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DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

20 May 1998

Wednesday, 20 May 1998

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

CRIMES (AMENDMENT) BILL (NO. 3) 1998

MR RUGENDYKE (10.31): I present the Crimes (Amendment) Bill (No. 3) 1998, together with its explanatory memorandum.

Title read by Clerk.

MR RUGENDYKE: I move:

> That this Bill be agreed to in principle.

I am pleased to present to the Assembly the Crimes (Amendment) Bill (No. 3) 1998. With incidents of stabbings and assaults involving knives being prevalent in our community, I thought it necessary to develop this amendment to the Crimes Act. I have done so with two main thoughts in mind. Firstly, I asked for commonsense, workable legislation to enable police to effectively perform their duty to protect members of the community from the current trend of knife assaults. Secondly, the civil liberties of offenders must be catered for and reflected in the practical application of this amendment. This legislation is based upon the knife legislation recently introduced in New South Wales by the Carr Labor Government. However, my proposal does not go as far as making parents accountable for their children carrying such offensive weapons. I have excluded this draconian provision from the Bill I put to you today.

This Bill creates the offence of possessing a knife in a public place or school without reasonable excuse. It also describes occasions which constitute reasonable excuses. Those excuses include the lawful pursuit of a person's occupation; the preparation or consumption of food; lawful entertainment, recreation or sport; the exhibition of knives for retail or trade purposes; exhibitions by knife collectors; being part of a uniform; and religious purposes. In short, if a person carries a carving knife into a schoolyard they will need a leg of lamb to go with it. The Bill also excludes self-defence as a reasonable excuse for carrying a knife.

Another important aspect of this Bill is that it intends to make it illegal to sell a knife to a person under the age of 16. One just needs to walk past a knife shop and see what types of knives are on display and can be purchased by any child. Some of these knives have no place whatsoever in our community. For example, a throwing knife can be used for only one purpose, and that is to throw at someone or something.

It is widely recognised that the presence of knives in the community is a rapidly escalating problem. For this Bill to effectively apply the brakes, it is imperative that police are provided with adequate search powers. At first glance the search powers included in this amendment may appear contentious. I stress that these powers are absolutely necessary if this legislation is to achieve the intention of making our city a safer place. When viewed in full context it is evident that, for police to be able to enforce this proposed law, the search safeguards have to be put in place. It is not a precondition under proposed section 349DB for the offender to be arrested prior to being searched.

The requirements to allow police to undertake a search are twofold. Firstly, the police officer must have a reasonable suspicion that a person is carrying a knife; and, secondly, the police officer must produce identification and then inform the person about to be searched of the reason for the search. The concept of reasonable suspicion is clearly defined and refined in the case law. This Bill also provides a mechanism to seize, confiscate and/or return a knife in appropriate circumstances.

The evolution of the knives culture is very real. It worries me that the possession of knives amongst youths is looked upon as a status symbol. I certainly do not think it is "cool" for juveniles to carry knives. It is a huge concern for me that this is the way our society is heading. Dangerous weapons and young heads can often be a potent mix. It is chilling when you think that our kids are allowed to carry knives through unsupervised places like the Belconnen Mall or the Tuggeranong Hyperdome. What is the point? What is the benefit to our community? What if two kids have a difference of opinion at the local skate park and they reach for their knives? What is the realistic outcome? With this Bill we have the opportunity to eliminate the tragic possibilities.

I was talking to a primary school principal recently and I was horrified to learn that she had to confiscate knives from two of her students in the playground. These children were aged no more than 10 or 11. This was not in Sydney. It was not in Melbourne. It was not in the Bronx. This occurred in our own backyard. Unfortunately, these incidents are happening almost daily.

There are about three crimes per week in Canberra involving knives. Researching the police files rammed home to me how too frequent these incidents are. In one instance a few months ago a 25-year-old female was assaulted at knifepoint as she lay sleeping at home in the early hours of the morning. Last week my office was represented at a benefit dinner for the family of the late Peter Forsyth, the Sydney police officer who was the victim of a stabbing. Peter Forsyth left behind his wife, Jackie, and two children, both under the age of three. The community has rallied behind the Forsyths. They cannot bring Peter back, but the message they are sending is clear. We have to learn the lesson from the heartbreak. Police need to be able to prevent these senseless killings.

We have a recent history in the ACT of disturbing knife chapters. There was the stabbing of Eddie Amsteins in 1996 in a Civic fight. The previous year Mr Warren I'Anson was shot after stabbing a police officer twice. Mr Speaker, we do not need any more chapters. As a Canberran and a former police officer, I do not want to have to attend a benefit night for one of our own in the future. Let us take away the knives. Let us take away

the temptation. Let us reduce the risk of being put through the ordeal of being assaulted at knifepoint. If you have a reasonable excuse to have a knife in your possession, this legislation will not affect you. What I am aiming to do is to take the knives away from people who have no use for them apart from causing harm.

As it stands, our police have no power to prevent knife attacks. They can be reactive, but they are not permitted to be proactive. If shops are outlawed from selling knives to minors, and police have the power to take knives away from people who carry them in a public place for no reason, we are heading in the right direction. Mr Speaker, I am certain that this Bill will make the ACT a better place in which to live. In tabling this document, I urge my Assembly colleagues to support the amendments as an investment in the future safety of all our neighbourhoods. I commend this Bill to the house.

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

ADMINISTRATIVE DECISIONS (JUDICIAL REVIEW) (AMENDMENT) BILL 1998

MS TUCKER (10.42): I present the Administrative Decisions (Judicial Review) (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS TUCKER: I move:

> That this Bill be agreed to in principle.

Mr Speaker, it is with pleasure that I today table the Administrative Decisions (Judicial Review) (Amendment) Bill 1998 and the accompanying explanatory memorandum. The purpose of this legislation is quite simple. It is to reinstate rights for people to appear before the Supreme Court to challenge actions by the Minister or his officers taken under the Land (Planning and Environment) Act 1991 and the Heritage Objects Act.

As members of the last Assembly will be aware, the origins of this Bill trace back to 1996, when the Government, through its amendments to the Land Act, removed the open standing of persons under the AD(JR) Act to challenge the lawfulness of government decisions made under the Buildings (Design and Siting) Act 1964, which was repealed in 1996, the Land Act and the Heritage Objects Act. This directly contradicted the position - recommendation 95 - of the Stein report into the administration of the ACT leasehold system. The Stein report said that any person should be entitled to approach the AAT or the Supreme Court to civilly enforce breaches of the Land Act without being required to establish common law standing.

This recommendation came about because Stein was concerned that it was unclear from the Land Act whether any person apart from the Minister could apply to the Supreme Court to enforce an order or to require compliance with the terms of a development approval. Stein believed that the insertion of an open standing provision in the Land Act would remove any doubt as to the ability of a member of the public to seek to enforce breaches of the ACT planning and leasehold laws. Such a provision would enable a person, irrespective of their personal interests in the matter, to approach the Supreme Court to remedy or restrain a breach of the Act.

The Government, in its response to the Stein report, said that it agreed with this recommendation in part; but that the ability for people to question specific planning decisions in the Supreme Court was already available under the Administrative Decisions (Judicial Review) Act, so there was no need to amend the Land Act. However, in the Land (Planning and Environment) (Amendment) Bill (No. 4) that the Government introduced to implement its response to Stein, it deleted the relevant section of the AD(JR) Act. This deletion took away what was previously a citizen's right to legally force the government to correctly administer the Land Act, the Building Act and the Heritage Objects Act. Both Labor and Liberal justified their position with the argument that the standing requirements under the Land Act should be the same as for all other pieces of legislation.

Mr Speaker, there are good reasons why there should be open appeal rights on planning legislation. A judicial review of whether the rule of law is being maintained is quite different conceptually from an administrative review of the merits of a particular development application. As the Stein report said, open standing provisions included in this Bill have been in every planning and environmental statute in New South Wales for as long as 15 years, and are also in place in South Australia, Queensland and Tasmania. These provisions have a demonstrated capacity to ensure that decisions are made in accordance with the law and not contrary to it. They have not been abused and have not resulted in a flood of litigation. The costs and complexities of taking a matter to the Supreme Court have ensured that such cases are not undertaken frivolously. To quote Stein:

> Open standing provisions are not to be feared but should be welcomed as an aid to enforcement. They have the capacity to ensure that administrators carry out their duties.

Ms Horodny last year tabled a Bill that sought to reverse the 1996 changes. That legislation, in addition to reinstating the relevant sections of the AD(JR) Act, would also have enabled any person to bring civil proceedings in the Supreme Court to enforce any aspect of the Land Act, not just to seek judicial review of specific administrative decisions that was previously allowed under the AD(JR) Act. The Bill was aimed at implementing this recommendation of the Stein report and was modelled on section 123 of the New South Wales Environmental Planning and Assessment Act 1979. That Bill was defeated, with Labor and Liberal opposition.

In debating the Bill put forward by Ms Horodny, the Government put forward some amendments that enable limited appeal rights, but these changes do not go far enough towards reversing the changes of 1996. As Ms Horodny said last year, there are currently many areas in the Land Act where there is no recourse to the Supreme Court. For example, the community has no power to challenge the Minister's decision over the adequacy of environmental assessments of particular development proposals.

In the Bill before us today I have not included the more complex open standing provisions that caused so much worry for the Labor and Liberal parties last year. I am simply seeking to reinstate the rights of citizens to seek a review of any planning decisions that they believe are not in accordance with law. I look forward to both Labor and Liberal reconsidering their position from last year - particularly the Labor Party, who have provided some indications that they are considering a different approach to planning issues in this Assembly.

I would like to remind the Labor Party that the liberalised standing provision in the AD(JR) Act was inserted when the Labor Party was in government in 1991. The then Attorney-General, Mr Connolly, when introducing the AD(JR) (Amendment) Bill, said:

> This Bill gives effect to concerns that there should be wide standing to seek review of administrative matters in respect of planning and land use matters.

Labor and Liberal, in voting against Ms Horodny's Bill last year, provided no evidence that the section had been abused.

Mr Speaker, I would like to briefly foreshadow further planning legislation that I intend to introduce in the near future. The first is also related to extending appeal rights in the AAT. I will be seeking to remove the requirement for a person seeking a review of a decision under the Land Act to demonstrate that their interests are substantially and adversely affected by the decision. Secondly, I will be seeking to require that environmental assessments, reports, statements and inquiries required under the Land Act be prepared by the relevant ACT department and not the proponent. This has been an issue the Greens have pursued for some time, as has Mr Moore. Unfortunately, Mr Moore's amendments to the Land Act in 1996 were defeated.

In conclusion, the Government argued at the time of introducing its amendments to the Land Act in 1996 that it wanted to eliminate trivial appeals that might hold up development; but the changes it has introduced to the Land Act and the AD(JR) Act have gone far beyond this, to really limit the ability of the public to ensure that the Government and its administrators fully carry out their legal responsibilities under the Land Act.

An article titled "Ruling a pointer to loss of rights" in the *Canberra Times* on Monday of this week highlights the extent to which appeal rights have been cut back by this Government, with the support of the ALP, over the previous few years. The president of the AAT was highlighting the fact that there is no longer any right to appeal to the tribunal against a planning approval involving single residential developments, even if the proposal did not meet performance measures in the Territory Plan.

Mr Speaker, I believe it is fundamental to a healthy democracy that a government is prepared to have its planning decisions questioned by the public. This Bill is an important part of the process of establishing a legal mechanism for keeping the government honest and publicly accountable in the way it handles planning matters in the ACT. I commend the Bill to the Assembly.

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

TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL 1998

MR CORBELL (10.51): Mr Speaker, I present the Territory Owned Corporations (Amendment) Bill 1998.

Title read by Clerk.

MR CORBELL: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Mr Speaker, it is with great pleasure today that I introduce into the Assembly the Territory Owned Corporations (Amendment) Bill 1998. This is a very important piece of legislation and we certainly hope that members of the Assembly will see fit to support what is, in principle, a proposal which brings greater power to the Assembly, and thus to the people of Canberra, in decisions affecting assets that they own, notably Territory-owned corporations.

Mr Speaker, I would like to briefly outline to the Assembly what this Bill does. The purpose of my Bill is to amend the Territory Owned Corporations Act to make provision for a number of things. First, and most importantly, it makes provision for amendments to the Territory Owned Corporations Act 1990 to provide that whenever a decision is made, or before a decision is made, by the Government or by shareholders of a Territory-owned corporation to dispose of or sell any main undertaking of a Territory-owned corporation, or enter into any transaction, contract or understanding whereby a company ceases to be a subsidiary of a Territory-owned corporation, that decision must meet with the approval, by resolution, of the Legislative Assembly.

Secondly, Mr Speaker, it makes provision for a special majority if the Assembly deigns to put in place a special majority in relation to a vote on a motion to dispose of a Territory-owned corporation. This provision, Mr Speaker, the Labor Party believes, is very important. The provision means that if this Assembly decides that a Territory-owned corporation should be sold, or any of its main undertakings disposed of, or any subsidiary company of a Territory-owned corporation disposed of, there should be genuine bipartisan support in this place for that to take place. Privatisation, part or whole, is a decision that any government can make only once. Once you sell an asset it is gone forever. For that reason, there should be genuine bipartisan support for the disposal of assets that are held in trust by the government on behalf of the people of Canberra.

Mr Speaker, why is this Bill needed? It is needed because the current situation is quite unsatisfactory. The Territory Owned Corporations Act as it currently stands means that the shareholders of a Territory-owned corporation - currently the Chief Minister and the Deputy Chief Minister - can vote to dispose of any part or the whole of a Territory-owned corporation and simply inform the Assembly afterwards of their decision. That, Mr Speaker, is completely unsatisfactory. A decision to privatise can be made for purely political purposes. It can be made to plug a hole in a budget for just one year, but the Territory loses an asset that presented an ongoing form of revenue for years and years to come. That is why, primarily, we have decided to introduce this Bill into the Assembly.

The privatisations that have occurred in Australia and overseas have quite often been made for purely budgetary reasons in the short term. They have not perceived the long term; they have not recognised the value of retaining an asset in community hands in the long term. Indeed, Mr Speaker, it is fair to say that governments have treated as their own personal property assets that are owned by everyone in the community. We are lucky here in Canberra, in that this Assembly has greater power to direct and request of the Executive than many other parliaments do. For that reason, this Bill puts into the hands of the parliament the future ownership prospects of assets that are owned by everyone in our community. Territory-owned corporations are not owned by the shareholders; they are owned by the shareholders in trust on behalf of everyone in Canberra. Everyone in Canberra should have a say about the future ownership of those assets.

It is important to remember that for many decades, in instances like ACTEW, ACTTAB and even Totalcare Industries, the community has invested a significant amount of money, and invested a significant amount of time and effort, in building these structures into profitable and highly effective Territory-owned assets. These companies trade well and they trade profitably. This amendment to the Territory Owned Corporations Act, if it is successful, will mean that the Government will have to present a clear and solid reason as to why a privatisation should occur. We are not prepared to accept any longer the Government saying, "We know what is best; we have to sell this asset". That is not their decision to make. That is the community's decision to make, and the community, through their elected representatives, should be allowed to make the decision on the future ownership of any of the assets that they own. Decisions affecting the future of these assets rightly rest with the people of Canberra.

Mr Speaker, this is a simple Bill. It is a straightforward Bill. Members may or may not choose to support the two-thirds majority option; but that does not mean that they have to oppose the Bill, because the Bill allows for a simple vote to approve or disapprove the sale of a Territory-owned corporation. There is also a provision covering the situation if the Assembly decides, through its standing orders, to impose a special majority on a vote in relation to section 16 of the Territory Owned Corporations Act if amended by this Bill.

Mr Speaker, I have already outlined briefly the reasons why we believe a special majority is warranted, but I would like to expand on that with a few more arguments. The first is that decisions that we make in this place can often be changed in future Assemblies. Decisions affecting a particular law can be changed and changed back again.

Indeed, earlier today Ms Tucker introduced into the house legislation that attempts to change back a situation that was changed by the last Assembly. In most instances that is a completely acceptable and responsible course for any member in this place to take. But when it comes to the sale of a Territory-owned corporation we do not have that choice. We do not have the option of coming into a new Assembly, maybe in 3½ years' time, and saying, "We do not like the fact that the previous Government privatised, say, ACTTAB; and we are going to unprivatise it". It does not work that way. The asset is sold and it is gone forever.

Mr Humphries: You can acquire it again.

MR CORBELL: I am interested to hear the Government's interjection that it can be acquired again.

Mr Humphries: Have you heard of nationalisation?

MR CORBELL: I am interested to hear that Mr Humphries is the proponent of the nationalisation of assets. We will note that, Mr Humphries. We might even send you an application form for one of our policy committees.

The reality, Mr Speaker, is this: It is nigh impossible to regain an asset of the value of, say, ACTEW or ACTTAB once it is sold. The enormous investment that has been put into these assets over many years will not be able to be met by a future Territory government - certainly not in the foreseeable future. For this reason - and I know that the conservatives hate this - we want them to provide us with real, valid, legitimate reasons as to why an asset owned by the people of Canberra should be sold. We do not want them to present some weird, made-up excuse out of a unit they developed with, say, competitive neutrality in mind. We do not want them to simply bow before the altar of competition policy and say, "This is what has to be done". We want them to present real reasons. The community expects them to present real reasons. If they have real reasons, a privatisation can be considered and, if a majority of members in this place support such a proposal, enacted.

But, Mr Speaker, it should not be done purely for political purposes. It should not be done purely on political grounds. It should not be done simply because the Government has a short-term problem with its budget. For that reason, Mr Speaker, there should be genuine bipartisan support. Everyone in this community owns these assets, and there should be a clear consensus about whether or not an asset should be sold. We already make provision for two-thirds on a number of other issues. Why not on an issue which is central to the potential future wellbeing of the Territory, in terms of its economic health, through deciding on whether or not ownership of assets owned by the community should be retained in public hands or otherwise?

Mr Speaker, I have today given notice to the Clerk of the Assembly of an amendment to the standing orders that will make provision for a two-thirds majority, and the Assembly, in due course, will consider and vote on that motion. If members in this place are not prepared to support a two-thirds majority, they should be prepared at least to support this Bill which provides for the elected representatives of the people of the Australian Capital Territory to decide on the future ownership of the assets which they have put money into

and which they own. That is a fair and reasonable request. I will be very interested in hearing from the Government on this issue in due course, and whether they are serious about cooperative consensus government. Are they serious about recognising the legitimacy and the role of the Assembly in this place? Mr Speaker, I urge members to support this Bill. It puts privatisation back where it belongs - in the hands of the parliament, not in the hands of the Executive. I commend the Bill to the Assembly.

Debate (on motion by **Ms Carnell**) adjourned.

CRIME PREVENTION POWERS BILL 1998

MR OSBORNE (11.03): I present the Crime Prevention Powers Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MR OSBORNE: I move:

> That this Bill be agreed to in principle.

In essence, this Bill allows police officers to use their judgment to defuse potentially violent situations in public places before they get out of control. It is aimed at returning civil liberties to the bulk of Canberrans who want to enjoy their right to go about their business unhindered and without fear. The Bill empowers a police officer to direct a person to move on from a particular public place if the officer has reasonable grounds to believe that the person has engaged, or is likely to engage, in violent conduct in that place. Of course, as with most things, Mr Speaker, there are some exceptions. This Bill does not apply to pickets, demonstrations or protests; nor does it stop someone from pulling up and using a soap box on a street corner and waxing lyrical about politics or any other matter.

Mr Speaker, during the election campaign many people raised with me concerns about the growing level of violence in our public places, particularly in Civic. Dave Rugendyke and I promised then to try to do something about it. Today we are delivering on part of that commitment. This is one of a number of measures that Dave and I will be attempting to enact to give police the power to act before a tragedy occurs. I think it goes hand in hand with Mr Rugendyke's knives Bill which he presented this morning.

I understand that there are some in the community and in this place who will try to claim that these Bills are an infringement of civil rights. I understand them, Mr Speaker; I just do not agree with them. I believe that we should not hand over the streets to thugs and disguise that move by clothing it in the semantics of civil liberties. I believe in individual rights, but I do not believe in continually elevating them above the common good.

I do not believe that this Bill is an unreasonable intrusion on people's rights. Forgive me if I disagree with those who believe that some people should enjoy the right to menace others. The reason we have laws is to ensure that the bulk of the community are allowed to enjoy their civil liberties and their rights. A person who is being aggressive in a public place is infringing the civil rights of all law-abiding citizens. In such a case the rights of the many should, I believe, outweigh the rights of the few. I care about individual civil rights. I also care about the common good and the rights of the majority to go about their lives in peace and without fear. I also believe, Mr Speaker, in protecting the civil rights of our women, our children and the elderly. I also believe that this Bill will protect some people from their own foolishness, forcing them to move away from a scene where police believe violence is likely to occur.

The Crime Prevention Powers Bill allows police to act before a situation gets out of control. Without it, police have to stand by and watch the violence escalate until another more serious offence is committed, usually an offence of violence against another person. I do believe that we have to strike a balance between police powers and civil liberties, and I believe this is a good balance.

Finally, and most importantly, Mr Speaker, I believe that this Bill is a vote of confidence in our police force. I feel that those who oppose it are saying, "We do not trust you. We do not trust the police". It is a message that this place does trust the police. I think that our police are the best judges of how to manage the streets and that they should have the tools to do their job effectively. I commend this Bill to the house.

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

LEGISLATIVE ASSEMBLY (PRIVILEGES) BILL 1998

MR OSBORNE (11.08): I present the Legislative Assembly (Privileges) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MR OSBORNE: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Mr Speaker, the privileges of a parliament have a long history and are of the utmost importance in the fabric of our democracy. This Bill sets out to define the non-legislative powers, privileges and immunities for members of the ACT Legislative Assembly. Before I get into the guts of what the Bill does, Mr Speaker, I would like to explain its gestation, for the information of members.

I issued drafting instructions for this Bill early last year. The reason I did so was that the Legal Affairs Committee, which I chaired, issued a report on surveillance cameras and that was stopped from being published outside the Assembly chamber in September 1996.

The report was blocked by you, Mr Speaker, because some of the material in it was considered potentially libellous. I was advised at the time that because we did not have a privileges Bill the report to the Assembly did not receive the protection of privilege.

I started working on the Bill with the Clerk immediately and issued drafting instructions in mid-January 1997. A couple of weeks later the Government also issued similar instructions. As is the nature of such things, the Government's request was, rightly - or perhaps not rightly - processed before mine. I did not care, Mr Speaker, who brought this Bill on, as long as we had one; but the Government's Bill lapsed with the last Assembly. I have spoken with the Government, and it was not listed on their legislative program. I have decided to bring it on in private members business, as I believe it is high time this place had such a Bill.

In its effect, this Bill is substantially similar to that presented by the Chief Minister last year, with a few minor but important amendments. The impetus for the Government Bill came from disturbances in and around the Assembly in 1996, and the obvious need to define the precincts of the building and clarify the role of the Speaker.

"Parliamentary privilege" is a term that describes the powers, privileges and immunities of a parliament. These privileges ensure the proper operation of a parliament. In some ways parliamentary privilege places the parliament above the general law, but we should not forget that the focus is the public interest. It is in the public interest that Assembly members should be able to speak their minds. It is also in the public interest that Assembly proceedings should be free of outside interference or obstruction.

This is not intended as stand-alone legislation. This Bill sits within a wider framework of law dealing with parliamentary privilege. Section 24 of the Australian Capital Territory (Self-Government) Act applies the privileges of the House of Representatives to this Assembly. We also have our own ACT laws, such as the broadcasting legislation passed in 1997. The Bill acknowledges the wider context. It clearly states that this law still applies, unless the Bill provides otherwise.

The self-government Act limits the power of the Assembly to punish a person for contempt of the parliament. It provides that, unlike other parliaments, the Assembly cannot fine or imprison a person. The courts are the appropriate place for that kind of action. Therefore, the Bill provides that certain contempts can be punished by a court as an additional enforcement mechanism. The Assembly will retain its current power to punish contempts.

The laws that ensure absolute privilege of parliamentary proceedings will still apply. They will be subject to two necessary exceptions. One is, of course, that courts may need to refer to documents such as the *Hansard* to interpret ACT laws. The second exception relates to the fact that courts will administer the offences created by the Bill. The offences are structured to reduce the need for detailed examination of proceedings. The use of certificate evidence will reduce the need for a court to examine Assembly proceedings to decide whether an offence was committed. This strikes a balance between the importance of the immunity of the parliament and the need for courts to administer the statutory offences.

The Bill clarifies an area of doubt in existing law by ensuring that staff are not subject to legal action because they have published authorised documents. This would include *Hansard* and other reports and papers. Other immunities are stated in Part II of the Bill. Members should note, and note well, that in this section the Bill I propose is somewhat different from that proposed last year by the Chief Minister. While members cannot be required to attend court during sitting times, I have taken out the provision which prevented their arrest on such days. I have also removed the provision which prevented members from attending court for five days either side of a sitting day. I am sorry; but, although I believe we should observe the primacy of parliament when it is sitting, I do not believe we should protect it in the lead-up to or aftermath of a sitting. Exemption from jury duty is covered in the Juries (Amendment) Bill 1997 passed by the Assembly last year.

Part III of the Bill deals with the Assembly precinct. This area includes the Assembly building, the canopies and the members car park. A statutory offence may apply where a person does not comply with a direction to leave the precinct. It is likely that this would be rarely used. A defence of reasonable excuse ensures that the offence is not imposed harshly. For example, a person may not hear a direction or may be unable to comply. The Bill identifies an area within the precinct which is occupied by the Executive. The power of the Speaker to manage the area will be subject to any agreement between the Chief Minister and the Speaker. I commend the Bill to the house.

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

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1998

MR OSBORNE (11.14): I present the Motor Traffic (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

MR OSBORNE: I move:

> That this Bill be agreed to in principle.

I will be very brief on this one. This is an issue that was raised in the previous Assembly. It was defeated, but I have decided to bring it back on. This is a very simple change to the Motor Traffic Act which will make it a requirement that people driving motor vehicles carry their licences when they do so. It is a small but important change to what we now have, Mr Speaker, where people caught without their licences have three days to present them. We issue people with licences so that they might use them while driving. Most people already carry their licences in their wallets or purses when they are out and about in their own cars, so I do not think that this amendment will cause too many people much discomfort. Producing a licence is a quick and simple way for police to establish that a person is who they say they are and, as I said, I do not believe that requiring people to carry their licences is particularly arduous.

As you will recall, Mr Speaker, in the last Assembly we did have this debate in the context of a number of motor traffic amendments and the issue was quite hotly debated. As I said earlier, the proposal was defeated. Mr Speaker, the main reason why I have reintroduced it is that I feel it is a necessary requirement that people driving be able to establish their identity, especially for the police. I think it is an absurd situation when we have police officers pulling people up by the roadside who are unlicensed. Perhaps their licences have been suspended by the courts, but they drive away because they have given a false name and they are given three days' grace to come in and to produce their licence.

Having spent a number of years in the police force in New South Wales, I have to admit to being quite surprised when I found, when this issue was raised last year, that in the ACT it was not compulsory to carry your drivers licence. I know of one case here in the ACT about which I had a fellow ring me. His brother had been pulled over by the police a couple of times and had given his name and date of birth. His brother had a number of warrants come through and he was in a very distressed state when he realised what had happened. I think by having this small amendment the job of the police in identifying people will be made that much easier. It will eradicate any concerns and any problems that the police have found in the last few years. As I said, Mr Speaker, I do not think it is an issue which many people will find much problem with. I commend this Bill to the house.

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

SUPREME COURT BUILDING - COAT OF ARMS

MR OSBORNE (11.19): Mr Speaker, I move:

> That this Assembly:
>
> (1) notes that the ACT Supreme Court passed from the Commonwealth's jurisdiction to the ACT's jurisdiction in 1991;
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> (2) notes that the Court is the Territory's highest judicial body;
>
> (3) notes that the Court's building continues to display the Commonwealth coat of arms prominently; and
>
> (4) calls on the Government to arrange for the ACT Supreme Court building to display the coat of arms of the city of Canberra in place of the Commonwealth coat of arms.

Mr Speaker, when the ACT was granted self-government in 1989, we were only partly a jurisdiction in our own right. The Supreme Court passed from the jurisdiction of the Commonwealth to that of the ACT in 1991. With that transfer, the court became the ACT's court of superior jurisdiction and the superior division of the third arm of government. Recently, while I was passing the Supreme Court, I was surprised to see that it continues to display the Commonwealth crest, instead of the coat of arms of the city of Canberra.

Historically, government consists of the Crown representative - in the ACT's case, the Governor-General - the parliament and the judiciary. All of those divisions of government are separate and distinct, but they are bound together by the necessary service to the Canberra community. It is therefore surprising to me that the ACT's superior court still does not display the coat of arms of the city of Canberra. The city's coat of arms is prominently displayed here at this Assembly, both in the chamber and outside the building. The Commonwealth's coat of arms is displayed prominently on the High Court and the Federal Court, and remains displayed on the ACT Supreme Court. But I need to remind all members that the Supreme Court is not a Commonwealth building anymore and that control of its activities, as far as possible under the doctrine of the separation of powers, was transferred to the ACT.

Mr Speaker, the court consists of four judges, a master and a registrar, as well as their support staff. These officers are the highest judicial officers of the Territory. Last year, the ACT Government made the first appointment of a judge since the court passed to the ACT's jurisdiction. While it is true that three of the four judges hold commissions as judges of the Federal Court of Australia, they do not sit in our Supreme Court building as Federal Court judges. The fact that judges hold Federal Court commissions does not mean that their first responsibility is to the Federal Court. Their first responsibility is to the Supreme Court of the Australian Capital Territory and the jurisdiction that that conveys to them. All supreme courts, to the best of my knowledge, display the coat of arms of their jurisdiction prominently - some in addition to historical arms dating back to pre-Federation.

We should be proud of our Supreme Court and aim to have it proudly display the coat of arms of our city - the same coat of arms which sits in this chamber behind you, Mr Speaker. This motion asks the Government to commence that work. I understand that the work would require some sensitive negotiation with the Chief Justice and other judges; but the parliament of the ACT should acquaint the judiciary of its wish to see the coat of arms of the city of Canberra displayed, now that the court belongs to the people of Canberra.

The fact that the Commonwealth crest is still on display may simply be an oversight, Mr Speaker; but I believe that it sends an important message. It is saying that, although this is a court that is set up to administer justice in this jurisdiction, it has not accepted the transition to self-government. Mr Speaker, on the face of it, this may seem like a small issue; but we are talking about the highest court in our jurisdiction. We are talking about a court that is funded by the ratepayers of this city. We are talking about a court that spends all of its time enforcing laws passed in this place. It is important that the court accept, and be seen to accept, its rightful place in local government.

I have not spoken to the judges about this; but I cannot imagine that a simple change of crest will cause any of them grave disquiet. I could be wrong, though. We will just have to wait and see. I hope that all members here will support this motion, Mr Speaker.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.23): Mr Speaker, Mr Osborne has raised, I believe, some very pertinent arguments in respect of the question of the coat of arms that ought to be borne on the Territory's court buildings - in particular, the most important of those court buildings, the Supreme Court building. Members will be aware, when they travel to Knowles Place on the other side of City Hill, that our Supreme Court building is a quite impressive structure. It is covered in what I assume is some sort of marble and has over the main entrance a very large gold coloured metal Commonwealth coat of arms.

The question has arisen in respect of that coat of arms: Ought the Commonwealth coat of arms continue to preside over a building which is now owned by and funded by - that is, maintained by - the ACT community and whose servants within - that is, the judges - are tasked primarily with the administration or the interpretation of laws of the Australian Capital Territory? That is not to say, of course, that there are not other laws that they also administer - common law in particular - but they have a primary responsibility, one might say, for the administration of the laws of the Territory. So, Mr Speaker, the question Mr Osborne has placed before the Assembly is a very good question: Why should the Commonwealth coat of arms preside over that building?

Not only does the Commonwealth coat of arms appear at the entrance to the building; but it also appears above the bench in each of the five or six courts in that building. So, as one stands and faces the bench - whether one is a lawyer, a defendant in the dock, a party or a member of the public in the gallery - one sees the Commonwealth coat of arms flying, as it were, very prominently over the bench. I think, Mr Speaker, there is a very real question about whether, in those circumstances, the Commonwealth might be assumed to be playing some role in the operation of the court which it does not, in fact, play.

This separation of the ACT's court system from the Commonwealth obviously began when the ACT was granted self-government in 1989. At that stage, it could truly be said that the ACT was only partly a jurisdiction for such purposes in its own right. The Supreme Court passed from the jurisdiction of the Commonwealth to that of the ACT in a full sense in 1991. The court then became the ACT's court of superior jurisdiction and the superior division of the third arm of government, and I will come back to that point in a moment.

Historically, of course, the coat of arms reflects the original builder of the building and the role that the Supreme Court played as the Supreme Court of a Commonwealth Territory. Mr Speaker, I might say that that historical connection is, of course, quite noticeable, not just in our Supreme Court but in the courts of jurisdictions across the country. There are many courts, for example, that still bear an imperial coat of arms, reflecting their original role as courts directly responsible to the Crown of the United Kingdom. I do not think that these days any such coats of arms are installed over such courts or such buildings; but certainly they are retained where they already exist in many cases because of the early history of the courts concerned.

In this place, Mr Speaker, of course, behind you the coat of arms of the city of Canberra is prominently displayed. That trend to reflect the current political arrangements in respect of such buildings is a process which has been continued, to the best of my knowledge, throughout all major public buildings which are directly owned by the ACT Government and which have been erected since self-government. For example, in the Magistrates Court building next to the Supreme Court, we see the coat of arms of the city of Canberra displayed very prominently.

Mr Speaker, the court consists of four judges, a master and a registrar, as well as their support staff. Those officers are the highest judicial officers of the Territory. Indeed, as Mr Osborne noted in his remarks, for the very first time since self-government, the ACT appointed a new judge to that court to increase the size of the bench. The separation of the ACT from the Commonwealth's jurisdiction was emphasised, however, at the time of the appointment of that fourth judge, because, for the first time, a judge of the Supreme Court of the ACT does not hold a simultaneous commission as a judge of the Federal Court of Australia.

The Commonwealth has made a policy decision that the Federal Court and the Supreme Court should be separated and that henceforth Supreme Court judges will not also hold Federal Court appointments. I might put on the record, Mr Speaker, that that is a matter of some regret to the ACT, particularly since, at the moment, appeals from a single judge of the Supreme Court lie to the Federal Court of Australia, and it has been the practice to have at least one brother judge of the judge being appealed against sitting on the appeal in the Federal Court. That policy will have to be reconsidered as those with simultaneous appointments retire or die off. We have seen clear signals that the Commonwealth wishes to separate the ACT Supreme Court from Federal courts. Mr Speaker, I think that, as a matter of principle, we have to accept the changes which that envisages and we have to ask ourselves how we can engineer a situation where our ACT Supreme Court is best positioned to reflect the role that it plays now in the affairs of citizens of the ACT.

Mr Speaker, I note that this motion "calls on the Government", rather than "directs the Government", to arrange for the Supreme Court building to display the coat of arms of the city of Canberra. The Government will certainly take on board any call which the Assembly makes upon it to take such a course of action. The ACT Government, of course, will negotiate with the Supreme Court - as a separate arm of government and one with some measure of independence under the doctrine of the separation of powers - as to how this issue should be progressed.

I say that because I have to put on the record that there is some concern on the part of the Chief Justice about the proposal to remove the Commonwealth coat of arms. In that respect, I should point out that there is also a concern in that it has been suggested that, in fact, it may not be that the ACT Government is the legitimate owner of the coat of arms of the city of Canberra. The suggestion has been made that, in fact, that ownership has passed to the National Capital Authority rather than to the ACT Government. That is an interesting argument. It has been put to the Government, and we will be exploring that issue very vigorously. It obviously ought, as a matter of principle, to be a coat of arms

which belongs to the ACT community in the name of the ACT Government. We will be taking steps, if there is any doubt about that question, to resolve that issue in favour of the ACT. I do not anticipate any problem on that score. So, there is a question of negotiation with the Supreme Court about that matter. As I say, I will take back to the Supreme Court the view of the Assembly, should this motion be passed today.

Mr Speaker, there is also a question of the ACT considering the heritage implications of the coat of arms which lies on the face of the building and elsewhere within the building. About two or three years ago, there was an assessment made of the heritage status of the Supreme Court building. Mr Speaker, that resulted, I understand, in a decision to not at that stage list the building for heritage classification; but the issue is, I understand, to be returned to at some point. On that basis, I propose the following amendment, which has been circulated in the chamber:

> Paragraph (4), omit "in place of the Commonwealth coat of arms".

Mr Speaker, for heritage reasons, it might be considered appropriate to leave in their present positions some of the coats of arms as they occur around the building. The motion seems to suggest that there is only one coat of arms on display in the building. In fact, there are several. I think, to clarify the matter, should the Assembly support this motion today, it would be appropriate for there to be an ACT or city of Canberra coat of arms displayed prominently in a number of positions around the building. I am not certain that that necessarily means that we should remove any particular coat of arms from its present position as it now stands, as it is going to remind members that there are coats of arms of jurisdictions which have ceased to have sway over many courts in this land. Particularly if you travel out to Yass, for example, you can see the royal coat of arms over the building of the Yass Local Court. I do not think anyone would argue that they should be removed, given their historical value.

So, Mr Speaker, this is a matter for negotiation. The points Mr Osborne raises in the chamber carry significant weight in the eyes of the Government, and the Government will certainly not be opposing this motion. However, I move the amendment which has been circulated in my name and suggest that it gives us the opportunity to consider that question in negotiations with the Supreme Court.

Let me close by making an important point about the need to negotiate. We forget that there are three arms of government in our Westminster system. The Supreme Court - or the court system, generally - is an arm of government. It is not merely a mechanism to serve government; it is an arm of government, the third arm of government. It has certain independence on that basis. Therefore, we ought to treat with some sensitivity the question of what protocols surround the operation of the court and the way in which the court's needs are met through central government funding. Nonetheless, it is entirely appropriate that the ACT be in a position to exercise influence over a building which it owns, which it operates and which it funds. That is the point of this motion, Mr Speaker. For that reason, the Government will not be opposing the motion and will be urging the Assembly to support the amendment which I have just moved.

MR WOOD (11.36): Mr Speaker, I would ask Mr Humphries now to turn his attention to an amendment that I circulated while he was on his feet. He may not have seen it. We have an amendment before us at the moment; so, I will at this stage foreshadow that I will move that amendment when we have dealt, in one way or the other, with Mr Humphries's amendment. Mr Humphries, I think, would be inclined to support my amendment because in his speech he gave some indications that he had a concern for tradition, for the heritage aspects behind this proposal.

My proposed amendment will move to delete the last part of paragraph (4), which is the replacement of the Commonwealth coat of arms, and have the Government arrange to have this matter examined first by the ACT Heritage Council. It is a matter, I think, of some importance, and we need to get some further opinion on this matter. Mr Humphries mentioned that the building is a significant building, marble clad, rather more solidly constructed and more imposing in its nature than most of the sorts of plastic buildings we erect today. He also indicated that he wanted to keep the Commonwealth coat of arms. So, he has a respect for some of those matters that, I think, would induce him to vote for my foreshadowed amendment. They are important issues.

Mr Speaker, I do not think it is irrelevant to point to a gross act of vandalism across the way from this building. The Commonwealth Bank, over the road, has a bronze sculpture right along the front, right along the street outside. It was bronze; but it has been painted over in a drab brown colour. I do not know why. When I saw it happen, years ago now, I felt like bowling in and bailing up the manager - with words, I might say - and asking, "Why the hell did you do that?", because it has defaced a very significant work of art.

Perhaps that is a bit beside the point in relation to this debate; but we are looking at a building. We are looking at how that building sits in our community. We are looking at the traditions, the history, behind that building. I think, before voting on this issue and before calling on the Government actually to go ahead and, as Mr Humphries said, negotiate with the court officers, we should examine some of these issues in more detail and get a better picture of what is at stake. So, I say again that, when Mr Humphries's amendment has been dealt with, I propose to move the amendment that members have in front of them.

MR MOORE (Minister for Health and Community Care) (11.40): Mr Speaker, I am pleased that Mr Osborne has put this motion before the Assembly today, because, amongst other things, it is about the maturity of our city and it is about the maturity of our Territory. There is no question that we have been in a position where the Commonwealth Government has looked after and done everything for this Territory. It has established Canberra, built Canberra and provided the facilities, including our justice facilities, within this city. Mr Osborne has drawn to our attention one of the great symbols of that time when the Commonwealth was looking after us in a beneficial way. The change since self-government has been significant. The Commonwealth has established this body politic. They have delivered significant cuts to our budget. In the vast majority of cases, they have stepped back from what this Territory does - certainly in the making of our laws and the delivery of those laws.

The ACT Supreme Court is exactly that: It is the supreme court that deals with laws of this Territory. The justices that we have are also, with one exception, Federal Court judges, and it is appropriate to recognise that. But, of course, when they practise as Federal Court judges, they practise in the Federal Court. If Mr Osborne's motion was to remove a symbol of the Commonwealth from a Federal court, it would be entirely inappropriate. But he has not done that. He has put up a motion that has encouraged us, first of all, to note that the Supreme Court passed from the Commonwealth's jurisdiction in 1991, as part of that process of self-government. Those of us who were there from the beginning - I see Mr Wood, Mr Berry and Mr Humphries - waited, as part of that process, to get the Supreme Court. We felt much more complete that self-government had come to us at that time, in 1991.

The motion asks us to note that the court is the Territory's judicial body - it is the judicial body for this Territory, not for the Commonwealth - and that the court's building continues to display the Commonwealth coat of arms prominently. Of course, we do know that lawyers and judges are very keen on precedent. They are slow to accept change. As far as the law goes, that is probably entirely appropriate. But, on an issue of symbolism, it is also appropriate that we request that they now recognise their role and identify the court in the way that it ought to be identified - as the ACT Supreme Court. It would be just as ludicrous to have the Union Jack, and only the Union Jack, or the British coat of arms hanging over the Federal Court or over our High Court. It would be entirely inappropriate. It might recognise some history - and there is an element of history in the fact that that coat of arms remains - - -

Mr Wood: Why do we have an Australian flag in here?

MR MOORE: Mr Wood interjects, "So, why do we have an Australian flag here?". I think he knows the answer to that question. It is displayed, along with our own ACT flag, and recognises that we are part of the Commonwealth. But it is appropriate, for example, that each of our schools displays the ACT flag.

In this case, we are talking about a specific coat of arms on a building associated with one of the most important functions of the Territory. Because it is one of the most important functions of the Territory, it becomes even more important as a symbol of this Territory's ability to look after its own affairs and, interestingly enough, as a symbol of this Territory's judiciary making its decisions about this Territory and the people of this Territory. That is the symbolism that is involved, and that is why the Commonwealth coat of arms should be taken down and replaced with the coat of arms of the city of Canberra, the coat of arms that sits behind the head of Mr Speaker.

That having been said, it is probably also an interesting time for us to begin to look at the coat of arms itself and ask why the coat of arms on the front of this building says "For the King, the Law and the People" and the coat of arms here says "For the Queen, the Law and the People", and whether it is appropriate for this Territory to retain either the King or the Queen on the coat of arms. Personally, I believe that it is not; but, clearly, we need to go through a process with a coat of arms, and it seems to me that this may be the time to begin to look at our own coat of arms and ask, "Does this coat of arms need modification?". To me, it does need some modification. I think that that would be an issue.

Mr Humphries has informed me that the Heritage Council has already looked at this building - - -

Mr Humphries: No; it is going to.

MR MOORE: It is going to; I am sorry. Mr Humphries has informed me that the Heritage Council already has this building on its list of buildings that it is looking at or is going to look at. So, that will be interesting. There will probably be some delay there; but, really, what we are talking about in Mr Osborne's motion is not a delay. We are talking about the symbolism of this Territory - the symbolism that this Territory is self-governing and that the judiciary is an important part of what happens in this Territory. That is why I will be supporting the motion.

MR SMYTH (Minister for Urban Services) (11.47): Mr Speaker, I rise in this place to speak about the coat of arms. In regard to some of what has just been said, I believe that there has been a heritage consultancy done on the building. That was mainly in regard to the building, although it did look at the issue of the coat of arms, and it has given the coat of arms a high priority in terms of heritage. Sometime in the next 12 months, it will be up to the Heritage Council to look at that issue again. At this stage, no recommendations have been made. The process that Mr Wood proposes in his amendment seems to be under way, anyway. Any substantial changes to modify a government building may well need a DA to be put in. Clearly, the process allows for public consultation on issues such as heritage before any modification could be made. So, in regard to Mr Wood's amendment, I think that is well in hand and we can leave the process to take care of that.

I think Mr Humphries's amendment is an appropriate one. Mr Humphries's amendment perhaps takes into account some of the issues raised by Mr Wood. It proposes that our coat of arms would be on show in our highest judicial court and that possibly the existing coat of arms could also be left there. But what we have to do, I think, is make our mark. We now have to be firm in our intention to stand alone as a Territory. In the ACT - unlike in the States, where there are other levels of jurisdiction - these functions are bound together to provide that level of service to the Canberra community.

We can look at the situation, historically, all over Australia, and indeed all over the world. For instance, in Ireland there are still lots of British coats of arms on brightly painted, green letterboxes, and they all have "VR" on them. The Commonwealth coat of arms may well have a place in that Supreme Court building; but I think the issue here is that the ACT coat of arms should have precedence in that place and that we should actually be proud of ourselves and proactive in promoting ourselves as an independent Territory.

We have to understand that the Supreme Court is no longer a Commonwealth building. The court's activities have all been transferred to the ACT. One of the ways in which we can make sure that people know that and acknowledge that is to display - as we do in this place, behind you, Mr Speaker - our own coat of arms, which shows that we take responsibility for ourselves. Mr Speaker, I will vote in favour of Mr Humphries's amendment.

MR HARGREAVES (11.50): Mr Speaker, I have listened to a lot of the arguments put forward, and there seems to be substantial agreement on both sides of this chamber about how we should process Mr Osborne's views. I would like to make just a couple of points, however. Much was made of the point of symbolism. The coats of arms are demonstrations of symbolism. It is important that we recognise that there needs to be a continuity of symbolism. Coats of arms themselves, in fact, provide a demonstration of the continuity of events down through the ages which have a bearing on a particular society. The same thing applies to the coat of arms here. We have the symbol of the House of Commons sitting smack on the top of it.

I would urge that we do not consider replacing one with another; but that we consider just how we are going to approach the melding together of these symbols to reflect our history and to reflect how we see the future.

Mr Moore: Like putting the Union Jack in the corner of the flag.

MR HARGREAVES: Mr Moore may very well scoff. I just heard him making impassioned pleas about these sorts of things. It is not a very impressive scoff, I must say.

The fact is that the symbolism of things like coats of arms and flags is very dear to people's hearts. Tampering with this sort of thing does not do justice to anybody. What I am urging people to do is to consider the consequences of swapping one thing for something else. I am not saying for a moment that we ought to just say, "Okay; the Commonwealth coat of arms is fine for this thing, and then we ought to have the ACT coat of arms for something else". We need to consider the appropriateness of it.

We need also to consider it in the context of where we are in history. We could be facing becoming a republic in the not too distant future. If that occurs - and I hope that it will - it will require a change to this coat of arms and it will require a change to quite a number of other symbols. So, perhaps we need to put a timeline on this sort of thing. Mr Speaker, we also need to recognise that the laws of the ACT for the time being derive from Federal legislation. The self-government Act is a piece of Federal legislation. As I understand it - and I am happy to be corrected by the Attorney-General - that means that the laws that are enacted in this place have their authority, their genesis, in Federal legislation. Having a coat of arms of that parliament is a recognition of that genesis.

So, I do not necessarily support its removal entirely. I do, however, strongly support any symbol which can be placed in our legislature and in the courts which promotes the uniqueness and the maturity of the people and the society within the ACT. I just caution about removing one and replacing it with another.

Amendment negatived.

MR WOOD (11.54): I seek leave to move the amendment that has been circulated in my name.

Leave granted.

MR WOOD: I move:

> Paragraph (4), omit all words after "arrange", substitute "for the ACT Heritage Council to consider and report on the heritage issues involved".

I have spoken generally to this amendment, so I will not add a great deal. I will make this point. I acknowledge that, when regimes change - the point Mr Moore made - symbols change. We have plenty of images in our minds from television coverage of the old hammer and sickle coming down and new images going up. I do not argue with the point of view that it is quite appropriate to change symbols. That can happen.

Members may recall that, last year, in one of the last debates, I said that in the next Assembly, if I were here - and here I am - I would like to look at the coat of arms of the city of Canberra which is now outside the public entrance of this building. I would like to see us revisit that and determine whether that is an appropriate coat of arms for this generation or whether we should move to an ACT coat of arms, because this is, after all, the ACT. So, these are issues; but they are issues for another day. I seek the support of members for my amendment.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.55): Mr Speaker, I just want to say simply that I do not support this amendment. First of all, the Heritage Council is already commissioned to do that work, and it is going to do so in the course of the next 12 months. Mr Speaker, I do have a little bit of concern about the idea of the Assembly purporting to hijack - we have done this on a number of occasions in the past and I have expressed my concern about it on a number of occasions in the past - the work program of particular statutory authorities, whose work program and whose authority to do that work derive from legislation, not from motions on the floor of the Assembly.

Mr Wood: We can refer anything to them at any time.

MR HUMPHRIES: We can refer such matters; but it already has that matter in its program. The Government has already commissioned a consultancy into the heritage status of the fabric of the Supreme Court building. That is being done. It has given certain indications of how it values the fabric of the building, including the coat of arms. Mr Smyth made reference to that, I think, in his remarks. The Heritage Council is already proposing to consider this matter in the course of the next 12 months, in line with the timetable to examine any upgrade of the Supreme Court building.

Incidentally, by accepting this amendment, we delete the very provision which the Labor Party has just voted to retain in the motion. I moved to delete the words "in place of the Commonwealth coat of arms". The Labor Party has just voted to retain that part of the motion. This, then, would have the effect of going back and deleting it. Mr Speaker, it makes no sense at all to support this amendment, for either of those reasons.

Amendment negatived.

Motion agreed to.

SCHOOL BUS SERVICES - REVIEW

MR HARGREAVES (11.58): Mr Speaker, I move the motion standing in my name on the notice paper, relating to a review of school bus services.

Mr Humphries: Are you sure that you want to?

MR HARGREAVES: Yes, I am.

MR SPEAKER: Proceed, Mr Hargreaves.

MR HARGREAVES: Thank you, Mr Speaker. I am not frightened at all, Mr Humphries. You do not frighten me. You may frighten children; but you do not frighten me. I move:

> That this Assembly:
>
> (1) recognises the urgent need for ACTION to review school bus services and supports the "back to drawing board" approach to bus services recently adopted in the trunk line review of other ACTION services;
>
> (2) calls on the Government to include the consideration of bus routes, the constitution of the interagency advisory committee on bus services, the cost of bus fares, and the implication of traffic configurations around pick up and drop off points;
>
> (3) that this review be concluded by the end of Term 4, 1998 for introduction in Term 1, 1999, and with widespread community consultation to be concluded by the end of Term 3, 1998.

Mr Speaker, I move this motion because a number of issues have been raised with me by parents of students travelling on school buses. Also, a number of children have contacted me. In early February - some months ago - I first became aware that there was a serious problem with this service. I was invited to a meeting with some parents in the home of one of them. At my invitation, two weeks later, some senior officers from ACTION attended a meeting, also in a parent's home. I must say that many of the problems presented then were addressed quickly. At this meeting, I suggested that there seemed to be a need for a review of bus services for students. The officers agreed with me; but said that there was already a significant review of trunk services under way, so it would be some time before such a review of school bus services could be done.

Between these two meetings, I was contacted by another, different, group of parents complaining that buses at St Clare's College and St Edmund's College in Griffith had left some students behind at the bus stop because the buses were full. In one case, there were three brothers attending St Edmund's. The bus on which they were to travel home left with the two younger boys on board, but leaving the eldest behind. Imagine, Mr Speaker, if you will, the unease - nay, panic - these younger boys felt at seeing their older brother, who normally took charge of the group, standing on the roadside. In another case in the same incident, one young girl was left behind. She came from a family in Gilmore whose father was interstate. She is one of 11 kids. The other siblings were attending different schools because of their age groups. The mother naturally panicked, because she could not drop everything, pile 10 kids into the car and go in search of her daughter. Fortunately, another parent rescued the child and called the mother, and everything ended up okay.

Mr Speaker, in his press release of 28 April, the Minister invited me to back up my claims with specific details. I did so on TV and in the press. I also advised ACTION of these details - and others, for that matter. I invite the Minister to get his facts right, before making a goose of himself in the media, by checking whether the information has been provided to his department. In his press statement, the Minister said that he welcomed my support for the review, which, in his own words, had been on the drawing board for some months. He accused me of missing the bus. I ask, Mr Speaker: For how many months do we have to wait for the bus? Have the terms of reference for the review been advertised to the community? Mr Speaker, they have not. Is it general knowledge in the schools community that such a review is on the drawing board? It is not. Had I not called for the review, would the Minister have put out his press release? I think not.

Mr Speaker, the reason I have moved this motion is that I believe that the review should be broader than one would expect of an internal review of this kind. This is the important point. ACTION management is to be congratulated for the way in which it embraced community consultation in the review of trunk services just completed. I trust that it will do the same in the school bus review. I am confident that it will do so. In his press release, the Minister promised that the review will be completed by September 1998 and implemented before the 1999 school year. I am suggesting that the review be completed, in its investigation and community consultation phase, by the end of term 4, not the end of term 3. That is a significant point, Mr Speaker. I am suggesting that the timeframe advertised may be too short. We have to take into consideration the school holiday times, when people are not available for that community consultation. It is not appropriate that the community consultation and investigation of route options be rushed.

The Minister also promised - and I quote from his press release again:

> ... we expect the review to result in shorter bus routes, less travelling time, increased patronage and a more attractive, comfortable and efficient service.

The Minister also knows that his Government has asked ACTION to shave another $10m from its budget. It is not the right environment in which to attempt to review a system to enhance its service when the clouds of further cuts hang low over the review. I call on the Government to forgo its cut of $10m, have a moratorium on further cuts to the service, provide a good-quality, total service and leave it alone for a couple of years to let it settle down and enable us all to properly evaluate the system.

Mr Speaker, I am asking that the review include in its terms of reference considerations other than route changes. As is generally the case whenever we review a bus route, we rejig the bus route, stick bandaids all over the place and call it a bus route. That was not the case in the trunk review, and I suggest that that should not be the case here. Certainly, route changes are necessary; but they need to be considered in conjunction with other issues.

Another issue is the traffic configurations around collection points at schools. The Minister is no doubt aware of the congestion in McMillan Crescent at Griffith. This road between St Clare's and St Edmund's colleges is a small road and it has about 20 buses in the street at drop-off and collection times each day. The Minister is also aware of the Holy Family School's configuration. It is not that crash hot, either. That is an all-too-common occurrence. These things are accidents waiting to happen, Mr Speaker. The many students who leave the schools are escorted across the road in some cases. However, I have seen for myself that the students often dart between the buses when they cross the road. Perhaps we should consider in some cases, such as McMillan Crescent, closing the road at peak times when the kids are actually boarding and coming off the buses.

Mr Speaker, I am seeking the involvement in the review of the traffic and roads people and the planning experts to address this serious part of the school bus system, not just leaving it to the experts within the ACTION group, who, with the best will in the world, do reviews within the level of their competence. We get significant product out of those people. But they do not have that expertise; nor do they have an influence over the roads budget in the ACT. Further, I am asking that the methodology of the interagency committee which advises ACTION on student loadings be checked out. The information given to ACTION over the past 20 years or so has not been sufficiently accurate for ACTION to provide a proper service. Indeed, for the past 20 years or so this interagency committee has not got it right. I suggest that it is not the people on the committee but the methodology they employ which is at fault.

It has been said that there are peaks around the commencement of the school year, which peter out. Also, the numbers advised to ACTION have not been accurate to within 20 per cent. As I have just said, I do not for a moment question the integrity of the members of that committee; but I do question the quality of information emanating

from it. Also, I am unconvinced that the communication between that committee and the schools that it represents is as good as it could be. The conversations I have had with people from various smaller schools indicate that that communication mechanism has broken down somewhere. Again, I do not suggest that it is the people on the committee that are not good enough, but rather those methodological links.

Mr Speaker, in her election manifesto for the 1995 election campaign, the Chief Minister promised free bus fares for students travelling to and from their schools. This promise was broken, presumably because the Government could not, or would not, find the $6m to fund it. I am calling on the Government to honour that promise.

The school bus service is in dire need of review. The Government has agreed with this comment. The Government has indicated that it is on the drawing board. I am calling on the Government to get on with the review immediately, to widen the terms of reference, and to do so with the extensive community consultation it employed in the recent trunk route review; in other words, to widen the parameters of an initiative it claims to be on its own drawing board. Mr Speaker, I commend the motion to the Assembly.

MR SMYTH (Minister for Urban Services) (12.08): Mr Speaker, when the Leader of the Opposition said in the first sitting weeks this year that the ALP regretted its past arrogance and was going to put on the new face of Labor, I had absolutely no idea that the Opposition was planning to go this far or that Mr Hargreaves had even signed up to the new face of Labor. Mr Speaker, with his motion today, not only has Mr Hargreaves shown that he has signed up to the new face of Labor; but I am delighted to see that he now wants to work cooperatively with the Government. I have to confess, however, Mr Speaker, that I had no idea he would go this far. Indeed, Mr Hargreaves seems to want to sign up with the Government, not just urge the Government to do something. What we have from Mr Hargreaves here is exactly the Government's policy on the review of school buses that was given to him in a briefing - which he failed to mention in his speech - on 9 April this year, approximately three weeks before he gave notice of this motion. He had a briefing by senior public servants six weeks ago - three weeks before his motion made the notice paper.

Mr Speaker, he says that we should have a review. Had Mr Hargreaves taken the time to ask, he would have found out that, for at least the last three years, the Government has conducted such a review every year. I am not sure who was the spokesman in the previous Labor Government, but the previous Labor Government may well have had such a review as well. This review takes in ACTION. It takes in representatives from DUS and from the education sector. They have sat down, examined enrolments and reviewed the school bus routes. Within the knowledge that was available to them at that point in time, they have - - -

Mr Hargreaves: It is a secret review.

MR SMYTH: It is not a secret review. There is a well-established annual process for the review of bus services. For the past few years, the Department of Urban Services, bringing in all the knowledge that it has, including its traffic section, has been and still is the purchaser of bus services in the ACT. They convene what is called the school transport liaison committee. The committee's role is to provide advice on the

transport needs of ACT schools and to provide information and guidance on planning for, and the operation of, government-funded school transport. Mr Speaker, this committee has wide representation. DUS, the Department of Education and Training, the Catholic Education Office, the Association of Independent Schools, the ACT Council of Parents and Citizens Associations, the Association of Parents and Friends of ACT Schools and ACTION all attend. All the schools in the ACT are asked to provide information on their needs to the committee through these routes, so that we can meet their needs.

Mr Speaker, where did Mr Hargreaves get his good idea from? I am advised that the executive director of ACTION and other senior officials from ACTION briefed Mr Hargreaves personally on 9 April this year - three weeks before his motion appeared on the notice paper. It is very curious that his motion has in it words like "back to drawing board", which is what they do every year; and calls on the Government to include "the consideration of bus routes", which is what they do every year, "the constitution of the interagency advisory committee", which we have, and "the implication of traffic configurations", which they look at.

Mr Speaker, they provided to Mr Hargreaves this information about that review that ACTION has now commenced - that it will address the travel patterns for all schools and that it will result in a school bus service which will best meet the needs of all our students. He is claiming this idea as his own. This follows the situation where, in the first sitting weeks, other members of the Opposition actually had a confidential briefing from the Government and then demanded that the Government table the confidential briefing on ACTTAB. So, what we have here is the new face of Labor, Mr Speaker. Five sitting days into the Assembly, they have already run out of their new policies. Their new face is slipping, and what we have is nothing but a mask.

Today, we have a member of the Opposition demanding, through a motion in this place, that the Government do what it is already doing. I was not here last year. Some of those who were might remember that last year we had Mr Whitecross demanding that the Government implement the Graham report. I think, at that time, the Government had already adopted the report. Mr Speaker, I can happily report to the Assembly that the implementation of the Graham report is well under way and, as Mr Hargreaves has already noted, we are working to improve the network of routes that service the commuters of Canberra. Also, the review of the fare structure is almost complete, and we will be reporting back to the Assembly on that.

But, today, Mr Speaker, we are talking about the school bus service review. Mr Hargreaves has known about this since 9 April - well before he put his motion on the notice paper. I would have thought that that was more than enough time for Mr Hargreaves to come up with his own ideas. He is right; when he first floated this on the 28th, I put out a press release. The *Valley View* recorded that Mr Hargreaves had missed the bus. We are seeing Mr Hargreaves, under the new face of Labor, just regurgitating Government policy back to this Assembly as if it were their own.

Mr Humphries: Imitation is the sincerest form of flattery.

MR SMYTH: Absolutely. As the Minister says, imitation is the sincerest form of flattery. I guess that we should be really flattered. Mr Hargreaves's motion should not be allowed to detract from the good outcomes that this review will bring. One of the outcomes of this review will be the provision of shorter school routes and therefore less travelling time. The travelling time is always a concern to all parents. None of us want to see our children out there on the buses for any longer than they need to be. Hopefully, what the review will bring is increased patronage to both the school routes, because we are meeting needs, and other routes, by making the school services more attractive. It will allow ACTION to operate more effectively.

The review will use the wide-ranging information gathered through recent community consultation - and, indeed, through existing consultation methods - to ensure that we meet the needs of our school commuters. The review will also take into consideration the new general services network, which will be introduced later this year.

Probably the only way in which we differ is that Mr Hargreaves does not want this review finished until the end of term 4. We will ensure that the review is finished by the end of term 3, so that we can go out and ask the community whether it meets their needs. If Mr Hargreaves's review were completed by the end of fourth term, how would Mr Hargreaves's review get an opportunity to go back to the community to find out whether we had met their needs? It could not do that because the people would all be on school holidays.

Schools will continue to have direct contact with ACTION. I know very well that the liaison officers are out there, and I think most members here would be aware of that. The problem with the start of this year is that, as with any start to a school year, schools often have only indicative numbers of students that will be attending, and often the addresses of those students are unknown. Therefore, at every start of the school year there is some finetuning. It happened to the bus that my kids travel on and I know that it happened to several others. But ACTION works very closely with the schools to ensure that any problems that appear are rectified as quickly as they can be.

Yesterday I spoke to Guy Thurston, the head of ACTION, and he confirmed that the review of school bus services is under way. We are looking at that now. But you knew that this was coming. Congratulating your colleague on calling for something that is already going to happen and that he knew was going to happen is very shallow at the least. He has said that ACTION will be putting all available resources into looking at school services from scratch. The logical progression of overhauling our bus routes is to tailor them to meet people's needs. I understand Mr Hargreaves was told that the school review would be as detailed as plotting each child on a map to ensure that we meet his or her need and that we tailor our services the best way that we can. What is more, Mr Thurston again confirmed that he outlined this approach to Mr Hargreaves during the briefing he gave him. So Mr Hargreaves knew this was exactly what we were going to do. What can I say, Mr Hargreaves? Thank you for supporting the Government's plan.

Following the ACTION briefing, Mr Hargreaves has apparently mistaken ACTION's plan for his own plan. We corrected that that night. He has refused to withdraw. Again, it was brought to his attention in the *Valley View* on the 28th, but still he persists with saying that this was his idea. We all know what happened to Helen Demidenko when she got caught using a story that was not exactly her own. It took Ms Demidenko a while to come to grips with the fact that she was really Helen Darville. I hope that Mr Hargreaves does not end up looking like the Helen Demidenko of the Assembly. Would the real Mr Hargreaves like to stand up?

The shame of this is that the Leader of the Opposition is not present to hear this. Mr Stanhope had to sit through the parking fines fiasco where we had the invention of thousands of parking fines being issued one weekend when there were none. We also had the invention of thousands of parking fines being issued one weekend when there were only six. Now we have a member of the Opposition regurgitating Government policy as if it were his own. I think the new face of Labor has slipped. It is revealed now as nothing but a hollow mask, and what we should have from Mr Stanhope is an apology on behalf of the Labor Party for this embarrassment that Mr Hargreaves is causing his own party. With that in mind, Mr Speaker, I intend to move my own amendment to remove the words "calls on the Government to" and substitute the words "congratulates ACTION management on its work in implementing the Graham report, and notes the Government's intention to undertake a further review of school bus services which will".

In a further amendment I wish to omit the third paragraph, to ensure that the review is done by the end of September. Then we can consult with the users and finetune it to make sure that, when the changes are implemented in first term next year, we provide the best service that we can to all our schoolchildren. I urge members to support the amendments. I seek leave to move the two amendments together.

Leave granted.

MR SMYTH: I move:

(1) Paragraph (2), omit the words "calls on the Government to", substitute "congratulates ACTION management on its work in implementing the Graham report, and notes the Government's intention to undertake a further review of school bus services which will".

(2) Paragraph (3), omit the paragraph, substitute the following paragraph:

"(3) note the Government's intention to conclude the review by September 1998, and for changes to be implemented in Term One 1999, following several months of community consultation.".

MR CORBELL (12.19): I think the problem here is not the new face of Labor; it is the old face of the Liberal Party whereby, whenever there is a constructive approach from this side of the house, all we cop is a load of abuse, a load of derision and a load of pretence and self-congratulation rather than an acknowledgment that they do not have a monopoly on good ideas.

Mr Speaker, Mr Hargreaves's proposition is a sensible one. In fact, what Mr Hargreaves wants is to see the job done properly. As my colleague says quite clearly and quite appropriately, the Government have gone only halfway, and that is why Mr Hargreaves is entirely justified in moving this motion in the Assembly today. When a Minister refuses to deal with an issue appropriately, it is the appropriate role of the Opposition to draw attention to the failing and to urge a better approach. Mr Speaker, quite clearly, there are a number of very important issues which Mr Hargreaves has raised in this debate and which the Minister has failed to address. The most important one is a whole-of-picture approach to the issue of the review of school bus services - not merely a review, but a whole-of-picture approach to the review of school bus services.

I noticed that the Minister relied on something that was completely irrelevant to the debate to try to justify his argument, which means he probably did not have much to say in the first place. Mr Speaker, I want to put on the record the debate about ACTTAB. I do not know how buses and ACTTAB relate, Mr Smyth. Somehow you brought it into the debate. I want to correct the allegation made. Mr Speaker, in the debate Mr Smyth made a very crude, and I think completely baseless, accusation against the Labor Party. Basically, he suggested that the Labor Party wanted the Chief Minister to table documents that she had allegedly provided to us in a briefing that the Chief Minister gave in relation to ACTTAB. It is quite clear that this is the same document that the Chief Minister herself released to the media in the ACT, but refused to table in the Assembly. I draw Mr Smyth's attention to the similar approach that the Chief Minister has adopted in relation to the capital works budget, where she provides it to the media before she provides it to some members of this place. I think Mr Smyth needs to be a little careful when entering these debates and making allegations against the Labor Party in relation to documents. He should have a look at what is happening down the other end of the bench.

Mr Speaker, Mr Hargreaves's proposition is a sensible one. Mr Hargreaves's proposition says that we want a wide, overarching review of school bus services. We do not want the Government to continue with a piecemeal approach. We certainly do not want the Government to continue to get away with the sorts of broken promises that it got away with, say, in 1995, with free school bus services. Do you remember that one? I think that the Government's approach on this issue has been inconsistent. The Government seems to have rediscovered public transport only in the last six months. We welcome the steps that have been taken so far, but we very much want to see this review undertaken appropriately. That is why Mr Hargreaves has moved the motion he has moved in the Assembly today. It is a sensible approach and I urge members of this place to support it.

MR OSBORNE (12.23): I rise briefly to speak to Mr Smyth's amendment. I will be moving my own amendment a little later. Mr Speaker, I do not think I will be supporting Mr Smyth's amendment giving everybody a pat on the back when they have not done anything yet. The issue of school buses has been one that I have been involved in for a long time. We became convinced way back in 1996 of the need for a review.

I even went so far as to place on the notice paper a motion for such a review, so I am very sympathetic to what Mr Hargreaves is trying to achieve here. Before the motion could be debated, we had a change of Ministers. Mr Kaine, recognising that he had some problems with the whole of ACTION buses, immediately commissioned the Graham review. Subsequently, I withdrew my motion to review school buses, to see what eventuated from that report.

The Graham report highlighted quite a number of concerns brought up by parents concerning the provision of school buses within Canberra. I can speak, from my own experience, Mr Speaker, about a number of problems regarding school buses, especially down in the Lanyon valley. The report proved that the general public is best served by ensuring that separate school bus services are provided, wherever practicable, rather than using route buses, as schoolchildren require special safety arrangements.

The report raises a large number of questions, however, such as the minimum number of children required to make an individual school bus, and the fact that a bus service needs to be viable; the different needs of primary and secondary students; preferential treatment given to various schools and school zones; safety issues, such as requiring children to cross a road, young children especially; young children having to wait at interchanges; the location of bus transfers - it goes on and on.

The role of the school bus liaison committee needs to be reviewed, I feel, as there seem to be difficulties with information flowing back to parents and schools. I do not think there is any consistent set of standards or policy in place regarding who gets a school bus and who does not. It is right and good for the school bus system to be reviewed, as suggested last year by the former Minister, and again this year by the present Minister, and also by Mr Hargreaves. But, Mr Speaker, I feel that that review should be handled by the Assembly's Urban Services Committee. I have spoken with the chair, Mr Hird, and other members, and they are quite interested in that option. That is why I will be moving my amendment after we vote down Mr Smyth's amendments.

Let us not throw insults at one another. The issue of school buses is an important one. I do not doubt that Mr Hargreaves has had an interest in it. I recall, even before he was elected, having discussions with him about school bus services. Rather than having ACTION look at the issue, we need to have a look at it within the Assembly because this very important issue affects many families. As I said, Mr Speaker, I will be voting against congratulating the Minister and ACTION at this stage. I will be moving my amendment to Mr Hargreaves's motion after we have dealt with these amendments. My amendment basically seeks to refer the issue to the Committee on Urban Services and proposes a reporting date of 22 October. If members would like it to be earlier, I am quite happy to amend it.

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

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Rural Residential Development

MR STANHOPE: My question is to the Minister for Justice and Community Safety. In question time yesterday the Chief Minister advised the Assembly that the Government's preliminary agreement or contract with developer Derek Whitcombe was terminated because the Government had made its decision on the basis of false information. In an interjection during the answer the Minister for Justice and Community Safety acknowledged that the reason the Government had, nevertheless, approved the deal with Mr Whitcombe was that it had been misled by the advice it had received from the Office of Planning and Land Management. Can the Minister tell the Assembly how PALM misled the Government?

MR HUMPHRIES: Mr Speaker, I am not sure that it is a matter that I am actually responsible for at the moment, but I am quite happy to provide the information which Mr Stanhope has requested. The Chief Minister indicated yesterday, quite clearly, that, apart from anything else, Mr Whitcombe has pulled out of the proposed arrangement. In a sense, the ongoing issue to the Territory is of somewhat limited relevance. The Chief Minister indicated, when she answered the question, that the problem that the Government had was that it was relying on the assumption that Mr Whitcombe brought to the Territory a proposal for development for rural residential purposes of approximately three blocks of land close to the village of Hall.

As it transpired - and this information became clear, at least to the Government, only very recently; that is, in the last seven days - the three blocks which supposedly were brought to the table by Mr Whitcombe in this arrangement were, in fact, at best, only one block; that is, what is now block 630. I do not know the subdivision, but it is block 630 close to Hall. Certainly, the Chief Minister in her discussion with Mr Whitcombe previously had been under the impression that there were three blocks that the occupants of the land, the Bolton family, actually had some title to and were bringing to the table, as it were, as part of an arrangement to develop those sites. It has become clear that only one block, in fact, is still leased to the Boltons, and that is leased only on a month-to-month basis. That is the nub of the difference between the two perceptions - the perception that the Government operated on for some while, before the last seven days or so, and the perception on which the Government assessed that there was a significant problem as a result of the preliminary agreement that was entered into with Mr Whitcombe and assessed that there was a problem with proceeding with the development of that site, given that Mr Whitcombe brought to the table, in fact, not three leases but only one lease. Even then, that was a lease only on a month-to-month basis.

Whether you could argue that PALM has misled anybody on that basis, I think, is a moot point. If I have indicated that anyone in PALM has misled me, perhaps I am overstating the situation. I will say, however, that at least a number of the parties dealing with the matter were under the impression that Mr Whitcombe had the cooperation of the Bolton family and it, in turn, brought to the table some sort of title over three leases near Hall.

In fact, that turns out not to be the case. That confusion about the status of those leases is the basis on which the arrangement has now fallen over, and some other process will be used to consider how rural residential development should occur around Hall.

Mr Berry: Who misled you?

MR HUMPHRIES: It is his question, Mr Berry; you ask yours when the time comes.

MR STANHOPE: My supplementary question is: What advice, if any - and, if so, when - was offered by PALM about the land development proposed for Hall?

MR HUMPHRIES: That is an extremely broad question. I have discussed the matter at various stages with PALM. I imagine the Chief Minister has discussed it with various officers in the Government. With great respect to the questioner, I think you need to be more specific. A great deal of information has been exchanged directly between PALM and individual Ministers, between different officers in PALM, between Mr Whitcombe and PALM, and between Mr Whitcombe and Ministers at various stages in meetings that he has held with them. That is a very broad question. If you want to be more specific, I am happy to try to answer your question.

Mr Stanhope: The question was: When was the advice about Hall first offered? It is a very specific question.

MR HUMPHRIES: He asks, "When was the advice first offered?". I could not tell him, Mr Speaker, when the advice was first offered; but I will - not that it is my department anymore - ask the present Minister to ask his officers to indicate to me when advice was first offered to me. If that will satisfy Mr Stanhope, I am quite happy to supply that information.

MR SPEAKER: I would like to acknowledge the presence in the gallery of Year 10 Daramalan College students whose area of study is the budget process. You might be a little early. Welcome to your Assembly.

Rural Residential Development

MR BERRY: My question is to the Chief Minister. Chief Minister, yesterday you said that you had not approached Mr Whitcombe on the Kinlyside development. Last night on Capital news you said that Mr Whitcombe had approached the Government. Speaking to a public meeting of about 80 people last July, Mr Whitcombe said that you had approached him. Did you approach Mr Whitcombe and encourage him to put forward rural residential development proposals in the Hall area?

MS CARNELL: Mr Speaker, I stand by exactly what I said yesterday. I approached many developers in Canberra in all sorts of forums with regard to rural residential development and asked them to think about this and to come forward with innovative ideas, which is exactly what I said yesterday. With regard to Hillview, I did not know Hillview existed until Mr Whitcombe came forward with a proposal.

MR BERRY: Mr Speaker, it was a very specific question.

MR SPEAKER: Yes, and I am aware of that.

MR BERRY: Did the Chief Minister - - -

Ms Carnell: Is that a supplementary question?

MR SPEAKER: It is a supplementary question; I am treating it as a supplementary question.

MR BERRY: Mr Speaker, the standing orders, of course, determine how things should be treated.

MR SPEAKER: The standing orders are interpreted by the Speaker.

MR BERRY: If the Chief Minister did approach Mr Whitcombe about the developments in the Hall area, why did she tell the Assembly yesterday that she did not?

MS CARNELL: Mr Speaker, I just answered that question. I said yesterday quite definitely that, with regard to Hillview, I did not approach Mr Whitcombe; and that is exactly what I said yesterday.

Gambling - Productivity Commission Inquiry

MS TUCKER: My question is to the Chief Minister. Mrs Carnell, I understand that in preparation for the Productivity Commission's inquiry into gambling, the Federal Treasurer wrote to State and Territory leaders asking them for comments on the draft terms of reference for that inquiry. Could you inform the Assembly how you responded to this request? Could you table, for the Assembly's information, any response you made?

MS CARNELL: That is the sort of question, I have to say, that it is always very useful to be given a bit of notice of, because it means that then we could bring down the information involved. But that is all right, Mr Speaker. The ACT Government is currently conducting, as everybody would know, its own inquiry into gambling, mostly from the perspective of national competition policies but also covering social aspects of gambling. The ACT Government supports the proposed Commonwealth inquiry into Australia's gambling industries. A national inquiry that examined the economic and social impacts of gambling, particularly in the area of small business and the impact on the welfare system, would allow the ACT to build on its own information and to make further

assessments concerning Territory policies on gambling issues. I do not think we would at all doubt that. In announcing this inquiry, though, the Federal Government acknowledges that it has no formal jurisdiction over gambling; gambling revenues and regulations are clearly the responsibilities of the States and Territories.

I believe that there is a role for the Commonwealth in the area of interactive gambling. A greater cooperation with the Commonwealth on this matter would ensure an effective regulatory regime from an interactive gambling perspective across all jurisdictions. I am sure that we would all agree that on interactive gambling the approaches that we all take should, wherever possible, be the same; and that is happening across jurisdictions. I am looking forward to seeing the findings of the inquiry on the sorts of approaches that we are putting to the Commonwealth on issues such as, as I think members would have heard me say, why the Commonwealth, on one hand, is saying to the Australian community, "We are very worried about gambling" - and I am not doubting their view on that - but, on the other hand, penalising the ACT for underperforming in gambling revenue. That is the approach I am putting to the Commonwealth; and I made it quite clear that I am doing that.

There are two issues. One is interactive gambling, where the Commonwealth should be involved in setting approaches for the whole of Australia; and it should stay out of our regulation in other areas. I have to say that we do not encourage the Commonwealth to come in and legislate on our behalf. In fact, we encourage them not to. The second is to ensure that the Commonwealth starts being a tiny weeny bit, I suppose, even-handed in this area. Being even-handed means that you cannot put your hand on your heart and say you are worried about gambling and then turn around and say the ACT is underperforming by as much as, I think, $18m and then penalise us for the pleasure. I think that is the sort of information the Commonwealth needs.

MS TUCKER: I have a supplementary question. Mr Speaker, I did not understand from that answer whether or not Mrs Carnell is going to table that response, for our information. She gave a brief overview of it; so, I would seek clarification on that. But my supplementary question is this: I was interested to see Mrs Carnell on local television news last week saying that she thought it was totally irrelevant what the Federal inquiry came up with. As the brief of that inquiry is to produce good public policy advice, I am surprised you think that you should not have actually asked that inquiry to look at things that we certainly do not have the resources to do in the ACT, because we do not have our own independent inquiry.

Ms Carnell: Is that a question or a statement?

MS TUCKER: I am sorry; I did not ask a question; you are right. The question is: On local television last week, why did you say it was not relevant to the ACT when, obviously, it is going to be a really important document for public policy development?

MS CARNELL: Mr Speaker, the reason I made the comments that I did was that this inquiry, firstly, will not come up with any recommendations. What it is looking at is an overview for the whole of Australia. The input that the ACT, as a jurisdiction on its own, will have into that sort of direction will be very small. Ms Tucker may not be aware that already the information that we have in the ACT would indicate that the issues that are

impacting on the ACT appear to be quite different from those in the States. To start with, we have had poker machines and gaming machines in the ACT for a lot longer than most States have. It appears, from all of the information that we have, that the usage of those machines is not tracking up exponentially. The position with problem gambling in the ACT is that it has not been tracking up exponentially, as is the case in the States. The level of gambling per capita in the ACT is not tracking up, as is the case in the States. So, I have to say that information put together, based upon predominantly the bigger States, may not be all that relevant to the ACT, taking into account that there will not be recommendations. I think that is something that we all have to accept.

Rural Residential Development

MR CORBELL: My question is to the Chief Minister. Chief Minister, why did the Government ignore its own guidelines, which indicate that new joint ventures be progressed by public tender, when it entered into an exclusive contract with Mr Derek Whitcombe in relation to rural residential development at Kinlyside and Hillview near Hall?

MS CARNELL: Mr Speaker, I answered this question yesterday.

Mr Corbell: No, you did not.

MS CARNELL: I actually did. Mr Speaker, I am happy to answer it again. Mind you, I wonder, under standing orders, how often you have to answer the same question again.

Mr Moore: Standing order 117(h) says you cannot.

MS CARNELL: Standing order 117(h) says you cannot.

Mr Corbell: It is not the same question.

MS CARNELL: It is the same question, Mr Speaker. As I said yesterday, the ACT Government does not, in policy, rule out joint ventures - not at all. That is the point I made yesterday. What we say is that it is not our preferred approach for these sorts of things. Yesterday, when I answered this question, I made the point about Harcourt Hill and about the abysmal approach of the previous Government. Mr Corbell, that was the question you asked yesterday. Those opposite continue to talk about public tender. Did they go to public tender? No, Mr Speaker. Our position is that joint ventures are not the preferred approach because those opposite stuffed them up so often. To restate exactly what I said yesterday: Our position on this is that we look at each and every proposal on its merits. So, I say exactly what I said yesterday, again.

MR SPEAKER: I confirm that the question was asked yesterday.

MS CARNELL: Thank you, Mr Speaker.

MR SPEAKER: I would remind members of standing order 117(h), which states:

> A question fully answered cannot be renewed.

Do you have a supplementary question, Mr Corbell?

MR CORBELL: Yes, I do have a supplementary question, Mr Speaker. My supplementary question is: Is public tender the preferred position of the Government in relation to land development? Further, which parts of the Kinlyside development did Mrs Carnell discuss with Mr Whitcombe?

MR SPEAKER: I will allow the question.

Mr Humphries: The first part of that question is simply a reiteration of the first part - - -

Mr Corbell: No, it is not.

MR SPEAKER: Which part of which?

Mr Humphries: Of the first question Mr Corbell asked today. He asked two parts in that supplementary question. The first part was a reiteration of the question he asked before the supplementary question, which, in turn, was asked yesterday and answered fully on both occasions. I do not think the Chief Minister should be asked to answer a question three times in a row.

Mr Corbell: On that point of order, Mr Speaker: The Chief Minister has not addressed the issue that I raised, which is: What is the preferred position in terms - - -

MR SPEAKER: You are asking the question again.

Mr Corbell: I am sorry, Mr Speaker; the supplementary question was: Is it the preferred - - -

MR SPEAKER: I am not interested in your supplementary question now.

Mr Corbell: No, Mr Speaker - - -

MR SPEAKER: Far too often - - -

Mr Corbell: In terms of clarification of my question - - -

MR SPEAKER: Resume your seat, Mr Corbell. This reiterating of a question as a point of order has been going on far too often. I rule your point of order out of order, and I invite the Chief Minister to answer the second part of the question only.

Mr Berry: Which parts of the development did you approach Mr Whitcombe on?

MR SPEAKER: Do not answer the first part.

MS CARNELL: Mr Speaker, I encouraged Mr Whitcombe and many other developers to come forward with proposals for rural residential development; and I still do that, because the Government is committed to rural residential development in the ACT. I did not specify to Mr Whitcombe or anyone else any particular part of Canberra.

Police Force - Expenditure

MR HIRD: These people over there whinge and whine, but they are the masters of - - -

MR SPEAKER: Ask your question, Mr Hird.

MR HIRD: Yes, sir. It is good to see you are in control as usual, Mr Speaker. I address my question to the Minister for Justice and Community Safety. I refer to the answer to my question yesterday - which was an excellent question, might I add - concerning the police budget and the announcement that $472,000, which I know Mr Kaine is also very interested in, would be provided to the police for significant costs of major operations. I heard Mr Hargreaves claim this morning - whingeing and groaning, which is his wont in life - that the money was necessary because of poor administration. I ask you, Minister: Is this correct?

MR HUMPHRIES: I thank Mr Hird for that very good question. The short answer is no. Mr Hargreaves, who is developing a very profound reputation for shooting first and asking questions later, has blamed the need by the AFP to obtain more money on poor administration. He told the *Canberra Times* that. In fact, I quote from that article:

> ... John Hargreaves said that, while he had not been fully briefed -

that is putting it mildly, is it not? -

> it appeared to reflect poor administration.

Mr Hargreaves: By your own words, it is.

MR HUMPHRIES: No. I never said at any stage that it was poor administration, Mr Hargreaves. Do not put words in my mouth.

Mr Hargreaves: Show me the quotation marks, Mr Humphries.

MR HUMPHRIES: You did not say this? Mr Speaker, I seem to recall - - -

Mr Hargreaves: I said considerably worse than that; and I will do so again, given an opportunity.

MR SPEAKER: Mr Hargreaves, you have not asked a question yet. If you keep interjecting you might not have the opportunity today.

Mr Hargreaves: At your pleasure, Mr Speaker.

MR HUMPHRIES: I think we can safely assume Mr Hargreaves did imply or say that there was poor administration in the Australian Federal Police. We have had Mr Hargreaves in recent weeks - in fact, in this chamber on the last sitting occasion - claiming that resources available to the Australian Federal Police were at such a low ebb that it forced disastrous decisions like the putting on standby of the rescue squad on a couple of recent public holidays.

The reason for the police having to receive budget supplementation is that during the last financial year they have had to manage a large number of extremely expensive one-off investigations. A recent murder investigation and a major operation in February targeting a motorcycle gang's members allegedly involved in the distribution of drugs and the possession of firearms have created significant budget pressures on the police. The Government took the view that that level of expenditure was absolutely necessary when the only alternative was a significant compromise to public safety. That was what I told the Assembly yesterday, and that is what I repeat and reaffirm to the Assembly today.

Before approving supplementation, I sought detailed information from the Federal Police about what they were doing to take steps to control any non-essential expenditure. Mr Hargreaves seems happy to criticise the hardworking police men and women of this town, who have been going about their job in difficult circumstances and with some distinction, because of extremely expensive investigations. So, rather than asking for a briefing as to what is going on, he just shoots off and says, "Poor administration".

I make a point about the Federal Police, Mr Speaker. Mr Hargreaves may try to claim that when he was referring to poor administration he was really referring to the Government's poor administration, not the Australian Federal Police's. Of all the agencies which service the ACT community and which the ACT community funds, the Australian Federal Police is the one least administered in that sense by - - -

Ms Carnell: Unfortunately.

MR HUMPHRIES: Unfortunately, yes, as the Chief Minister says, it is the least administered by the ACT Government. The Australian Federal Police is a Commonwealth authority which contracts its services to the ACT. We do not have the power to walk in and say, "Change this; do that; make this alteration here". Our powers are much more limited than that.

Mr Hargreaves has shown some vague understanding of that when he has called for renegotiation of the Federal Police contract. We all know that, Mr Hargreaves; we have been working for several years towards changing those arrangements. Do not come in here and tell us what we already know. But to acknowledge, as you have, that we have that limited control over the Australian Federal Police and then to come along and say,

when budget pressures are demonstrably strong and result in the need for extra money, that is the result of poor administration is to make an extremely unfortunate and unfair attack on the management and, indeed, the rank and file officers of the Australian Federal Police.

Mr Speaker, our police have to work in extremely difficult circumstances. They have satisfied this Government that the pressures they are facing, in a budget sense, are not controllable from their end. They have put a good case for budget supplementation, and that - not poor administration - is the basis on which this Government has agreed to provide that budget supplementation.

MR HIRD: I have a supplementary question. I am surprised that Mr Hargreaves, as a new member, continually interjected.

MR SPEAKER: No preamble.

Mr Kaine: On a point of order, Mr Speaker: I understand there are no preambles to supplementary questions.

MR SPEAKER: I uphold the point of order. No preamble.

MR HIRD: I was not preambling; I just made an observation. My supplementary question - if the natives over there would be quiet - is this: Minister, was Mr Hargreaves wrong? Is that right?

MR HUMPHRIES: Yes, Mr Hargreaves was wrong. Moreover, he was, I think, behaving very unfairly towards the Federal Police themselves. I should point out to the house that in days gone by there was another politician who began his career in this place by making something of a habit of attacking the Australian Federal Police, particularly their telephone manner and things of that kind. Mr Whitecross, I think his name was, suffered a rather untimely fate. I would not be surprised if the esteem in which this community holds its police force was part of the reason for the reflection they made on Mr Whitecross as a result of his attack on them. So, Mr Hargreaves, watch out.

Belconnen Aquatic Centre

MR RUGENDYKE: My question is to Mr Stefaniak, the Minister in charge of sport and recreation. I am sure this question will be of interest to our friends from Daramalan College who may reside in the wonderful electorate of Ginninderra. Minister, what costs, if any, have been incurred by the ACT Government by way of consultants' fees or any other fees to do with the siting and/or development of the Belconnen aquatic centre proposal to date?

MR STEFANIAK: I thank Mr Rugendyke for the question. Yes, you will see there is another $200,000 in the capital works budget. This was announced by the Chief Minister the other day. Because this is part of the cost, I will mention it. There was a study done in 1996 of Canberra's aquatic needs for the next 20 years. That went out for community consultation after the study. That cost about $60,000, Mr Rugendyke. Part of that, you could say, dealt with the Belconnen aquatic centre. In terms of the siting, I understand, again, the cost was approximately $60,000. Also, there have been some seismic tests done. There was a seismic problem on the designated site. I am awaiting details of those.

Mr Osborne: Seismic? Do you mean earthquake?

MR STEFANIAK: I certainly hope not, Mr Osborne; I certainly hope we do not have an earthquake. But there were some costs in relation to seismic studies, which I am yet to be advised of. As soon as I am advised of those, I will get those to you as well.

MR RUGENDYKE: I have a supplementary question. Thank you, Minister. Given the apparent backflip on the construction of the pool, does this mean that the money spent so far has been wasted?

MR STEFANIAK: Mr Rugendyke, you talk about a backflip. I take it you are actually supporting the pool now, but I note you were having a bit of an each-way bet in the *Chronicle* of 20 January. At any rate, in terms of money spent to date, $60,000 was for a study of the aquatic needs of the whole of Canberra for the next 20 years. I think that is money well spent. I note that a number of people in the community did not like some of the recommendations of that report. I note that quite a few of our students from Daramalan are well aware of the Dickson pool.

MR SPEAKER: Order! Stop referring to the gallery.

MR STEFANIAK: That study suggested that, if we upgrade Civic in years to come, that could close. That caused quite a bit of angst, naturally enough, amongst the people who use Dickson pool. In the last election campaign, people would be no doubt aware, I indicated in categorical terms that it is not this Government's intention to close that pool. I made that guarantee for the term of this current Government. That was one of the points in that report.

In terms of the siting report, six sites were looked at in Belconnen, Mr Rugendyke, including the sites of the three existing operators who have pools within their facilities. Those six sites were looked at and were numbered one to six in order of recommendation to the Government. The Government picked the No. 1 site. I am pleased to see Mr Evans from the Belconnen Community Council in the audience as well. His organisation conducted a survey of about 800 people, and well over 90 per cent were very keen to see a facility built. It is interesting that over 600 actually preferred that site.

Belconnen Aquatic Centre

MR QUINLAN: While we are puddling around, I will direct my question to the Minister for Education in his role as Minister in charge of sport and recreation. Was the Minister aware, when he wrote to the Friends of Dickson Pool on 22 April this year, that the Competitive Neutrality Complaints Unit had completed, or was about to complete, its report on the Belconnen pool and it was - excuse the outrageous pun - dead in the water? Was he consulted by that unit? Did he have Cabinet approval to indicate in the letter that the Belconnen pool development would proceed?

MR STEFANIAK: Mr Quinlan, you will note that on 22 April 1998 the Belconnen pool proposal was proceeding. The unit you refer to is an independent unit which operates from the Chief Minister's Department. Indeed, the Chief Minister made an announcement - and I think you will find that was in May, not so long ago - in relation to that study.

MR QUINLAN: I have a supplementary question. Is the Minister concerned that the submission from his Bureau of Sport, Recreation and Racing - and I assume that is still yours, Bill, this week - which found that there was significant public demand for such a facility, that a pool would generate some 600,000 visits a year and that only a government was likely to construct such a facility - all of which clearly demonstrates that there is a public interest - was simply rolled? Are you concerned that it was simply rolled by this unit? Given your bureau's advice, if it is still your bureau, will you challenge that decision?

MR STEFANIAK: Mr Quinlan, I do not know whether you listen to what happens in the media or listen to what happens around you, but I recall last Friday week the Chief Minister announced that the very purpose of this study was to look at the competition neutrality issues raised by that unit. Foremost amongst those, Mr Quinlan, is public benefit. My bureau has certainly put in a submission to the unit. I think it was a very good submission. It certainly indicated a number of things. The unit is an independent body. You might find, Mr Quinlan, that, on the issue of public benefit, I might well disagree with what that unit said; but it does have to look at the competition policy issue. It is an independent unit. It has made a recommendation now that has to be addressed, because, if it were not addressed and that report perhaps were sent to the ACCC by one of the two operators who actually made the complaint, that might cause us more problems than not. At least now we have the ability, once we have that unit's report, to go into the matter thoroughly. Part of going into it thoroughly means a very detailed look at public benefit, which involves a lot of further consultation and actually building on what has been done to date by the Bureau of Sport, Recreation and Racing.

Marketing and Promotion Campaign Contract

MR KAINE: Mr Speaker, through you, I have a question to the Chief Minister. The Minister for Urban Services can put away his file on numberplates for the time being. Chief Minister, there has been some speculation in the past - and I notice that it was raised again as recently as yesterday - about the methodology by which the contract for the branding slogan for Canberra was awarded to a Sydney company, J. Walter Thompson.

I want to set people's minds at rest. So that people understand how that was done, can you explain to us what the process was by which this contract was awarded? Why was not the normal procedure of an open competitive tender system that would have allowed local people to tender for that contract used?

MS CARNELL: Mr Kaine, as you would know, because you were part of the discussions at the time, it was actually done by CanTrade, not by the Government at all.

Opposition members interjected.

MR SPEAKER: Order! I ask members of the Opposition to be quiet. Mr Kaine deserves to hear the answer to his question.

MS CARNELL: That is certainly true, Mr Speaker. It is probably appropriate, as this was done by CanTrade, for me to seek some advice from CanTrade on what the whole process was. I understand that J. Walter Thompson put forward a proposal to CanTrade; CanTrade were very keen on it; they worked it up with J. Walter Thompson and decided that it was worth a go. CanTrade asked me to have a bit of a look at the proposal. Mr Kaine might have been there as well. There were certainly others who were part of the CanTrade presentation to Ministers. I thought and still believe that the Feel the Power approach is a very good approach, and CanTrade has the capacity to do that.

MR KAINE: I have a supplementary question, Mr Speaker. One can almost draw from the Chief Minister's response the conclusion that CanTrade has nothing to do with the ACT Government; and I would dispute that. I find it hard to believe that this company, out of the blue, came and made a proposal to the ACT Government, through whatever agency, on such a matter without being invited to do so. So, I come back to my question. Why was it not open tender? What was the process used? The Chief Minister has not answered the question.

MS CARNELL: Mr Speaker, I mentioned in my answer to that question that I would seek some advice on the actual process that was gone through, but I know that J. Walter Thompson is a company that specialises in branding exercises. This is not an advertising campaign, and Mr Kaine knows that perfectly well. Branding exercises are a totally different approach. They require a long-term approach to changing people's feelings and their attitudes, rather than just advertising a product. It was perceived that a company with international experience such as J. Walter Thompson was an appropriate company, and I have to say that J. Walter Thompson has done work for all sorts of different entities.

Mr Berry: By whom?

MS CARNELL: By CanTrade.

Mr Berry: So you endorsed it?

MS CARNELL: Yes, I endorsed it; Mr Kaine endorsed it; we all endorsed it.

Mr Kaine: On a point of order, Mr Speaker: Mr Kaine did not endorse it, and I want that recorded in *Hansard*.

MR SPEAKER: There is no point of order. You will have an opportunity to make a personal explanation later if you wish.

MS CARNELL: He was part of a Cabinet that did, Mr Speaker. J. Walter Thompson did give a number of presentations. J. Walter Thompson did a lot of the work for the Atlanta Olympics and did give us a presentation on the work that they had done to improve the opportunities for cities in the Atlanta region to maximise the benefits of the Olympics in Atlanta. Fairly obviously, Canberra is in a very similar position of needing to, I suppose, change some attitudes to Canberra in the lead-up to the Olympics. I believe that J. Walter Thompson's capacity and experience in this area are the sort of experience that no local company has. No local company has done that sort of work before. I think J. Walter Thompson has done a very good job.

I come back to open tender. Open tender is not the be-all and end-all. Open tender would be the approach that we take under normal circumstances. What is a normal circumstance, Mr Speaker? When there is not a good reason to go down a different path. Certainly, from a Government perspective, open tender is not a holy grail. What is a holy grail is getting the right outcomes, absolutely the right outcomes. From that perspective, I stand by the approach of not going to open tender when we believe we can get the outcomes in a better and different way.

Quamby Inmate - Inquest

MR OSBORNE: My question is to the Minister for Justice, Mr Humphries. Minister, on 17 September 1996, a 17-year-old youth named .... hanged himself in the Quamby Youth Detention Centre. The inquest into his death did not begin until November 1997, almost 14 months later. At the time the inquest began .... family was told that it would run until it was finished. In the event, the inquest ran for three weeks before it was adjourned without a result. The family was told that the inquest would recommence in February this year. As it turns out, it is not listed to resume until October this year, 1998; that is, over two years since ..... died. Minister, I know you are aware of the situation. Can you explain why it is that there has been such an absurd delay in dealing with this matter?

MR HUMPHRIES: Mr Speaker, let me say, first of all, that I am not entirely sure that the name of the person who died at Quamby has been released publicly by the court. I do not think I have seen the name referred to in any news reports; so, I do not propose to use the name of the person concerned until I am sure about that. We might ask anybody reporting it not to use that name unless they check, as before, that the name in fact is not suppressed by the court.

I am aware of the case Mr Osborne refers to, and I must admit I have some concerns about the delay as well. I understand there was an application earlier by one of the parties to the proceeding to challenge the capacity of the coroner assigned to that matter, Mr Soames, to hear that matter, on the basis of bias. An application of some sort was made to the Supreme Court. I understand the Supreme Court rejected the application and the matter was referred back to the Coroner's Court for commencement of the hearing. That is part of the reason for the delay but not by any means the whole of the reason. I also understand that the Chief Magistrate is concerned about the concept of having two inquests running at the same time. Of course, the Bender inquest is running at the present time, and I understand he is concerned about having a second inquest running simultaneously with that inquest.

Notwithstanding that, I certainly share the concern that Mr Osborne has expressed about the matter. I have recently received a letter from the Children's Services Council on the subject. On the basis of that letter, I have instructed that a letter to the Chief Magistrate be prepared for my signature, to raise the issue with him. I hope that will result in some attempt to bring forward the commencement of this inquest.

MR OSBORNE: I have a supplementary question. I thank you for that answer, Minister. Given that the family are quite clearly suffering - and I do have a letter from the family, addressed to me, which I am happy to make available to you - would you undertake to write to the family, explaining the delay, or perhaps ask the Chief Magistrate to write to the family, explaining the delay?

MR HUMPHRIES: I am very happy to write to the family and explain the situation. I might add that there is a retirement of a magistrate coming up later this year, in the next couple of months. That will necessitate the appointment of a new magistrate. The Government will be looking overall at the resourcing situation with respect to the Magistrates Court across the board at this time. As you would know, the Government has not been shy of supplementing the resources of the Supreme Court, where that was appropriate; and we would consider the situation with respect to the Magistrates Court in the same light. If that produces some improvement in the situation with respect to issues like this, that would, I suppose, be a welcome matter for the family concerned.

Competitive Neutrality Complaints Unit

MR HARGREAVES: My question is to the Chief Minister. Chief Minister, you said on ABC radio on 8 May - we have a copy here for you to refresh your memory, if you would like to - that although the Competitive Neutrality Complaints Unit was established within your department it did not actually work for you. Could the Chief Minister advise the Assembly to whom the unit is answerable?

MS CARNELL: It is set up under Commonwealth legislation and there is a requirement for it to report. It operates under the guidelines set out in the Commonwealth legislation and reports under those guidelines.

MR SPEAKER: Do you have a supplementary question, Mr Hargreaves?

MR HARGREAVES: Thank you, Mr Speaker. Thank you for that, Chief Minister. You also said on the same program, as you have just indicated, that it was established under Federal competition arrangements. Can you tell us, then, how it is that Federal legislation can create bureaucratic operations within the Territory administration?

MS CARNELL: As members who were here at the time would know, that legislation, the national legislation, was then followed up by legislation in the ACT after the agreement was signed, for us to, I suppose, mirror those sorts of legislative requirements. The agreement was signed by Rosemary Follett, and the national competition legislation was brought forward into this place. That is how the process works. Rosemary signed the agreement put forward by the Federal Labor Government. They passed legislation federally, and legislation was followed up in the ACT as it was in the States.

Competition Policy Forum

MR WOOD: My question is also to the Chief Minister. Chief Minister, on ABC radio on 8 May, in answer to a question about why the Government had not referred the Belconnen pool issue to the Competition Policy Forum, you said:

> ... because the Forum said they didn't want the government to refer things to them. They actually made a decision last year that they believed it was inappropriate for the government to ... refer issues directly to this Forum.

Chief Minister, can you tell the Assembly in what form that decision of the Competition Policy Forum was made, and when and how it was conveyed to you?

MS CARNELL: Mr Speaker, I think there was some minor debate, probably in this place as well, from memory, because I remember there was some deal of concern by that forum or by some people on that forum. Whether or not it was actually in the Assembly, I cannot remember; but there was some real concern from the forum that having public servants as part of the forum and having those public servants put together the agendas for those meetings was, shall we say, directing the forum. The view of the forum, as it was put forward to me by the public servants involved - and I think by others as well - was that the forum wanted to be able to investigate the things that it wanted to investigate or believed needed to be investigated; not the things that the Government wanted investigated. In fact, it was put to me that the forum did not want to be an arm of government; they wanted to be independent, looking at the things that they thought were important.

Mr Speaker, it is also interesting to note, with regard to the Competition Policy Forum, that the last two meetings have been cancelled. The reason the last two meetings have been cancelled is that there has not been a quorum. The person who was most vocal - the only person who was vocal, I think, in recent days - was part of the problem by not turning up at those meetings. It has also been indicated to me that the forum has been

told that the Government was more than willing to brief them on issues such as the competition policy complaints unit and other issues such as the milk review. But, unfortunately, because the forum did not have a quorum, those briefings could not happen, Mr Wood. So, it is very interesting that if people do not turn up at meetings they cannot then whinge that they were not briefed.

MR SPEAKER: Do you have a supplementary question, Mr Wood? Order! Mr Wood wishes to ask a supplementary question.

MR WOOD: The Chief Minister, in her answer, seemed to me to be saying that it was something referred to in this Assembly that gave her the basis for saying it. Chief Minister, my supplementary question is: Are you confident of your view about that decision of the forum, or would you care to go back and check the accuracy of anything you might have said in that respect? I do not think you have given a very clear answer at all today. You also appear to be distancing yourself.

MS CARNELL: Mr Speaker, the point I made was that I was not sure - I think, the words were - whether it was discussed in the Assembly; but, certainly, it has been discussed in other places. I have a memo from the chair of that forum, Brian Acworth, and I will read some of it into *Hansard*:

> You would be aware that the Forum's 3 December, 1997 meeting was cancelled because only two Forum members had confirmed their attendance. This necessitated the cancellation of the CSO presentations by ACTEW's acting CEO, and the General Manager from EPIC. At the time I had asked Dr Sheen/Greg Clark to notify the Forum members of the situation, and to confirm that an alternative meeting date would be advised. You may now care to advise me of your thoughts about rescheduling this meeting.

There are other issues with regard to the review of the Milk Authority and so on. Mr Speaker, I do not think members of the forum can go on radio and complain that they have not been briefed if they have not turned up at the meetings.

I come back to the exact answer. My advice is that the forum asked that public servants not be present at their meetings; that the Government not direct the approach or the issues that the forum looked at; that the forum wanted to set its own agenda. That is very definitely my advice on this. Certainly, if that advice is not right I will come back; but my advice is very definitely that that is the case. Quite seriously, the forum is not working well; but it is not working well simply because a large number of members seem to be very keen not to turn up.

Mr Berry: Would the Chief Minister table that document?

MR SPEAKER: Which document? There is a convention - - -

Mr Humphries: There is a convention about not quoting from documents.

Mr Berry: No; I am not demanding it. I am asking whether the Chief Minister will table that document.

MR SPEAKER: It is up to the Chief Minister.

Mr Humphries: All right; that is a fair question, I suppose.

MS CARNELL: I will have to think about it, Mr Speaker.

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

Government Car Fleet - Natural Gas Trial

MR SMYTH: Mr Speaker, on Tuesday, 28 April this year, Ms Tucker asked a question regarding the trial of natural gas vehicles in the Government's passenger and light commercial fleet managed by Totalcare. I have been provided with an answer by Totalcare, and I will read that into the record.

The trial of natural gas vehicles commenced in the Government's passenger and light commercial fleet in June 1994. The costs of converting the vehicles to natural gas have been met by the Energy Research and Development Trust, while tanks and conversion kits were provided by AGL. There are only modest savings in the use of natural gas when compared to petrol; for example, the savings in fuel have been only $3,544 for the five city rangers' utility vehicles in 1996-97 - an average of about $700 per vehicle before conversion costs. However, there are some difficulties in expanding the trial beyond its present size. Fuel is available only at the one site in Fyshwick, and travel times can be excessive to return vehicles for refill, particularly if they are operating in the more distant areas of the ACT. This can cause productivity losses and increased fuel utilisation. Consequently, there have been some difficulties in the switch-over to natural gas. Growth in natural gas vehicles in both public and private fleets will occur only when additional fuelling sites in convenient locations are available.

COMPETITION POLICY FORUM

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, I table that memo, for the interest of members.

PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS
Papers and Ministerial Statement

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of contracts with Peter Hade, a long-term contract; and John Wynants, a Schedule D variation. Mr Speaker, I ask for leave to make a short statement.

Leave granted.

MS CARNELL: Mr Speaker, again with regard to this long-term contract and Schedule D variation, I ask that members deal sensitively with the information and respect the privacy of the individual executives. I would like to thank members of this Assembly for always treating this information with the appropriate sensitivity.

SCHOOL BUS SERVICES - REVIEW

Debate resumed.

MR HIRD (3.25): This issue is of some concern to all of us. Once again, I am surprised at Mr Hargreaves. I know he is concerned for his constituents in the electorate of Brindabella, as are Mr Rugendyke, Mr Stefaniak and, I am sure, Mr Berry for their constituents in Ginninderra. Other members are concerned as well, even Mr Quinlan. But Mr Quinlan has not quite got round to educating Mr Berry on what two and two is; it is four, not 22.

On the matter before you, Mr Speaker, Mr Hargreaves had a full briefing on it. One was given to all members who cared to participate. That briefing was comprehensive. Everything Mr Hargreaves is whingeing about in his motion has been agreed to by ACTION management and has been identified by the Minister concerned.

Mr Moore: Come on, Harold; give it to them.

MR HIRD: Thank you, Mr Moore. It is not very hard because they are still in prep school; they have not quite got into first grade yet, but they are working at it.

Mr Hargreaves: And we are waiting for you, Harold.

MR HIRD: I will not be going back. I am going forward, Mr Hargreaves; not like you. I shall be on the right bus. You have missed your bus.

The officers undertook to conduct a comprehensive review of this system, and Mr Hargreaves runs away and makes a martyr of himself by placing this motion under private members business and taking up the time of this house when we have better things to deal with. I am not talking about the substance of the motion; just the way that he has gone about doing it. He knows full well, Mr Speaker, that ACTION management is going to undertake this review.

I listened to my learned colleague Mr Osborne and his foreshadowed amendment, which is of some interest. I was interested to hear about Ms Tucker's removal of a motion on the notice paper prior to my being called by you, Mr Speaker. I should have thought Mr Hargreaves would have done the decent thing and not brought this motion into this house because he knows full well that ACTION management, through the Minister for Urban Services, is undertaking a complete review. I think this is just a sheer waste of time by Mr Hargreaves and the Opposition in trying to score points at the expense of a school bus service which is being reviewed right now. The review is being undertaken right now by the management, and I urge members not to support this motion.

MS TUCKER (3.29): I will not be supporting Mr Smyth's amendments, but I will say that I am glad to see that ACTION and the Government have picked up the Graham report. I am happy to give credit where credit is due. I believe that Mr Hargreaves has raised some quite important issues, and I was interested to hear what Mr Osborne had to say on the matter as well. When you realise that children have indeed been left at a bus stop, which is a quite traumatic experience for parents and the children, you really want to know that that sort of thing is not going to happen again with a school bus service. I was disappointed in Mr Smyth's response. Obviously, this banter happens. Point-scoring is what it is all about, but it is unnecessary and does not add to debate of the issues.

I think legitimate concerns have been raised. Legitimate concern was raised by Mr Hargreaves about the quality of the review and the detail it has gone into. I would have been much happier - and maybe even happy to support Mr Smyth's amendments - if Mr Smyth had acknowledged that maybe the review process is not as good as it could be and we could do a little better. I am prepared to support Mr Hargreaves's motion because I think it is really important that the Government start to acknowledge that criticism can be seen as information. Even in a political forum it is not always necessary to refute criticism totally. If it is seen as information, we could actually progress things to improve services. Maybe it is necessary to look at how we review the whole school bus system. I conclude by saying again that I am really glad that the Government is picking up the Graham report, even though I do not agree with all of it. I have made that clear in this place. I am concerned about the signage system, and so on; but that is another debate for another day. I will support this motion and I will support Mr Osborne's foreshadowed amendment.

Amendments (**Mr Smyth's**) negatived.

MR OSBORNE (3.31): I seek leave to move the amendment circulated in my name, Mr Speaker.

Leave granted.

MR OSBORNE: I move:

> Omit all words after "That", substitute the following words:
>
> "the Standing Committee on Urban Services inquire into and report by Tuesday, 27 October 1998, on ACTION Bus Services with particular reference to:
>
> (1) school bus routes;
>
> (2) the constitution of the interagency advisory committee on school bus services;
>
> (3) the cost of school bus fares;
>
> (4) the implication of traffic configurations around pick up and drop off points for school buses; and
>
> (5) any other related matter.".

As I said before lunch, Mr Speaker, this amendment allows the Urban Services Committee to have an inquiry into the issue of ACTION bus services. I did speak with Mr Hargreaves during the break and Mr Hargreaves indicated, and I agree with him, that he would like to see ACTION continue their inquiry in conjunction with this one. I look forward to members supporting this amendment to Mr Hargreaves's motion.

MR HARGREAVES (3.32): I would like to speak very briefly in support of Mr Osborne's amendment. The only caution I would put on it, also - to reiterate what he has just said - is that ACTION actually get on with it. I am very pleased to hear that ACTION have actually started their review. But it is not just an ACTION review. The point I am trying to make here is that there are other players in this sort of thing and I would like to see these other players involved in that review.

I think it is vital that it go to the Standing Committee on Urban Services, because, frankly, I do not trust an internal review of this nature. This is too significant an issue to be just put under the table. Mr Hird is quite right in saying that I had a briefing on the ACTION review, but I did not have a full briefing. I had a good briefing, a very good briefing. I congratulate Mr Thurston on what he told me. What he did tell me was that ACTION were going to do a splendid job of reviewing the system. They are going to go right back and count all the eyes, divide by two, work out how many seats we need, and away we go - perfect stuff. What he did not say, however, was what the implications would be for the traffic configurations and what role the traffic and roads people would play in it, because, quite frankly, it is beyond Mr Thurston's power to involve them by insistence.

All I am saying in bringing this matter to this Assembly is that I fully support the moves that ACTION are taking. Let me say that again: I fully support ACTION's moves, but I want the review widened. There are other things to be considered. Some of them are within the purview of ACTION management and some of them are not. But they are all within the portfolio of Urban Services, and that is what I want worked on. So, having it referred to the standing committee is an excellent idea, as is getting on with the review of ACTION. I would prefer to see those extra things that I want looked at included in that review. If that were the case, Mr Speaker, we could let the matter stand.

MR SMYTH (Minister for Urban Services) (3.35): Just a point of clarification, Mr Speaker: Perhaps Mr Hargreaves missed it when I said it this morning, but DUS actually convenes the committee that reviews school buses. As is rightly pointed out, the department has other resources that should be open to ACTION. DUS makes those resources available. I will say again for the record that the membership of the committee is very wide, in that the committee has on it departmental representatives from Urban Services and Education, people from the Catholic Education Office, and representatives of the Association of Independent Schools, the ACT Council of Parents and Citizens Associations, the Association of Parents and Friends of ACT Schools, as well as ACTION.

This is to be a very wide review. It will go right back to basics to make sure that we provide the best service that we can. Basically, there is nothing wrong with what Mr Hargreaves is calling for, except that he knows that we are already doing it. I am quite happy to support Mr Osborne, as I have already told him, in his amendment to have it go to the Urban Services Committee. I think it is very important that reviews go to committees and the Assembly have input at that stage. I think credit for this review should be given to the ACTION people, in particular Guy Thurston, because they are doing a very good job.

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

MR HARGREAVES (3.36): Mr Speaker, in closing the debate, I would like to address some misunderstandings that have been chucked about this chamber with gay abandon. It is not the membership of the interagency committee with which I have difficulty; it is their methodology. I would urge the chair of the Urban Services Committee to consider that point because the interagency committee has been working with the best intentions for at least 20 years that I know of and they have not got it right yet. There are many instances I can cite for the committee, when the time comes, of their not getting it right. It is happening because their methodology is flawed, and that needs looking into.

Mr Speaker, I was pilloried somewhat this morning, much to my great amusement - and I thank the Minister for the entertainment - over such things as reviewing it every year. Certainly, ACTION review it every year, and what they do is bandaid the routes every year. Guy Thurston's point is a very valid one. He wants to go back to taws. Nobody has any argument about the review every year, but that is not the salient point in this particular discussion. What we are saying is that it is insufficient and that it needs to be considerably wider. This committee that advises the Government has

everybody on it - Uncle Tom Cobleigh and all - but I am suggesting that their relationship with their constituents is not working. I have had numerous complaints from people saying that they do not hear anything from them, and that needs to be examined.

I was accused of going public after knowing full well what the Government was going on about. That is not so, Mr Speaker. I first complained about this issue in February. I was not elected to this place until considerably later than that. If the Minister wants to make a goose of himself repeatedly, who am I to stand in his way? At least he ought to get his dates right. He would know, if he watches television or, indeed, if he does go doorknocking to the extent to which he does, that I was dealing with this issue considerably before either of us was elected to this place. I was pushing these things. Indeed, it was I who asked them to get on with their review. My reason for bringing this matter into this place under private members business is not to score points against the Government or in favour of the Opposition. What I want is an outcome for the kids on these buses and for the parents that approach me, in much the same way as I know the Minister and the Government are committed to that outcome. To suggest that this is merely a point-scoring exercise is not only scurrilous, Mr Speaker, but also plain stupid; but I would expect nothing less.

I will just sum up now. What I want this review to do is to pick up the things that would not be reviewed in the normal course of events, those other things. DUS certainly has responsibility for traffic and roads and things like that. They do convene committees. But I have to say, Mr Speaker, that it is the first time I have heard that the traffic and roads people and the planning people have sat on that interagency committee and contributed to it. What I am asking is that that happen. That is all I am asking for. If the Government picks up those add-ons to this review and means what it says about going right back, counting the eyes, dividing by two and working out how many buses we have to provide, that would be wonderful. I would be the first to come out in public and congratulate them for that, particularly on the outcome.

Motion, as amended, agreed to.

GAMBLING - SELECT COMMITTEE
Appointment

MS TUCKER (3.40): I ask for leave to move a motion to appoint a Select Committee on Gambling.

Leave granted.

MS TUCKER: I move:

That:

(1)(a) a Select Committee on Gambling be appointed to inquire into and report by the first sitting day of 1999 on the social and economic impacts of gambling in the ACT, with particular reference to poker machines;

(b) the Committee be composed of Mr Kaine, Mr Rugendyke, Ms Tucker and Mr Wood.

(c) the Committee be provided with necessary staff, facilities and resources, including a consultant with expertise in the area of inquiry;

(d) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders;

(2) this Assembly calls on the Government to place a cap on the number of poker machines in the ACT at 5,200 until the Select Committee has reported to the Assembly.

As members are aware, I have been working on gambling issues in the Territory for the last couple of years. Last year I was successful in having legislation passed that included a package of harm minimisation measures. Unfortunately, my call for an independent inquiry to look at the social and economic impacts of gambling, limits on the number of licences, the creation of an authority to regulate the future growth of the industry and the provision of funding for education, prevention, counselling and support services, as well as further research, was rejected by this Assembly.

I placed a motion on the notice paper this week asking again for a moratorium on increasing the number of poker machines in the ACT until a national inquiry into the effects of gaming has been completed and this Assembly has had an opportunity to consider the findings of that inquiry. I would have been delighted if this Assembly had accepted a local independent inquiry; but, in the absence of that, I believed a national inquiry would provide us with useful information for making a better assessment about the social impacts of gambling in the ACT. I will come back to discuss this national inquiry in a moment.

After discussions in the past day or so, I accept that it would be legally difficult to enforce a moratorium at precisely the current number of poker machines. I have therefore agreed to a compromise position, which is a cap of 5,200 machines. This number takes into account the applications for machines that have been granted in-principle approval, as well as other machines in another club, the development of which has been significantly progressed on the understanding that approval would be given for poker machines. It is also taking into account possible small claims for machines. It is actually a generous assessment of the need. I understand that there will need to be amendments to the Gaming Act to enforce a cap and that this is likely to occur in June.

Mr Speaker, unfortunately, the politics around gambling in this town dominate any debates on what is a very important issue. The vested interests of the various players provide an all too convenient mechanism for them to sidestep the critical issues around the social and economic impact of gambling in this town. Most of the major players

profess to be seriously concerned about the social impact of gambling - that is, until any regulation which might affect them is put on the table. For example, the social impact of gambling has become, unfortunately, all too often a rationale to try to shore up control of the poker machine market by clubs.

Mr Speaker, my reasons for pursuing this issue have not changed since last year. I am concerned about the reliance of governments of all persuasions on the gambling dollar revenue, the out of control growth of the industry Australia-wide, the growth of problem gambling, which is primarily associated with poker machines in the ACT, lack of funding for education and prevention programs, and inadequate funding for counselling and community support services.

According to the latest research, Australia-wide gambling profits or losses to gamblers exceed $10 billion. Despite the rapid growth of the industry, there has been very little research on the direct and indirect impacts of gambling in Australia, and very little willingness by politicians to look seriously at the social fallout. It is very easy to reap the financial benefits from revenue from gambling and think about the social costs later. But now we can no longer afford to ignore these social costs.

In New South Wales, independent research has estimated the total cost to the community of impacts resulting from problem gambling at around $48m per year, and 3.8 per cent of the adult population in New South Wales have experienced a family member with a gambling-related problem. While we have not had this sort of research in the ACT, we know that problem gambling is a problem in the ACT. Welfare agencies, particularly groups like Lifeline who run a gambling counselling service, have many disturbing stories.

For example, according to the Lifeline 1996-97 annual report, the main type of gambling in which their 460 clients for the year were engaged was gaming, and the majority of clients earned less than $30,000. Twenty-one per cent of them were in receipt of full social security benefits. Lifeline are also experiencing an increase in the number of clients recently. For example, in the period July to September 1997 there were 152 appointments made, compared to 125 in the same period the year before. In the period October to December there were 145 appointments, compared to 94 in the same period the year before. The increase most recently is even more marked. One hundred and thirty-six appointments were made, compared to 36 the year before. Figures such as these are obviously a cause for concern, but we also need to know more about what makes people access gambling counselling.

Small businesses in the ACT have also expressed concern about gambling because of the impact on their profitability. This echoes concerns from retailers in Victoria who are concerned about the impact on their profits because disposable incomes are being affected by increasing gambling expenditure. Gambling issues, including prevention and treatment of gambling, social consequences of excessive gambling, and the danger of governments placing undue reliance on revenue from gambling were some of the specific concerns raised by the Social Justice Task Force of the ACT Churches Council in the recent ACT election campaign. While we have very limited statistics and some anecdotal evidence, we know little about the extent of the problem in the ACT, which is why I was calling for an independent inquiry last year.

Recently the Federal Government announced the establishment of a national inquiry into the effects of the gambling industry in Australia, as we heard in question time. While the terms of reference of that inquiry have not been finalised, the broad parameters for the inquiry are as follows: The extent and social cost of gambling; whether it is accounted for properly; its effect on the rest of the economy; and whether its contribution is positive or negative. It is expected that this inquiry will take 12 months. Mr Speaker, in the absence of a political willingness to tackle this issue head-on at the local level, I believe that this inquiry would provide us with some evidence about the impacts of gambling in our community and ideas for how to deal with the issue.

I was amused to hear Mrs Carnell saying in the media on Monday night that a national inquiry would not be of any use for the ACT. My understanding of the inquiry is that, while it will not come up with specific recommendations for the Federal Government, it is meant to be an extremely useful source of information and policy ideas for politicians and policy-makers. The overall objective is to develop a framework for good public policy in the area of gambling by providing a critique of the various regulatory frameworks and public policy responses across Australia. It is obviously not relevant to say that because there are no specific recommendations it would not be a useful document. As part of its inquiry process, the Productivity Commission will conduct research on the social and economic impact of gambling across Australia, including regional variations, as well as examining mechanisms to deal with the impact of gambling across States and Territories. A draft report should be ready before Christmas.

This motion recommends that we set up a select committee to look at the issues of gambling in the ACT. I do look forward to being part of a select committee of this Assembly to look at this important issue and to examine the findings of the Productivity Commission's inquiry. I also look forward to this committee examining the report being prepared by the Chief Minister's Department as part of the competition policy review. It is clear that the two would complement each other very well, and it is a quite appropriate process.

My main concern with an Assembly inquiry is the capacity of the committee to gather any important information that may be necessary but that is not available through the other report, particularly from the Government's competition policy review. In case we see some gap in information, we would need to be able to have resources to get further information. For example, it may be about the socioeconomic impact of gambling, the social profile of gamblers, the extent of problem gambling, the social fallout of problem gambling, et cetera. However, if the committee has the resources to enable us to do this research, perhaps by working with well-recognised researchers in the field, I believe it would be a very worthwhile exercise and obviously of interest to the broader Australian community as well. Obviously, some of the work, as I said, will be done by the Government review, and we would be happy to work with that process.

Mr Speaker, the fact is that we cannot simply allow poker machines to keep multiplying virtually unregulated. As we all know, the number of poker machines has increased dramatically in recent years. Between 1986-87 and 1996-97 the number of poker machines increased from 1,891 to 3,914, and just since that latest figure we now have 4,600 poker machines. That is another 700. In the absence of any regulation or cap of any kind, the numbers are simply going to keep increasing. Mrs Carnell expressed

concern because they are not going to increase exponentially. Well, maybe not exponentially - that is a very large growth description - but it is growing very significantly in terms of the numbers in our society. In the absence of any regulation, as I said, there will be continuing growth and we need to apply the precautionary principle here and say, "Let us work out the implications of this continued growth and not allow it until we do understand those implications".

There is not even any transparent process or criteria for determining the number of poker machines in this town. I hope an inquiry will provide the Assembly with useful information on which to make a more informed assessment of the economic and social costs and benefits of gambling. I also strongly believe that the committee needs to look at how we improve the regulatory process so that we can regulate the future growth and conduct of the gambling industry, perhaps by giving the commissioner greater powers or creating an authority of some kind.

In conclusion, Mr Speaker, I urge members to support this motion. I believe it is a motion which is sensible. It is acknowledging the work that will be carried out by the Productivity Commission. We will be able to link with that work because it is due to report by the end of the year and we have set as the reporting date for this select committee the beginning of next year. Obviously, there would be some flexibility about that and the work of the Government as well, of course, which is due to be reported quite soon. That would be a really good starting point for the committee. I know that the community, or many people in the community, are interested in seeing their elected representatives look at this issue as elected representatives in a separate forum from the current inquiry by the Government.

MR OSBORNE (3.53): Mr Speaker, I rise to indicate that I will not be taking part in the vote on this issue. As in the past on the issue of poker machines, I have felt, given my relationship with the West Belconnen Leagues Club and the Raiders to a certain extent, that there may be some perceived conflict of interest. So, as in the past, I will rule myself out of this debate and go and have a cup of coffee.

MR RUGENDYKE (3.54): Mr Speaker, I rise to support the motion as put by Ms Tucker. I welcome the opportunity to serve on the select committee if that is the will of the Assembly and if a select committee is appointed. I am interested also to note that poker machines will be only a small part of the focus of any select committee on gambling. Gambling ranges across a broad range of things. As members may be aware, one of my greatest interests is the socially disadvantaged of our community, people less able to control money. I have often heard anecdotal evidence that there are problems within that group brought about by gambling as a whole. I welcome the opportunity to find out the facts through the mechanism of a select committee and to determine the extent of problems that may exist as a result of gambling, if in fact they do. So, Mr Speaker, I do welcome this motion.

MR MOORE (Minister for Health and Community Care) (3.55): Mr Speaker, this motion really is a political stunt. Having done quite a number of political stunts myself in the past, I am not opposed to the notion of political stunts.

Mr Corbell: Never let it be said.

MR MOORE: No, we have to get that into perspective. They can be a very useful device. The difficulty, though, with this political stunt is that it is naive in its execution and I believe it will actually make the problems worse. That is not to do with the first part of the motion, Mr Speaker, the establishment of a Select Committee on Gambling. I do not have that much of a problem with the establishment of the committee, although, considering that we are going to have the report of another committee in respect of which the Chief Minister has just circulated the terms of reference, it would seem to me to be very sensible, even now, to adjourn this debate until that committee has reported and then take into account its information and work on its information as well.

There is a slightly different focus for that committee. It takes into account competition policy, but the terms of reference also include that the contract specifically address the social and economic impact of gambling in the ACT community, and the streamlining of gambling regulation and the Territory enforcement of such legislation; options for the most appropriate regulatory restructure for the industry - - -

Ms Carnell: Michael, it is only taxpayers' money. We will just do it again. Do not worry.

MR MOORE: The Chief Minister interjects, "It is just taxpayers' money. It is all right. We can do it again and again". It is quite clear that her tongue was firmly planted in her cheek as she made those comments.

It is not just a select committee. The motion also asks for the support of "a consultant with expertise in the area of inquiry". I also have no objection to the use of consultants, but I think it is appropriate that that be contained in some way or another. It seems to me that the cost of the consultant chosen will have to come from the Assembly budget, and I think that is something that members ought to be aware of when they are doing this. I attempted to use a consultant and started to go through a process of using a consultant in the Planning and Environment Committee some years ago. That consultancy was sidestepped and was used by the Government, which was fine; but I think you have to take those issues into account.

I think the most important outcome of this in the short term is that it will increase gambling revenues. There is no doubt about that in my mind. With increased gambling revenues will also come increased problems associated with gambling - the very opposite of the intention of Ms Tucker in putting up this motion, which is about, in the short term, putting a cap on.

Mr Berry: And you want to put them into pubs and taverns.

MR MOORE: Let me explain why I say that. All right, Mr Berry; I will be getting to you shortly. I have no problem with a cap, but a cap has to be put in as part of an integrated approach while a whole series of other things happen at once.

Ms Tucker drew our attention to the fact that there are about 4,600 poker machines in clubs, and many of them support the Labor Party. We now go to a cap of 5,200. If I were the manager of one of the clubs, for example, the Labor Club, the first thing I would do now is to get an application in, just to be sure that I did not miss out; just to be sure that when I was ready to do my expansion I would have the approved poker machines. I would not need to get them now; I would just need to have them approved. So the first thing I would do is get the application in and ensure that we had it. That is the first thing, and there are ways of resolving that. We ought just remove the second part of the motion and allow the committee to tell us what is the most effective way to introduce a capping system that also allows us to control this method that clubs are likely to adopt.

It is also my understanding that this motion may well not contain legislation, and when I spoke to Ms Tucker about this she said, "That is all right; get the legislation in place". I think she is right, but what we should be doing is putting the cap and the legislation together rather than going through the process in this backward way. I think the outcome may be just the opposite of what you want, and the opposite of what I want; but I agree with you that it is appropriate that we set the cap. Having set the cap, I think it is also important to note that this motion clearly favours clubs. Do not forget that there are clubs within this Territory, four of them associated with the Labor Party, which already have applications in. Do not forget that the Labor Party takes the best part of $1m over this 3½-year electoral period. They will take out at least $1m for the Labor Party.

I mentioned this in the last Assembly, Mr Speaker. This is a clear-cut conflict of interest. This is a clear conflict of interest. We have heard Mr Osborne say that he takes some money out of the West Belconnen Leagues Club, and it does go to him personally, individually. We understand that. Therefore, he has done the honourable thing and has stood aside from this debate. I presume that the Labor Party will do the same. Mr Quinlan, of all people, knows exactly how the poker machines impact on the Labor Club because I understand that he was responsible for effectively turning around the finances of the Labor Club on these issues. Congratulations. I think that is fine. But it also means that he would know the amount of money involved and it is entirely appropriate for you people, as a party, to stand aside from this issue. It is entirely inappropriate that you vote on this issue. This is legislation that will clearly favour clubs and undermine the general issues surrounding the inquiry that the Chief Minister has set up dealing with the distribution of poker machines.

It is no secret that I have introduced legislation in this place to allow poker machines into pubs and taverns because I believe that is entirely appropriate. But I was also prepared to wait until the report to the Chief Minister became available, so that we could see what the recommendations were and what the social implications were. This rides over that.

The only sensible thing to do is to adjourn this debate until the next sitting, to look at the terms of reference, to look at the report from the inquiry that the Chief Minister has set up and then say, "Do we need to do this job again? Do we need to go through and assess it?". That is the sensible way to go. It may well be entirely appropriate to relook at some of the things that the consultant comes up with.

Mr Berry: I raise a point of order, Mr Speaker. Mr Moore clearly imputed that Mr Quinlan had a conflict of interest. That is not a matter Mr Moore can raise. It is dealt with in the standing orders. It can be decided only by the Assembly. I ask that he withdraw it.

MR MOORE: You all have a conflict of interest. Mr Speaker, there are four clubs associated with the Labor Party, who will benefit by this motion, by the restriction.

Mr Berry: Mr Speaker, he has already made the imputation.

MR SPEAKER: Order!

MR MOORE: I am explaining the situation.

MR SPEAKER: We have had this before.

Mr Berry: Yes, and Mr Moore was thrown out for refusing to withdraw the imputation, Mr Speaker. He should be ordered to withdraw the imputation.

MR MOORE: You should not vote on it.

MR SPEAKER: Mr Moore, did you refer to Mr Quinlan by name?

MR MOORE: I did refer to Mr Quinlan by name, Mr Speaker, and I withdraw any personal imputation on Mr Quinlan individually.

MR SPEAKER: Thank you.

MR MOORE: But, Mr Speaker, the Labor Party, each and every member of the Labor Party, has a conflict of interest, a clear conflict of interest, on this issue. They have a $1m conflict of interest. That is all there is to it, Mr Speaker. It is very obvious to blind Freddy. Mr Speaker, when I referred to Mr Quinlan I think I was referring to him in a slightly different context, and that is why I was happy to withdraw that part of it.

Mr Speaker, it seems to me that there are four clubs associated with the Labor Party that already have applications in, and they know that they will be all right, Jack. It is other clubs that are lined up waiting to put in their applications, or clubs that are being built, or clubs that are being extended, such as the Hellenic Club, which are likely to miss out. This is perfect timing for the Labor Party because the Labor Party will get extra advantage from these particular clubs that already have their applications in. It seems to me, Mr Speaker, that the only appropriate thing to do is for each member of the Labor Party to distance himself from this debate in exactly the same way as Mr Osborne did.

MR QUINLAN (4.05): Surprisingly, Mr Speaker, I rise to support the motion. I want to thank Mr Moore for his compliment in relation to club administration, but it was not me alone. We have a board of nine that runs the Canberra Labor Club group, and there are other boards that run other clubs that might support us. Anyway, thanks for including me in that.

This inquiry was supported and fostered by Labor last year, although rejected in this Assembly, and I know from direct contact with people involved then that it was born of genuine concern regarding the impact of gambling. I had some very earnest and long discussions with some of the members of the Labor Caucus at the time, let me tell you.

Ms Carnell: So why do you not get all of your clubs to stop advertising? You would not advertise.

Mr Moore: If you are really concerned, will you wind down the Labor Club? Come off it!

MR QUINLAN: That is a stupid thing to say. There are many activities in this society that bring people harm and that still must be advertised and whatever. You just take compensating measures. You do not - - -

Ms Carnell: You just made the point that you cared about it.

MR QUINLAN: You are an abolitionist, are you? There is the potential for a very large quantum leap to take the bulk of gambling out of community owned and regulated gaming. I think that is a big step, and it is a big step that warrants a thorough investigation before it is taken. Mr Moore referred to the inquiry to be conducted by the Allen Consulting Group, and it looks to me that that is all about competition and about justifying a planned move. Mr Moore did refer to the conflict of interest question and it is worth revisiting.

Mr Moore: The other way is for the Labor Party to withdraw its applications for machines until this comes back.

MR QUINLAN: Thank you, Michael.

Mr Moore: Will you do that?

MR QUINLAN: No.

MR SPEAKER: Order!

MR QUINLAN: The matter of conflict of interest is worth revisiting. It was debated about a year ago and comprehensively debunked at that point, and I refer to *Hansard* of 9 April 1997. From a personal perspective, let me say that I am quite proud of my role in the Canberra Labor Club group. It is success through good management, let me tell you.

Mr Moore: You will not withdraw the four applications?

MR QUINLAN: I cannot; I am not involved anymore, Michael. Clubs succeed through good management, not necessarily just through having poker machines. Some clubs go under. In fact, we have saved one or two, and we have bought a couple. I am also proud of my involvement in the establishment of other clubs. I was part of the foundation of the Weston Creek Football Club, which provides facilities to the Weston Creek area, supports junior sport, supports Australian rules and provides senior sides in the ACTAFL competition. I am involved, and have been involved as president of the Weston Creek Bowling Club, which has been very successful within this Territory and beyond this Territory - winning national series and producing players who play for Australia. Those sorts of things arise out of the support the clubs provide, and I am proud to have been associated with that.

Mr Moore: And so you should be.

MR QUINLAN: Right. That particular activity does not provide me, at least, with a conflict of interest in relation to this question. I have had, personally, significant involvement in other organisations. I have been involved for the last five or six years in community organisations such as Respite Care, Fabric, the Carers Association and the volunteers association. Should I not vote on anything to do with community services anymore because I have contributed?

Mr Smyth: But you do not gain a benefit from them.

MR QUINLAN: I did not get any money out of the Labor Club. I put in a lot of hours, mate, for not a lot of money, let me tell you. Nothing. I am a sports fan. Do I not vote on anything to do with sport? I am a father and I am a grandfather. Do I not vote on anything to do with children's affairs?

Mr Moore: It is a non-argument. If you did not get the money you would not be standing there. That is the point.

MR QUINLAN: What you have said devolves to an absurdity. It is an absurdity.

Mr Moore: You are protecting your nest egg. You are protecting Labor's nest egg.

Mr Berry: I raise a point of order, Mr Speaker.

MR SPEAKER: Order! The house will come to order.

Mr Berry: Mr Speaker, Mr Moore has constantly interjected, contrary to your instructions.

MR SPEAKER: I have heard the point of order, and I uphold it.

MR QUINLAN: My involvement in the community includes involvement in clubs. It includes involvement in other organisations to support the community, and I have done that for the satisfaction and certainly not for the dough, let me tell you. If we were to extend this argument of conflict of interest, Michael - you are now a member of the conservatives and, might I say, you look very comfortable amongst them; I like the new trim, neat look - there would be any number of issues upon which you could not vote. You are supported by the 500 Club. You do not even know who they are or what they do.

Mr Moore: I am not. It has nothing to do with my election, Ted Quinlan. It is to do with your nest egg for your election.

MR QUINLAN: Mate, you are part of the Government and they support you now. You can vote on virtually nothing; nothing to do with business; nothing - - -

Mr Berry: It is your club now, Michael; the 500 Club.

MR SPEAKER: Order! There is far too much interjection in this Assembly. Mr Quinlan has the floor.

MR QUINLAN: Thank you, Mr Speaker. I feel obliged to put in a small advertisement for the clubs. They do provide, as you well know, support for many groups in the community, and they are vital to the existence of most groups within the community. They support sport. More than in any other town, certainly more than in any part of metropolitan New South Wales, they are part of the fabric of Canberra. We depend on them for sport, for our facilities, for meeting facilities and for people in the community to come together. They provide to people of modest means a non-threatening environment in which they can go and have a few drinks and have a flutter on the poker machines, which help support them.

Not all of us can afford to swan around at the Hyatt or the Lakeside or whatever; but we can afford to go to some of the better appointed clubs and enjoy comfortable non-threatening facilities, with a few community services thrown in. The clubs gave $7.8m to community organisations in 1997-98, and $20m over the past three years. Nearly $3m was given to the Academy of Sport over the last three years through a levy imposed in 1995. Those figures are an understatement of what they provide to the community, because they provide access to facilities for so many clubs in which to meet and to commune.

I close by saying yes, this moratorium may tie the Government's hands somewhat; but too much of the Government's business in recent times appears to be done outside this place, namely, Kinlyside, the capital budget being distributed to the media before it goes to the Assembly, and the Feel the Power consultancy. I support this motion. In supporting the moratorium, I want to make it clear that, no matter what scenario might have come out of poker machines in the next year or so, it would not have impacted upon the support that the Labor Party would have received from those clubs. It would have impacted on the capacity of those clubs to provide support to other community organisations.

While I am on my feet, Mr Speaker, may I move an amendment to the motion?

MR SPEAKER: Proceed.

MR QUINLAN: The amendment has been distributed in my name. I move:

> Paragraph (1)(c), omit "a consultant", substitute "consulting capacity".

That is to ensure that, if the committee need to draw upon a consultant, they are not limited to a single person or a single expertise that might be available. I commend the motion.

MR KAINE (4.15): I must say that I support the thrust of this proposal from Ms Tucker, and I commend Mr Moore on diverting us from the purpose of this debate. As I understood it, we were discussing a motion on the social and economic impacts of gambling, not the source of political party funding. He managed to divert us quite successfully from the thrust of this motion.

I support this motion, Mr Speaker, because I think it is time that we had a look at the whole question of gambling. The ACT is not alone in this. There is considerable concern in other parts of the world about gambling. There is a groundswell of opinion building up in the United States, for example, questioning the proliferation of gambling in many forms, including casinos, poker machines and the like. For once, we might be at the forefront of this questioning. Instead of following along 10 years behind the United States, we may well be ahead of them. I think it is time that we looked at it.

I support the notion of a moratorium. Mr Moore talked about binding the hands of the Government. I would think that until we have the results of an inquiry such as this, if you are going to undertake it, we should not be doubling or tripling the number of places in the ACT where poker machines can be available. If it is in the Government's mind, for example, to extend poker machines into hotels and other places, that is something that I believe they should not even contemplate until this select committee reports. If that is what Mr Moore meant when he suggested that we are binding the hands of the Government, I can only suggest that perhaps it is a good thing that we bind them in that way. Until we know what the social and economic impacts of gambling are, I think it would be most unwise to open the floodgates to putting poker machines wherever people have a mind to put them - at the local supermarket, in the local newsagency, or perhaps down at the bus stop so that you can stick a few 20c pieces in before you hop on the bus.

When we brought poker machines into this place many years ago they were confined to licensed clubs for a damn good reason. They were confined to there because they could be there only with the approval of the majority of the members of that club, and it confined the access of people to them. In theory, at least, only members of that club had access to them. They were not to be open to the general public. I have seen nothing since that would change my view about that, although this inquiry may persuade me, at the end of day, that we should change our view even about that. I think, after 20 years,

it is time that we looked at the question in its broadest terms, and I think it is reasonable that no action should be taken by the Government to broaden the distribution of these machines until we know what the social and economic impacts are. So, I support the motion in its general terms.

I also support the notion of a moratorium. Mr Moore can argue where the 5,200 machines should be. My understanding is that the number has been derived from a review of how many machines there are out there at the moment, plus the fact that there are one or two clubs which are in the process of construction or planning, and those clubs have got to the point where they are at now on the basis that they will have poker machines in accordance with the present law. Their whole budgeting and everything has been based on that. To chop them off at this point and say, "Sorry; if you proceed with your club you are not going to get any poker machines because we have put a cap on them and you are not in it", would be unfair and unreasonable. That is why the number has been extended from the present number - to take into account the fact that there are some clubs coming down the pipeline which have been designed and will be built on the basis that their budgeting will include revenue from poker machines. I think it is not an unreasonable number. It is not the intention, as Mr Moore suggests, that people who already have machines can jump in and fill the quota. Provision is there for new clubs that are coming down the pipeline and that could reasonably expect to have them. I think Mr Moore threw a couple of red herrings across the track there, as is his inclination sometimes.

I think Ms Tucker, in putting this motion together, made a fatal mistake - she did not come and ask Mr Moore for a nomination of a consultant first. If she had done so and had she been able to put Mr Moore's nominee in there as the consultant, I am sure it would have been okay. I am sure Mr Moore could have come up with a Fred Gruen or a Justice Stein or a Professor Pettit who would have been perfectly acceptable to him to act in such a capacity. I think that is where you made your mistake, Ms Tucker. Maybe even now Mr Moore can be given the opportunity of nominating somebody acceptable to him who can be the consultant to this select committee. Mr Speaker, I support this motion, and I hope that all members of the Assembly will do so.

MS CARNELL (Chief Minister and Treasurer) (4.21): Mr Speaker, I think we have debated this more often than I have had hot dinners of recent days. It is quite remarkable. What is also quite remarkable is the level of absolute misinformation that runs around this Assembly when these debates come on. I suspect that it happens because there are so many vested interests when it comes to this issue.

It has been fascinating to sit back and listen to this debate so far. Everyone is debating something totally different, absolutely bottom line different. The Labor Party is talking about how we must not deregulate poker machines because of the great benefits to the clubs. I do not disagree with that. Mr Kaine has said that we need to have the information about things like the social and economic impacts before we deregulate. Again, I could not agree more. Ms Tucker says she does not like gambling at all and on that basis we need a social and economic impact study before we do anything. That is fine as well, Mr Speaker. But the fact is that that is exactly what is happening.

I ask everybody - this is really important - to pick up the bit of paper in front of you headed "Appendix A". Come on, quickly, everybody. This is the terms of reference, Mr Speaker, of the Allen Consulting Group's consultancy on poker machine legislation under the national competition policy, the review that we said we were doing. The consultancy has been let. The consultants will report in the next couple of weeks. Go down to the bottom of that. Remember that this is an independent consultant. This is the terms of reference. This is not something that the Government is doing internally. At the bottom it says:

> The Contractor will specifically address:
>
> (a) the social and economic impact of gambling in the ACT community;

Now, Mr Speaker, can we go to the motion that Ms Tucker has put on the table. It says:

> (a) a Select Committee on Gambling be appointed to inquire into and report by the first sitting day of 1999 on the social and economic impacts of gambling in the ACT ...

Mr Speaker, what is the difference?

Mr Berry: This one takes precedence. That is the difference. This is open and consultative government.

Mr Quinlan: This one is objective.

MS CARNELL: So a select committee of the Assembly is objective and Allen Consulting are not? Do you want to step out of here and say that and see what Allen Consulting say about that, Mr Quinlan?

Mr Berry: They have their riding instructions.

MS CARNELL: Terms of reference are riding instructions. Those are they, Mr Speaker. If Mr Berry is suggesting that consultants will do whatever you want them to do, why on earth would the Assembly appoint a consultant to work for the select committee? Why would there be a difference?

Mr Speaker, I have no problems and the Liberal Party have no problems with a select committee - none whatsoever. We have no problems with the membership of the committee. We have no problems if a select committee wants to report on these issues. I think that the reporting date of the first sitting day of 1999 provides for a very long time to look at something that there has been an enormous amount of work done on, and we have a consultant that will be reporting in two weeks' time. We are very happy for the consultant's report to go to the select committee. That is a sensible approach, is it not? There is an independent consultant out there doing the work and that report will go to the select committee. That is very sensible. But you would not want to have another consultant under those circumstances, Mr Speaker.

The other part of the motion that I find a bit concerning is the 5,200 cap - not because we necessarily have a problem with a cap, but because I saw how the cap was arrived at this morning, Mr Speaker. Ms Tucker started at 4,600, where we are now. Then we put on 300, because they are the ones in the pipeline. Then a couple of hundred were added because there were some clubs some people could think of which had construction projects.

Mr Moore: You should have used a whiteboard. If you had been in the Labor Party you would have used a whiteboard.

MS CARNELL: I do not think there was even a whiteboard involved in this, Mr Speaker. Then we came up with 5,300; but because 5,300 was a bit high we went down to 5,200, and that is where it has come out. This, Mr Speaker, is policy-making on the run in the worst form.

Ms Tucker, regularly in this place, has reviled the Government, and for that matter the Opposition, on not consulting. Because this will lead to legislation, how could you possibly go down a path without asking the interested parties? But, bugger the interested parties, Mr Speaker; we will just think of the first number and add a few; think that the Raiders Club has not got any yet, and there is the Buffalos Club down at Tuggeranong and all sorts of clubs out there that we all know have some projects under way. We know that the Hellenic Club is out there. They will probably want that many. Add those; but that is a bit too many, so we will take those off. Mr Speaker, this is a ridiculous way to operate. Mr Speaker, these are businesses. These are businesses which have made business decisions based upon government legislation that has been passed in this place. Everybody should take a deep breath on this and think about the people or club businesses that could easily be affected by putting this cap on.

Mr Speaker, I ask for leave to move two amendments. May I do that now? I can pre-empt them if you would like.

MR SPEAKER: No; you can foreshadow them.

MS CARNELL: I am foreshadowing the amendments circulated in my name. I suggest that in paragraph (1)(c) we delete all words after "resources". There are no problems with "staff facilities and resources", but we actually have a consultant that is about to report. In terms of paragraph (2), I will be seeking to delete all words after "ACT" and substitute "The level of the cap to be recommended to the Assembly after consultation with interested parties". Mr Speaker, I would find it very interesting if Ms Tucker was not willing to consult before she made a decision, but I suppose we will wait and see. I think that approach will give this motion at least some form of credibility and ensure that the decisions that will be taken as a result of this, again, are workable.

Mr Speaker, in talking about workability, is the Assembly planning retrospective legislation? That is my question. Ms Tucker, are you planning retrospective - - -

Ms Tucker: I am happy to address that, Mrs Carnell.

MS CARNELL: Well, you have to now.

Ms Tucker: I will, when I wind up the debate.

MS CARNELL: Fine. The bottom line here, Mr Speaker, is that we have opposed retrospective legislation in this place where people's livelihoods would be affected. The only time that we accepted retrospective legislation was when nobody would be hurt, where no money would change hands, or where there were no serious impacts. That is a fair statement of our approach. But, Mr Speaker, that will not be the case this time if we go down this path.

Again I come back to the issues. The Government has no problems with an inquiry into the social and economic impact of gambling in the ACT. We are two weeks away from having done one. We have no problems with a cap on the number of poker machines in the ACT, but let us make sure that the cap is right. Let us make sure that it is set in some scientific and consultative fashion.

Mr Speaker, let us, once and for all, get rid of some of the myths surrounding poker machines and gambling in the ACT. Under Labor the ACT Government's receipts from taxing poker machines, as a percentage of total revenue, more than doubled. I need to say that again, Mr Speaker. Under Labor the ACT Government's receipts from taxing poker machines, as a percentage of total revenue, more than doubled. That is right; it more than doubled. In fact, between 1990-91 and 1994-95, gaming machine taxes, as a percentage of total Territory revenue, increased from just 2.1 per cent to 5 per cent. And guess what, Mr Speaker. Under this Government, the percentage has declined slightly, from 5.56 per cent in 1995-96 to 5.25 per cent this financial year. Mr Speaker, I am happy to table these figures.

I am sure that Ms Tucker, and maybe even Labor, might be a little bit interested to know that this Government is not making a killing out of poker machines. I remember a press release from Mr Berry last November. *(Extension of time granted)* In that press release late last year Mr Berry said this:

> It is obvious that the Liberals are motivated purely by the budget dollar. An increase in poker machines would see an increase in government revenue. The ACT does not need to become another government fixated with the gaming dollar.

Mr Berry, because he was part of that Government, doubled the amount of poker machine revenue as a percentage of gross dollars. I will table that. Mr Speaker, the hypocrisy here is mind-blowing.

Let me put another nail in the coffin of Ms Tucker's argument that this Government is overreliant on gambling revenue and that the situation in the ACT is getting worse by the minute. The 1998 Commonwealth Grants Commission - this is not old data, Mr Speaker - found that the ACT collected almost $18m below standardised levels from gambling revenue. That was actually $17.9m less in revenue than the ACT would be expected to raise if it were to apply the Australian average revenue raising effort to our own revenue base. For every year bar one since self-government we have been assessed as making a below standard effort compared to other jurisdictions. Do you know what,

Mr Speaker? We were penalised for that by none other than the Federal Government - a Federal Government that now seems to think that gambling is a problem. I hope, as I said earlier, Mr Speaker, that they take that into account with their new inquiry.

I think it is very important in terms of this debate that we look at what the Salvation Army and, for that matter, Lifeline's Gambling and Financial Consulting Service have said about the ACT. I understand that the Allen Consulting Group, who have been commissioned to look at our gambling legislation and are due to report very shortly, asked representatives of the Salvation Army about problem gambling in the ACT and the Salvation Army said that it was not a significant problem. I believe that the Salvation Army would be right. That does not mean that it does not exist. It just means that it is not increasing at the sort of rate that Ms Tucker would tend to indicate.

Lifeline's Gambling and Financial Counselling Service statistics, taken from annual reports over the last three years, do not reflect any disturbing increases in problem gambling in the ACT either. Yes, there have been some changes in the figures. Telephone counselling has gone up and other forms of counselling have gone down. Again, that does not mean that it is not a problem; not at all. In fact, one of the promises that my Government made before the last election was to give another $40,000 to Lifeline's Gambling and Financial Counselling Service because we believe it is an essential service. But there is no data to indicate that, in the ACT, problem gambling is increasing at a huge rate, or even increasing significantly.

Poker machines in the ACT have been around for some 20 years. It appears that the ACT has a very mature market in this area. When you look at the amount of money that ACT residents spend on gambling per capita, the ACT is well below the Australian average. That is something we should be really proud of, Mr Speaker. That is not only in regard to the percentage of household disposable income; it is also in regard to the Australian average.

It is always good in this place to debate things that are real, with real information on the table. To cap it off, we now know that over the last four years the amount of tax from poker machines, as a percentage of our total tax base, has not increased. According to the Salvation Army and Lifeline statistics, the amount of problem gambling has not increased exponentially, or not increased at a huge rate. The average amount of gambling dollars spent by people in the ACT is well below the Australian average. The amount of revenue obtained by the ACT Government is below the standardised level. Just to add to it, the ACT is already doing a consultancy on this exact issue, using a very reputable consultant. Mr Speaker, what does this tell you about this motion? What is it going to achieve that is not already happening? We have no problem with the select committee, but let us not make the taxpayer pay for the same consultancy twice.

MR SMYTH (Minister for Urban Services) (4.37): Mr Speaker, I think it is important that we get this right. As all here would appreciate, the issue of poker machines and gambling and the spread of gambling in our society is an issue that I think would concern all members of this place. That Ms Tucker would bring on a select committee is an indication of the strength of feeling. But, in looking at the number of clubs that I know of that are coming on line or that may have applied for extra places, I think we need to

consider also the issue of the cap. Mr Kaine said in his speech - Trevor, please correct me if I got it wrong - that the cap will allow only new clubs to receive machines, and it is not for existing clubs to extend their current number of poker machines. My understanding is that a lot of the applications for additional machines in the pipeline are from existing clubs. Indeed, four of those are run by the Labor Party, and there are others such as the Hellenic Club. I hope that that is the committee's understanding, and I hope that that is Kerrie's understanding - that, if the cap is put in place and any extra machine licences are granted, they go only to new clubs if they come on line.

The problem here is that in Belconnen, as I am aware, the soccer club there, the Labor Club, the Ginninderra Labor Club and the Bocce Club are after machines. If we look at North Canberra, it is the Racing Club. Rugby League Park, I would assume, would want some machines for their club. There is the Workers Club, the redevelopment of the Ainslie Rex for one of the soccer clubs, and the casino club. If we go out to Gungahlin, I know that at least the golf club and the Raiders Club would be interested in new machines. In Tuggeranong there is talk of a major development that has been discussed quite widely in the Community Council for the local soccer club that has no facilities at all. I do not believe that they have put in any application for machines yet because it is still on the drawing board. The Buffalos Club, I know, is interested in moving to Lanyon and they would, I assume, seek machines. Then, in the south of Canberra you have things like the Woden Valley Club, the Tradesmen's Club and another Hellenic Club. Indeed, the Brumbies announced yesterday that they have secured space at Griffith Oval and I am sure that they would build a facility to back that up.

I hope the proposed committee will confirm, before we vote on this, that any new poker machine licences that go out go only to new clubs, not to existing clubs who want to expand their gaming rooms. I think Mr Moore is right; that we will end up with a rush of applications for extra machines. Who will then determine who gets the machines? Is it a first come, first served basis? Is it the biggest? Is it the best? Is it the newest? Is it the oldest? I am not sure how one would divvy up those extra 600-odd machines.

I think we could reasonably ask for just a little bit more time. The Allen Consulting Group, as has been pointed out already, is looking at the social and economic impact of gambling in the ACT community. When we look at the motion to set up the select committee, the very first point says:

> a Select Committee on Gambling be appointed to inquire into and report ... on the social and economic impacts of gambling in the ACT ...

This is a very difficult issue that this Assembly has debated time and time again, but with just two weeks' patience we may well be able to set up a far better select committee on gambling that may well be in a far better position to do a far better job. I think, in terms of two weeks' patience, that it would not be unreasonable that we now adjourn this debate and that we just wait and see what the Allen Consulting Group brings forth, given that the key point - the social and economic impact of gambling in the ACT - is the key point at which the Allen Consulting Group is looking.

If Ms Tucker will not allow the debate to be adjourned at this moment and wait for two weeks, I and the Government will be supporting the Chief Minister's foreshadowed amendment that we remove all words after "resources" in paragraph (1)(c). That inquiry will have been done by that stage. It is more appropriate that the level of the cap be recommended back to this Assembly after consultation. Instead of being something that we work out with the flip of a coin and the roll of a dice, perhaps the level of the cap could be something that a select committee could reasonably consider. I note, again, that Trevor said that it would be his intention that the cap will allow for only new clubs. We could expect the select committee then to report back to us with an appropriate figure for a cap, if a cap is necessary, after it has received the advice of the Allen Group.

I think there is a valuable opportunity here. We should not lose this opportunity because we already have a report coming to this place. Assuming that the report will be done well and does address the social and economic impact of gambling in the ACT, we could then launch a select committee of this Assembly to do a far better job than I think is being proposed at this stage. I think that, simply for the sake of two weeks, we should not hasten at this stage. I think we could take it just a little bit slowly and we could look at it quite reasonably.

There is another area that does concern me. I stand here and congratulate Paul Osborne for standing aside in this debate. Here is a man who receives some remuneration from a club that has poker machines and he will not participate in this debate because he thinks it is inappropriate. He is willing to declare that he has a conflict of interest because one of the people who pay him some money owns poker machines. I think it is sad that in their haste the members of the Opposition will not also consider that option, Mr Speaker, because, as has been reported many times in the *Canberra Times* and in the Canberra press, the Labor Party does benefit - not individual members specifically - from the revenues that are generated through poker machines in their clubs dotted throughout the ACT.

Mr Stanhope, in his inaugural speech in this place, talked about a new Labor Party, honest and open, and I think this would be a very valid test, a very valid opportunity, for the Labor Party to come back and say that they will actually stand aside. Clearly, Mr Osborne has recognised that he has a conflict of interest and as an Independent he has stood aside and will take no further part in this. Perhaps the Labor Party could learn from the fine example that Mr Osborne has set here today and do exactly the same.

I would ask that Ms Tucker consider a two-week delay. All we need do at this stage is adjourn the debate. It would be appropriate that Kerrie come back and adjourn the debate and give us the two weeks to see the Allen Consulting Group report into the social and economic impact of gambling in the ACT, which is the heart of this recommendation that we have a select committee. In just two weeks' time we could have a fair and reasonable debate in this place and ensure that the people of the ACT get the best benefit out of a select committee set up by this Assembly. It is not unreasonable to ask Kerrie to come back, but I do not think she will.

I will finish by saying that I think there are several points here. It is great to see that all members of this place are concerned about the effects of gambling on our society. That we look at that is a fair and reasonable thing to do. I note Mr Kaine's caveat; that he assumes that this cap will allow for only new clubs to get their poker machines. I hope that is correct. I think we need to wait just two weeks to see what the Allen Consulting Group has to say. We could do this in a far more reasonable and considered manner than the hasty way in which it has been launched this afternoon.

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

That the debate be adjourned.

The Assembly voted -

AYES, 7	*NOES, 9*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Kaine
Mr Moore	Mr Quinlan
Mr Smyth	Mr Rugendyke
Mr Stefaniak	Mr Stanhope
	Ms Tucker
	Mr Wood

Question so resolved in the negative.

MR MOORE (Minister for Health and Community Care) (4.52): Mr Speaker, the amendment moved by Mr Quinlan to this motion is very sensible indeed. The notion of moving to a consultant capacity rather than a consultant makes good sense to me.

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

MS CARNELL (Chief Minister and Treasurer) (4.53), by leave: I move the amendments circulated in my name, which read as follows:

(1) Paragraph (1)(c), omit all words after "resources".

(2) Paragraph (2), omit all words after "ACT", substitute "The level of the cap to be recommended to the Assembly after consultation with interested parties.".

The Government has no problems with necessary staff, facilities and resources. As for consultancy advice, that is certainly better than what is there at the moment. I suppose the Assembly could perceive that consultancy advice was the consultancy that we have already done. I certainly hope, Mr Speaker, that we are not talking about getting

a second lot of consultants, or consultancy advice, for exactly the same reference at the same time. Of course, any extra expense along these lines would have to come out of either the Assembly budget or the Treasurer's Advance.

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

> That the question be divided.

MR SPEAKER: Thank you, Mr Berry; I think that is very sensible. The question now is: That Mrs Carnell's amendment No. 1 be agreed to.

Amendment negatived.

MR SPEAKER: The question now is: That Mrs Carnell's amendment No. 2 be agreed to.

Amendment agreed to.

MR MOORE (Minister for Health and Community Care) (4.55): I seek leave to move the amendment circulated in my name.

Leave granted.

MR MOORE: I move:

> After paragraph (2) add the following paragraph:
>
> "(3) the Labor Party associated clubs withdraw all applications for poker machines that are currently before government, that is Canberra Labor Club, Canberra Workers Club and Ginninderra Labor Club.".

It seemed to me, since the Labor Party are keen to be involved in this motion, that it would be appropriate to call on - and it is only to call on, because that is the effect this Assembly motion is having - the Labor Party associated clubs to withdraw all applications for poker machines that are currently before the Government, that is, the Canberra Labor Club, the Canberra Workers Club and the Ginninderra Labor Club, all of whom have applications currently before the Government, as I understand it, for a sizeable increase in the number of poker machines they have. It seems to me that these poker machines, by their revenue, will add to Labor Party coffers and, therefore, there is a conflict of interest for the Labor Party in this issue. But that conflict would be removed by support of this amendment. There is a clear way of removing it. If the Labor Party themselves cannot see that, I would have thought that other members would be able to see that clear conflict of interest, and this is one way of dealing with it.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being past 5.00 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

GAMBLING - SELECT COMMITTEE
Appointment

Debate resumed.

MS TUCKER (5.03), in reply: I wish to reply to a couple of issues that were raised by members. Mr Rugendyke spoke about the disadvantaged people. I think it does need to be stressed again that the statistics show that the people who are not necessarily well off are more inclined to be using the poker machines. That is why I think it is a really important social justice issue. I agree with Mr Rugendyke's concerns in that area.

Mr Moore's response was incredibly arrogant. I do not know whether this is what happens when you join the Government team, but it was quite surprising to me. He said that this was a political stunt and that I was naive. That is a real shame. I cannot be as skilled at it as Mr Moore obviously is, but the shame of it is that his worldly view is there in that statement. This is not a political stunt. It is the result of two years' work of the Greens in looking at this issue of gambling and attempting to move this Assembly to the point where it actually takes some action to address the issues of concern to the community.

There has also been huge misrepresentation of my position by Mrs Carnell. I know that she was not listening to my speech. That is a pity, because I made it quite clear that we would not, as a committee, duplicate the work of the other committee. I said several times that this would be a good starting point for the select committee. I have spoken to Mr Rugendyke and Mr Kaine. Obviously, as members of that committee, we are not going to spend the resources of the Assembly unnecessarily or frivolously. I am a member of the Administration and Procedure Committee. I have a responsibility to look at issues concerning the budget of this place. It is quite absurd to suggest that we would employ a consultant just for the sake of it.

I also pointed out quite clearly in my speech that, if there were gaps in the work that came out of the ACT Government's competition policy inquiry, we may need to use someone to assist us in finding information about the particular areas where it is lacking in the report of the competition policy inquiry. I think it might be useful and timely to point out that this is an Assembly committee which has elected representatives on it. It is a different forum. As with the Belconnen pool proposal most recently, we have seen how dissatisfied the community is with how we are reviewing legislation to be in line with competition policy. We want to have another forum to look at it.

Mrs Carnell spoke about the competition policy forum in question time and was extremely unfair in her presentation of the facts of that particular forum and why it has not worked. Mrs Carnell continually said that people just did not turn up. Obviously, if there were a commitment from the Government to make this forum work, the next question would be: What is it that we can do to help this forum work? It is an instrument of the Assembly. We told the Government to develop this community forum for looking at competition policy. Of course there have been problems. I am very familiar with those problems. I can assure you, Mr Speaker, that the representation by Mrs Carnell of that forum and its history was totally inaccurate. I think that needs to be put on the record. There have been problems; they need to be addressed. It is quite obvious that Mrs Carnell is not interested in actually supporting having another forum look at how her Government is reviewing competition policy. This select committee will now look at the issue of gambling. It will take into account the work of this other committee. It will not duplicate it, if I have made myself clear.

Mr Moore said, "Everyone will just rush in and there will be many applications". I did check on that, because that is obviously a first concern. The reason I supported Mrs Carnell's second amendment, concerning looking at the issue of the cap, is that, despite all the posturing that has gone on in this debate and even though it is very tempting sometimes to posture back, I was listening to Mrs Carnell and I did check with the bureaucrat concerned and I think there has been some misunderstanding. The cap that

the Greens developed was not developed on an airy-fairy, pull numbers out of the hat basis. It was based on information from the bureaucracy. There was a misunderstanding that I have just clarified. That is why I was prepared to support Mrs Carnell's second amendment. I am quite open to that because, obviously, we do not want to do the wrong thing here. That is why I was happy to support that.

However, I want to make it quite clear that this is not opening the floodgates once again to all interested parties who in six months' time might want to do something with poker machines. It is about applying the precautionary principle; it is about saying, "Let us not allow greater growth in this industry until we understand the implications". Mrs Carnell and, I think, Mr Moore said that there has been no consultation on this from the Greens. I have been consulting with the community on this for over two years. That is why we have moved this motion. That is why we put up legislation last year for mitigation measures related to gambling. It was through consultation and looking at the issues.

A point that has to be addressed as well in this debate is the fact that there are, obviously, vested interests in this place. Mr Moore's amendment to try to knock the Labor Party out of the debate is something that he always does on this issue. He thinks that he is highlighting a conflict of interest. I am quite sure that Mr Wood will come to this committee with an open mind. I have absolutely no doubt that he will work in this committee with integrity. I have no problem with a Labor member being on it. In fact, I would welcome a Labor member being on it. Mrs Carnell also said that this was policy-making on the run. As I have explained, we did work with the bureaucracy. Obviously, there has been a misunderstanding. That is why I have said, I repeat, that I am happy to look at this issue at a bit more length. The point is, though, that we have had no policy review for so long that we have had this unregulated growth of an industry that obviously has detrimental effects.

In conclusion, I thank members who have supported this motion. I look forward to the meeting that we will have. I want to say on the record as well that, while I supported Mrs Carnell's second amendment, a meeting to discuss what is a cap that more members are happy with has to occur in the next week, if possible, because I think it is really important that we do not see a rush of applications. I was assured this morning that that would not happen if we actually passed this motion today; but, once again, it has been explained that, in fact, there is a difficulty because the commissioner has to accept applications as they come in. Obviously, there is a problem with this; so we need to do it as quickly as possible, while making it reasonable and fair to those groups in society who have invested money already in facilities in which they had assumed they would have poker machines.

Motion, as amended, agreed to.

UNION PICNIC DAY

MR BERRY (5.11): I move:

> That this Assembly requires the Carnell Government to mount a full and vigorous defence of the Territory's Union Picnic Day as contained in the Public Holidays Act to ensure that moves by employers to strike out this important holiday for workers and their families are defeated.

This motion is about requiring the Government to protect the laws of the Territory, and to do so with vigour. It has as its origin an amendment which was moved by Labor in the last term of the Assembly to ensure that picnic day applied for workers in the ACT. The issue of the picnic day is not so significant in this debate, but I think it is worth while dealing with the history of the picnic day just to fill in the background and to ensure that each member understands the issue.

For about 60 years we have had a single union picnic day in the ACT. It arose because of a decision in 1938 to coordinate the various union picnics into a general function organised by the Trades and Labour Council of the ACT. That picnic day survives to this day. As a result of moves by employers in the ACT, there was an attempt to knock out the union picnic day in the ACT. In the first place, this would have created an unequal situation, because blue-collar workers, low-paid workers - a large percentage of the work force - would have been refused access to this picnic day holiday, whereas public servants would have continued to enjoy their extra holiday each year in lieu of a picnic day. Of course, finance industry workers would have continued to enjoy an additional day, namely, bank holiday.

That did not faze the employers one bit. They saw it as an opportunity to take away from workers something which had existed for some time. It was a mean-spirited move which did not take into account the benefits which flowed to low-paid workers, blue-collar workers, in the private sector. It was made by lazy employers who, by attacking workers' wages and working conditions, attempted to take the easy way out to improve their bottom line. If they wished to improve their profits, it would have been far better if they had done something about their general productivity by making their organisations more efficient, rather than attack the wages and working conditions of workers, who had enjoyed the benefits of this picnic day, to one degree or another, since 1938.

Labor moved to entrench picnic day as a public holiday in the ACT by amending the Holidays Act. The Government opposed the legislation, but the goodwill of members of this Assembly prevailed and there were sufficient numbers in this Assembly to ensure that it became law. It is now law, but the employers have not given up. The matter ended up before the courts because an employer agency in the ACT advised its constituent members not to pay relevant award conditions to employees they had required to work on the union picnic day. As a result of that, a union, on behalf of its members, pursued the matter in court. The bosses lost. The bosses then appealed the matter to the Federal Court and lost again. The bosses announced some time ago that they would appeal the matter to the Full Federal Court, trying to knock off picnic day. It remains to be seen what will happen as a result of this appeal.

Most shameful in this entire approach has been the Government's attitude. One expects the Executive, the Government, to defend the laws of the Territory when they are challenged by various bodies from time to time. It was a great pity that the Carnell Government refused to defend the laws of the Territory passed by this Assembly in the last term. This Government was invited to appear before the Federal Court, where it could have defended the laws of the Territory; but it refused to do so.

My motion requires the Government to defend this law with vigour, that is, to go to the courts and defend it with all that is necessary to ensure that the law prevails in the Territory, as this law was the wish of this Assembly. It is all right for the Government to sit back smugly and say, "They have passed the law, but we are not going to enforce it", or "We are not going to defend it", or "We are not going to do anything about it. We will wish it away". That has been the case in relation to picnic day. The Government opposed the legislation. I understand why they opposed it. I understand their ideological position on these issues. They do not care about wages and working conditions for workers being reduced. That is a function of the Liberal Party in society, and everybody understands it. It is a function that some bosses feel they have in society, and everybody understands that. The mean-spirited ones, in particular, pursue this course constantly. Other employers are not so engaged in the pursuit of these sorts of mean-spirited activities.

The Government has refused to defend these laws, according to the advice that I have. This motion requires the Government to defend the laws of the Territory, in particular the union picnic day, against attacks by the bosses, in order that those workers who were assured of this holiday when the Assembly last passed laws in respect of it may have this holiday. As a result of this motion, the Government would be required to defend the law with vigour. I do not need to say much more. It is pretty plain what the motion sets out to do. It is about a law of this Territory which was passed after full debate. We do not need to go over all of the issues about union picnic day again. We have in front of us a matter of principle which is worth preserving - that is, once a law is passed by this Assembly, the Executive should defend it with vigour. It is not just this law but any law. It is a law of the Assembly, not a law of the Executive.

MS CARNELL (Chief Minister and Treasurer) (5.19): This motion would have to be a Wayne Berry special. Only Mr Berry would have brought forward this kind of motion and expected anyone, let alone the Government, to take him really seriously. What Mr Berry is asking the Government to do is not only wrong but also nonsensical, for several reasons. Let me put it in simple terms, devoid of any union ideology, so that members can understand exactly what Labor is asking the Assembly to do. Last year the Assembly passed a law recognising the trade union picnic day as a public holiday. Back then, the Government said that the law could be ambiguous in its application, and I have to say that that has proven to be right.

Mr Berry: No, it has not.

MS CARNELL: It has obviously proven to be right. At the time, we gave out advice to employers and employees which basically said that they should get independent legal advice because we were not certain just how the new law should be interpreted.

Now there is a test case involving a union, an employer and an organisation representing employers. I think it is important to realise who the employer is. Mr Berry was very lavish in his comments about "the bosses". It is the Mirinjani Nursing Home. It is not exactly a huge corporate entity; it is a nursing home run by the Uniting Church.

Mr Berry demanded that the Government intervene and involve themselves in the case. That was right at the beginning. We refused, because in our view - and I am sure it is the view of just about every person in Canberra bar Mr Berry - that due process should be followed and the case should be allowed to run its course. We said then that we would abide by the umpire's decision, and we will do so. A judge of the Federal Court, in a decision handed down earlier this month, found that the employers were required to pay workers for the union picnic day. Fine. I went out and said, as I said I would, "The umpire has decided, and this is the way it should be". But the Chamber of Commerce and Industry indicated that they would appeal the judge's decision to the Full Bench of the Federal Court. They have done that today. That is a course of action that is entirely within the right of the Chamber of Commerce, as it would be entirely within the right of any person under our legal system.

When I learnt of the chamber's approach, my reaction was exactly the same as when I heard of the first court decision - that we will abide by the umpire's decision, whatever it is. That, to my way of thinking, is a logical and fair approach and, I hope, an approach that any government would take in a matter such as this. But, no, Mr Berry has again said that he wants the Government to intervene in this matter - in other words, to attempt to involve itself in a court action and to argue against the right of an organisation to appeal a decision to a court. Why? It appears that money is no object to Mr Berry. Mr Berry did not speak about what this might cost the ACT taxpayer. I do not think Mr Berry really cares. Yet again, I am forced to remind the ALP that the next time they come into this place they should remember that it is not their money that they are throwing about; it is someone else's. It is the ACT taxpayers'.

We should not be spending taxpayers' money to defend something that is an issue for the Trades and Labour Council, if that is what they choose for it to be. We know that. I only wish that Mr Berry and those opposite would start understanding that the money that we determine to spend in this place is not ours. I am sure that, if I asked him right now what he thinks it would cost, he would not know. Mr Berry, what would this cost taxpayers? How much will this cost, Mr Berry? Do you have any idea?

Mr Berry: Would it cost as much as the Bruce Stadium?

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! Remarks will be directed to the Chair.

MS CARNELL: That really shows it. Mr Berry is bringing forward to this place a motion which has a very definite cost to the ACT taxpayer, and he has no idea what it would cost. When the Government brings forward a proposal to this place - Mr Berry mentioned Bruce Stadium - the dollars are on the table. We stand for election. Everyone can determine whether they like it or they do not. We know what we are committing to. Mr Berry does not have a clue here. It is straight ideology.

The Full Bench of the Federal Court is being asked to rule on a particular issue. The respondent is the Mirinjani Nursing Home. The Chamber of Commerce - - -

Mr Hargreaves: It is the Uniting Church. It is not the nursing home; it is the Uniting Church, which owns half of Sydney.

MS CARNELL: The Uniting Church - that is exactly who it is. It is the Uniting Church in Australia and the Mirinjani Nursing Home. Surely, in a situation like that, this Assembly should allow the process to be followed and should accept the umpire's decision, whatever it may be in this case. If at the end of this process the union picnic day is upheld as a public holiday, then we will all abide by that - no problems whatsoever. Let us leave it to the court, not to Mr Berry. Let us not see motions brought forward in this place that involve significant costs and the person bringing them forward not having a clue what the costs could be.

In a couple of weeks' time we will bring down a budget. How would the Assembly cope with us saying, "These are the things we would like to do; but we really do not know what they cost, so we will tell you afterwards."? That is simply not on. This is a straight ideological approach by Mr Berry. Mr Berry is not willing to let the process run its course and not willing to accept the umpire's decision. I have total faith in the Full Bench of the Federal Court. It is amazing that Mr Berry does not.

MR CORBELL (5.26): What an enormous load of codswallop from the Chief Minister! What a load of spurious arguments about this motion! The Chief Minister clearly has no idea what Mr Berry is asking. The rest of the Assembly quite clearly understands that this motion is about requiring the Executive to support a decision that has already been taken by this Assembly. That is all. The Chief Minister says, "Let the umpire decide". When the umpire decides, the umpire does not decide in a vacuum. The umpire decides on the basis of the arguments put. Mr Berry and the Labor Party are asking the Government to argue the case that this Assembly has endorsed - that the union picnic day is a valid public holiday and should be allowed to stay. That is what this motion is all about. Chief Minister, you deliberately misrepresent the point of view that is being put by Mr Berry and by the Labor Party, but that is nothing new for you. Chief Minister, there is no doubt that this is an entirely legitimate claim.

I want to address some concerns that were raised by the Chief Minister in the debate. The first is: Who spends the money? The Chief Minister said, "The money is not ours. It is the people's money". She is entirely right. But who makes the decision on who spends the money? The people do. How do they do it? They do it through their elected representatives. Where are they? They are in the Legislative Assembly. The Chief Minister's argument is entirely spurious. The elected representatives of the people of Canberra here in the Legislative Assembly can decide whether or not money is spent. Indeed, that is what we do every year when the Chief Minister brings down a budget.

It is absolutely absurd for the Chief Minister to argue that we cannot spend the money because it is not ours. We are the elected representatives of the people of the ACT, and we make decisions on their behalf, representing their views, as to how money is spent, except of course when it comes to futsal slabs, Bruce Stadium and a whole range of other things - Kinlyside, even. The Chief Minister says that we should not make decisions without knowing the cost. The Government has just done that in relation to Hall. The Government has just done that in relation to Kinlyside, the police and a whole range of other issues. This is an absurd argument. It is a contradictory argument from the Chief Minister. She clearly does not have a leg to stand on.

This is a simple proposition. It is a very straightforward proposition. This Assembly has had a debate about whether or not the union picnic day is a valid public holiday in the ACT, and a clear majority of this Assembly has decided that the union picnic day is an appropriate holiday in Canberra. The Executive have an obligation to represent and carry out the will of this Assembly where the Assembly asks it to do so. It is quite clear that the will of the Assembly, and thus the will of the Canberra community, is to have the union picnic day in place. The Chief Minister and the Executive should make the case to the Full Bench of the Federal Court that this holiday should stay in place. Indeed, they have an obligation to do so, because the Assembly has asked them to. The Assembly has supported the idea of having a public holiday. The parliament has made a decision. The Executive are obliged to defend that decision.

We want them to go into the Federal Court and argue the case on behalf of the people of Canberra, as is the will of the people of Canberra as represented through their representatives here in the Legislative Assembly. It is a simple proposition. If the Chief Minister is not willing to do that, she is clearly not willing to do what the majority of people in Canberra want her to do.

Mr Humphries: How do you know what they want?

MR CORBELL: If we believe in representative government, if we believe in representative democracy - you say that nine out of 17 is a majority - we are elected to represent the people of Canberra. Therefore, a majority of members on the floor of the Assembly, thus the people they represent, the constituency - - -

Mr Humphries: We will quote that back to you, Simon, in the future. I think you will be running away from that proposition at 100 miles an hour.

MR CORBELL: We wear it every day, Mr Humphries, so I think you should be prepared to wear it too. Unfortunately, you are not. It is a very simple argument. It is a very clear argument. It is a very straightforward proposition. This Government has no excuse. This Government should not be allowed to get out of defending what is clearly the will of this Assembly. They should go to the Federal Court, and they should argue the case for the retention of the union picnic day. It is that simple. I urge members of the Assembly to support this motion.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.32): The Government's position on this has been fairly clear. When the original debate on this legislation occurred, we indicated that we felt that the issue was not whether one supports the idea of union members having a picnic day - that, in a sense, remains a matter not for this Assembly to determine but for appropriate negotiations between unions and employers to determine - but whether we should intervene in what was essentially a dispute about the interpretation of an award which provided for a certain number of holidays to be provided to workers in the ACT.

In the debate about the Holidays (Amendment) Bill in 1997, the Assembly decided that the legislation should be put in a certain way to guarantee a right to the union picnic day. At the time that debate took place, the Government tabled two separate legal advices which indicated that there may be contentious issues arising out of the legislation, notably the inconsistency between the provision of the Commonwealth award and the legislation which was put before the ACT Assembly by the Labor Party. It was argued in the advices that there were possible difficulties in interpretation of the award. We flagged very clearly that this issue would not be resolved just by having a piece of legislation passed on the floor of the Assembly.

Members in this place well know that there is a very real question about the extent to which the ACT is able to override the provisions of Federal awards. Indeed, as I recall, Mr Berry in particular, the mover of this motion, has been quite vocal in the past in insisting that the ACT does not have the power to override Federal awards. The argument has been put, and was put in those advices tabled on the floor of the Assembly, that the legislation put forward by the Labor Party, the Holidays (Amendment) Bill, did clash with the terms of the relevant Federal award or awards and as a result might not be valid.

As it happens, a decision of Justice Finn in the Federal Court earlier this month indicated that the Act is valid and is not overridden by award provisions. I have not seen the details of that judgment, and I have not seen the details of advice provided to the Chamber of Commerce; but I understand that they strongly take the view that this is an argument as to whether that was the correct decision. On that basis the chamber intends to appeal to the Full Bench of the Federal Court. That is their entitlement as litigants before the courts of this Territory. They are entitled to make that argument and, in doing so, they may or may not be successful. I really could not comment on that. I have no advice one way or the other. The Government argued at the time this debate came before the Assembly last time - - -

Mr Berry: You have advice.

MR HUMPHRIES: True, to a point, Mr Berry. When this debate came before the Assembly last time, the Government argued that there was a legal issue about the applicability of ACT legislation versus Federal awards. It is clear that that issue is still afoot. We have not killed it by passing a piece of legislation in this place. Requiring the Territory to enter an appearance and go into the Federal Court and argue that the law is

of a certain kind and that there is no question of the ACT Act being overridden by the Federal award, is inconsistent with the advice that this Government has received and has placed on the table here in this Assembly. What you are asking the Territory to do - in fact, specifically what you are asking the Government Solicitor to do - is to - - -

Mr Berry: What about the stuff you have not placed on the table?

MR HUMPHRIES: I did not interrupt your speech, Mr Berry. What you are asking the Territory Government Solicitor to do is to go into the Federal Court and ignore the advice that he has prepared for the ACT Government and construct an argument - one which I gather is not borne out on the basis of his views - about the applicability of this particular piece of ACT legislation. I do not mind asking our advisers to consider the law and to advise us on the law and then to present to any court in the land where we feel we need to defend ACT legislation an argument based on their advice. But, as I understand the situation, they have already indicated in fairly clear terms that there are doubts about the effectiveness of that legislation. In the circumstances it is not very sensible, and not very convincing, apart from anything else, to send those lawyers off to do something which I suspect they do not believe they can logically succeed in doing - that is, persuade a court that the ACT legislation will survive the application of the Federal award.

I think it is true to say that Justice Finn agreed that if there was a clash between these two things - the Federal award and the ACT legislation - the Federal award would prevail. That was accepted as a premise on which the debate before the court proceeded. But he apparently took the view that it was possible to read both of those things side by side without them being inconsistent. The Chamber of Commerce argues, I gather, that it is clear that they are not consistent and they have to be in conflict with each other. That is the basis of this matter going forward.

I do not believe that the Territory should impose on the taxpayer the cost of arguing a case which the Government's lawyers do not believe is particularly convincing, or at least have serious doubts about, or require the matter to be dealt with in the court, with ACT representation, when appearance by the Territory is simply not necessary. The Chamber of Commerce will put an argument before the court. Presumably, the relevant unions appearing before the Federal Court will similarly put an argument to the court. The presence of the ACT at the bar table in those debates makes no difference whatsoever. If Mr Berry imagines that this is a question of the numbers, that if there are two sitting on the applicant's side and only one sitting on the respondent's side at the bar table this somehow gives the applicant the numbers, then he has a very poor understanding of the way courts of this land work. They operate on the basis - I wish we could say the same thing in this place - of the quality of the arguments. There might be 15 parties appearing for one side, but if the arguments are weak it will not make any difference how many parties there are on that side of the particular debate.

I would simply urge the Assembly, before it charges into this particular matter, to consider carefully whether it is wise to take this course of action. The Government fully accepts that it has legislation which has been passed by the Assembly and which must be administered by the Assembly and by the Territory Government in accordance with the wishes of the Assembly. The Government stands prepared to do that; but that does

not amount to running what we believe, on the basis of reasonable legal advice, is a fairly fruitless line of argument before the Federal Court. We do not believe that that is in the interests of the community or in the best interests of the taxpayer, who funds such matters. It was one thing to pass the legislation last year. We accept that. It is another thing to take the step being urged today by the Labor Party. That is a bridge too far and is, for a number of reasons, unwise and, I think, counterproductive to the best interests of the ACT.

MR BERRY (5.41), in reply: Let us put to rest one argument that Mr Humphries put. As you would expect from the Tories opposite, there is a great argument about the expenditure of taxpayers' money. There are 40,000 taxpayers out there who are affected by this legislation and who, if it is not upheld, will be affected in one way or another. Either they will not have the union picnic day or their bosses will not have to pay the penalty rates.

Ms Carnell: Those rotten bosses at the nursing home!

MR BERRY: As a boss yourself, Mrs Carnell, as an employer yourself, you will not have to pay penalty rates for your workers when they have to work in your pharmacy on union picnic day. Given the sanctimonious approach that was taken by the Government benches in relation to conflict of interest a little while ago, I am surprised that you even spoke on this matter today. There is clearly a conflict of interest in respect of that matter, if you take to its logical extension the argument that was put earlier by some of your colleagues.

That aside, the facts here are clear. There are 40,000 ACT taxpayers who are affected by this legislation. They are the people who benefit as a result of the union picnic day applying.

Ms Carnell: How many got it?

MR BERRY: Mrs Carnell asks, "How many people got it?". A number went to the picnic, and those who did not go to the picnic and had to work were paid. But the advice coming from the Government was, "You may not have to pay. You should check with your own legal adviser". In effect, it encouraged people not to pay. The end result was court action.

Mr Humphries, in his attempt at some sort of an erudite expose of the legal position, failed to understand what this motion is about. It is about the Executive acting on behalf of the people who put the Executive there. The Executive and other members of this Assembly have a responsibility to defend the Territory's laws. This is not about the rights and wrongs of union picnic day. This is about a decision by the Government not to defend a law of the Territory introduced because the bosses, the employers, were attempting to take away a benefit to workers - workers who are, incidentally, the same taxpayers you claim to defend. The same taxpayers, if they were working in your shop on union picnic day, would receive the benefit should this law stand, or they might have the day off, if you were a generous enough employer to give them the day off, and go along to the picnic, where they could have a cheap day out, cheaper than anywhere else on the entertainment calendar in the ACT.

The issue is that the Assembly has made a decision in relation to a particular law. It is not an issue about me or the Assembly instructing the Executive to have their lawyers join with the Trades and Labour Council and argue the Trades and Labour Council case. This is about the Assembly having its lawyers defend the right of the Assembly to make legislation which provides benefits to ACT taxpayers. ACT taxpayers benefit by this law.

Ms Carnell: It is not the issue.

MR BERRY: It is the issue. ACT taxpayers benefit by this law that was decided upon in this Assembly. The Government, by its inaction, hopes that those taxpayers will lose the benefit. The fact of the matter is that this is an argument about the elected representatives of the taxpayers rising to defend the benefits provided to taxpayers by this Assembly. The Government should be arguing for the constitutional ability of this Assembly to make laws.

Employers have put and lost an argument in respect of the standing of the law against a Federal award. It has its origins in a decision by the Full Bench of the Industrial Relations Commission - this has not been mentioned in the debate - which clearly recognised the right of State and Territory governments to make laws in relation to extra public holidays. The Full Bench of the Industrial Relations Commission referred to 10 public holidays plus any that the States and Territories might wish to legislate for. We legislated for this particular holiday to provide that benefit to our taxpayers. The employers did not like it; the Executive did not like it. The employers are now trying to attack it in the courts, and the Executive is doing nothing. That is a simple expose of what is going on. This has its origins in an acceptance by the Full Bench of the Industrial Relations Commission that State and Territory legislatures have the right to provide additional holidays for their workers. That is what we did.

The Government should be going along and arguing that case. It is a quite simple case. We made the law because the Full Bench said that we could. We have the constitutional authority to do so. I am not going to go any further into the law; but, if you do nothing, then the will of the Assembly will not be heard. You have not even written a letter saying, "We passed this law and we think it should stand". It is as simple as that. It seems to me that you have an obligation, on behalf of the taxpayers, to argue the constitutionality of the law.

We know that on many occasions you have joined with the Howard Government in the courts to defeat wages and working conditions, stripping back awards, but you have not consulted anybody. Mrs Carnell whispers, "When?". It was in relation to a recent test case in Victoria for hospitality workers. As far as I recall, you were willing participants in attempts to strip back awards. You support the stripping back of awards. Union picnic day is another valuable condition that ought not to be stripped away as a result of the actions of the employers. You have the obligation to defend it on behalf of your own taxpayers, 40,000 of them, who were given that benefit by this Assembly, and you should encourage the courts to make sure that it stands.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

ADJOURNMENT

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

That the Assembly do now adjourn.

Promotion of Canberra

MS CARNELL (Chief Minister and Treasurer) (5.52): Mr Speaker, I would like to quote from a letter in the *Australian Women's Weekly* for April 1998 because I think sometimes people underestimate Canberrans. It is a letter from J. Dean of Canberra, ACT. It is entitled "Try it and see". It says:

> On a recent flight to Brisbane after a wonderful Whitsunday Island holiday, the seat beside myself and my sister was taken by a middle-aged gentleman from Queensland. When he found out we were from Canberra, he began voicing his thoughts on the subject: "Oh, Canberra's such a cold place;" "I suppose you're public servants;" "Too many politicians there." I sat listening and thinking he'd probably never been to Canberra. Sure, it's cold in winter. I know. I can see the snow in the distance, and the snow clouds sitting on top of the surrounding mountains is a beautiful sight. We have real definition between seasons - the trees dress up in red and gold in autumn and in spring thousands flock to see our Floriade display. In summer, we head

> for our favourite picnic spots along the Murrumbidgee River to cool off. Canberra has clean air, beautiful parks and we're two hours from the coast, travelling through countryside, not traffic. We have many great restaurants and hotels; the wildlife is abundant - even the kangaroos lazing in the sun like it here, too. I challenge that gentleman to spend some time in our lovely city and see for himself.

If more of us took that sort of approach when we were outside Canberra, we might just not need a branding exercise.

Supreme Court Building - Coat of Arms

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.53), in reply: Mr Speaker, I table the letter from the Chief Justice which I referred to earlier in debate today and which I have obtained the Chief Justice's permission to produce.

Question resolved in the affirmative.

Assembly adjourned at 5.53 pm