who deal with animals to very harsh penalties. We also expose them to penalties that might be initiated not by officers of his department or police, but by individuals who launch private prosecutions based on this legislation. Mr Lamont, I am sure, knows some individuals who might like to launch private prosecutions based on legislation that has been put forward.

**Mr Connolly:** And the DPP will take them over, as is the case with private prosecutions.

13 August 1992

**MR HUMPHRIES:** But the fact of life is that, if they have been launched, they have been launched, and they are pursued under laws of the Territory which have to be answered to. I do not think these laws should go forward unless they are mitigated appropriately.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.58), by leave: Madam Speaker, among the pieces of legislation that I have passed in my year and a bit as Minister are the planning legislation and the dog control legislation - both quite important pieces of legislation. They went through in particular ways and subsequently were implemented. This piece of legislation will be no different. In the normal course of events the Government will not immediately gazette this legislation, because we could not do so. Those provisions, however, that are necessary to enable the administration and machinery functioning of the legislation can be commenced. This will enable regulations to be drafted, as with the dog control legislation and the planning legislation. Once this is up, we turn our full attention to the regulations. Obviously, there is a delay until they are all in place.

**Mr Humphries:** All in place? Did you say "all in place"?

**MR WOOD:** Yes. I am talking about regulations here, Mr Humphries, if you were listening. This will enable those necessary steps to proceed before the major provisions come into force. This was the way we did it with other pieces of legislation, as Mr Humphries belatedly acknowledged. This is the way that this will proceed. With this Bill we can establish the Animal Welfare Advisory Committee. They can be requested, because it is their job, to give high priority to the establishment of codes of practice, those essential codes of practice.

It is only late in the debate that some of you people opposite have started to understand, or at least to talk about, the codes of practice. When this debate first started you did not really understand them. Those codes of practice can be established - I think particularly of the racing industry and the egg production industry - before the Act comes into full force. That is the normal and reasonable practice of the past and it can happen this time. You have not wanted to acknowledge that. Therefore, with this process, with this fairly routine way of doing things, we can comfortably accommodate your anxieties about those codes of practice.

**Mr Humphries:** So they are all going to be in place before the legislation is fully enacted?

**MR WOOD:** Well, perhaps not every code of practice that might encompass everything, but certainly those two key codes of practice in relation to racing and egg production will be in place before - - -

**Mr Humphries:** Two of them are going to be in place. Is that what you are saying? Just two; maybe three. Two or three out of 20. That is a disgrace, Minister.

**MR WOOD:** Well, two. The essential codes of practice will be in place before this legislation comes into full force. That is the only way - it is the routine way and it is the proper way - to proceed.

Question put:

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

The Assembly voted -

*AYES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Ms Szuty  
Mr Westende

*NOES, 9*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Mr Wood

Question so resolved in the negative.

**Mr De Domenico:** Shame on you, Michael. Michael does one thing and Moore does the other, eh?

**Mr Moore:** I raise a point of order, Madam Speaker. Standing order 52 states:

A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded.

I object to Mr De Domenico calling "shame" when I voted, and I consider that a reflection on that vote.

**MADAM SPEAKER:** Mr De Domenico, I would ask you to withdraw it.

**Mr De Domenico:** I said, "Shame, Mr Moore", Madam Speaker. It was not a reflection on the vote; it was a reflection on Mr Moore.

**Mr Moore:** It was a reflection on the way I voted.

**MADAM SPEAKER:** Mr De Domenico, I would ask you to withdraw it.

**Mr De Domenico:** Madam Speaker, on that point of order - - -

**MADAM SPEAKER:** Excuse me; the imputation is quite clear, Mr De Domenico.

**Mr De Domenico:** Not on the Chair, Madam Speaker, or on the vote of the Assembly; on Mr Moore. I said, "Shame, Mr Moore". I did not say, "Shame, Assembly", or "shame" anybody else.

**MADAM SPEAKER:** The standing order says, "A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded".

**Mr Humphries:** That is right; of the Assembly, not of Mr Moore.

**MADAM SPEAKER:** Thank you. I would prefer that Mr De Domenico withdraw. I will seek further advice on it and come back with a statement later. Let us proceed with the business of the day.

13 August 1992

**ESTIMATES - SELECT COMMITTEE  
Membership**

**MADAM SPEAKER:** I inform the Assembly that the membership of the Select Committee on Estimates 1992-93, as determined pursuant to the resolution of the Assembly of 11 August 1992, is: Mrs Carnell, Mr Cornwell, Mr De Domenico, Ms Ellis, Mrs Grassby, Mr Humphries, Mr Kaine, Mr Lamont, Mr Moore, Mr Stevenson, Ms Szuty and Mr Westende.

**ANIMAL WELFARE BILL 1992  
Detail Stage**

Clauses 12 to 17

Debate resumed from 12 August 1992.

**MR WESTENDE** (12.05), by leave: I move:

Clause 12 - page 8, line 8, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Clause 13 - page 8, line 13, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Clause 14 - page 8, line 20, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Clause 15 - page 8, line 33, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Clause 16 - page 9, line 8, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Madam Speaker, as indicated yesterday, clauses 12 to 17 are practically identical. We simply seek to amend the penalties. In our opinion, the penalties set out in clauses 12 to 17 are extremely high and are not in keeping with other Acts passed by this house. For instance, in regard to clause 14, we believe that, while the word "knowingly" might be appropriate in a situation where one normally uses spurs, on the other hand, in horseracing one knowingly uses spurs. Also, the Bill should be precise in its extent. How could you not know that spurs had sharpened or fixed rowels if you were wearing them?

As to clause 15, we have already said that our concern is with the words "without reasonable excuse". Once again, we want the penalty to be amended. In clause 16 we again come across the words "without reasonable excuse". We believe that there is some ambiguity in that clause. Clause 17 states:

A person shall not, without reasonable excuse, promote, take part in, or be present at a match ...

Does this mean that you cannot advertise, for instance, a match for which a permit has been given? It is because of that wording in the clauses that I have moved my amendment that the penalties be reduced by half and the term of imprisonment be reduced by half.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (12.09): Madam Speaker, the Government opposes the amendments.

**MR HUMPHRIES** (12.09): Madam Speaker, I do not know whether this is a futile exercise or not, but I again ask people to consider the implications of some of these provisions. For example, some aspects of clause 17 are not covered by the codes of practice pursuant to clause 21. So we are looking at an offence created here simpliciter, which will not be mitigated by any code of practice. Under clause 17, a person who is present at a match in which an animal is released from captivity for various purposes is guilty of an offence punishable by a penalty of \$10,000 or one year's imprisonment.

I ask Mr Connolly to exercise his fertile imagination and describe to me a situation of such seriousness that a person who is present at one of those matches should be liable to the maximum penalty referred to there. I might accept an argument that a person who actually conducts a cockfight, or even promotes it, should in some circumstances be liable for imprisonment for a year. If I worked very hard I could probably reach that point. But how could a person who is present at a match, who has no involvement in organising it, promoting it or whatever, who is just standing there watching this match going on, conceivably be liable for a year's imprisonment? Do we really think that is an appropriate penalty in those circumstances? I do not think we do.

Mr Moore used an interesting argument yesterday. He said that he was prepared to vote to reduce the penalty for a person who releases an animal from custody by negligence - a different category from a person who deliberately releases an animal from custody. That was a very sensible comment. It was not accepted by Ms Szuty on that occasion; nonetheless, it was a very sensible comment. I am asking the Assembly now whether it really sees a person being present at a cockfight as being of the same level of seriousness as a person organising it and promoting it?

**Mr Berry:** Yes.

**MR HUMPHRIES:** Mr Berry says yes, he does.

**Mr Connolly:** We take a serious view of the whole business. We want to stamp it out.

**MR HUMPHRIES:** Stamp it out by getting the organisers and promoters. Sending people who are present at those matches to gaol for a year is a rather excessive way of stamping it out, do you not think? You are really going too far.

**Mr Connolly:** It is a maximum penalty.

13 August 1992

**MR HUMPHRIES:** You keep saying that it is a maximum penalty, but if it does attract the worst possible case - - -

**Mr Connolly:** It is like the little boy and the peach - 10 years' imprisonment.

**MR HUMPHRIES:** No, it is not like the little boy and the peach. It is the other extreme. We are talking about maximum penalties. Are you going to put to me the circumstances where that maximum penalty would apply to a person who was present at a match as much as to the person who organises that match? You put them in the same category of seriousness. I am asking you to explain how you could ever be in the position of having that level of seriousness. Even for somebody who has been found five times at a cockfighting match, a year in gaol is just too much. You tell me how a person in that position warrants a year in gaol.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (12.13): Madam Speaker, in this, as in a lot of activities, it is those people who come and bet and pay and support who ensure that the events go on. We have to discourage that sort of activity. The point, too, is that the Opposition is acting in terms of that leaked document from ACIL. They are trying to find something that will separate them from us and then carry on indefinitely. There is an answer on every occasion to what may be raised by the people over there, but I am not going to facilitate or encourage their filibuster and give the logical answer. We are going to act responsibly and sensibly, but I am not going to get up on every little point that a member over there raises.

Amendments negatived.

Clauses agreed to.

Clause 18

**MR WESTENDE** (12.15), by leave: I move:

Page 10, subclause (1), lines 6 and 7, omit the subclause.

Page 10, subclause (2), line 9, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$2,500".

Once again, it is a matter of the fine. We have spoken extensively on this. Just to prove to the Government that we are not filibustering but are genuinely concerned, I will not elaborate any further. We believe that the \$10,000 fine should be \$2,500. Clause 18 states in part:

A person shall not promote, conduct or take part in a rodeo.

... ..

A person shall not promote or conduct a game park.

Does that mean that, if the circus comes to Queanbeyan and the *Canberra Times* or one of the television stations runs an advertisement, they are promoting a game park? Once again, it is an airy-fairy piece of legislation. The *Canberra Times* or one of the television stations or any other media can be fined \$10,000, if this Bill is taken to its extreme. We do not believe that that is appropriate.



If this city does not want circuses and people prefer to go to Queanbeyan to the circus, surely the *Canberra Times* should be able to run an advertisement. If that is called promoting, that fine of \$10,000 is absolutely out of this world. I ask members to consider that fact, because "promote", once again, is not defined. Does it include advertising? Does a billboard promote or enhance? We believe that those fines are definitely incorrect.

We have moved that subclause 18(1) be omitted. It states:

A person shall not promote, conduct or take part in a rodeo.

In a further amendment, we will seek to include rodeos with circuses, where the circus needs a permit. We are not against the rodeos requiring a permit.

**MR CORNWELL** (12.18): Madam Speaker, I endorse what my colleague Mr Westende said. The clause says, "A person shall not promote ...". As Mr Westende said, "promote" has not been defined.

**Mr Connolly**: Come in, spinner. Dig yourself deeper. Keep going.

**MR CORNWELL**: It has not been defined, Mr Connolly. You might like to explain to us what you think it means, because it is not in the legislation. As Mr Westende said, it could be a television advertisement for something in Queanbeyan; it could be an advertisement in the *Canberra Times*. It could be somebody putting up a billboard or a hoarding - perhaps one of those small advertisements we saw recently for the circus - for a rodeo that is taking place outside the Territory.

I will await your answer; but I would be delighted to hear how you maintain that this is not a promotion and why, even if it is a promotion, it should be prevented and prohibited in the ACT when the activity is not taking place here.

**Mr Wood**: They are really stretching it. They have to try to stretch this thing out.

**MR CORNWELL**: No, seriously. If we are to be prevented from advertising in the ACT a rodeo that is taking place in Queanbeyan, we are not just looking at restraint of trade, I suggest to you; we are looking at censorship. You might like to clarify it.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.20): The Liberal Party, which is totally opposed to all censorship, seems to want some answer to Mr Cornwell's last comment. I am only answering a point Mr Westende was making, which was so wrong, so totally incorrect, that it needs an answer. It was a play to the *Canberra Times* in that he was saying that the *Canberra Times* promoting a circus could be prosecuted under this legislation because a circus can be a game park. Mr Westende, it cannot. A game park is, firstly, where animals are confined, and yes, a circus fits that; and - not or - secondly, where the taking or killing of those animals as a sport or recreation is permitted.

We have some criticisms of circuses, but I have never heard of a circus where the taking or killing of animals comes as part of the admission price. So, that silly line that this clause would mean that the *Canberra Times* would be prosecuted if it advertised a circus in Queanbeyan is just farcical. It demonstrates the depth to which the Liberal Party is sinking to keep debate going.

13 August 1992

**MR KAINE** (Leader of the Opposition) (12.21): The Minister can brush this off lightly. The Government is going to continue to do this. No matter how much concern the clause generates, they are still going to brush it off lightly.

I think what Mr Westende pointed out is worth reiterating. We are, first of all, proposing that subclause 18(1) be deleted. That is because we do not believe that rodeos necessarily ought to be banned. Mr Westende indicated that further on, under the clause related to circuses, where a circus may be conducted with a licence, we believe that the same thing should apply to a rodeo. If somebody wants to do this - and it is very interesting that nobody has for some years, and maybe nobody ever will - they can come along to the authority and get a licence, and the licence can be issued under whatever conditions the authority deems prudent. We are suggesting that the debate about whether or not you can promote, conduct or take part in a rodeo should be taken out of here and we can debate it later on in terms of licences.

The other point about this is in the severity of the offence. Whether you leave the rodeo clause in or take it out, what this says is that to promote something is equally as serious a crime as to conduct that activity. There are clearly differences in the severity of the offence here, yet the penalty is the same. If I go out onto the street and say to somebody, "You should go to Ashton's Circus", I am promoting the circus and I can be hit with a \$10,000 fine or a year in gaol, or both. If I say, "You should go to the rodeo down the road on Saturday", I am put in exactly the same class as the person who actually conducts the rodeo and who may be inflicting cruelty on animals.

Surely there is a question of the severity of the offence here. To say that the penalty for both shall be the same is, in my view, totally unreasonable. If they want to prescribe a penalty for promoting something, that is fine; but let us have it in some sort of perspective in terms of the severity of the crime. If the Minister will listen, he might like to take that under advisement and consider whether or not the Bill ought to be amended.

While I am on my feet in connection with clause 18, Madam Speaker, I guess I can debate subclause (3) as well. This is one of those interesting cases where only two days ago both Mr Lamont and Mr Connolly, when we raised the question of trout fishing down at the aquarium as being a major offence under this Bill, pooh-poohed the idea. Mr Lamont said, "What a lot of rubbish! You are drawing a long bow". Mr Wood, fortunately, took the point, because he has come back with an amendment to exclude fish from this provision. He knows that, without that amendment to his Bill, if I go down to the National Aquarium next week, after this Bill is passed, and throw a line into the trout pool and pull a fish out, the people operating that game park, by definition, are guilty of an offence that is going to cost them \$10,000 or a year in gaol.

It was only after we brought it to the Minister's attention that he came back with the amendment. Mr Lamont and Mr Connolly said, "That is absolute rubbish". This is one of the unintended consequences that we keep talking about. The people who drafted this did not think it through.

**Mr Connolly:** And we accepted that consequence. It is like a little jewel in a pile of garbage: Occasionally there is something there.

**MR KAINE:** You accepted that one, but you will not accept our argument about all the other unintended consequences. You will not follow a logical process. Only two days ago you said on that point, "That is rubbish". You said that it was rubbish, Mr Connolly. You probably still think it is rubbish. It is Mr Wood who had the sense to come back with the amendment to fix it. I think that speaks for itself.

There are major problems with this Bill. That was one Mr Wood saw the sense of and is about to correct. I suggest that he needs to think carefully about the severity of the offence and consider whether or not promoting - whatever form promoting might take - really warrants a penalty of the order of magnitude that is suggested here. I think it is grossly out of proportion to the nature of the crime.

**MR HUMPHRIES (12.26):** Madam Speaker, to take the point Mr Moore made yesterday about matching the severity of offences one against the other, in subclause 17(1) we have now agreed that it should be an offence punishable by a \$10,000 fine or one year's imprisonment to promote an illegal activity, namely, a cockfight or a fox-hunt or something of that kind. Those are illegal activities, certainly as far as cockfights are concerned, not just here but in surrounding New South Wales, and probably everywhere in Australia. Here, promoting an illegal activity is worth a \$10,000 fine or one year's imprisonment. Okay, we have accepted that; that has been passed. Are we now saying that the promotion of a legal activity just across the border is going to attract the same level of penalty?

**Mr Wood:** No, you are saying that.

**MR HUMPHRIES:** No, you are saying it.

**Mr Wood:** No, not so.

**MR HUMPHRIES:** No, you are saying that. With the greatest respect to the intelligence of the Minister, the Bill says:

A person shall not promote, conduct or take part in a rodeo.

Penalty: \$10,000 or imprisonment for 1 year, or both.

You cannot modify that by - - -

**Mr Wood:** Sit down and let me explain it.

**MR HUMPHRIES:** I beg your pardon, Minister. I am entitled to finish my speech, and I will. Madam Speaker, there is no code of practice exemption under clause 20; that is specifically excluded. The Minister may say that promotion does not mean putting up a sign; it means something more than that. I do not take that point either. A rodeo enthusiast who lives in Canberra and goes to all the rodeos around the place, and who puts up a sign in his window saying "The Bungendore rodeo is on next weekend", is liable to a term of imprisonment, and certainly to a hefty fine. That is just not cricket. If the Government is serious about putting things on a par, it will not make the promotion of a legal activity as serious as the promotion of an illegal activity.

13 August 1992

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (12.28): Madam Speaker, I draw the attention of members opposite to a page of this legislation. Would you open up your books to the first page - - -

**Mr Kaine:** We are not in the classroom, Minister.

**MR WOOD:** I think you need to be. It is as clear as that.

**Mrs Grassby:** That is the way to talk to them. Maybe they will understand then.

**MR WOOD:** It certainly is. Have a look at the cover.

**Mr Cornwell:** I want to move to another school.

**MR WOOD:** I wish you would. That front cover says: "The Legislative Assembly for the Australian Capital Territory". Do you think this Bill and that pile of legislation on the table cover anything else but the Australian Capital Territory? We cannot make legislation covering New South Wales.

**Mr Cornwell:** That is right. We are not arguing that.

**MR WOOD:** You do not seem to accept that. The clear case is that every clause here, every statement, refers to the Australian Capital Territory. It is clear, it is implicit, it is explicit, right through the Bill.

**Mr Humphries:** You can promote in the ACT? You can put a sign up in the ACT?

**Mr Cornwell:** You can put a sign up in the ACT for the Bungendore rodeo?

**MR WOOD:** You cannot in the ACT run a rodeo. You cannot promote a rodeo.

**Mr Lamont:** Or promote such a rodeo.

**MR WOOD:** Exactly. If a rodeo is legal in New South Wales, it may be advertised anywhere in Australia, and overseas if you like.

**Mr Kaine:** Not according to this.

**MR WOOD:** No, not at all. We make no claims at all for what might happen - - -

**Mr Kaine:** Then correct your Bill to say what you mean.

**MR WOOD:** It does not need correction. We make no claims for what might happen outside our boundaries. We are endeavouring here, and we are succeeding, to control what will happen within our boundaries. It is as simple as that.

**MR KAINE** (Leader of the Opposition) (12.31): Madam Speaker, I think the Minister just defeated himself. He said that he is legislating only for what happens in the ACT, and so he is. His legislation says that a person shall not promote a rodeo: Penalty, \$10,000. Promoting a rodeo is an activity that takes place in the ACT, and you are making it illegal.

**Mr Wood:** You are interpreting.

**MR KAINE:** No, I am reading your Bill. There it is in black and white. You are saying that, if within the ACT you promote a rodeo, you are committing an offence that is going to cost you \$10,000 or a year in gaol. It is your Bill, Mr Wood, not ours, and you can choose to interpret it. I am reading the words in your Bill, put by you to this Assembly. You explain how promoting a rodeo in the Territory is not an offence under that Bill. I do not believe that you can, no matter how you twist it, no matter how you distort it. There is an offence clearly stated, and you have put your finger right on it, Mr Wood.

**MR HUMPHRIES (12.32):** Madam Speaker, I think the Minister was saying, and I hope he will be able to clarify this, that if a rodeo is legal in New South Wales it is therefore legal to promote it in the ACT, notwithstanding clause 18. Is that what he was saying?

**Mrs Carnell:** Yes, that is what he said.

**MR HUMPHRIES:** I am certain that the Attorney-General would not rise in this place to support that interpretation. He is a lawyer, and I am sure he knows perfectly well that that is not an interpretation the law would accept. We all know that extraterritoriality does not apply to the ACT but does apply to activities taking place in the ACT. If we choose to make an activity illegal in this place, even if it is only the promotion of an activity outside this place, we are perfectly capable of doing that. The ACT's laws are competent to do that and they would do that.

The Minister might put us to the expense of getting a proper legal opinion on this. I can assure you that there would not be a single lawyer in this Territory who would not take the same interpretation of it that we are taking.

**Mr Cornwell:** Most, let us say.

**MR HUMPHRIES:** No, I go further than that. I think any lawyer who has done one year of law school would know that the Territory is capable of making a law of this kind making illegal the promotion of an activity, even if it is legal across the border in another jurisdiction. That is fundamental; it is very simple. The Attorney-General knows that, because he is remaining silent, and I suspect that he should be giving that advice to the Minister very soon. This exposes the weakness of the Bill. It is fundamentally badly thought through. You have not thought about the implications of this Bill. It is bad legislation. Think again.

**MADAM SPEAKER:** It being past 12.30 pm, the debate is interrupted in accordance with standing order 74, as amended by temporary order.

**Sitting suspended from 12.34 to 2.30 pm**

## **REFLECTIONS ON VOTES** **Statement by Speaker**

**MADAM SPEAKER:** Members, you may recall that this morning Mr Moore drew my attention to standing order 52 and asked that a comment made by Mr De Domenico relating to his vote in the Assembly be withdrawn. Following further points of order, I undertook to consider the matter and report back to the Assembly. Standing order 52 stipulates:

A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded.

The basis of this rule is that reflections not only would revive discussion upon questions already decided, but also are irregular inasmuch as every member can be considered to be included in and bound by a vote agreed to by a majority. I do not believe, however, that the rule should be interpreted in such a way as to prevent a reasonable expression of views on matters of public concern. Therefore, I cannot uphold the point of order raised by Mr Moore. Standing orders 54 to 57 deal with reflections on members, not standing order 52. So I will not call on Mr De Domenico to withdraw.

## **QUESTIONS WITHOUT NOTICE**

### **Naval Communications Station**

**MR KAINE:** I would like to direct a question to Mr Wood as Minister for Planning. We will move away from animal welfare for the moment, Mr Wood. I notice that yesterday one media outlet reported that the Navy's giant communications station located in Belconnen is to be relocated to a new site near Wagga. Can the Minister confirm that in fact a decision has been made on that matter that has been in abeyance, to my knowledge, for about 10 years? If so, when is it intended that the Navy will close its present site at Belconnen? What does the Government see that that land will be used for?

**MR WOOD:** Madam Speaker, I think that although we disagree about animal welfare we will all agree about this site. It is one that successive governments in the ACT have sought to reclaim for Canberra, for the use of the people in Canberra, and thus far efforts have not come up with a definitive date. I was intrigued with that announcement yesterday. It was the first I had heard of any response of that nature and I have had the department - - -

**Mr Kaine:** I thought you were going to confirm it.

**MR WOOD:** I am now seeking, through the department, to get a more definitive answer and one signed and sealed in writing, if I can. As to the use of it, I think there would be general agreement that it would be predominantly residential, but there are some areas of sensitivity in it that we would need to consider.

## HIV and AIDS

**MR LAMONT:** My question is to the Deputy Chief Minister in his capacity as the Minister for Health. Yesterday in the Assembly the Opposition claimed that the Government's policy for the notification of people living with AIDS places women in danger. Will the Minister reassure the people of Canberra that this is not true?

**MR BERRY:** I thank Mr Lamont for the question. By way of history, Madam Speaker, in September 1983 acquired immune deficiency syndrome, AIDS, became a notifiable disease in the ACT. Since then there has followed constant debate as to the definition of the term "AIDS". In 1986 the Medical Officer of Health issued a bulletin to all ACT medical practitioners stating that all categories of infection with the virus were notifiable. The regulations, as they stand, require notification in accordance with the form in Schedule 1, and this includes full name and address. However, a policy decision has been made to bring the ACT into line with the practice in New South Wales and Victoria and to conform with the epidemiological and statistical requirements of the HIV National Centre where coded notification, together with more detailed information, is required. This information is not identifiable, but it is traceable.

Yesterday in the Assembly, Madam Speaker, it was suggested by the Opposition that our policy of reporting in code would place women at risk. That is an outrageous emotionalisation of the issue and it is the sort of thing which has caused difficulty in dealing with the epidemic of AIDS. It is the sort of emotional political approach that ought not be taken in dealing with this very serious problem. I was surprised and disappointed to see this approach being taken by the Liberals' health spokesperson. It just appears to me, Madam Speaker, to be part of the scare tactics of the Liberals to whip up some disinformation about issues in order to draw attention to themselves in some way.

As the Liberals may know, the privacy laws prohibit medical practitioners and any other person from disclosing the sort of information that I have been referring to. Using scare tactics to score a cheap political point or two, on such a serious issue as HIV/AIDS, does nothing to promote responsible behaviour or debate on the question of AIDS. It is not true to say that because of actions of this Government women are in danger. This issue, of course, is a hazard to the community if it is not dealt with properly; there is no question about that. Men and women are at risk if we do not deal with it properly. If we emotionalise it and take cheap political points on the issue, if we do not take a bipartisan approach to this, then we will never succeed on the issue.

**Mrs Carnell:** Why don't you ask us?

**MR BERRY:** It is far too serious an issue to politicise. I am surprised to hear Mrs Carnell say, "Why don't you ask us?". She has to remember that they are in opposition; we are in government, managing the health system. If she has a problem with the way we are dealing with something, she can come and see me, and I will help her out.

**Mr Humphries:** As long as it is his position it can be bipartisan.

13 August 1992

**MR BERRY:** Do not be silly. This is the sort of stupidity that we have in approaching these issues, which makes it very difficult to sort out these sorts of very serious problems for the community. If you want to politicise this sort of issue in the community, let us know about it. If it seems as though you do, we will draw the line there and leave you out of the argument.

**Mr Kaine:** I raise a point of order, Madam Speaker. It seems to me that the Minister is making a travesty of question time. He was asked a question yesterday that he declined to answer and now, in answer to a Dorothy Dixier from a member of the Labor Party, he is making a ministerial statement. There is provision elsewhere in the agenda of the Assembly for ministerial statements, and I suggest that he should confine them to that time.

**MR BERRY:** Again, Mr Kaine is wrong. He said that I was asked a question that I declined to answer. I did answer it yesterday, so Mr Kaine is wrong.

**Mr Kaine:** Well, why are you answering it again today? You are taking cheap political points, Minister.

**MR BERRY:** Who asked the question first? Who tried this issue on first?

**Mr Kaine:** Mrs Carnell asked the question and you did not answer it.

**MR BERRY:** If you want to be left out of the debate on dealing with HIV/AIDS, we will draw the line right there and we will cut you right out. It is a good thing that we would do that, because it is the only way that we are ever going to deal with it. Amateurs like you people ought to be left out of the debate. If you do not understand the issues that face the community, keep out of it.

This Government is dedicated to controlling the spread of AIDS. We are not interested in the sort of stuff that you lot are on about. We do not believe that it should be done by breaching the privacy of people living with HIV/AIDS. I said that yesterday; I will repeat it today. We will continue to deal with it in a responsible way. I said yesterday that Mrs Carnell suggested that in some way doctors may have been directed to break the law. That is a silly notion. What we are concerned about and what we have always been concerned about is dealing with the issue. What we want to do is sort out what is accepted by all as a complex matter.

As a result, the regulations will be amended. It is anticipated that the new regulations will be tabled in the budget sitting. Until the regulations are amended, the current list of notifiable diseases retains acquired immune deficiency syndrome, AIDS. This will be deleted and replaced by HIV at all stages. But beating up a storm on the issue, by claiming that a group of women or anybody else is being threatened by the actions of the Government, is absolutely outrageous political point-scoring. It does not lead us anywhere. What we are on about is dealing with an issue which even the Liberals might accept is a risk to the community. It is a grave responsibility for a government and, dare I say it, an opposition to deal with as a matter of public health. We intend to do that.

Motion (by **Mr De Domenico**) agreed to:

That the document quoted from by the Minister be presented.



### Police Force

**MR HUMPHRIES:** My question is to the Attorney-General. I ask whether the Minister has seen a poem written by Dr John Tomlinson of the ACT Council of Social Service and published in the *Green Left Weekly* on 15 July this year, part of which reads:

There are too many cops here in Canberra,  
coppers who bash and who maim.  
But the bourgeoisie of the ACT  
wants more of them all the same.

They had a Commissioner in Canberra,  
who shot him we'll never know.  
But it's one cop less  
and it caused no distress.

I seek leave to table that poem.

Leave granted.

**MR HUMPHRIES:** Thank you, members. Madam Speaker, I ask the Minister: Is there any substance to Dr Tomlinson's claims? If there is not, will the Government join the Liberal Party and, I hope, the Independents in this place in condemning the vilification of our local police force by Dr Tomlinson?

**MR CONNOLLY:** Madam Speaker, I have not seen that poem or that publication. Does Mr Humphries say that that poem was authored by Dr Tomlinson?

**Mr Humphries:** Yes, it was.

**MR CONNOLLY:** I must say that I find appalling any poem, ditty or other thing which seeks to make a joke or be humorous about the assassination of Assistant Commissioner Winchester. That is all I can say. It is quite distasteful and inappropriate. One can quite properly have a debate about the appropriate number of police in a community and the appropriateness or otherwise of the Ombudsman and the Internal Investigation Unit; but I would have to say that I agree, on Mr Humphries's reading of that poem, that it is quite distasteful, and I abhor it.

### Parking Restrictions

**MR STEVENSON:** My question is to the Minister for Urban Services, Terry Connolly. It concerns unnecessary restrictions on parking in the city. The northern side of Ainslie Avenue outside the City Markets has meter parking with signs displayed stating "15 Minute Meter Parking". It seems unnecessary to place such restrictions on parking for 24 hours a day, seven days a week. Could these signs be altered to indicate parking restrictions for relevant times only, similar to the meter parking signs on the opposite side of Ainslie Avenue?

13 August 1992

**MR CONNOLLY:** Mr Stevenson certainly has an eagle eye for parking restrictions after hours in Canberra. There were some earlier questions about midnight loading zone parking. I must say that Mr Stevenson's eagle eye in this case is correct. For some reason, when those meters were put in and the 15-minute sign went up, the sign was an all-hours sign. When we went out to have a look at this - I thank Mr Stevenson for alerting me to the fact that he was interested in this particular area - we found that the signs that say "All Hours" should not say all hours; they should say business hours, through to late night trading on Friday and through to lunchtime on Saturday. I understand that, if they have not already been changed, they certainly will be changed by early next week. So, Mr Stevenson, that is certainly one for you in attention to detail.

### **Land Tax**

**MR DE DOMENICO:** Madam Speaker, my question without notice is to the Chief Minister. Noting that the Chief Minister is still gloating about her perceived surplus in the recurrent budget, will she now reconsider alleviating the obvious hardship faced by many people in relation to residential land tax by allowing quarterly payments?

**MS FOLLETT:** Madam Speaker, I believe that I have answered this question once before. Members will know, of course, that the Government has taken very appropriate and responsible action in relation to the land tax. We have reacted to what were apparent anomalies and have made a number of concessions to people who would otherwise have been liable for land tax.

Mr De Domenico raises, yet again, the question of instalments or quarterly payments of land tax. I say again that that is not a matter which the Government has under consideration. There are a number of reasons for that. Whilst I am, of course, sympathetic to people's views that the land tax should not be payable at the same time as the rates - and have in fact changed those dates - I have to say that the introduction of quarterly or instalment payments of the land tax would be a cost to the Territory. It would cost, I am told, between some \$500,000 and \$600,000. That is a loss of revenue which we have not budgeted for, to be frank, and it would have to be made up in some way.

I repeat what I have said many times: If any individual or business is facing hardship as a result of land tax liability, they should take up that matter with the Commissioner for Revenue, because arrangements can be made to delay payment or delay some part of payment in order to take account of those hardship circumstances. But, on the question of instalment or quarterly payments, I repeat again that we are not considering that matter.

### **Healthy Cities Program**

**MS SZUTY:** My question without notice is to the Minister for Health, Mr Berry. Minister, the healthy cities program was expecting to know before 1 July this year whether its funding would be continued. To my knowledge, future funding arrangements for healthy cities have yet to be confirmed. Will the Minister assure this Assembly that funding for healthy cities by the ACT Government will continue?

**MR BERRY:** No, I will not assure the Assembly of that. I am still looking at the matter. The healthy cities program has been funded by the ACT Government for some time. I cannot recall the date, but the healthy cities program was established in the ACT as part of a pilot program set up by the Commonwealth. It involved three cities: One in the Illawarra area, Canberra and a city in South Australia. The pilot program, of course, finished and the ACT provided some funding for the healthy cities program to continue. The Health Promotion Fund, when it was established, provided funds for the healthy cities program and, of course, funded it for some time.

My understanding is that the Health Promotion Fund indicated to the healthy cities people that there was a life on the time for which the Health Promotion Fund was prepared to fund the healthy cities program. My view, on the face of it, is that the Health Promotion Fund may not be an appropriate source of funding for healthy cities. I think the healthy cities approach to issues in the community might better be related to other areas of government and therefore they might be able to make an approach to government in other areas; but at this moment no final decision has been made. I have always been, if you like, fairly friendly towards the aims of healthy cities; but, at the same time, a lot of people are competing for funds in areas like the Health Promotion Fund.

The Health Promotion Advisory Committee have, at this stage, declined funding to healthy cities. I have probably received as many letters as anybody else in relation to the matter. I have had some discussions with the healthy cities people and I intend to look at it further; but at this point I am not prepared to assure the Assembly that I will continue to fund the program from the Health Promotion Fund or say for how long the funding will continue.

**MS SZUTY:** Madam Speaker, the question I asked was: Will the Minister assure this Assembly that funding for healthy cities by the ACT Government will continue?

**MADAM SPEAKER:** Ms Szuty, you are entitled to ask only a supplementary question; I am sorry. If it is a supplementary question, you can re-ask it; otherwise, Mr Berry heard the question in the first place.

### **City Health Centre - Pathology Services**

**MRS CARNELL:** My question is also to Mr Berry. Is it true that pathology services at the City Health Centre will close from tomorrow? How will this affect the many elderly patients and young mothers, many of whom do not have cars, who use the centre?

**MR BERRY:** If you have some information about it, you had better get it to me. I will have to take the issue on notice.

**Mr Humphries:** What? You do not know what is going on in your own health centre? You are the Minister for Health.

**MR BERRY:** If you have some information about it, I would be happy to have a look at it; but I am not aware of it right now.

### Penalty Units

**MRS GRASSBY:** My question is to the Attorney-General, Mr Connolly. Yesterday in the house you said that you had taken steps to improve the system of penalties in the Territory's laws. Could you please explain how this will change?

**MR CONNOLLY:** Thank you, Mrs Grassby. It gives me the opportunity to apologise to the Leader of the Opposition. In debate yesterday, I indicated that, had the Leader of the Opposition been paying attention, he would have learned the answer to a remark that he made, and I was 24 hours premature on that. Yes, Mrs Grassby, the Government has made a decision to undertake a substantial review of penalties in ACT legislation in order to do what the Leader of the Opposition urged us to do yesterday - although we made the decision before that - which is to try to get some coherence and rationality into the system. There are pieces of legislation on the statute books in the ACT, in dusty, cobwebby corners, that have penalties of 10 pounds for certain offences. That is clearly absurd and inappropriate.

The thrust of this exercise will be, on the one hand, to get some logic into the scale of penalties so that like offences are treated in like manner, and, on the other hand, to make sure that those penalties have a continuing relevance by expressing them not in units of currency - \$100, \$1,000, \$5,000, \$10,000 - but in penalty units. It is expected that one penalty unit would be \$100 initially and over time that \$100 will vary to \$110, \$120 and so forth. It will mean that, from the point at which we finish the exercise, ACT penalties will have continuing relevance. We will not have a situation where an obscure piece of legislation sits away gathering dust and when it is finally looked at the penalty is found to be absurdly out of kilter with community standards. The 10 pounds penalty under the mining regulations leaps to mind as the most absurd example.

### Secondary Colleges - Future Directions

**MR CORNWELL:** My question is to Mr Wood, the Minister for Education. Mr Wood, I refer to an issues paper, *Future Directions of Secondary Colleges*, which was put out for comment last year with this expectation:

At least an interim report would be provided to the education division by 31 March 1992.

I ask: Has this been done, and when might we have a report available for scrutiny?

**MR WOOD:** You will have a report shortly. I think this matter was raised in one of the weeks of the last sitting session. I think Ms Szuty raised the issue of high school development and I indicated that I will be tabling that document here shortly.

**Mr Cornwell:** The question is about the report on the future directions of secondary colleges, Mr Wood.

**MR WOOD:** I am sorry; I did not listen, I confess. I was talking about high schools because I have been focusing quite a deal on high schools just lately and it is very much in the front of my mind. The report on secondary colleges is in the course of preparation. It is not yet complete. It is not yet in the position to be tabled within the education division, but it is pretty well advanced. I will find out and give you a more detailed briefing.

### **ACTEW - Community Criticism**

**MR MOORE:** My question is to Mr Connolly as the Minister for Urban Services. ACTEW has threatened a representative of a community group with a defamation writ for speaking up against ACTEW practices in South Tuggeranong. Is the Minister aware of the action? Can he explain why a government body for which he has responsibility would use its power and financial advantage in an attempt to silence community criticisms in this way?

**MR CONNOLLY:** No organisation that I am responsible for would ever attempt to silence community criticism. However, if individuals make allegations of criminality and corruption that are totally baseless, they should expect ACTEW to treat them in the same way that any of us would treat them. I see no absolute bar to any government organisation, any Minister or any individual seeking recourse to the law of defamation if individuals make allegations that are extraordinarily wild and impute corruption and illegality to bodies. That I find justifiable. It was a management decision of ACTEW.

I understand that a solicitor's letter has been written to this individual. This individual has made wild claims to my office, accusing me of all sorts of corruption and criminality. He has said that the Mafia controls me, Building Control and ACTEW. If he chooses to make these wild and woolly statements, I am afraid anyone is entitled to take legal action against him. I can certainly say to the individual that, if he is silly enough to say such things publicly against me as an individual, he will get a letter from me, just as he has got a letter from ACTEW.

**MR MOORE:** I ask a supplementary question, Madam Speaker. Normally, Minister, if such an action were taken it would also be taken against the publisher of the material, the radio or television station, for example, that broadcast the complaint. In this case, of course, that was not done. That indicates that it was an attempt to silence the individual rather than to resolve the problem, does it not?

**MR CONNOLLY:** That asks for an opinion, and I will not give an opinion. I will simply say that ACTEW, as a commercial organisation, have made a decision that they do not have to tolerate individuals accusing them of extraordinary criminality and illegality, and I see nothing wrong with that. Community debate and discussion is something that we foster.

### **Parking - Commonwealth Vehicles**

**MR WESTENDE:** My question is addressed to the Minister for Urban Services. What arrangement exists between the ACT Government and the Commonwealth in respect of parking of privately plated Commonwealth vehicles in the midst of pay parking areas? Where reserved parking spaces exist, does the Commonwealth pay the ACT for those reserved spaces?

**MR CONNOLLY:** Commonwealth vehicles, privately plated or Z-plated, are Commonwealth vehicles and, as I understand it, it is lawful to park them in zones which are marked "Commonwealth Vehicles Only", just as it is possible for ACT Government plated vehicles to park there or, indeed, ACT privately plated vehicles such as those that are driven by members of the Assembly.

My understanding is that there is no direct payment to the ACT from the Commonwealth for the Comcar parking spaces that are scattered around the city. There are Comcar spaces scattered around Sydney and Melbourne, although not to the same extent. No special financial recompense is required there. Obviously, the number of Comcar spaces in Canberra throws back to the days when Canberra was totally run by the Commonwealth. They are rather harder to find these days, because there has not been any expansion of them. There is no specific payment from the Commonwealth, as I understand it.

### **Secondary Schools - Condom Vending Machines**

**MS ELLIS:** My question is directed to the Minister for Education. I ask the Minister: What steps are you taking to determine whether condom vending machines should be placed in ACT secondary schools?

**MR WOOD:** No steps are being taken to place them in high schools. For secondary colleges, the matter is perhaps under consideration, although at a second stage. I advise members that earlier this year there were two paragraphs in a discussion paper on legal issues that should be considered in respect of HIV and AIDS - just two paragraphs. That sparked quite a deal of attention and I intend to respond to that discussion paper. I might mention that I never received a copy of it; I had to go searching for it. I do not know whether our administration has received it.

In order to respond, the department is putting into the hands of secondary college students a questionnaire very briefly outlining arguments and asking them to say yes or no to the question of condom vending machines in their colleges. At the same time, the department is posting to parents much the same sort of questionnaire - the wording is a little bit different - so that we have an accurate assessment of what parents think. There may be some other debate in the community to which we should attend. So I will use that information in responding to the discussion paper. In making any decision about schools, I could well be guided by that too.

### **Belconnen Remand Centre - HIV Education Courses**

**MRS CARNELL:** My question is to Mr Connolly. The *Canberra Times* on 12 August carried a story, and a very nice photograph too, of Mr Connolly presenting certificates to detainees at the Remand Centre following their completion of an AIDS awareness course. Could Mr Connolly please tell the Assembly how he believes that the very valuable information contained in this course is going to be put into practice if neither condoms nor bleach for sterilising syringes is available for the detainees?

**MR CONNOLLY:** As I have indicated on a number of occasions, I am keen to have those kits available. I take a broad view of this and I do not try to make cheap political stunts out of it. The availability of the condoms and the bleach is far closer now than it was some months ago because of the actions that we have taken to ensure that HIV education courses are run at the Remand Centre. Mrs Carnell would recall that, when this issue was last agitated, I indicated that the Government wanted to get these kits into the prisons, but we did not want to provoke an industrial dispute. We wanted to get some education campaigns running. We have done that, and yesterday we had the first presentation of the certificates for the education campaign.

I would say that the major threat that anyone is under is not in the ACT. In the Remand Centre, there is single person, single cell accommodation, and the opportunity for prisoners to mingle is pretty remote. In the New South Wales prison system, or in virtually any adult prison system, four persons, two persons or eight persons are locked in a cell. The prison officers have a look at 8 o'clock, then the lights go off and nobody knows what happens until 8 o'clock in the morning. That is perhaps when what the remandees have been taught may be put into practice.

Unfortunately, in no prison system in Australia have condoms been successfully introduced, because of industrial opposition. I believe that, with the occupational health and training courses for custodial officers that we have been running at the Remand Centre with the cooperation of the Public Sector Union, and with the training that we have now given remandees, it is close to the point where we can, with the support of both the custodial officers and the remandees, introduce the condoms. I will not give you a date. I will say that we are working towards it.

What has happened in the past few months shows how we are working towards it by laying down ground rules. I do not want to provoke an industrial stunt or a political stunt over this. I want to have condoms and bleach in the prisons. Some people would say that needles should be made available as well, but I say that they should not be. However, bleach and condoms should be. I think we are very close to achieving that. We have had cooperation from the custodial officers and the unions in getting the education courses up and running, and that is the essential precursor.

**Ms Follett:** Madam Speaker, I ask that further questions be placed on the notice paper.

13 August 1992

### **Canberra Grammar School**

**MS FOLLETT:** Madam Speaker, I would like to provide an answer to a question without notice asked by Ms Szuty on 24 June. Ms Szuty asked me about a publication, "Canberra: The natural place to do business", and an illustration in that document which featured the Canberra Grammar School.

I would like to provide the following answer to Ms Szuty: The publication "Canberra: The natural place to do business" introduces the ACT to businesses and potential investors and highlights the Territory's many benefits for business and lifestyle. It includes sections on a range of topics, including major industry sectors, infrastructure and transport and communications. The image to which Ms Szuty referred is part of a section in the document highlighting Canberra's excellent primary, secondary, vocational and tertiary education institutions. The images and accompanying text are intended to highlight the range and quality of these educational institutions. The photographs were chosen to represent the high standard of Canberra's educational facilities; they were not chosen to highlight individual institutions.

The publication does not aim to specifically promote Canberra Grammar School, and you would note that no reference is made to the school itself. As the target market for the publication is external to the ACT, it is unlikely that Canberra Grammar School would be specifically recognised by readers. Finally, I note that this publication is in fact a reprint of the first version produced some four years ago. When the publication was reprinted last year, the old transparencies were reused, saving the cost of new photography and maximising my department's existing resources.

### **Podiatry Services**

**MR BERRY:** Madam Speaker, on a previous sitting day, Ms Szuty asked a question in relation to podiatry services to the people of Weston Creek. Podiatry services to the people of Weston Creek are not being reduced. The current one day per fortnight will continue. The proposed change to podiatry services for the Weston-Woden area is that in addition to the Weston service it is proposed to provide a one day per fortnight service at the Phillip centre.

I think I said when I answered the question last that I was looking into the matter, and this is the turn-up from that. There will be improved access for the residents of the Woden area. Discussions on the proposed arrangements will take place with community groups shortly and, consistent with podiatry services available at other health centres, the podiatry service at Phillip would be provided in a multi-disciplinary setting. Clients would be able to access a range of other health services at the same time, should they have the need.



## ALLEGATIONS AGAINST MEMBERS

**Mr Berry:** Madam Speaker, I would like to raise a point of order in relation to something which was said by Mr Kaine on 11 August 1992. I will read from the proof copy. It was a follow-on, Madam Speaker, to some allegations from Mr De Domenico about Mr Lamont, which Mr De Domenico has graciously withdrawn. Mr Kaine said in that discussion:

Well, what is the pay-off? There must be one.

I subsequently said that I would like Mr Kaine to withdraw that. I still think that it would be appropriate for him to do so. I ask that you rule that Mr Kaine withdraw what is clearly an imputation that the member, Mr Lamont, had some improper motive in what he had brought before this Assembly.

**MADAM SPEAKER:** Mr Berry, I will examine the *Hansard* and rule on that either later this afternoon or at the next sitting.

### MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING Motion of Censure

**MR STEVENSON (3.07),** by leave: I move:

That the Assembly censures the Minister for the Environment, Land and Planning for introducing inadequate, incomplete and poorly-thought-through legislation on animal welfare.

I move this motion with good reason. If you listen to the reasons, it may make a difference. I feel that the concerns expressed about the Animal Welfare Bill are simply not being listened to, mainly by the Minister but also by other members of the Government. One of the concerns raised was that the animal welfare legislation will ban fishing out at the National Aquarium. That was absolutely denied by members opposite. It was no easy task to have the matter taken up by the Labor Government.

Another matter was raised this morning. Subclause 18(1) of the Bill states that it is an offence to promote rodeos. Mr Wood got up and, in an absolutely condescending manner, treated us as dumb children in stating that it does not do that. He picked up the legislation and said that on the front cover it says "ACT", and that it holds true only in the ACT. Yet it is clear to everybody, or it should be, that it includes rodeos conducted outside the ACT, even though the advertising is within the ACT.

The point I make is that it is the responsibility of all members of parliament, particularly government members, to ensure that points of view are listened to. They should not adopt the view, and I truly believe that this is the case: "I am the Minister. I am right on this matter. Your job is just to pass the legislation", or "If you vote against it, it does not matter because we have the nine votes anyway. Any time you take presenting these viewpoints is a waste of time".

**Mr Moore:** Madam Speaker, under standing order 70, I move, "That the question be now put".

13 August 1992

**MADAM SPEAKER:** Under the standing order you are referring to, Mr Moore, I have not yet proposed Mr Stevenson's motion, so we cannot put the motion you have moved.

**Mr Moore:** Then, how can he be speaking?

**MADAM SPEAKER:** Let me explain. Let us get this straight; I may have confused you. When I actually propose the question, it is at that point that you can move, "That the question be now put". At the moment, Mr Stevenson has only moved the motion. That is my advice. That is what this rule is intended for. Mr Stevenson can speak, and then, when I propose the question, before the next person speaks you can move the motion "That the question be now put".

**MR STEVENSON:** The point I make is clear: Many members of this Assembly, representing a huge number of people in Canberra, have said that there are many things wrong with this Bill. On the majority of occasions the Minister and the Labor members have said, "That is not correct; it is nonsense; you are wasting time; you should not be putting those points; you are saying it again", and so on. That is what has been happening. The point I raised about the aquarium and the matter that we had just before the - - -

**Mr Moore:** Madam Speaker, I move for the suspension of so much of the standing orders as would prevent Mr Stevenson from continuing in this debate. No doubt somebody will put the gag on that.

**MADAM SPEAKER:** I am sorry, Mr Moore; but you cannot interrupt him to move a motion. You can interrupt him to raise a point of order, but not to move a motion. When I propose the question, that is the time to move your motion under standing order 70.

**MR STEVENSON:** I really had no wish to bring up a censure motion; but, as I said, I have been absolutely frustrated at the total lack of preparedness to debate the points, and I suggest that this is another example.

The Minister has already acknowledged that the aquarium, as far as fishing goes, would have been put out of business by the legislation. But for the persistence of people on this side of the Assembly, it would have been an offence to promote within the ACT a rodeo outside the ACT. It was only through an incredible attempt by members on this side of the house to get that point agreed with.

**Mr Lamont:** Members of your Opposition.

**MR STEVENSON:** I do not take any notice of Opposition or whatever. We should never be in opposition to everything all the time; it is a nonsense. We should be prepared to debate matters that come before the Assembly without fixed viewpoints. I think it is unfortunate that there are fixed viewpoints. I find the refusal to debate legislation, to look at opposing points of view or different viewpoints on legislation, to be far more worthy of censure than something that a person may do. Although a person may do something that is censurable, it is far more important to censure when someone does something or omits to do something that has potential for creating great harm across the community. An unethical activity of one individual may not affect the community. In effect, the Minister has already acknowledged that there is a real likelihood of the Bill being flawed. Not only that; he has acknowledged that the Bill was flawed, and that is why there have been changes.

**Mr Connolly:** But amendments are a good thing. It shows that debate is going on.

**MR STEVENSON:** It depends on how debate is going on. If you say that the code of practice is going to solve the problems of the different industries, and that is, in effect, what is being said, and if you say, "We are not going to introduce the laws until we have sorted out all the regulations or the codes of practice", you are asking this parliament to pass the legislation and later on you will work out what the real laws will be. You are saying, in effect, "There may be problems in the Bill, but you can pass it. We will not gazette it".

**Mr Wood:** No, not at all. You are saying that.

**MR STEVENSON:** Mr Wood says that I am saying that, and indeed I am saying that; but that is what is being said. The suggestion is that the matter will not be gazetted until there is time to deal with what have got to be problems. You cannot say that you are going to hold over the gazettal if you are not acknowledging that there are major problems.

The regulations and codes of practice are different things. The codes of practice are huge areas of control and responsibility for entire industries. We are, in effect, if we pass this Bill today, putting into the hands of the Executive the power to make much of the law in this area. To suggest that we can disallow the regulations later on is not the way it should be. The laws should be made in this parliament; the laws should be made by these members. It should not be an Executive matter.

What we are saying is that the horseracing industry at the moment would be largely prohibited by clause 7, and certainly clause 8. But the code of practice, I am certain, will protect the horseracing industry from those specific offences.

**Mr Lamont:** Minister, did you hear that?

**Mr Wood:** No; I was not listening.

**Mr Lamont:** He just acknowledged that there are no problems for the horseracing industry.

**MR STEVENSON:** Mr Lamont said that I have acknowledged that there is no problem for the horseracing industry. What I have said again and again is that the horseracing industry will be banned in the ACT, under their standard practices, if this legislation goes through without any further laws or regulations or codes of practice.

The law is simple. We are asked to pass this Bill when we are saying that we do not know what the law will be. I am not 100 per cent sure what Mr Lamont is trying to explain there - whether he is saying that it will be okay for the horseracing industry to use whips and cause horses pain or it will not be okay to use whips and cause horses pain. I do not know which point he is making. Nevertheless, the point I make is valid. I do not know, if this legislation is passed today, what effect it will have on the horseracing industry, what effect it will have on the greyhound industry, the zoo industry, the pet industry, the trotting industry, the aquarium industry, and a number of others. Members opposite may believe that they know. They may say, "Listen, we have it all in hand. We are not

13 August 1992

going to pass these laws into practice until we have sorted it all out via the codes of practice". I suggest that those codes of practice should be adopted before we pass the legislation, not after we pass it. I made the point before that our senior responsibility is to pass good legislation. I made the point that we are not saying that legislation should not be passed. We could have done this in a far more harmonious manner. We could have done this in a far better way.

**Mr Moore:** By moving censure motions?

**MR STEVENSON:** No. A number of the members opposite would have passed this legislation two months ago. Let me give one example: Mr Moore has introduced a change that would allow primates. Yet I suggest that when Mr Moore moved that amendment he did not know that you could not have a circus coming to Canberra that had in it a dozen gorillas imported recently from the wild.

I suggest that Mr Moore may have thought, after that point was mentioned to him, that that would not be possible; that they would not allow them to be brought into Australia. But that is not knowledge; that is a thought. That is a viewpoint; that is not law. I suggest that we should more often operate on law, not on viewpoints. When we have a Minister stand up and literally pretend that he is a teacher, saying, "Let me read the book. Turn to page 1. The ACT - - -

**Mr Moore:** That is what has got to you.

**MR STEVENSON:** Let me mention something. I train regularly. When I have a student who says that he is silly because he did not get something, I have maintained for many years that it is not the student who is stupid, it is the person trying to train him. Ask any of the students I train. I say that it is my responsibility; I am simply not explaining myself well.

**MADAM SPEAKER:** Your time has expired, Mr Stevenson. The question is: That Mr Stevenson's motion be agreed to.

Motion (by **Mr Moore**) put:

That the question be now put.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

**Mr Lamont:** Mr Kaine, you have almost a new Alliance over there, now.

**Mr Humphries:** It matches the one over there.

**Mr Moore:** The difference is that I have actually changed my position.

**Mr De Domenico:** You change your opinion constantly; that is right.

**Mr Moore:** That is how it is in an Independent.

**Mr De Domenico:** More changes than the Melbourne weather, I tell you.

**Mr Moore:** The very thing that you are asking for. It just does not always go your way, Tony.

**Mr De Domenico:** No; you cannot be trusted, mate.

**Mr Moore:** That upsets you, doesn't it?

**Mr De Domenico:** You have no principles; that is your problem.

**Mr Lamont:** Madam Speaker, once again, I rise on a point of order. Two comments have been made by Mr De Domenico - the same as he did yesterday, the same as you ruled this morning that he withdraw. He has substantially impugned the integrity of Mr Moore.

**Mr Cornwell:** Let Mr Moore speak for himself, then.

**Mr Lamont:** No, I regard it as incumbent upon anybody in this house to raise such matters. Madam Speaker, I ask you to require Mr De Domenico to withdraw.

**MADAM SPEAKER:** Standing order 52 allows you to make those sorts of comments. Is it under standing order 54 or 57, Mr Lamont? Let me just check that. Mr Lamont, I am sure you are correct; but, given that I was paying no attention, I will examine the *Hansard* and come back to that and probably uphold your point of order. I will see when I have examined the *Hansard*.

Question put:

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

The Assembly voted -

*AYES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

*NOES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

Question so resolved in the negative.

13 August 1992

**ANIMAL WELFARE BILL 1992**  
**Detail Stage**

Clause 18 and proposed amendments thereto

Debate resumed.

**MR STEVENSON** (3.29): We are, of course, talking about whether or not the use of the words "to promote rodeos" means that it is an offence to promote rodeos. Mr Lamont said that if I moved my amendment he would support it. This is the very point I make. I think it was Mr Wood, when he was speaking against the motion, who said, "What a simplistic view! Let me explain it". He went on to explain the absolute opposite to what was correct. When he said that this was a simplistic view, I thought: If there is one thing we need in the ACT, it is more views that are simple. So many of them are convoluted and difficult to understand.

The statement of the Abolish Self Government Coalition is simple. It agrees with the majority of people. We have been out surveying again. At the moment, ignorance of the law in the ACT is no protection against the law; but if we keep passing laws that are difficult to understand, that are not simple, soon you will be able to stand up before a magistrate or a judge and say, "Sir, I did not understand the legislation".

**Mr Kaine:** "And neither did the Minister".

**MR STEVENSON:** That is right. Through vast experience, the judge will say, "If that is the case, you are not guilty". He would well understand that, if the Minister for Education and Training cannot understand such a simple clause, the people cannot be expected to. I would like to hear the acknowledgment by the Attorney-General that the words used in subclause 18(1) effectively ban promotion, advertising, car bumper stickers, people wearing signs on their backs, vehicles saying "Rodeo coming to town, Queanbeyan, Saturday afternoon at 2 o'clock", and whether people engaging in such activities are or are not committing an offence.

**Mr Moore:** They are.

**MR STEVENSON:** I know that they are. I have always known that they are. The point is that we had the Minister stand up on this point, as he has stood up on many others. That is why I moved the censure motion. We are not working as a team. We are saying that this is totally different; yet there is so much we agree upon. This is not an example of government of the people; it is an example of one of the forms of politics, not necessarily the worst, that are driving people to be absolutely disdainful of the entire political process - all of it; all the good bits; all the good actions we take; all the hard work we do; all the good laws we pass - simply because there are a couple of major things missing. One is that we do not consult.

**Mr Berry:** All the hidden agendas.

**MR STEVENSON:** Mr Berry says, "All the hidden agendas". I was not going to start talking about hidden agendas of the Labor Party. It is not relevant. If I do, someone in the Labor Party will hop up and - - -

**MADAM SPEAKER:** No, the Speaker will, Mr Stevenson. Just remain relevant.

**MR STEVENSON:** Well said. I cannot comment further on that interjection. I mentioned that John Lark was charged and prosecuted for advertising X-rated videos in the ACT in the South Australian *Advertiser*. He was successfully prosecuted for the same reason that someone would be successfully prosecuted in the ACT.

The Minister tried, through the power of persuasion, the power of teaching, position or anything else, to persuade the rest of us that we were wrong, that we were wasting our time, that we were really acting like children, and so on. I know that it might be difficult for members opposite to acknowledge this. I understand that. None of us like to be wrong in any area. But we will do better in this Assembly if we listen to what someone else is saying and, in a reasoned way, make a decision without assuming that everything that everybody else says about our viewpoint is wrong. It is not just this particular clause. There are many that are in the same situation, except they have not yet been acknowledged to be so. That is the point that I make.

I still have not heard from anyone on the opposite benches that the code of practice that is going to be introduced later will solve the problems that this legislation will create if we pass it today. Mr Moore mentioned the code of practice. It is an excellent idea. It is being held up as a solution to the problems of the offences that are being created by this legislation. Nobody has stood up in this Assembly and effectively presented a reason why it is not.

Why should we have to put such weighty argument to the Minister, or to Mr Connolly on the other point to do with fishing in the aquarium? Why should there have to be not just argument but tremendous force and incredible persistence on such a simple viewpoint? Are we being told that if it is any more difficult than a one-liner you are going to maintain your viewpoint that everybody else is wrong and you simply will not look at it? What if we get a few sentences, a couple of paragraphs, into legislation? Are we going to be told that because of that you simply are not prepared to look at it? What I ask for on this clause, and on other clauses, is an acknowledgment of what is. It is not a matter of being wrong.

Members opposite have said, "Yes, we have been prepared to make amendments". Indeed, you have; dozens and dozens of them. You have made amendments, I grant you; but there are still more. Some of the amendments that you have not yet made are to do with huge industries, not just small aspects that affect particular industries. Huge areas of industries are affected by this, and that will be corrected once the codes of practice are in place. But you cannot gazette the legislation, even though you expect it to be passed today, until those codes of practice are in place.

I think most of us here have said, again and again, that you should allow the final passage of the Bill to be held over until the horseracing industry, the trotting industry, the pet shop industry, the aquarium, the zoo industry and others have had time to form a relevant code of practice not just for the ACT but for all of

13 August 1992

Australia. Imagine if the rodeo industry, if you like, or other industries form a code of practice for the ACT and later on their national colleagues or colleagues in other States hear about it. They will say, "Why on earth did you agree to such a code of practice? Why did you not talk to the rest of us about it? We would have told you that this point should be included and this point should not be included".

If we totted up the number of hours in this Assembly that we spent debating the lack of consultation in this Assembly, I dare say we would find that we spent far more on that than on anything else. I would ask that the Minister stand up and acknowledge whether or not promoting something would constitute an offence in the ACT if the Bill is passed as it is.

**Mr Wood:** Have you moved that amendment?

**MR STEVENSON:** Mr Deputy Speaker, Mr Wood asks whether I have moved the amendment. Perhaps I might be allowed to do that at this time?

**MR DEPUTY SPEAKER:** No, you cannot do so at the moment, Mr Stevenson.

**MR STEVENSON:** I thought that might be the case.

**MR DEPUTY SPEAKER:** The question at this time is that Mr Westende's amendments Nos 14 and 15 to clause 18 be agreed to.

**MR STEVENSON:** Mr Deputy Speaker, I seek leave to move my amendment at this time in order to allow other members to speak on it. Members can speak on both at the same time.

**MR DEPUTY SPEAKER:** Mr Stevenson, not at the moment, please. I will explain the procedure when we come to it. If it is the Assembly's wish to have a cognate debate on Mr Westende's amendments Nos 14 and 15 and Mr Stevenson's foreshadowed amendment, that can be done; but we cannot put them together for a vote. Is it the wish of the Assembly to have a cognate debate? There being no objection, so be it.

**MR STEVENSON:** Mr Deputy Speaker, I now seek leave to move the amendment.

**MR DEPUTY SPEAKER:** No, you cannot move the amendment at the moment, but you may have a cognate debate.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (3.41): Mr Deputy Speaker, let us advance the debate and have a cognate debate. That will be useful in a small way in rapidly getting this through the Assembly, or perhaps getting it through more rapidly. I listened with interest to Mr Stevenson's comments and I think we do try hard here. We do all we can to encourage debate. I think Mr Stevenson ought to join in that process. There has been a great deal of time available for discussion, not just the bit about going back to 1988 and 1989. It was deferred by Mr Moore. This has been around for a long time and that is part of the debate, Mr Stevenson.



I turn now to the further question about subclause 18(1). I have had discussion over the lunch hour about this, as you could imagine. I do want at all times in this Assembly to be accurate in what I say. There will be different interpretations of anything you get, as I have argued before; but I will acknowledge that it can be interpreted as you say. I am not sure that an amendment is necessary, but if Mr Stevenson or someone else moves an amendment it can go through. In respect of a line or two further on in this same clause, we are about to move another amendment that arose the other day as part of the normal and reasonable Assembly discussion.

**MR MOORE (3.43):** Mr Deputy Speaker, in this cognate debate I think it is important to look not only at the move to reduce the offence but also at the amendment that Mr Stevenson has indicated that he will put and that has been circulated in his name. It seems to me, Mr Deputy Speaker, that the notion that a person should not promote in the ACT a rodeo, even though that rodeo is going to take place in perhaps Bungendore, where we do know that rodeos take place, does put an unnecessary burden on people in the ACT in terms of the sorts of issues that Mr Stevenson raised about bumper stickers and T-shirts that people wear. In terms of big advertisers like the *Canberra Times* or the television stations, I have less sympathy because ethically I am inclined to say, "Well, if we feel that it is appropriate to ban them, then maybe that is a good move". However, I am not prepared to - - -

**Mr Stevenson:** You cannot take a television signal from another area.

**MR MOORE:** That is important, and I accept Mr Stevenson's interjection. There is also the fact that we must recognise that the *Canberra Times* is a regional paper, just as the television stations are regional stations. Perhaps that does put an unfair burden, without consultation, on the people of Queanbeyan and Bungendore, and so forth. With that in mind, I am quite prepared to support the very sensible amendment that Mr Stevenson has foreshadowed to remove the word "promote".

Since the indications are that that amendment will go through - this is the advantage of having a cognate debate - it seems to me that the penalty is now appropriate. The penalty now is not for a person who is promoting or conducting a rodeo. We are really now talking in subclause (1) about a person who conducts or takes part in a rodeo.

In subclause (2) we will be talking about a person who is promoting or conducting a game park. A game park, I find, by the definition in this Bill, quite objectionable, and I think that the penalty is appropriate. I do not expect that somebody who has a bumper sticker for a game park is going to have the same sort of penalty as somebody who runs a major advertisement - for example, a television company which runs a two-minute advertisement for a game park as it is defined here. A game park is defined as premises where animals are confined specifically so that they can be killed, for a fee, obviously. We are not talking of an abattoir or something along those lines. Under those circumstances, Mr Deputy Speaker, I am prepared to support the amendment of Mr Stevenson on this one, but I am not prepared to support a reduction in the penalty.

13 August 1992

**MR HUMPHRIES** (3.46): I think that the Minister has indicated that what he said this morning about promotion is probably not true. He has not been very forthright about it.

**Mr Connolly:** It is not a question of what is true and what is not true. We can have two interpretations and it is a question of which one is better on balance. It is quite improper to say "untrue".

**MR HUMPHRIES:** No, I think it goes further. I am sorry; as I said this morning, there are some things which are subject to shades of grey and some things which are not. To say that, if you promote an activity in the ACT which is illegal in the ACT under that clause, it would not be an offence under this clause is not a matter of debate as far as I am concerned. Any adviser who would tell the Minister that maybe that could be interpreted to mean that you would be able to legally promote activities in the ACT which were prohibited by this clause deserves to be sacked. They are very poor advisers if that is the advice that they gave. No, Mr Deputy Speaker; quite clearly this clause, as it stands, would make it illegal for a person to promote a rodeo in the ACT even if it were a rodeo in New South Wales which is perfectly legal.

I think the Minister, after hurling abuse across the chamber this morning, has acknowledged that maybe we have a point, and I think he is taking that point. I think it is worth making the additional point that we have here a piece of legislation which does have these sorts of points validly made about it. There might be shades of grey. Maybe you could say this and maybe you could say that. But, if you have legislation like that and it really has the potential to be interpreted in different ways by a court, you do not put it out to the community and expect that the courts will somehow sort it out in the wash. You do not wave your hand away like that and pretend that it is going to be sorted out.

**Mr Berry:** Sit down.

**MR HUMPHRIES:** No, Mr Berry; we are raising good points about the legislation, and we will find some more, too, before this is out, I reckon. You will again be having to make compromise amendments at the last minute to fix up your mistakes. Let us be clear; the harder you look at this, the more you find, and I am not convinced that we have got anywhere near the bottom of this particular barrel as yet. In that light, I think it is, again, extremely unfortunate, sad in the extreme, that we are getting ourselves into this sort of pickle over legislation which ought not to be before the Assembly at this point.

I maintain that a person who takes part in a rodeo ought not to be subjected to a fine of that magnitude or imprisonment for one year. It is an activity which, only a few kilometres away, is perfectly legal. To cross the border and find not just a change in the law but such a dramatic change in the law is really quite extraordinary. I cannot think of any parallel situations around the country. For example, it might be an offence in one jurisdiction in this country to sell kangaroo meat, and in another jurisdiction not an offence to sell kangaroo meat; but you probably will not find a term of imprisonment attaching to one offence and that in the next jurisdiction there is no offence at all constituted by that Act.

Clearly, we have to think about how this fits in with the overall scheme of things, and that has not been done. It occurred to me, Mr Deputy Speaker, to think about all sorts of permutations with this matter. I have to wonder just what constitutes a rodeo. A rodeo is not defined in the Bill.

**Mr Connolly:** You do not need a definition for every word in the Bill.

**MR HUMPHRIES:** I am looking at the sorts of offences that might be created. There are such things as calf roping competitions, for example, which are conducted separately from full-scale rodeos, and other acts that cowboys perform in rodeos, which might not be - - -

**Mr Berry:** Oh, yes - other acts that cowboys perform.

**MR HUMPHRIES:** I am not talking about rolling a cigarette with one hand, Mr Berry; I am talking about something more sophisticated than that. These sorts of things constitute elements of a rodeo and I am not quite sure where the line between a full-scale rodeo and those sorts of things might be. I recall, years ago, seeing in the Monaro Mall, as it then was, an exhibition of horsemanship which included the sorts of things that I imagine one sees in a rodeo. I would hate to think that some poor promoter put on some kind of show like that in Canberra and unwittingly found himself prosecuted because he was putting on elements of a rodeo. How much of a rodeo makes a rodeo? I do not know.

**Mr Berry:** Dressage; with a big hat on.

**MR HUMPHRIES:** "Dressage", says Mr Berry. Dressage makes a rodeo. Well, we are getting into hot water there. I have the same concern about subclause (2), as to the game park. Again we have the problem of a person promoting a game park. I am not sure whether the amendment Mr Stevenson is to move affects subclause 18(2).

**Mr Moore:** No.

**MR HUMPHRIES:** It does not affect it. He says that it does not. He is moving the amendment. I assume that he is right. Again we have the problem with the game park. I am not sure whether Mr Moore touched on this point, but what about the person with a bumper sticker on the back of their car saying, "Visit the such-and-such game park"?

**Mr Berry:** He should not have it on his car. It is outrageous.

**MR HUMPHRIES:** Okay. Let us compromise here. He should not have the bumper sticker on his car. I agree, Mr Berry. For the sake of compromise, let us agree with that. Do you also agree with me that he should not be liable to a term of imprisonment because of the bumper sticker he has on his car?

**Mr Connolly:** Nor should the boy who steals the peach be liable for 10 years. This is a silly argument you people keep running.

**MR HUMPHRIES:** No, you have missed the point. You are making this a punishable offence. You have to read this in parts. It is an offence under subclause 18(2) for a person to promote a game park. The maximum penalty is \$10,000 or one year in gaol. As I said before, I really cannot conceive of any promotion, no matter how grandiose, no matter how repeated, that warrants imprisonment because this jurisdiction alone, in the entire Australian panoply of jurisdictions, has decided that it is going to make game parks and rodeos illegal. We are the only jurisdiction to do that.

13 August 1992

The argument put up a few weeks ago about abortion - that we have to be in line with the rest of Australia - goes out the window now, does it not? It does not matter if we are out of step now; we are doing something very important, very significant. We should be stepping out and showing the way for our colleagues in other places. I do not think we will.

**Mr Berry:** If the rest of Australia had not broken the ground we would have been saying, "We will be breaking new ground". Now we are breaking new ground.

**MR HUMPHRIES:** The argument cuts both ways. You are either conforming with other States because they have the right idea or breaking new ground because they do not have the right idea. Once again, I almost wearily come back to the point that this legislation obviously has flaws, obviously has problems. I think the Minister does us all a disservice by leaving it on the notice paper for us to debate.

**MR STEVENSON (3.54):** Mr Deputy Speaker, I had not looked before at the concern that "rodeo" is not defined in clause 4 of the Bill. On looking at the dictionary, it raises a very interesting situation.

**Mr Connolly:** I think I would look at a better dictionary than that one, Dennis.

**MR STEVENSON:** Once again, just bear with me for a minute and you may find that you spoke too soon. It says:

1. The driving together of cattle for branding; a roundup ...
2. An inclosure where cattle are collected for branding.
3. By extension, any public performance or entertainment exhibiting or making use of the outfit of men and horses engaged in a roundup; a spectacle resembling a roundup, or presenting its most picturesque features.

I turn now to the wobbly *Macquarie Dictionary* and look at what it says about "rodeo".

**Mr Humphries:** What year is that?

**MR STEVENSON:** I think the chamber's dictionary is probably fairly recent. Let us just check it for the record. It was first published in 1991. That is pretty recent. If anybody has a 1992 dictionary, wheel it out. It may have changed. It says about "rodeo":

An exhibition of the skills of cowboys, riding horses, steers, etc, for public entertainment.

**Mr Connolly:** Yes, riding steers.

**Mr Humphries:** No, "riding, steers".

**MR STEVENSON:** I will read that again:

An exhibition of the skills of cowboys, riding horses, steers, etc, for public entertainment.

So riding horses is a rodeo. Let us have a look at what "rodeo" means in the *Oxford Dictionary*. It says:

1. A driving together of cattle in order to separate, count, inspect or mark them; a round-up.
2. A place or enclosure where cattle are brought together for any purpose.
3. An exhibition of skill in rounding up cattle, riding unbroken horses, etc ... an exhibition of 'stunting' in the riding of motor-cycles.

Well, there we go; so that is gone. I will check the date of the *Shorter Oxford English Dictionary*. I will not be long. I have to get the date. The last date on this one is 1987. Once again, who would have thought that we were banning an Evel Knievel and other people. Once again, there is no more relevant dictionary than the *Oxford Dictionary*.

**Mr Moore:** Yes, there is. It is an English dictionary. The *Macquarie Dictionary* is fine. It is Australian usage. We do not use the language that way. Who has ever heard of a motorbike rodeo?

**MR STEVENSON:** The day we give up the *Oxford Dictionary* for the *Macquarie Dictionary* will be a sad old day for the *Canberra Times*, this Assembly and anybody else who knows the slightest thing about - - -

**Mrs Grassby:** Is there something wrong with it, Dennis? Are you not proud of being Australian? Obviously you are not proud of being Australian, Dennis.

**MR STEVENSON:** I am proud of being Australian. I have the Australian flag on my table, like many other good Australians in this Assembly. I am proud of it, make no mistake, and I am proud of our heritage. I do not wish to deny our heritage, any more than I wish to change my parents' name.

I acknowledge that this is one point I did not spot. I assumed that a rodeo was where you have someone roping and throwing cattle, bucking horses and so on. The trouble with assuming something is that it makes an "ass of u and me" if you break up the word. That was my assumption. I think it is fair to say that most of us in this Assembly could not fairly give the definitions of rodeo before they were read out of the dictionary. I do not know whether that will be fairly said by some members of this Assembly. That was the reason why I introduced the censure motion. There is not fairness here; there is not justice here; there is not a fair representation of principles. What on earth is debate for if it is not to be able to bring up these points? Why is it that I cannot read out of a dictionary without some members opposite saying that it is all nonsense? That is what it says in the dictionary and there is no definition in the legislation.

What has been absolutely ascertained by me during the last half-hour is that we should make an amendment. While I am on my feet someone might want to start drafting one. We should make an amendment to this clause, saying exactly what a rodeo is, or what parts of the definition of a rodeo we mean it to exclude. Once again, I ask the Minister, I ask members opposite, to please explain what they mean by "rodeo".

**Mr De Domenico:** Or it does not mean.

13 August 1992

**MR STEVENSON:** Or what it does not mean. Thank you, Mr De Domenico. This is relevant. If we have someone doing a Smoky Dawson type of act visiting the national capital, perhaps to commemorate a particular time, and he happens to have a couple of horses and even a cow wandering around, will that come within the definition of "rodeo", as it does within the dictionary definitions?

It is all very well to suggest that someone's viewpoint is nonsense; but it is unfortunate to suggest that when it obviously is not, when it is simply the political viewpoint of wanting to make yourself right and others wrong. We need to change that throughout Australia - in this Assembly and everywhere else. We need to change the situation. It has been said time and again that we need to work as a committee of the whole. We need to come along here and be able to present - - -

**Mr Moore:** That is why we have committees, Dennis, and you do not participate in them.

**MR STEVENSON:** "Of the whole", I said, not three or five or whatever.

**Mr Moore:** As a starting point.

**MR STEVENSON:** Why not do it as a committee of the whole in this Assembly? Is that not the reason parliaments were set up? Is that not the true idea behind this place? People in the community can come along and listen to us present different viewpoints and see those viewpoints acknowledged by other members in this Assembly without feeling that if they make a change they will be wrong. Mr Moore does not have that concern. You can change your mind without feeling that you are wrong, can't you, Mr Moore? There is nothing wrong with changing one's mind. That is the truth of the matter.

I was at a seminar recently and someone said that the most valuable thing you can do in life is make mistakes, because it is from mistakes that we learn. We should not jump on somebody simply because they have made a mistake. What I find most disconcerting is the refusal to acknowledge that one has made a simple mistake; the refusal to genuinely, openly and honestly listen to a debate and say, "I think you have a point; I will check it out", or "Obviously, you have a point". To stand up in this Assembly as the Minister has, and to sit down in this Assembly as the Attorney-General has, and to say that this particular clause, where it says, "It is an offence to promote a rodeo", is open to interpretation is a lack of fair and just operation, and no number of people making any other statement on the matter will change that. It is not benefiting this Assembly. It is not benefiting the people of the ACT. It is not a matter of making people wrong or right, but simply doing the best job we can to enact good legislation.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.04): Madam Speaker, in three days of filibuster, members opposite - the Liberal Party and Mr Stevenson - have done what I thought would have been impossible. They have reduced, in public estimation, this Second Assembly to about the standard we had in the First Assembly.

**Mr De Domenico:** No, your Bill has done that, Mr Connolly.

**MADAM SPEAKER:** Order!

**MR CONNOLLY:** Starting from the day when you, Mr De Domenico, were out feeding peanuts to elephants and bringing shackled elephants to this Assembly, this is the first time in this Second Assembly that we have seen the sort of media ridicule heaped upon this place that we used to see. That was your signal achievement.

**Mr Kaine:** I raise a point of order, Madam Speaker. I thought we had decided some 48 or 24 hours ago that we were going to focus on the subject matter clause by clause. I do not see any relevance in what Mr Connolly is saying to clause 18, the clause we are talking about. I think he should be brought back to the subject that is under debate.

**MADAM SPEAKER:** Thank you, Mr Kaine.

**MR CONNOLLY:** I understand Mr Kaine's sensitivity on this matter.

**Mr Kaine:** I am not sensitive at all, but I would like you to concentrate on the issue.

**MADAM SPEAKER:** Thank you, Mr Kaine.

**MR CONNOLLY:** Madam Speaker, the debate on this clause is once again the debate of absurdity. It is the debate of the little boy with the peach. It is the debate where the Liberal Party find a clause, dream up the most trivial example that can possibly fall within that definition, and then say, "It is appalling; you are creating an horrendous offence".

There is a subtle variation to that critique which is being used in the debate on this clause, Mr Kaine, that runs something like this: If the Government defends a Bill or a clause, the Government is being closed-minded, arrogant, insensitive, and not open to debate. That is part one of the attack. Part two of the attack is that, if the Government looks at a legitimate criticism raised by the Opposition and acknowledges it, the Government is stupid and was wrong in the first place. It demonstrates the Government's - - -

**Mr Kaine:** You have not done that yet. When did you do that? Which clause was that on?

**MR CONNOLLY:** In relation to this precise clause, Mr Kaine; in relation to the fish. After the debate on the fish, when Mr Humphries and I had a close look at it, and when I showed it to the advisers and we had a close look at it, we acknowledged that you are right on that. A government amendment follows. Of course, the penalty that the Government suffers from entering into that sort of dialogue is the diatribe that we get from you. The mere fact that the Government puts up an amendment, you say, shows that the Bill is in itself faulty. The Government cannot win, Madam Speaker. If we try to ram a Bill through, as it were, we are criticised for being insensitive and not open to debate. If we are open to criticism and we look at proposals, you then attack us for the Bill being fundamentally flawed. It is an argument that is impossible to win.

Madam Speaker, three days on, when I, in particular, have on the notice paper some legislation that will help the building industry and contribute to job creation, you people should be ashamed of yourselves for turning this Second Assembly into the sorry spectacle that marked this place 12 months ago. It is all your own work and I hope you are proud of yourselves.

13 August 1992

**MR KAINE** (Leader of the Opposition) (4.07): Madam Speaker, I am afraid that Mr Connolly is getting a bit hysterical. Perhaps he should do as we suggested. Perhaps he should adjourn the debate on this Bill and bring on the Bill about employment. We would be happy to debate that rather than debating this flawed, defective, ineffective Bill that we have before us now. It is very interesting. In fact, clause 18 really focuses on the deficiencies of this Bill. First of all - - -

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

That the question be now put.

**Mr Kaine**: Are you going to take the Minister seriously, Madam Speaker?

**MADAM SPEAKER**: The motion is before us, Mr Kaine, and it is allowed.

Question put:

That the question be now put.

The Assembly voted -

*AYES, 10*

*NOES, 7*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

**Mr Kaine**: I raise a point of order, Madam Speaker. Only a few moments ago you ruled that the gag could not be applied when a person was speaking. It was in the middle of a speech being made by Mr Stevenson. Has something changed between then and now that allows the Minister to apply the gag under the same circumstances?

**MADAM SPEAKER**: Mr Kaine, the fact is that the question at this point had already been proposed, whereas with Mr Stevenson the question had not. The question before us now is: That Mr Westende's amendments Nos 14 and 15 to clause 18 be agreed to.

**Mr Westende**: Madam Speaker, I seek your indulgence. Is it your idea to allow a separate vote on amendments Nos 14 and 15?

**MADAM SPEAKER**: They were put together, were they not?

**Mr Westende**: Yes.



**MADAM SPEAKER:** You moved them together by leave, Mr Westende, so I believe that they should be voted on together. You may move that they be considered separately, if you so choose.

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

That the question be divided.

Amendment to omit subclause (1) negatived.

Amendment to subclause (2) negatived.

Amendment (by **Mr Stevenson**), by leave, agreed to:

Page 10, subclause 18(1), line 6, omit the word "promote".

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.13): Madam Speaker, I move:

Page 10, paragraph (3)(a), line 12, insert "other than fish" after "animals".

This is the fish one. I think we have had the debate on it.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 19

**MR WESTENDE** (4.14): Clause 19 has to do with medical and surgical procedures. Once again our amendment is to the penalty. Once again there is such vagueness about the medical procedure that we feel that a fine of \$5,000 or six months' gaol, or both, would be quite sufficient for a breach of this Act. We may have gone along with the other things if it had been more clearly defined; but once again we are exempting certain things such as farming and grazing activities, management of a zoo and the management of wildlife. There are many others that could be added to that which simply have not been thought of. Therefore, Madam Speaker, we move that these penalties be reduced to the ones that we recommend in our amendment. I move:

Page 10, subclause (1), line 21, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

**MR MOORE** (4.15): Madam Speaker, I rise to speak on this because, like Mr Westende, I have some concerns about the level of this penalty. I suppose my concerns arose from my own experience with a dog long since deceased that I owned for some time. Subclause 19(1) says:

A person ... shall not, without reasonable excuse, carry out a medical or surgical procedure on an animal.

13 August 1992

I had, for over a year, been injecting my dog with cortisone at the recommendation of a veterinary surgeon. The closest veterinarian to where we were living at that stage was 160 kilometres away. Perhaps that would be construed as a reasonable excuse. I am sure it would be. It is expensive to take a dog to a vet to get an injection, which is actually a very simple procedure. No doubt there are animals around that have diabetes, for example, that would be injected daily. That would be a medical procedure. I feel comfortable that that would be covered very neatly by the words "without reasonable excuse" because the action would be taken for the benefit of the animal. It is a matter that I had raised with Mr Wood.

There is also the matter of pet shops, particularly pet shops that sell antibiotics that people can administer to their pets. I remember administering antibiotics to my father-in-law's bees at one stage. Let me tell you, it takes a long time to inject 5,000 bees.

**Mr De Domenico:** To inject a bee with antibiotics?

**MR MOORE:** In fact, the procedure is a little bit different from that, but the mind does really boggle at that. I think it is worth having on the record a comment from the Minister as to what constitutes being reasonable in that sort of situation with reference to a pet shop.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.18): Madam Speaker, Mr Moore is right. Let me point out that this is an important provision. It is principally designed to prevent unauthorised, inept, unscientific experiments on animals. You would imagine that there is some scope for people who think they have some background that they may not have, or for other reasons, to deal with animals in an improper way. This is designed, as I say, to overcome that.

We might also relate some of the clauses concerning care for animals to what Mr Moore says - that there is an onus on people to care for animals. To be precise for Mr Moore, in clause 19, "medical procedure" is not intended to include the administration of non-restricted drugs. Consultation with veterinary surgeons indicates a general understanding that it is accepted and appropriate for owners of animals to administer non-prescription drugs. There is no intention to prevent owners from administering, for example, worm tablets to their pet or dosing fish with anti-fungal drops or, perhaps, dealing with bees. The Bill also allows owners to administer other drugs in accordance with the directions of a vet - for example, penicillin. It is quite proper. There is also provision, as Mr Moore says, for a reasonable excuse to be given.

**MR MOORE** (4.19): I know that this will be covered in the codes of practice, Madam Speaker, but I think the point is worth making. I notice that in paragraph 19(2)(b) an exemption is given for standard farming and grazing activities. One of the farming activities that are still practised in and around the ACT is that of mulesing of sheep. It is a practice that I personally find entirely and totally unacceptable, and I still consider it to be cruel. I hope it is one that will be considered very, very carefully by those people who are dealing with the codes of practice. I know that some farmers still consider it to be in the best interests of the animals; but I think mostly it is in the best interests of the farmers because they do not have to shear the tails of the sheep, which is a revolting job, granted. But the practice of mulesing, I think, is one that we really ought to see an end to.

**MR DE DOMENICO** (4.20): Madam Speaker, I would like to ask the Minister a question. Let me preface it by saying that I am not trying to be smart. In relation to this clause I honestly want to know: What about the well-worn habit of schoolchildren dissecting frogs in scientific experiments?

**Mrs Carnell:** Or rats?

**MR DE DOMENICO:** Or rats.

**Mr Stevenson:** Or anything else.

**MR DE DOMENICO:** Or anything else. Can the Minister please tell me whether, according to clause 19, such an occurrence may not be an offence?

**Mr Kaine:** There is a code of practice for the use of animals for scientific purposes.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.21): Thank you, Mr Kaine.

**MR HUMPHRIES** (4.21): I do not really think a code is the sort of thing that is going to be applying to schools. Perhaps the Minister can enlighten us about that. There is concern about this provision because it raises another point. These sorts of things come thick and fast when you sit down and think carefully about these sorts of provisions. It does not appear to be anywhere in this Bill - perhaps the Minister can tell me where I can find it - that it is actually an offence to kill an animal. It is an offence to commit an act of cruelty on an animal, but if I were to humanely and promptly dispatch an animal I do not see that I have actually committed any offence.

**Mr Lamont:** The Crimes Act covers it.

**MR HUMPHRIES:** The Crimes Act covers it, does it?

**Mr Lamont:** Wouldn't it?

**Mr De Domenico:** Wouldn't it? "It does; wouldn't it?". Yes, wonderful.

**Mr Lamont:** We are both on the Legal Affairs Committee. On some issues I bow to some experience that Mr Humphries has had, and I am just saying, "Well, doesn't it?".

**MR HUMPHRIES:** Thank you, Mr Lamont; I am glad to hear you say that. Let me advise you that this Bill is rubbish. It needs to be fixed up. It is not in good shape.

**Mr Lamont:** Yes, but I have better advice which overrides that.

**MADAM SPEAKER:** Order! Could the remarks be addressed to the Chair, please?

**MR HUMPHRIES:** Certainly, Madam Speaker.

**MADAM SPEAKER:** We are in the Legislative Assembly.

13 August 1992

**MR HUMPHRIES:** I hope Mr Lamont will accept my advice and withdraw his Bill.

**MADAM SPEAKER:** Order! I am the Speaker.

**MR HUMPHRIES:** Madam Speaker, I hope Mr Lamont will accept my advice, as he said he would readily do, and withdraw his Bill.

**Mr Lamont:** Madam Speaker, you can rest assured that on this matter I will not.

**MR HUMPHRIES:** I did not think so.

**Mr Berry:** This is silly, Gary. Get on to something more rational; otherwise the gag will come out again. This is silly.

**MR HUMPHRIES:** It is not silly. It is a perfectly good point.

**MADAM SPEAKER:** Order! Continue with the debate, please.

**Mr Connolly:** Paragraph 8(2)(e) covers killing causing unnecessary pain.

**MR HUMPHRIES:** With the greatest respect, an animal could be killed without causing any pain at all.

**Mr Connolly:** Quite so; and that is lawful, if it is your animal.

**MR HUMPHRIES:** No, I did not say anything about it being my animal. For example, if I were able to shoot a bird, killing it instantly, without any pain at all - - -

**Mr Connolly:** There would be some wildlife offences there, and the use of a firearm.

**MR HUMPHRIES:** All right, suppose that I kill somebody else's bird.

**Mr Connolly:** If you execute the chook in the backyard - - -

**MADAM SPEAKER:** Order! Mr Humphries, you have the floor. Please continue to talk about amendment 16.

**MR HUMPHRIES:** Thank you; I will, Madam Speaker. I am talking about this provision relating to pain to animals and surgical procedures. I am directed by the Minister to paragraph 8(2)(e), which mentions, "A person in charge of an animal ...". If I get out an air rifle and put a pellet - - -

**Mr Berry:** If you do not have a licence for it, you have broken the law.

**MR HUMPHRIES:** Suppose that I have a licence for my air rifle, and I put a bullet through the head of the chook next door - - -

**Mr Berry:** You cannot discharge it near a public place, so you are in trouble there straightaway. You have committed an offence. You have committed a couple so far.

**MR HUMPHRIES:** That is not the point. Suppose that someone is running their dog in the countryside, a public place, where I am allowed to shoot my gun.

**Mr Berry:** There is no such place in the ACT; you are not allowed to discharge it on Commonwealth - - -

**MR HUMPHRIES:** You cannot shoot a gun anywhere in the ACT; is that what you are saying?

**Mr Berry:** Not unless it is to kill vermin. So, there you go.

**MR HUMPHRIES:** I am sorry, but you are stretching my credulity a rather long way. If I discharge my gun legally, and I shoot somebody's dog through the head - no pain is caused - how have I committed an offence? I have not.

**Mr Berry:** No, you have not.

**MR HUMPHRIES:** That is right.

**Ms Follett:** Except that it is somebody else's dog; it is their property.

**MR HUMPHRIES:** If I shoot someone else's dog, they have a civil remedy against me, presumably. They can sue me for the loss of their dog, which presumably would not be very much, as a dog does not have much economic value.

Members interjected.

**MADAM SPEAKER:** Members, please!

**MR HUMPHRIES:** A dog has little economic value; therefore there is not much - - -

**MADAM SPEAKER:** Order! Mr Humphries, please! We are on clause 19. Address your remarks to the Chair.

**Mr Connolly:** The answer is: Section 128 of the Crimes Act; penalty, 10 years.

**MADAM SPEAKER:** Order, please! Mr Humphries has the floor.

**Mr Lamont:** On a point of order, Madam Speaker: I thank my colleague the Attorney-General for confirming that I was right, that indeed the penalty prescribed is under the Crimes Act.

**Mr Berry:** Madam Speaker, this is all tomfoolery. I move:

That the question be now put.

**Mr Humphries:** On a point of order, Madam Speaker, I direct your attention to standing order 70, which refers to the motion "That the question be now put". It says that the motion may be put:

... unless it shall appear to the Speaker that such motion is an abuse of the rules of the Assembly, or an infringement of Members' rights ...

I am in the middle of my remarks. It is the first time I have exercised my right to speak on this clause. I have raised some reasonable points which took some time for those opposite to consider, and I would respectfully suggest that it is an abuse of my right to speak on this matter if that motion is put now. It is not tomfoolery.

13 August 1992

**MADAM SPEAKER:** Mr Humphries, I tried repeatedly to bring you back to that question. I defer to your - - -

**Mr Humphries:** I was being asked to address the question - - -

**MADAM SPEAKER:** Excuse me; I am speaking. I find it very difficult to rule in your favour when I found it so difficult to keep you in order; but you will take your final four minutes and proceed, please.

**MR HUMPHRIES:** Madam Speaker, this provision clearly has problems. It clearly will catch a number of people in certain circumstances where they will conduct procedures on their pets. In such circumstances they will potentially find themselves prosecuted.

**Mr Wood:** Go back to your Education Minister days. Remember what happened then.

**MADAM SPEAKER:** Order!

**MR HUMPHRIES:** They will find themselves prosecuted in certain circumstances. A school, for example, which conducts vivisection - - -

**Mr Wood:** When you were Minister schools were taking sensible steps.

**MADAM SPEAKER:** Order! Mr Humphries will address his comments to the Chair and proceed to address his comments to the Chair only, and there will be order. Continue, Mr Humphries.

**MR HUMPHRIES:** Madam Speaker, I have addressed all my comments to the Chair so far.

**MADAM SPEAKER:** Proceed.

**MR HUMPHRIES:** Madam Speaker, there is clearly a problem with this clause. It will clearly result, on occasions, in persons conducting experiments or procedures on animals, which quite evidently will be caught by this procedure but which will be done innocently, with the intention of only assisting their animals. Farmers, for example, or people in homes who conduct random operations on their animals with the best intentions in mind can come a cropper because, for some reason, it is not in accordance with accepted animal husbandry practice. We cannot all be amateur veterinarians; we cannot all make the right decisions. Yet when this poor soul makes that error of judgment - we are talking about an error of judgment - - -

**Mr Berry:** On a point of order, Madam Speaker: The member is not speaking to the amendment. The amendment is in relation to the penalty, and it is argued that the penalty is too high. So, how on earth can you argue that the clause is wrong?

**MR HUMPHRIES:** No, the penalty should be lower; that is what I am saying.

**MADAM SPEAKER:** I will ask you to consider the standing order regarding relevance as you continue, please.

**MR HUMPHRIES:** I have done so, Madam Speaker; what I am saying is perfectly relevant.

**MADAM SPEAKER:** Would you please continue, Mr Humphries.

**MR HUMPHRIES:** This goes exactly to the heart of this amendment. We are reducing the penalty involved because some person innocently - - -

**Mr Berry:** No, you are not.

**MR HUMPHRIES:** Listen, Mr Berry. A person may innocently conduct a medical procedure - not necessarily even breaking the skin of an animal - on their dog, cat or canary, or whatever, and they will be guilty of an offence under this clause. We are prepared, apparently, to accept that as an offence. I am simply arguing that we should be lowering the penalty; it is too high. Madam Speaker, if those opposite will not consider that kind of issue, they really have closed their minds, very dramatically, to the issues that this Bill presents.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.30): Madam Speaker, I do not need to repeat what I said by way of interjection; but when Mr Humphries was Education Minister the schools for which he had responsibility were refining their very carefully established codes of practice concerning the care of animals for which they have responsibility. That includes the way that they deal with the animals that they might cut up - there is no question about that - and it is done properly. It was done when you were Minister, and it continues to be done.

Today there has been an operation in this Assembly, but it is a very bloody one. We have been ACIL-ed; that is what it is. We are not looking at the animal welfare legislation; we are carrying out a Liberal Party tactic. That is what we are doing.

**Mr Humphries:** Relevance, Madam Speaker.

**MADAM SPEAKER:** Thank you, Mr Humphries. I believe that he has finished.

**MR STEVENSON** (4.30): When I initially read the Bill, I also had a concern about this particular clause. I think Mr Humphries has raised a number of points that are relevant.

Debate interrupted.

### **ADJOURNMENT**

**MADAM SPEAKER:** Order! It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

**Mr Berry:** I require the question to be put forthwith without debate.

Question resolved in the negative.

13 August 1992

**ANIMAL WELFARE BILL 1992**  
**Detail Stage**

Debate resumed.

**MR STEVENSON:** We have some concern about the definition or the types of things that are prohibited by this medical and surgical procedures clause. Mr Humphries covered the point very well. I think it is fair enough that we raise these points and that they be addressed by members opposite, rather than just negated.

**Mr Moore:** They were just addressed.

**MR STEVENSON:** I did not think they were addressed; that is the difficulty. I support the amendment and ask other members to do the same.

Question put:

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

The Assembly voted -

*AYES, 7*

*NOES, 10*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

Question so resolved in the negative.

Clause agreed to.

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

That so much of the standing and temporary orders be suspended as would remove the discretion for the Speaker not to accept a closure motion as contained in standing order 70 for the remainder of the consideration of this Bill.

**MR HUMPHRIES** (4.36): Madam Speaker, this is the most disgraceful piece of guillotining I have seen in a long time. He wants to make sure that he can move his motion whenever he wants to, and that his motion will be put, without the protection which is afforded by the standing orders for you, Madam Speaker, to exercise your discretion in the matter. Mr Berry is saying to you, "I do not like the way you exercised your discretion before" - in my favour - "and I am going to make sure you cannot do it again, by moving this motion". It is disgraceful and I hope that you, Madam Speaker, reserve your right to exercise a judgment, as bestowed on you in the standing orders, and not support the motion put forward by Mr Berry on this occasion. It is quite disgraceful. This is here to prevent abuse of the rules of the Assembly or the infringement of members' rights.



**Mr Wood:** That is just what has happened.

**MR HUMPHRIES:** If that is the case, the Speaker would certainly decide that that was the case and put that motion. To pass this motion is to impugn the integrity and the judgment of our Speaker, and I believe that that is inappropriate. That is exactly what it is. You are taking from the Speaker's hand the right to make an assessment about that matter, and that is simply an imputation on the Speaker's integrity.

**MR STEVENSON (4.37):** I absolutely agree with the statement made by Mr Humphries.

**Mr Berry:** This is the giggling fool - I withdraw that - the person who broke down yesterday. He could not contain himself; he almost wet himself laughing about this legislation.

**Mr Kaine:** Madam Speaker, this is outrageous. Perhaps you were not listening to what the Minister had to say; but it really was disgraceful, and he should be asked to withdraw it.

**Mr Berry:** I withdrew.

**MADAM SPEAKER:** It was withdrawn.

**Mr Kaine:** Withdraw.

**Mr Berry:** Withdraw what?

**Mr Kaine:** What you have just said.

**Mr Berry:** I withdraw the word, or I did withdraw that.

**Mrs Carnell:** Withdraw the rest as well.

**Mr Berry:** No, I am not withdrawing the rest.

**Mr Kaine:** Madam Speaker, the Minister just said that he would not withdraw it.

**Mr Berry:** That is right; because it does not impute anything. This is the person who stood up giggling yesterday and almost wet himself. It is fact.

**Mr Kaine:** I think that is a disgraceful reflection on a member of this Assembly. Madam Speaker, I again ask that he be required to withdraw it.

**MADAM SPEAKER:** Mr Berry, you withdrew any imputation that was improper, did you not?

**Mr Berry:** Yes.

**MR STEVENSON:** Madam Speaker, to reduce the level of debate to personal attacks which reflect on every member of this Assembly who was laughing yesterday is unfortunate. I must admit that I found the remarks that were made by Mrs Grassby to be most humorous indeed. If she had not made them, I would

13 August 1992

not have laughed; but, because she did, I felt that the laughter that we had in the Assembly at that time was beneficial. I thought we had more agreement then than we have had on many other occasions. To suggest that that was not okay is unfortunate.

I think that when we reduce ourselves to personal attacks because we may not like what is going on it is unfortunate; I truly do. I think this motion is an attempt to gag the Speaker in making a decision as to how she interprets what is happening in the Assembly. I think the suggestion that the points that we have made in this Assembly since lunch need to be gagged is unparliamentary. We have made points about the definition of rodeos, and the point that we made about promoting a rodeo was agreed to. Mr Humphries put well a point of view about rodeos.

To suggest that these and the other things that we have spoken about should not be mentioned is really a form of government that would show us that someone who had dictatorial power would not listen to anybody. If you will not listen to members of this Assembly, what does that say of your desire to listen to people within the community? I say this in all seriousness; I am not having a go at you. I think we should understand that everyone here has a right to have a say, even if we vehemently personally disagree with it. The members have been elected by a lot of people in each case, and they have a right to speak in this parliament. To attempt to gag a member's right to speak is not on.

I moved the censure motion before because there are things going on in this parliament which are highlighted by activities here. I make the point that I do not seek to make people wrong. Why not have a situation where we can all openly debate? We put our points forcefully - that is fine - but allow someone to speak and to make points. When Mr Wood, as the Minister, made the point that it was a nonsense to bring up the matter about "promote", we may have thought that he was wrong, but we did not call him a screaming ratbag and a raving idiot and try to gag him; nor should we have; nor should anyone in this parliament. So let us not try to gag debates.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (4.42), in reply: The issue before us, of course - - -

**MADAM TEMPORARY DEPUTY SPEAKER** (Mrs Grassby): Are you closing the debate, Mr Berry?

**MR BERRY**: Yes, that is right.

**Mr Kaine**: Madam Temporary Deputy Speaker - - -

**MADAM TEMPORARY DEPUTY SPEAKER**: Mr Berry was on his feet first, Mr Kaine.

**Mr Kaine**: Madam Temporary Deputy Speaker, we are witnessing a complete abrogation of the rights of the members of this Assembly.

**Mr Berry**: On a point of order, Madam Temporary Deputy Speaker: Does Mr Kaine have a point of order or is he trying to debate?

**Mr Kaine:** Yes, I am taking a point of order. We are seeing a complete abrogation of the rights of the members of this Assembly.

**Mr Berry:** Hold on! Are you the Speaker as well?

**MADAM TEMPORARY DEPUTY SPEAKER:** I am sorry, Mr Berry; Mr Kaine does have the right to speak.

**Mr Kaine:** In all fairness, Madam Temporary Deputy Speaker, I believe that if the Minister thought about his motion he would withdraw it. Let us look at what standing order 70 says. It says:

... unless it shall appear to the Speaker that such motion is an abuse of the rules of the Assembly, or an infringement of Members' rights ...

They are two very serious matters. Only under those conditions can the Speaker uphold a gag. The Minister is trying to set that aside. He is trying to say that, irrespective of the rights of this Assembly and the members of it, the Speaker shall not uphold a member's rights; it does not matter whether he is infringing members' rights and it does not matter whether the rules of the Assembly are being abused.

**Mr Berry:** What is the point of order?

**Mr Kaine:** That is my point of order. I think the Minister, in even moving such a motion, is totally out of order. I submit that no member of the Government should support this, and I really suggest that the Minister should withdraw it and not even allow his motion to be put.

**MADAM TEMPORARY DEPUTY SPEAKER:** Order, please!

**Mr Berry:** Is this a point of order?

**Mr Kaine:** Yes, it is.

**MADAM TEMPORARY DEPUTY SPEAKER:** He has made the point of order and has sat down. Thank you, Mr Kaine. Mr Cornwell?

**Mr Moore:** You called Mr Berry.

**Mr Berry:** I had already been called when I was interrupted by a point of order, Madam Temporary Deputy Speaker.

**MADAM TEMPORARY DEPUTY SPEAKER:** Is it a point of order, Mr Cornwell?

**Mr Cornwell:** I wish to participate in the debate, Madam Temporary Deputy Speaker. I was first on my feet at that point.

**MADAM TEMPORARY DEPUTY SPEAKER:** No, it is not a debate; but it could be a point of order.

**MR BERRY:** Madam Temporary Deputy Speaker, what has been ignored by members opposite is that the Assembly decides what its standing orders are, and it decides when it should alter those standing orders.

13 August 1992

**Mr Stevenson:** That means that nine people can throw everything in the bin.

**MADAM TEMPORARY DEPUTY SPEAKER:** Mr Stevenson, could we have some order, please?

**MR BERRY:** And members do so at their discretion. If a member decides to misbehave in the Assembly, the standing orders can be adjusted to cope with that. If you choose to use the standing orders to the point where the management of the Assembly is bordering on being out of control, measures have to be taken by this Assembly - - -

**Mr Cornwell:** On a point of order: Madam Temporary Deputy Speaker Grassby, it is a reflection on Speaker McRae and me as Deputy Speaker to say that the Assembly is bordering on being out of control.

**Mr Kaine:** And it is a reflection on you.

**Mr Cornwell:** And on you, Madam Temporary Deputy Speaker.

**MR BERRY:** There is no imputation against the Speaker, the Deputy Speaker or you, Madam Temporary Deputy Speaker. If the standing orders are unable to control the members in a way that ensures that the management of this place can be dealt with efficiently, it is incumbent upon all of the members of this Assembly to decide whether or not the standing orders are appropriate.

It appears - it certainly is the case as far as the Government is concerned - that the Liberals in particular, and Mr Stevenson as well, are engaging in filibustering in the extreme, with a view to delaying this Bill. I think that is just a stunt, and it has to be dealt with in a way which results in the matter being expedited. The Government is not going to sit by and let the Liberals pull a stunt like this. We will not stand by idly and allow you to continue with this stunt. This is nothing more than a stunt. Nobody minds fair debate. The aim of this suspension of standing orders is to allow a member - any member; you included - to move for the gag to be imposed, and there will be no discretionary powers which can be called upon in relation to the matter. That will expedite the issue, I am sure.

I remind you that, if the matter is dealt with sensibly, nobody from the Government will move the gag. But I have to say to you that, if I see any repeat of what Mr Humphries has been up to in relation to his long and drawn-out arguments, the gag will be moved. If the Liberal Opposition and Mr Stevenson are prepared to deal with this issue sensibly, and not engage in repetitious filibusters, the Government will listen to what you say. But we will not tolerate the sorts of antics that you have engaged in today. We seek to manage this place properly. We seek to have this place managed in a way that means that we can expedite the Bill that is before the house. The majority will decide. You have a choice to vote with the motion or against it. It is your choice. We will cop the decision.

Question put:

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

The Assembly voted -

*AYES, 9*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative, with the concurrence of an absolute majority.  
Clauses 20 to 24, by leave, taken together

**MR KAINE** (Leader of the Opposition) (4.54): I presume that the Minister will allow me the time to speak before he applies the gag. This is another case where it is obvious that the Government did not think through what they put in here. Earlier we debated a proposed amendment by Mr Westende that was rejected because it was too lengthy and too prescriptive. Here we have one where the Government fell for the same trap because, in trying to be prescriptive, it left out one of the major elements. I move:

Clause 21, page 12, after subparagraph (t) insert the following subparagraph: "(u) animal welfare in the racing industry;"

Much of the debate yesterday and today has focused on the racing industry, yet it is not mentioned in this list.

**MADAM TEMPORARY DEPUTY SPEAKER:** Excuse me, Mr Kaine. Are you asking for leave to move these amendments?

**MR KAINE:** Do I have to seek leave to move an amendment?

**MADAM TEMPORARY DEPUTY SPEAKER:** For two amendments, yes.

**MR KAINE:** There is only one amendment.

**MADAM TEMPORARY DEPUTY SPEAKER:** Is there only one? I understood that there were two.

**MR KAINE:** I do not think I need leave to move it.

**MADAM TEMPORARY DEPUTY SPEAKER:** I am sorry, Mr Kaine.

**MR KAINE:** I will leave the consequential one to the drafters to sort out. Here we have a case where, in attempting to be too prescriptive, they have left out one of the major ones; but, of course, it did not occur to the Government that it was a major one until yesterday, when the racing industry finally came up and said,

13 August 1992

"Hang on a bit; this is going to cause us a great mischief". But even then, with the debate that ensued, the Minister - who is not here to listen to this - said, "Well, she'll be right because we will have a code of conduct". He might have a code of conduct; but, if he does, it will be only one of the inconsequential ones that flow from "any other matter related to animal welfare".

Yet they are very prescriptive about such fairly small things as aerial shooting of animals. How much of that do we do in the ACT? We have racing here several days a week, but once in a while somebody shoots animals from the air. Aerial shooting of animals is listed as one about which we will have a code of practice, but racing is not. So, Madam Speaker, I submit that it is yet another case of the Government not having thought it through. They have not thought through the consequences and, once again, despite the gag that has been put on us, the Opposition is moving to fill the gap. We are not getting this from the Government. Even after the debate, it has not dawned on them that there is a potential major problem. Madam Speaker, I submit that, as we have continued to say, this Bill is a mass of holes; it is a mass of flaws, and here is another one. I am surprised that the Minister allowed me to finish my speech.

**MR MOORE (4.57):** Madam Speaker, I think Mr Kaine has raised an interesting point here. The issue that he raises, I am sure, is covered under paragraph 21(u), "any other matter related to animal welfare". But, considering that the Government has taken care to set out a series of them, the point that the Leader of the Opposition raises about animal welfare in the racing industry is appropriate. I wonder whether it should have been "the horseracing industry". But "the racing industry", considering that it is about animals, should be clear enough; and it could include greyhounds and therefore is quite appropriate. I indicate now, Madam Speaker, that I will be supporting the amendment, which I think is sensible.

**MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.58):** Madam Speaker, I think there are two points to be made about this. The first is that it indicates to the Opposition and others that we do not consider that the racing industry has any particular problem or concern about this - so little that it has not been listed here. That is the first point. We do not anticipate that the racing industry will have any difficulties. The other point is that this is well and truly covered by item (u).

**Mr Stevenson:** They all are.

**MR WOOD:** Yes, indeed; no problem. It is a fairly routine way of doing it. Mr Kaine's amendment does not add any strength to what is there, nor does it take anything away from it; so we will not oppose it. But it does not really do anything of great significance to that clause; it does not change anything.

**MR STEVENSON (4.59):** The Minister said that it is covered by item (u) in clause 21. Indeed it is. But the truth is that all of them, from (a) through to (t), are covered by the words "any other matter related to animal welfare". So, I find a lack of acknowledgment of valid points. If you are going to be prescriptive of areas that are suggested for codes of practice with a dozen-plus listings -  
- -

**Mr Berry:** Nobody is ruled out.

**MR STEVENSON:** It is not a matter of ruling out - it is covered by item (u) - but it is saying that these are all the important areas. Most people would think the racing industry, which includes not only the horseracing industry but also trots, greyhounds and anything else that people race from time to time, is relevant.

The other point about codes of practice is that it is wonderful to have them, but we do not yet have them. I asked yesterday and much of today for someone to explain something simple to me. I have asked individuals outside the Assembly and inside the Assembly one of the major questions that we have in relation to the Bill, and it is to do with codes of practice.

**Mr Berry:** This is not to do with this amendment that Mr Kaine has moved, though.

**MR STEVENSON:** One would think it was to do with the clause.

**Mr Berry:** No, we are talking about the amendment.

**MR STEVENSON:** I think I can speak to clause 21 at the same time; not just to Mr Kaine's amendment, with which I agree. I wonder whether or not something should be in there to include pet shops.

**Mr Berry:** If you think it should be, where is your amendment?

**MR STEVENSON:** It is a matter of time.

**Mr Berry:** You do not do any committee work; you should have plenty of time.

**MR STEVENSON:** It is a matter of time in the Assembly, Mr Berry.

**MADAM SPEAKER:** Order! Mr Stevenson, you will restrict your remarks to the amendment, please. If you want to talk about the greater clause what you say will have to have relevance to the amendment. We are talking about Mr Kaine's amendment and nothing else.

**MR STEVENSON:** Just the amendment; not clause 21?

**MADAM SPEAKER:** Thank you, Mr Stevenson.

**MR STEVENSON:** Fine. It is an excellent amendment and should give the racing industry - not just of horses, but also of greyhounds - the opportunity to develop a code of practice. So, it should be there, and it should be there explicitly. However, the point that I make about the racing industry being given the opportunity to have a code of practice is that, prior to the formation of that code of practice, I believe - and I know that many other people believe - that they will be committing offences from the moment this Bill becomes law. So, the question I would ask about the racing industry amendment that Mr Kaine has presented is: How long will the racing industry be given to develop their code of practice? I notice that the Minister is not here at this moment, but perhaps Mr Lamont or the Attorney-General could pick the point up.

**Mr Berry:** Do you support the amendment?

**MR STEVENSON:** Yes, I support the amendment.

**Mr Berry:** You do not have to say any more.

13 August 1992

**MR STEVENSON:** It is a relevant amendment. I wonder whether there is anything in the standing orders about interjections.

**MADAM SPEAKER:** Mr Stevenson, please restrict your remarks to the debate. Continue, please.

**MR STEVENSON:** I think I should be asked to restrict my remarks to the clause, but I wonder whether or not there should be some other remarks. So, what I ask the Minister, Mr Lamont, the Attorney-General, Mr Berry or anybody else - Mr Wood is back, so I ask him through the Speaker - is: How long will the racing industry - as I said, that is not just horseracing - be given to develop their code of practice?

**Mr Berry:** Why go on with it? It is irrelevant.

**MR STEVENSON:** Mr Berry says that what I am saying is irrelevant. I do not think it is irrelevant to ask how long the racing industry will be given to develop its code of practice. If someone thinks it is irrelevant, perhaps they could put the reason in *Hansard*, and it may enlighten me, because I cannot see it.

**MADAM SPEAKER:** Mr Stevenson, at the moment you are allowed to debate the particular amendment. Would you please debate that particular amendment and continue.

**MR STEVENSON:** If I am debating the inclusion of the racing industry in a specific clause, my decision could well depend on whether it makes any difference to include that as an amendment. With any of these codes of practice, will it make any difference? If the laws are going to be passed before any of them have an opportunity to bring in their codes of practice, we may as well knock the whole thing out - Mr Kaine's amendment and the rest - because it would be absolutely meaningless. If there is not the time for the codes of practice to be developed, what use is there in having such things as a clause that refers to codes of practice or Mr Kaine's suggested amendment that would include the - - -

**Mr Berry:** So you are now speaking against both.

**MR STEVENSON:** Mr Berry says that I am now speaking against the amendment. I am asking for an explanation. I believe that it is reasonable for any member of this Assembly to have the right to stand up and ask a question, and I then think it is perfectly reasonable - - -

**Mr Berry:** At question time.

**MR STEVENSON:** "At question time", Mr Berry says; that is the only time we can ask a question.

**Mr Berry:** Or you can put it in writing and send it up; or you can catch me between here and the lift.

**MR STEVENSON:** I tried to see Mr Collaery one time, and he said that I could see him in the Assembly. I said, "When I am walking past your chair?".

**Mr De Domenico:** What did Bernard say?



**MR STEVENSON:** He would not talk to me about the Belconnen Remand Centre at the time. At this time I ask whether the Minister would be good enough to let me know whether Mr Kaine's proposed amendment to include the racing industry will be beneficial, in that the racing industry - trots, dogs and horses - will be given time to develop a code of practice. I mean not just the local ACT racing industry but nationally. If it seems like I am belabouring the point about the code of practice, it is - - -

**Mr Connolly:** Who could accuse you of such a thing?

**MR STEVENSON:** Mr Terry Connolly asks, "Who could accuse you of such a thing?". I have asked it again and again, and still I do not have an answer; that is the only reason that I ask it.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.08): Madam Speaker, in a comment a little while ago - I do not think it was answering anything particularly - I indicated that, in the normal course of events, regulations, et cetera, are prepared, and in the case of the Dog Control Act that took about six months. Because the matter had been raised, not because I think there is a problem, I indicated that the egg production industry and the racing industry would develop their codes of practice through the AWAC, and that is the timeframe that I would have in mind.

**Mr Stevenson:** So they would be allowed to develop the code of practice first.

**MR WOOD:** That is what I have said.

Amendment agreed to.

Clauses, as amended, agreed to.

Clause 25

**MR WESTENDE** (5.09): Madam Speaker, I move:

Page 13, subclause (1), line 11, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Clause 25 deals again with the penalties, about which enough has been said; but one point especially is:

- (1) A person shall not, without a licence, use or breed an animal in or on any premises for the purposes of -
  - (a) research; or
  - (b) teaching.

Penalty: \$10,000 or imprisonment for 1 year, or both.

It is stated that subclause (1) does not apply to an authorised person. If it is not an authorised person, our question is: Who would want to breed an animal for research or teaching, and is that to mean the frogs that we talked about earlier? Once again, the Act is particularly vague.

13 August 1992

**Mr Berry:** Why do you not amend it? Just talk about your penalties. If you want to amend it again, draw up another amendment.

**Mr Humphries:** He is saying that the penalty should be lower.

**MR WESTENDE:** We are just saying that the penalty should be lower on this particular question.

Question put:

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

The Assembly voted -

*AYES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Moore  
Mr Stevenson

*NOES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Ms Szuty  
Mr Westende  
Mr Wood

Question so resolved in the negative.

Clause agreed to.

Clause 26

**MR STEVENSON (5.14):** I ask a question on paragraph 26(2)(c) - - -

**Mr Berry:** No, you cannot ask a question.

**MR STEVENSON:** Can I not ask questions?

**MADAM SPEAKER:** No; you may debate it.

**Mr Connolly:** You can make speeches.

**MR STEVENSON:** All right. I will make a statement about the determined fee.

**MADAM SPEAKER:** Excuse me, Mr Stevenson; do not misunderstand. You may ask rhetorical questions, but the purpose of your standing up is to speak to a motion and therefore debate.

**MR STEVENSON:** Surely.

**MADAM SPEAKER:** Thank you. I wanted to clarify the situation.

**MR STEVENSON:** I wonder - - -

**Mr De Domenico:** Here we go. No rhetorical laughter, please.

**MR STEVENSON:** Do not say anything funny. Mrs Grassby, would you please refrain from making any comments, lest I start laughing and lest Mr Berry says something nasty about me tomorrow. I read this and I wondered what the determined fee might be.

**Mr Wood:** May I answer you now?

**MR STEVENSON:** Rhetorically, yes.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.15): Madam Speaker, it will come before the Assembly. It is to be determined. That is the sort of thing that we have to do in the next six months that I have been talking about. It is a commonplace occurrence. It happens all the time in legislation. I am sure we are all well aware of it, including Mr Stevenson.

**MR STEVENSON** (5.15): I wonder whether I should say thank you for indicating that there is no determined fee yet - that was my rhetorical question - and that the fee situation is going to be presented to the Assembly. We will debate it and toss them all around.

Clause agreed to.

Clauses 27 to 29 agreed to.

Clause 30

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

Page 14, subclause (1), lines 31 to 36, omit the subclause, substitute the following subclause:

"(1) The Authority shall grant a licence subject to the conditions (specified in the licence) that the licensee shall -

(a) in accordance with the regulations, establish and maintain -

(i) an Ethics Committee; or

(ii) appropriate arrangements with an existing Ethics Committee for that Committee to exercise the functions of an Ethics Committee in relation to the licensee's activities; and

(b) comply with any direction of that Ethics Committee issued under the regulations."

13 August 1992

Question put:

That the clause, as amended, be agreed to.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

Clauses 31 and 32 agreed to.

Clause 33

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

Page 16, subclause (5), line 7, omit "the", substitute "a".

Clause, as amended, agreed to.

Clauses 34 to 40 agreed to.

Clause 41

Amendments (by **Mr Wood**), by leave, taken together, and agreed to:

Page 19, line 2, insert at the beginning the following subclause:

"(1) The Ethics Committee shall grant an authorisation subject to the condition (specified in the authorisation) and the authorised person shall comply with any direction of the Ethics Committee issued under the regulations."

Page 19, line 2, after "such", insert "other".

Page 19, line 11, omit "practice;", substitute "practice".

Page 20, line 12, omit the paragraph.

Clause, as amended, agreed to.

Clauses 42 to 44, by leave, taken together, and agreed to.

Clause 45

Amendments (by **Mr Wood**), by leave, taken together, and agreed to:

Page 20, line 9, subparagraph (2)(b), omit "condition", substitute "authorisation".

Page 20, line 20, add at the end the following subclause:

"(5) The Ethics Committee shall not vary or revoke the condition of an authorisation referred to in subsection 41(1)."

Clause, as amended, agreed to.

Clauses 46 to 50 agreed to.

Clause 51

Amendments (by **Mr Westende**), by leave, proposed:

Page 22, line 22, subclause (1), after "circus" (wherever occurring) insert "or rodeo".

Page 22, line 23, subclause (1), omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

**MR Kaine** (Leader of the Opposition) (5.27): Madam Speaker, given that our amendment to clause 18 in connection with rodeos was negated, we cannot proceed with these amendments. They should be withdrawn.

**MADAM SPEAKER:** Thank you, Mr Kaine. I will seek advice.

**Mr Westende:** I would like to speak on my amendment No. 19.

**MADAM SPEAKER:** Mr Westende, I am seeking advice.

Mr Kaine, my advice is that they can be moved because it is a different clause.

**Mr Connolly:** The sensible course is as Mr Kaine suggests.

**Mr Moore:** Logic would have it that Mr Westende withdraw them.

**MADAM SPEAKER:** Yes. That is what I was going to say. If Mr Westende chooses to withdraw them, he may.

**MR WESTENDE** (5.27): Madam Speaker, I seek leave to withdraw my amendment relating to line 22.

Leave granted.

Amendment to line 23 negatived.

13 August 1992

**MR LAMONT (5.28):** I move:

Page 22, line 25, add at the end the following subclauses:

"(3) A person shall not conduct a circus using a prohibited circus animal.

Penalty: \$10,000 or imprisonment for 1 year, or both.

"(4) A person shall not import a prohibited circus animal into the Territory as part of a circus troupe, whether or not for the purpose of using the animal in the circus.

Penalty for contravention of subsection (4): \$10,000 or imprisonment for 1 year, or both."

Madam Speaker, this subclause will provide for penalties should a person breach the provisions of clause 4 of the Bill that was agreed to in the Assembly on Wednesday.

**MR STEVENSON (5.29):** I think this is relevant. At 3.30 pm today I received a statement from Mr Vladimir Orlov of the USSR, now Russian, Trade Consulate. He confirmed that, as a matter of policy, the Moscow Circus never appears without performing animals. The statement is that it never has. In 1990-91 there were as many as 23 Moscow circuses touring the world at any one time. Not one was allowed to perform without performing animals. In addition, there were many troupes of stars of the Moscow Circus. These were allowed to perform without their own performing animals, but generally performed in programs with performing animals from other countries. That is an interesting point to raise.

Amendment agreed to.

Clause, as amended, agreed to.

Proposed new clause 51A

**MR LAMONT (5.30):** I move:

Page 22, line 25, after clause 51, insert the following new clause:

**Regulations - prohibited circus animals**

"51A. The regulations may prescribe an animal for the purpose of paragraph (c) of the definition of 'prohibited circus animal' in section 4."

**MR CORNWELL (5.31):** I would like an explanation of what this means, Madam Speaker. I think I have a fair idea, but I would like to hear Mr Lamont explain it to us.

**MR LAMONT (5.31):** The debate has centred around the essential elements of the degree of cruelty which exists with the caging, hobbling and permanent transportation of these exotic animals which are not able to be released into a more natural environment for their own health. If, all of a sudden, somebody started training and using armadillos, for example, in circuses as part of the circus troupe and the conditions, et cetera, were regarded as being inappropriate, an instrument pursuant to this clause, disallowable by this Assembly, could be made by the Minister.

**MR HUMPHRIES (5.32):** Madam Speaker, this proposed new clause obviously extends the provisions of clause 51 to allow the Minister to prescribe other animals for the purpose of the ban on circus animals. Obviously, there is an argument about whether that be done by the Minister in a regulation or whether it be done by the Assembly voting in formats such as this.

I think it is not overstating things to say that we have had tremendous controversy about this provision in the last few weeks, particularly in the last three days. It has been a tremendously volatile issue for this community. Frankly, Madam Speaker, I would rather that the initial debate, if we were to extend the definition of prohibited circus animals to include other animals, should again occur in the context of this Assembly, not in the context of the Minister deciding that he wants to ban a particular sort of animal and then our coming back maybe two months later to decide whether or not we agree with his ban.

The fact is that you have caught all the traditional circuses in Australia at present with this ban. There are no circuses I know of that use animals that are going to come to the ACT, now that we have this ban in place - none at all.

**Mr Connolly:** Even the armadillo circus.

**MR HUMPHRIES:** I have never heard of an armadillo circus, and I do not think you have either, Mr Connolly. The point is that we have effectively imposed this ban. It is possible, I suppose, that somebody could decide to form an armadillo circus for the express purpose of defeating the ACT Government's legislation, and the Minister might decide that armadillos are poor, oppressed creatures who pine for the open plains of Africa or India, like cheetahs, lions and tigers.

**Mr Wood:** South America, actually.

**MR HUMPHRIES:** Or wherever. They probably pine for the incubator where they were born in captivity, but let us put that to one side. They pine for something else some way away and the Minister decides, "Yes, I am going to ban armadillos in circuses in the ACT. The armadillo circus coming to the ACT next week shall be banned". Madam Speaker, I think we know that that is not going to happen. I think we know that most of the circuses have already been caught.

But there may be shows that use domestic animals like horses and dogs which might come to the ACT and which might call themselves circuses. If the Minister were to propose to ban certain sorts of ponies, or fiord horses, or whatever it might be, I would want to have a say on that matter; not after you have made the decision to ban the circus, not after - - -

**Mr Lamont:** You will, because the instrument is a disallowable instrument.

13 August 1992

**MR HUMPHRIES:** It is disallowable, Mr Lamont, after the decision has been made, not before. The decision is made, the circus is banned, and we have a say long after the thing is a fait accompli. That is the point. The Minister hears in the middle of December that Freddy's fiord horse circus is arriving in town in the middle of January and he issues a regulation saying that fiord horses are a prohibited circus animal. The Assembly has no capacity to question that matter until it resumes at the beginning of February, or whenever it might be.

**Mr Lamont:** Nonsense!

**MR HUMPHRIES:** It is not nonsense. It is exactly what happens.

**Mr Wood:** I can answer your question.

**MR HUMPHRIES:** That will be a change. Madam Speaker, the fact is that in those circumstances we would miss out on that activity. This has been an enormously controversial matter of inestimable heartburn to our whole community. Let us make sure that any further debates on what animals we are going to ban take place here in the Assembly, not in a suite on the fifth floor of this building.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.36): Madam Speaker, this is what we are complaining about; this is the level to which this debate has been reduced. I could say to you flippantly that, when Freddy's fiord horses come, I will consult you, Mr Humphries, because that is about the level of the debate that you have raised. I think the disallowable instrument is entirely appropriate. As a Minister for this Territory, you did not come into this Assembly and want to talk to everybody about the whole range of rather routine administrative matters that you agreed to.

**MR STEVENSON** (5.37): Madam Speaker, this amendment, which henceforth will be known as the armadillo amendment, has a number of problems. It is not, by any means, a minor thing. Mr Wood, the Minister, refers to this as a rather routine matter. It may be routine for the Minister to be able to ban animals from appearing in circuses, whatever they are, because they are undefined within the Act, in the ACT; but it is certainly not a routine matter for people who may want to watch the particular animals perform or people who may want to operate whatever it is that is described as a circus.

I can well understand that many Ministers feel that legislation, largely, should be done by way of regulation. This tedious, boring activity called parliamentary debate could well be done away with. Ministers, in their great, godlike wisdom - I suppose it is reasonable to say that - should be able to determine these matters. We, the Assembly, might have some other view after the decision has been made and the Minister has said, "Listen, this is how it is going to be". We have to come along and present some argument that it should not be like that, after the mind has been made up without open debate.

**Mr Lamont:** This is repetitive, Dennis.

**MR STEVENSON:** Mr Lamont says that this is repetitive. There should be fair debate. Members of this Assembly should make the laws on behalf of the people of Canberra. We should make the laws. The Ministers should not have whatever powers they would like to have. Many Ministers in governments would like far



more power than they already have. If you ask people in the community whether these matters should be debated and determined in the Assembly or whether they should be determined by a Minister, they will say that they should be determined by members in this Assembly, on their behalf, not by a Minister.

The words that I say presumably are an absolute bore to some members opposite. I am not supposed to get up here and say that the banning of primates, for example, should be determined by this Assembly, not by the Minister. Let me tell you why I think this particular clause has far more relevance than most. Mr Lamont would have some inkling of this because Mr Lamont, I am told - I did not hear it myself - has gone on television and said in the media and other places that he was not particularly concerned about Mr Moore's amendment in regard to those animals that would be banned. I refer to Mr Moore's amendment to do with primates. He was not particularly concerned about whether that was passed or not. If I am incorrect, obviously Mr Lamont has an opportunity to hop up and to say that he did not say that. I was told that it does not matter that we, the Assembly, will exclude primates from the ban because they will be covered by the Minister anyway.

**Mr Lamont:** You did mishear.

**MR STEVENSON:** It is not a matter of mishearing. I did not hear it myself. That is what I was told. If that is not the case, I ask the member to explain exactly what he did say about Mr Moore's amendment.

**Mr Lamont:** I do not have to explain anything to you.

**MR STEVENSON:** Mr Lamont is quite right; he does not have to explain to me about anything. However, it is an important point. Let me make a couple of important points. Because there is no definition of circuses, this does not only affect circuses coming to Canberra. It can affect circuses or organisations operating within Canberra. This very important question should be determined by the Assembly, not by the Minister. I think that would be agreed by the vast majority of people in this community.

Question put:

That the proposed new clause be inserted (**Mr Lamont's** amendment).

The Assembly voted -

*AYES, 9*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Ms Szuty  
Mr Westende

Question so resolved in the affirmative.

Clause 52

**MR WESTENDE** (5.46): Madam Speaker, I seek leave to withdraw my amendments Nos 20 to 29 inclusive.

**MADAM SPEAKER:** Just do not move them, Mr Westende.

**MR LAMONT** (5.46): Madam Speaker, I move:

Page 22, line 30, after paragraph (a), insert the following paragraph:

"(aa) be accompanied by a list of animals which are to form part of the circus troupe, whether or not the animals are to be used in the circus;"

This amendment provides that, when applying for a permit to enter the ACT, a circus is required to provide a list, with the application for its permit, of all animals accompanying the circus, whether or not they are to be used in the circus.

**MR CORNWELL** (5.47): Madam Speaker, I think it is fairly plain to anybody with an ounce of sense that Part IV of this legislation will simply prevent any circus from coming into the ACT. They would not waste their time with all this bureaucratic nonsense. However, in the unlikely event that they did do so, I would suggest that they may be in some difficulty if this amendment goes forward. There is a penalty here of \$10,000 or imprisonment for one year, or both, for not getting a circus permit. What you have to put in the application for the permit is set out in subclause 52(2), and Mr Lamont seeks to add this requirement of a list of animals. This application has to be lodged no later than four weeks before the proposed date of the opening of the circus.

What happens if some of the animals are pregnant? What happens if one of the animals dies in the four weeks after the application has been lodged? This highlights the stupidity and absurdity of this clause and this requirement. Obviously, whoever lodged the application would be in breach of this Act and presumably would suffer this horrendous penalty. This is a nonsense. I suggest that there is every reason to reject it out of hand. Fancy counting animals that may or may not be involved in circuses.

**MR STEVENSON** (5.49): There is a point that I would like to make about this clause; indeed, about all the clauses under Part V to do with circuses, from clause 51 to 58. There are some excellent requirements within these clauses relating to circuses. It is unfortunate that they are not to operate for traditional circuses within the ACT as most people would like them to. It is not as if the legislation has not covered the area, and covered it well; it has.

The Bill as drafted has three pages covering the application for circus permits and the operation of a circus within the ACT. It goes into various aspects of how that should be done and the power of the Government to say that, under various circumstances, it is not going to let a circus come to Canberra because it may have committed offences or whatever. The suggestion that we have not done the job properly is not fair. The Government had had all these clauses drafted. There are three pages of them in this one Bill. That is more than some Bills in their entirety. Those clauses cover exactly the rights and duties of various people, the grant of

circus permits, and so on. It is unfortunate that these were not allowed to operate to make sure that circuses, when they did come to Canberra, operated for the benefit of the people of Canberra and also to ensure that the animals' welfare was taken care of.

**MR LAMONT** (5.51): Madam Speaker, briefly, to answer that, the simple fact is that a circus entering the ACT last week, or last year or last decade was required to comply with exactly this provision.

Question put:

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

The Assembly voted -

*AYES, 9*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Ms Szuty  
Mr Westende

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clause 53

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

Page 23, line 6, after subclause (1) insert the following subclause:

"(1A) The Authority shall not grant a circus permit where a prohibited circus animal is to form part of the circus troupe, whether or not the animal is to be used in the circus."

Clause, as amended, agreed to.

Clause 54 agreed to.

Clause 55

Amendments (by **Mr Lamont**), by leave, proposed:

Page 23, line 32, insert at the beginning the following subclause:

"(1) It is a condition of a circus permit (to be specified in the permit) that the permit holder shall not include in the circus troupe a prohibited circus animal, whether or not for the purpose of using the animal in the circus."

Page 23, line 32, after "such", insert "other".

13 August 1992

**MR HUMPHRIES** (5.55): Again, Mr Lamont's jealous desire to exclude circuses from this Territory goes to the extent of making sure that the authority does not even have discretion about these matters, or does not have any sort of grey areas to adjudicate on. There are no limits to his venom about circuses, as far as I can tell.

Obviously, this is about a circus that comes to town, that respects the ACT's rule about not having performing prohibited circus animals in it, and that decides not to allow its animals to perform. It puts them to one side, in other words. It does not make them part of the show that comes to town. It is obviously going to retain those animals. It is not going to kill them or leave them on the border. Those animals are going to remain part of the circus, but they are doing what your Government is trying to encourage - getting away from animal-based circuses.

**Mr Connolly:** So it does not bring them to the ACT.

**MR HUMPHRIES:** That is what you are saying. This is what we mean when we say that you are trying to stop circuses altogether. A circus that does not use a prohibited circus animal cannot even come to the ACT. The performing elephant or cat with the circus, which is not put on show when it gets to Canberra because that circus respects the laws of the ACT, cannot come here. They have to leave the circus animal outside the Territory. That is stupid. We are banning circuses. They cannot perform as circuses in the ACT.

**Mr Connolly:** We are banning shackled animals in the ACT.

**MR HUMPHRIES:** No, you are not banning shackled animals in the ACT because you have admitted, by passing this provision, that you cannot make shackled animals part of the provision under clause 7, which deals with cruelty to animals. You know that that is not covered by the provision in the Bill, so you are relying on some other provision which bans circuses. It does not make sense. Okay, you do not want circuses. You have made that point very clearly.

**Mr Connolly:** We do not want the animals.

**MR HUMPHRIES:** All right, you do not want the animals in the circus. You want to exclude prohibited circus animals from performing in the ACT. Fine.

**Mr Connolly:** From being in the ACT.

**MR HUMPHRIES:** No, that is not what the Bill says. You are simply going to make circuses who still want to come here - goodness knows why they would, frankly - make arrangements to have the animals left on the border. It does not achieve a single thing, except to keep circuses away from the people of the ACT. We know what this hidden agenda is, to adopt Mr Berry's words. The hidden agenda here is to make sure that circuses do not get the chance to come to the ACT to lobby the people of the ACT about this circus ban.

**Mr Lamont:** Nonsense!

**MR HUMPHRIES:** No; we can see through your little game. We know what you are after. Madam Speaker, this provision is nonsense. If you want to ban circus animals performing, fine, ban them; but do not make it inconvenient or impossible for circuses that might want to come here and respect the laws of the Territory to retain the animals they already have. That is just sheer pig-headedness.

**MR STEVENSON (5.59):** Madam Speaker, this clause, I believe, hands a huge power over to the authority. Should we allow an authority to determine what are reasonable grounds? The definition of reasonable grounds in someone's mind is open to debate. As we have seen, reasonable grounds have been presented by some members opposite, particularly the Minister today, and I am sure that on reasonable grounds he thought "promote" meant something other than it did. So "reasonable grounds" in the mind of the authority is a huge power to grant.

We should spell out the provisions of the Bill. We should spell out the prohibitions and how various industries that have animals should operate. It should not be left to somebody's opinion to determine that no circuses will come to Canberra or operate in Canberra, simply because they believe it to be appropriate. I wonder what the Minister will say when the point is raised. Why should the authority have power outside this legislation? I do not mean that they should not be given power under the legislation, but why should the authority have power outside the legislation to do this?

**Mr Berry:** Because the law says it. You can either oppose it or support it.

**MR STEVENSON:** Mr Berry says, "Because the law says it". That is why I wonder about the question. I grant that the law says that the authority has the power.

**Mr Berry:** Where is your amendment?

**MR STEVENSON:** I do not have one at the moment; but, if other members, or members of the Liberal Party, are concerned about the power this has, I will be happy to try to write one.

**Mr Lamont:** He sat down today to read it for the first time.

**MR STEVENSON:** Mr Lamont says that I sat there today to read it. That is not the case. It is such an involved Bill. The thing is how many pages long?

**MADAM SPEAKER:** Mr Stevenson, we are discussing amendments 6 and 7 to clause 55. Please discuss that.

**MR STEVENSON:** Thank you, Madam Speaker. It is 53 pages long. I think it is reasonable to mention that I have looked at it before, but it requires an immense amount of time and debate on this floor. That is why I wondered what the answer from the Minister would be as to why we should hand over to the authority the power basically to ban any circus. It is similar to the point I raised a moment ago. That should be something we decide in this Assembly. I am interested in what other members think about that. It is one thing to have legislation; it is another thing to give open-ended power to outside authorities.

13 August 1992

Question put:

That the amendments (**Mr Lamont's**) be agreed to.

The Assembly voted -

*AYES, 9*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Ms Szuty  
Mr Westende

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clauses 56 to 58, by leave, taken together, and agreed to.

Clause 59

**MR WESTENDE** (6.06): Madam Speaker, I move:

Page 25, subclause (1), line 27, omit "\$10,000 or imprisonment for 1 year, or both", substitute "\$5,000 or imprisonment for 6 months, or both".

Here again we have some inconsistencies. Clause 59 deals with traps. It reads:

A person shall not, without reasonable excuse, set a steel-jawed trap or a prohibited trap to catch an animal.

For that you want a fine of \$10,000 or one year's imprisonment, or both. But you can have a trap for display. Who is to determine whether that trap is for display, or even on display, and cannot be used for trapping?

**Mr Connolly**: Defender of the steel-jawed trap. This is pathetic!

**MR WESTENDE**: Madam Speaker, those remarks do not receive a reply. They are not worthy of it. It is genuinely a cause of concern amongst some people that they could have a trap on display but be accused of using it for trapping. It is a very fine line to determine whether it is on display or whether it is used for trapping. We believe that it would be reasonable to halve the fine. Apparently the other side is not interested in listening to this, so I rest my case.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (6.08): Madam Speaker, let me allay the concerns of Mr Westende. Indeed, Mr Berry raised the same question when our party was discussing this. He said that he had a good - - -

**Mr Stevenson:** Does that mean that it is not stupid now?

**MR WOOD:** No, it has been addressed. It is a good question that you ask, Mr Stevenson. What happened was that within the Labor Party we sat around and discussed this and sorted it out long before it came into this Assembly - something that other people should have done. If you look at paragraph (3)(a) or (3)(b), Mr Westende, there is your answer.

**MR STEVENSON (6.08):** Madam Speaker, I have a couple of points. I start with the comment by Mr Wood that the Labor Party got together and sorted all these things out earlier - except, of course, to do with fishing - - -

**Mr Wood:** We read it.

**MR STEVENSON:** "We read it and we missed that bit". Is that the truth or not? Did you read "promote" and miss that bit?

**Mr Wood:** When did you first look at this?

**MR STEVENSON:** I looked at it a long time ago. It was perfectly okay for Mr Berry to bring the point up. I think it is reasonable for any member to bring up any of these points. It is perfectly okay to raise them in this house.

**Mr Wood:** With the right motive.

**MR STEVENSON:** Heaven's above, who can tell what the motive is? The other point I want to raise is to do with the penalty of \$10,000 or imprisonment for one year for setting a steel-jawed or a prohibited trap to catch an animal. I do not think this is a matter of the peach on the tree. To say that someone deserves to be imprisoned or fined \$10,000 for setting a steel-jawed trap, when we look at the level of penalties for various things in our society, I think is unreasonable. There are times, I grant, when a high fine and perhaps imprisonment in an extreme case may be valid.

**Mr Connolly:** Do you know what it can do to a kid if he steps in one of these things? Off goes the foot.

**MR STEVENSON:** The Attorney-General raises an interesting point: Do I know what these things can do to a child - not a kid; that is another animal? Of course it could damage a child or anybody else who steps in one, and that may be a reasonable point if there were no other - - -

**Mr Connolly:** They are just wasting time.

**MR STEVENSON:** The Attorney-General says that I am just wasting time. I am prepared to look at the point he raised and say that it is a fair point and that maybe it is relevant in this case. What I get is an interjection that it is a waste of time. The whole principle should be that members should be allowed to raise any point they like and debate it. That is the key to what we should be doing here. The idea that simply because it disagrees with someone's viewpoint it should not be said is unreasonable.

13 August 1992

**MR WESTENDE** (6.13): Madam Speaker, I just heard Mr Wood retort to Mr Stevenson, "When did you read this?". I draw to Mr Wood's attention that I raised this clause with him over a week ago. I have yet to receive a satisfactory explanation as to why those things were not acceptable or what the reason behind it was. If you want us to be informed, Mr Wood, you or your department could have had the courtesy to inform me. Three times I rang your department and three times I was told that it was still under consideration. That was the last I heard from your department. Mr Wood, before you make those comments, I would like you to acknowledge that we did try to discuss this with your department, that we did try to raise especially this point, and that your department did not have the courtesy to reply to me.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (6.14): I will make it quite clear that Mr Westende came to me with a range of proposals. When I saw them I do not think they were in amendment form. I certainly have a response to those, and perhaps I have been remiss in not forwarding it to Mr Westende. I think we did indicate that we could not accommodate very much. Certainly, he made the approach and we went down that path. Perhaps I should have passed these over to him, indicating whether we were going to support them or not.

Amendment negatived.

Clause agreed to.

Clause 60 agreed to.

Clause 61

**MR WOOD:** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (6.15): Madam Speaker, I move:

Page 26, subclause (3), lines 17 to 21, omit paragraphs (b) and (c), substitute the following word and paragraph:

"and (b) a person related by blood or adoption to the occupier."

I also table the supplementary explanatory memorandum to the fourth Government amendment, which was circulated some time ago. It might satisfy Mr Westende to hear that his amendment is not really necessary because the definition of the term is quite clear.

**Mr Westende:** In that case, Madam Speaker, I will not move my amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 62 to 72, by leave, taken together, and agreed to.



Clause 73

Amendments (by **Mr Wood**), by leave, agreed to:

Page 31, paragraph (1)(b), line 23, omit "or".

Page 31, subclause (1), line 23, after paragraph (b) insert the following paragraph:

"(ba) in relation to a delegate of the Authority, where the delegate exercises a power of an inspector - the identity card issued to the delegate under subsection 6(4); or".

Clause, as amended, agreed to.

Clauses 74 to 80, by leave, taken together, and agreed to.

Clause 81

**MR WESTENDE** (6.17): I move:

Page 34, paragraph (1)(g), lines 34 and 35, omit "and require reasonable answers to such questions".

If the Government agrees to this amendment I will thank it, because I think it is a good suggestion.

**Mr Wood**: We are going to agree.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 82 agreed to.

Clause 83

**MR WESTENDE** (6.18): Madam Speaker, I move:

Page 36, paragraph (1)(g), lines 25 and 26, omit "and require reasonable answers to such questions".

This amendment is similar to the amendment to clause 81. I hope the Government will support this amendment as well.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 84 to 86 agreed to.

13 August 1992

Clause 87

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

Page 39, paragraph (3)(b), line 15, omit "82", substitute "83".

Question put:

That the clause, as amended, be agreed to.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

Clauses 88 to 113 agreed to.

Schedule agreed to.

Title agreed to.

Motion (by **Mr Stevenson**) put:

That clause 18 be reconsidered.

The Assembly voted -

*AYES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

*NOES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

Question so resolved in the negative.

**MADAM SPEAKER:** The question now is: That this Bill, as amended, be agreed to.

**MR KAINE** (Leader of the Opposition): Madam Speaker, at this stage, before the Bill is passed by the Assembly, as it inevitably will be, I would like to put on record - - -

**MADAM SPEAKER:** Mr Kaine, under standing order 189, the question is not open to debate.

**MR KAINE:** I seek leave to make a final statement, Madam Speaker.

Leave granted.

**MR KAINE:** Thank you, members. Before the Bill is finally voted on, I would like to put on record the opposition of the Liberal Party to this Bill in its entirety. We have attempted to debate it through the course of three days, unsuccessfully. It would appear that the Government has set its mind to putting the Bill in place in its totality, without accepting any argument on any point, whether right or wrong.

**Mr Moore:** Nonsense! You have got amendments up.

**MR KAINE:** We proved that the Bill was defective, and in one or two cases the Government was sensible enough either to accept our amendments or, on our advice, to make amendments of their own. I think that is indicative of the fact that there were many things about the Bill that needed correcting - and there still are. There still are things in this Bill that need correcting. There are intended consequences of this Bill that I believe the Government will rue. There are a lot of unintended consequences that the Government has not even yet identified but which will surface when people handling animals in many different ways in the Territory over the next months realise what the impact of this Bill is on them. I do not think the Government understands the ramifications of it, in many cases.

Suffice it to say that the Liberal Party is still not satisfied that this is good legislation. In fact, we believe that it is bad legislation. We do not support it. We support the principle of animal welfare, but there is much in this Bill that we do not agree with. We cannot support it in its present form, amended or not.

**MR STEVENSON:** Madam Speaker, I seek leave to make a brief statement.

Leave granted.

**MR STEVENSON:** If we benefit from this debate over the three days, that at least would be a benefit overall. Mr Berry a moment ago said, "We are a consultative government". He meant, "except for the horseracing industry, the pet shop industry, the greyhound industry, the aquarium industry, the rodeo industry and the circus industry". Apart from that, indeed they consulted heavily with those people concerned about animal welfare. If we could learn to use this as a model of how not to go about things, that would be beneficial.

**Mr Berry:** Horseracing people never come near me, Dennis. I told you that. They are not interested. They are not worried about it. The champion of horseracing in the ACT!

13 August 1992

**MR STEVENSON:** I think it would be known that I am not particularly a champion of the horseracing industry. I do not know much about it at all. I do not gamble in that area.

**Mrs Grassby:** You seem to have said a lot about it today.

**MR STEVENSON:** I think it is obvious why I have done that. There was not fair consultation with the industries. That is undeniable. There was no consultation with the vast majority of them. Unfortunately, the consequences of this Bill will be apparent in due course.

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

*AYES, 10*

Mr Berry  
Mr Connolly  
Ms Ellis  
Ms Follett  
Mrs Grassby  
Mr Lamont  
Ms McRae  
Mr Moore  
Ms Szuty  
Mr Wood

*NOES, 7*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Humphries  
Mr Kaine  
Mr Stevenson  
Mr Westende

Question so resolved in the affirmative.

## **ADJOURNMENT**

### **Retirement of Mr Bill Spellman**

**MR BERRY** (Deputy Chief Minister) (6.33): Madam Speaker, I move:

That the Assembly do now adjourn.

I wish to speak on the retirement of Bill Spellman, an organiser with the Australian Workers Union. Bill was born in Sydney in 1928 and spent most of his life in the south-eastern region of New South Wales. He retired last week as an organiser of the Australian Workers Union, after a long career devoted to improving the conditions of workers in Canberra and the Eden-Monaro area.

Bill received three years of education in a small one-teacher school at Ingebyra near Jindabyne. At the age of 15 he began his first job as a picker-up in a shearing shed near Cooma. In these surrounds he first joined the AWU. In his early life, most of the winters were spent in the mountains rabbit trapping and finding casual work on farms. He had his first job as a shearer in 1946. In the same year he played a part in the campaign at a property near Junee for a 40-hour week.

Some members in this chamber may not appreciate the work unions have done to improve conditions. Fighting for a 40-hour week was a tough campaign that took a strong resolve to stick with. Thanks to the initial efforts of workers such as Bill Spellman, in Australia we now have 35- or 38-hour weeks. As part of the campaign, the whole shearing team was sacked and scab labour was brought in from Victoria. Time has proven that his and the other shearers' position was correct. This is a lesson we should never forget.

In 1951 Bill married and in 1953 he ended shearing and worked as a fencer near Cooma. At the same time he joined the Australian Labor Party and became secretary of the Cooma branch. As a member of the Labor Party he was a delegate to the Eden-Monaro electorate council, the Monaro State electorate council and to the New South Wales branch conference for nearly 20 years. Bill Spellman maintained his involvement in the labour movement. He was active in the pastoral industry dispute in 1956 and, following that, saw the need for organised labour in the Cooma area. He set up and became secretary of the Cooma AWU pastoral committee. He was committed not only to the labour movement but also to the community where he lived. Bill Spellman was a member of the Cooma District Hospital board, an alderman on the Cooma Municipal Council, and later a member of the ACT Advisory Council.

Bill was always active in the AWU, and in 1959 he was appointed the organiser for the Canberra and southern areas. As an organiser, some of the job sites covered by the AWU were the Commonwealth Avenue bridge, Kings Avenue bridge, Bendora Dam, Corin Dam, Scrivener Dam, Lake Burley Griffin, Molonglo sewerage treatment works, Tuggeranong-Molonglo sewerage tunnel, and Googong Dam. His union's members contributed a great deal to the building of the nation's capital. As an AWU organiser, he also covered the cleaners until 1962, and the shearing sheds in Wagga, Junee, Cootamundra, Young, Cowra, Crookwell, Goulburn, Braidwood, Cooma and Bombala. Bill Spellman continued his involvement with the AWU and was going to retire in 1990. However, union organisers of that calibre are difficult to replace and he remained an organiser until this year. The union movement, in particular the AWU, and all Australians have benefited greatly from the spirit and courage of Bill Spellman, and will remember and feel his contribution for many years.

### **Retirement of Mr Bill Spellman**

**MR LAMONT (6.37):** Madam Speaker, I wish to make a short statement in support of Mr Berry's comments. I too wish to pay tribute to the work of Bill Spellman as a fine Australian and as somebody with whom I was proud to be associated during the 15-odd years prior to entering the Assembly that I was an active trade union member and official in the ACT. Mr Spellman is well known throughout country New South Wales and the ACT for his unceasing efforts on behalf of working-class men and women, particularly in the rural sector. Although I will admit that at times I may have differed with Mr Spellman, I always knew that, in terms of the way he presented an issue, when it was dealt with he would get on and deal with the next issue. Although at times this phrase is overused, I believe that Mr Spellman epitomises what I regard as the greatest accolade you can pay a fellow Australian: He is a fine Australian, and was a fine Australian in the work he carried out.

13 August 1992

### **Retirement of Mr Bill Spellman**

**MR HUMPHRIES** (6.38): Madam Speaker, I have been impressed by the comments about Mr Spellman. I never met the gentleman, as far as I am aware; but one small observation comes to mind. I understood Mr Berry to say that Mr Spellman began life as a trapper, and I assume that in those days he would have used steel-jaw traps and roamed around the place. I am glad Mr Spellman has retired, because under this new Labor vision he would not have been able to follow those homely pursuits that he did when he first began his working life.

### **Downtowner Bus Service**

**MR STEVENSON** (6.39): I would like to commend Mr Humphries on paying such attention to what Mr Berry said. We will never be able to say that he does not listen.

**Mr Lamont:** But he does not understand.

**MR STEVENSON:** I think he understood well; he put the point very well. I wish to talk briefly about that magnificent service, the Downtowner bus. It is free, unbeknown to most people in Canberra. I have said in this Assembly before that it is a truly wonderful idea for tourists. The buses look absolutely great, they enhance the city, and I think it is a nice service to allow people to travel around the city freely.

I followed one one day and tried to find out where it indicated that it was free. There is a tiny little spot on the front left-hand angle where it says "Free Service", but it is a well-kept secret. I rang the head of ACTION and mentioned that perhaps larger signs could be placed tastefully on the bus to let everybody know that it is a free service. You quite often see the bus largely empty as it goes around. Five people is about the most I have ever seen in it.

If the majority of people in Canberra knew it was free, or if the bus itself had "Free Service" where you could see it, all the tourists would hop on. Because some people may not think there is any problem, we added a question on it to one of our surveys. We found that more than half the people in Canberra do not know that it is free. There was a bias in the survey. Most people asked were in the city, where the bus runs around. If you went into the suburbs you would get a much higher percentage of people who do not know. I simply say: It is a wonderful service. Let people know it is free. I will be happy to get out there with the paint. After I have finished with the trams, you will certainly know that they are free.

Question resolved in the affirmative.

**Assembly adjourned at 6.41 pm until Tuesday, 18 August 1992, at 2.30 pm**

**ANSWERS TO QUESTIONS**

**ATTORNEY GENERAL**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO 90**

**Walter Oswald Watt Memorial Fund**

Mr Cornwell - asked the Attorney General -

Who were the beneficiaries, by name, of the Walter Oswald Watt Memorial Fund in (a)1989; (b)1990; and (c)1991.

Mr Connolly - the answer to the Members question is as follows:

The Walter Oswald Watt Memorial Fund is a private trust fund established by Colonel Walter Oswald Watt, an early Australian aviator with links to Canberra and Duntroon. In 1910, Colonel Watt conducted one of the first aerial surveys of the Australian Capital Territory. He identified the area around Duntroon as an ideal location for the construction of an aerodrome.

In his will, Colonel Watt set aside 500 pounds for the establishment of a trust fund to be administered by the Commandant of the Royal Military College at Duntroon. The purpose of the trust fund was to provide an annual prize for the best essay by a cadet about military aviation or aeronautics. Under the terms of the trust, only one prize of one set of field glasses was to be made each year.

In 1938, Administrator Huntingfield made the Walter Oswald Watt Memorial Fund Ordinance 1938 which varied the initial trust to allow two prizes to be given annually. The Ordinance was slightly modified in 1939.

From 1989 to 1991 prizes were awarded to:

(a) 1989 Lt MD Prictor  
Lt NL Beckett

(b) 1990 Lt NH Stanton  
Lt Wallace

(c) 1991 Lt GNP Bryant  
Lt SNP McDonald

In June 1992 Lt EGA McDonnell was awarded a prize (a second prize has not yet been made).

1721

13 August 1992

**ATTORNEY GENERAL**

**LEGISLATIVE ASSEMBLY QUESTION  
QUESTION NO 100**

**Laws Binding the Crown**

Mr Cornwell - asked the Attorney General -

In relation to the provisions concerning eviction set out in the Landlord and Tenant Act 1949 which do not apply to the Crown in its capacity as landlord -

- (1) Does the Government intend to rectify this matter so the tenants with the Crown as their landlord have the same protection as tenants of other landlords; if so, when.
- (2) What other Acts do not bind the Crown.
- (3) Does the Government have a policy to amend these Acts so that the Crown and the general public are on equal footing:
- (4) Are there any Acts which currently preclude the Crown which the Government does not intend to amend and; if there are, why not."

Mr Connolly - the answer to the Members question is as follows:

- (1) This Government is mindful of the disparity between legislation applying to tenants of private and public housing. For this reason, the rights of tenants of Government housing is one of the major issues for consideration by the ACT Community Law Reform Committee within the terms of reference which require it to consider all facets of residential tenancy law reform.

All members have recently received a copy of a discussion paper on residential tenancy law produced by the Committee for public comment. The Committee will conclude its report on issues concerning residential tenancy law later this year following the current phase of consultation with the community. The Committee will then pursue a further phase of consultation on issues specific to public housing and prepare a second report on whether the same legislation should apply to both public and private rental accommodation. Preparation of this second report will commence in October this year.

1722



This approach will ensure that the wider community has adequate opportunity to debate all issues relevant to private and public housing in a logical and manageable fashion.

I do not propose to preempt the Committees recommendations on tenancy law by taking any further action at this stage.

- (2) It is not possible to give a definitive answer to this question. While some ACT laws expressly bind the Crown in the light of the ACT, many laws are silent on the issue. In respect of the latter, a rule of statutory interpretation at common law favours the Crown not being bound by the law in the absence of express provision. Following the recent High Court case of *Bropho a State of West Australia* (1990) 93 AM 207, the common law rule has been reexamined. While uncertainty remains, Courts may now be less reluctant to find that the Crown is bound by a law.
- (3) The Government has adopted a policy that the Crown should be a model citizen. In order to give effect to this policy and to provide certainty in this area of law, over the next months the Government will introduce amendments to ACT legislation to put the public and the Crown on the same footing as nearly as possible. At the end of this exercise, I envisage that the Crown will be in a different position to the public in respect of the question of being bound by the law only where there are good reasons for this to be the case. Such cases will include situations where a Crown servant would need to be exempt from the law to perform his or her duties. For example, Parks and Conservation officers take samples of water from lakes for occasional testing. They should not be bound by a law that makes it illegal to remove water from lakes.
- (4) The Attorney General's Department is now considering the best options for implementing the Government's policy given that sometimes there will need to be exceptions. The Government does not believe that the Crown will always need to be bound by provisions that require the Crown to pay itself fees or, as stated above, where the law would forbid the Crown from carrying out its legitimate functions. In addition, if an Act specifically covers private activities and not public activities then it is pointless to make the Crown bound by the Act.

1723

13 August 1992

**MINISTER FOR HEALTH  
LEGISLATIVE ASSEMBLY QUESTION  
QUESTION 181**

**Woden Valley Hospital - Case-Mix Index**

Mrs Carnell - asked the Minister for Health:

1. Has the case-mix profile of Woden Valley Hospital been examined, using the ACT Hospital Morbidity Data Collection, to see whether the profile of this hospital looks more like a Type 1 hospital than the Type 2 status it currently has; if not, why not?
2. Has any other method or data set been used to examine if Woden Valley represents a Type 1 hospital ; if not, why not?

Mr Berry - the answer to Mrs Carnell's questions are:

1. The issue of whether Woden Valley Hospital is a Type 1 or Type 2 hospital is of principal importance in the Australian Institute of Health and Welfare's Hospital Costs and Utilisation-Studies (HUGS). The Grants Commission also uses data from these studies in making its assessments of State relativities.

A Type 1 hospital is essentially a teaching hospital, while a Type 2 hospital is a general hospital which has a significant range of specialities and a large range of types of cases treated.

As part of the development of its submission to the Fourth Inquiry Into ACT Finances, my Department examined the case-mix complexity of both Woden Valley Hospital and Royal Canberra Hospital on the latest data available at that time from the Morbidity Data Collection, and compared them to Type 1 and Type 2 hospitals in NSW. It found that the case-mix index of both hospitals was around the average of NSW Type 2 hospitals and well below the range of NSW Type 1 hospitals.

Similarly, a consultant's report commissioned in 1991 on some aspects of hospital budgeting systems concluded that the case-mix index at Woden Valley Hospital/Royal Canberra Hospital was below that of the average of Australian teaching hospitals.

2. No. Case-mix complexity indices are the most objective means of providing a guide to the relative classifications of hospitals.

1724

**Question No. 195**

**Courts - Police Witnesses**

Mr Cornwell: to ask the Attorney-General - In relation to police attendance, as witnesses, to ACT Courts -

- (1) How many hours were taken up with this requirement in (a) 1990 and (b) 1991.
- (2) What were the dollar costs of (1).
- (3) Has consideration been given to putting police on stand-by of say, one hours notice for court attendance, so they could carry out normal duties rather than waiting around Court precincts to be called to give evidence.

Mr Coolly - the answer to the Ministers question is as follows:

I am advised by the Australian Federal Police (AFP) that in order to provide exact details of the hours and costs incurred by the AFP in attending ACT Courts as witnesses, information would need to be manually extracted from archived records. Whilst I am not prepared to direct the AFP to, carry out such a costly, time consuming and labour intensive exercise, a survey of hours and costs associated with police attendance at Courts was conducted for an eight week period during 1990 and a consolidated record was maintained. The survey revealed that during the period 28 May to 21 July 1990, a total of 2,446 hours were expended by members of the AFP ACT Region at Court. The approximate cost was \$71,500.

As a result of an ongoing review of Fostering practices, the AFP ACT Region, where practicable, endeavours to roster police on normal pay to attend Court. However, where a member is required at Court whilst off duty, the member is Fostered on overtime.

- (3) No. However, on 1 August 1992 the Voluntary Agreement to Attend Court (EVALUATE) was introduced in the ACT for a six month trial. It is aimed at bringing people accused of committing an offence before the Magistrates Court or the Childrens Court in a more expeditious manner. Under the scheme, an accused person will be asked to enter into a VATIC, rather than waiting for the issue of a summons to attend.

The principal advantage of the proposed system is that the alleged offender will be brought before the Court much more quickly -than under the current scheme of issuing a summons. There should also be a saving of police time spent at Court. The Magistrates Court will conduct a calliper for VATIC matters outside the Childrens Court at loam, and the Magistrates Court at 11am. After the callover, the alleged offender would appear before the Magistrate to be dealt with on the spot or to obtain an adjournment. Should an adjournment be sought, police will be released by the Court to resume normal duties.

1725

*13 August 1992*

Pending the outcome of the VATIC trial, I understand that the AFP will be examining further options in association with the Courts to enhance the efficient use of police resources, in particular, police time spent at Court.

1726