DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

29 February 2000

Tuesday, 29 February 2000

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

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 2 of 2000 and Statement

MR OSBORNE: I present Scrutiny Report No. 2 of 2000 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 2 of 2000 contains the committee's comments on eight Bills and 63 subordinate laws. There is a major report in there, Mr Speaker, on the Utilities Bill. I would encourage members to look at that.

Also, the committee still has concerns over the way that this Government is handling different appointments, Mr Speaker. Some members of the committee are becoming increasingly frustrated with the fact that appointments are announced on a certain date and they are not gazetted until a couple of weeks later. There is some issue about retrospectivity. I would encourage the Government to take greater care and perhaps look to gazetting the appointments on the day that they are announced just to save all the angst and the frustration that the committee seems to be having.

We did receive a letter from the Health Minister in which he indicated, as far as he was concerned, that it would not happen in relation to his portfolio anymore. I would encourage other Ministers to consider acting accordingly. I commend the report to the Assembly, Mr Speaker.

DUTIES AMENDMENT BILL 2000

Debate resumed from 17 February 2000, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

MR QUINLAN (10.35): This Bill is consequential as a result of the national vehicle registration scheme reforms introduced by the Road Transport (Vehicle Registration) Act 1999 passed in this place during sittings earlier this month. The Bill ensures that

vehicle registrations that are compulsory as a result of the Road Transport (Vehicle Registration) Act, or if a change is made within 30 days to rectify an error or omission of registration, will not be charged duty. The Opposition supports the Bill.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.36), in reply: Mr Speaker, I thank the Opposition for its support for the Bill. I hope that with the passage of this Bill the many important reforms which have been part of the national road transport package can be proceeded with quickly and effectively, and that the community will have the benefit of those positive changes to the way in which Australian road transport operates. I hope that the movement of ownership on the record of certain parties will now be more effectively accomplished because of the capacity to waive duty in appropriate circumstances.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

STADIUMS CORPORATION BILL 1999

Debate resumed from 9 December 1999, on motion by **Ms Carnell**:

That this Bill be agreed to in principle.

MR QUINLAN (10.37): I have to say that I remain somewhat mystified as to exactly how we got to this point via Bruce Operations Pty Ltd. I guess we can look forward to the Auditor - General's report on the Bruce Stadium to understand why it was necessary to set up Bruce Operations Pty Ltd. Now we are moving towards setting up a statutory authority to run Bruce Stadium.

The Bill presented to us virtually sets up a statutory authority called the Stadiums Corporation. I give notice of my intention to move amendments to ensure that if it is a statutory authority it is so named, and that we do not build confusion into the use and the nomenclature of the business bodies that the Government sets up If corporatisation means something then the title "corporation" also means something. If the term "territory owned corporation" means something and this is not one of those things, we rather think that it should be called what it is, and that is an authority. So we will be seeking to amend the Bill to ensure that the business body that is appointed to run the stadium will be called what it is, an authority.

We also notice in the Bill that the functions and the powers of the original body are quite wide. In fact this particular body, as set up by the legislation, could do pretty well anything and run pretty well anything. I rather thought that that was probably not the intent. Surely, it was purely an accident. Therefore, we have taken the liberty of also preparing amendments to the Bill to ensure that if this body is given authority over

particular activity and assets of the Territory, then that will be done per medium of the Assembly rather than under the sorts of broad dimensions of the Bill as it was originally set out. So, generally, with a whole number of amendments, most of which do the same thing and just correct the title, we will be supporting the Bill in the detail stage.

MS TUCKER (10.40): The Greens will support this Bill in principle as it appears that this new corporation will provide a better level of accountability over the operations of Bruce Stadium than the current arrangements. This new corporation will have clear lines of accountability that are set out in legislation,. unlike the obscure operations of Bruce Operations Pty Ltd. It has become fairly clear that the management of the redevelopment of Bruce Stadium has been a debacle, so anything this Assembly can do to improve the way that the stadium is managed will, I am sure, be welcomed by the ACT community.

I have a few questions, however, about what the Government's real intentions are with this corporation. It was unclear from the Minister's presentation speech or the explanatory memorandum whether this corporation is being established to only manage Bruce Stadium or whether other sporting facilities in the ACT will be transferred to it. The name of the new authority, the Stadiums Corporation, and its functions as listed in the Bill certainly give the impression that it is more than just about Bruce Stadium.

I have some concerns that we may be creating a monster here that will eventually take over all the major public sporting and entertainment facilities in Canberra. While I can accept that Bruce Stadium is of such a scale and function that it needs to be operated on a commercial basis, I am not sure that the public benefit of having all Canberra's sporting ovals or other public facilities being managed on the same basis has been demonstrated at this stage.

The proposed functions of the corporation in relation to its ability to manage cultural and entertainment events and facilities also appear to overlap with the existing Cultural Facilities Corporation and the Canberra Tourism and Events Corporation, so I think there should be some clear demarcation here. I have therefore put forward some amendments to the Bill that will place some restrictions on the ease with which the Government can transfer assets to the new corporation. I am not saying that this corporation should only manage Bruce, but that the transfer of other sporting and entertainment facilities needs to be assessed on a case by case basis. I will talk more about these amendments in the detail stage.

MR RUGENDYKE (10.42): Mr Speaker, I will be brief. I offer my support for this Bill and also for Mr Quinlan's package of amendments. These amendments by Mr Quinlan certainly help to eliminate the confusion of having the word corporation in the title of a statutory authority.

Mr Speaker, I note that in Mrs Carnell's presentation speech it was stated that this Bill would introduce "a high degree of accountability and public responsibility". I think it is important to place on the record that the passing of this Bill does not remove the accountability or public responsibility for past dealings relating to Bruce Stadium. The

history of this issue has been well canvassed in this place and I do not need to go over old ground at this time. I will say, however, that I am eagerly awaiting the release of the Auditor-General's performance audit.

Mr Berry: It's a lost opportunity, Dave. Go for it.

MR RUGENDYKE: A lost opportunity? I do not think so. Mr Speaker, I will be scrutinising closely the details of his analysis. From what I have seen of the contracts between the Government and the three football clubs, it seems that the ACT has shouldered excessive risk. As I say, I will be taking all evidence into account when I consider that. Mr Speaker, I support the Stadiums Corporation Bill, along with Mr Quinlan's amendments.

MS CARNELL (Chief Minister) (10.44), in reply: Mr Speaker, I thank members for their support for this Bill. As members would be aware, this sets the Bruce Stadium up as a statutory authority with all of the mandatory reporting requirements that run underneath a statutory authority. The reason why it has been set up as a statutory authority rather than a territory owned corporation is that, unlike the standardised TOC reports, the reporting requirements of a statutory authority can be customised to the requirements of the Assembly. The Stadiums Corporation will be relatively small and it is not therefore appropriate to burden it with the associated costs of a TOC structure. As a statutory authority, there will be greater control exerted over the operations of the responsible Minister.

Mr Speaker, in order to facilitate the effective transfer of business activities, the Government intends to appoint the existing directors of Bruce Stadium Operations Pty Ltd to the board of the Stadiums Corporation, or the Stadiums Authority, as it will more than likely end up being.

Mr Quinlan: Why?

MS CARNELL: Because we are going to support your amendments. The Bill imposes no additional regulatory or financial burden on the ACT Government or Bruce Stadium. The Stadium Corporation will ensure that the Canberra community will continue to enjoy a pre-eminent sporting and functions facility. It will also provide a mechanism through which the ACT community will be able to be kept informed of Bruce Stadium's performance.

Mr Speaker, I can guarantee to members opposite and to Ms Tucker that there was no ambition to have the Bruce Stadium Corporation or authority managing any other facility. I think they will have more than enough to do with Bruce Stadium. It always interests me when I hear of views that there must be a conspiracy somewhere, lurking under the bed maybe. I can absolutely guarantee that that simply is not the case. In fact, I find it really quite amusing, Mr Speaker.

The Government will be supporting Mr Quinlan's amendments, but I have to say that some of Ms Tucker's amendments are pretty stupid, so we will not be supporting those, particularly the ones that want to make the chief executive a public servant, and everybody who works for the stadium public servants, and those sorts of things. That is

very interesting after Ms Tucker just made the comment that she understands why the stadium needs to operate in a businesslike fashion. To then bring forward amendments that would make it not act in a businesslike fashion. is very unusual, Mr Speaker, but we certainly have no problems with Mr Quinlan's amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 4, by leave, taken together.

MR QUINLAN (10.48): Mr Speaker, I ask for leave to move together amendments Nos 2 to 9 circulated in my name.

Leave granted.

MR QUINLAN: I move:

> Clause 1, page 1, line 5, omit "*Corporation*", substitute "*Authority*".
> Clause 3 –
> Page 2 –
> Line 9, after the definition of ***appointed director***, insert the following definition:
> "***authority*** means the Stadiums Authority.".
> Line 13, definition of ***corporation***, omit the definition.
> Line 14, definition of ***director***, omit "corporation", substitute "authority". Page 3 –
> Line 1, Part 2 (heading), omit "**CORPORATION**", substitute "**AUTHORITY**".
> Line 2, Part 2, Division 2.1 (heading), omit "*Corporate status*", substitute "*Establishment and powers*".
> Clause 4 –
> Page 3 –
> Line 4, subclause (1), omit "Corporation", substitute "Authority".
> Line 5, subclause (2), omit "corporation", substitute "authority".

Those amendments have already been discussed and they are fairly straightforward.

Amendments agreed to.

Clause 5

MR QUINLAN (10.49): Mr Speaker, I move amendment No. 10 circulated in my name, which reads as follows:

> Page 3, line 10, paragraph (a), after "facilities", insert "prescribed under the regulations".

Amendment agreed to.

MS TUCKER (10.50): I move amendment No. 2 circulated in my name which reads as follows:

> Page 3, line 12, paragraph (b), omit "or conduct", substitute ", or conduct at a facility mentioned in paragraph (a),".

This amendment is to clarify the functions of the corporation. At present, paragraph 5(b) setting out the functions in the Bill would give the corporation the power to organise or conduct sporting, cultural, entertainment or commercial events anywhere. This would be giving the corporation carte blanche to undertake virtually any activity where it thinks it can make a buck. Given the pressures the corporation will probably be under to make a profit, this could lead to some risk taking and speculative ventures which I do not think the Government should be getting involved in. We should heed the bad experiences of such ventures as Harcourt Hill, CanDeliver, the Hotel School and even the experience of Bruce Stadium till now and go very easily about entering into new commercial ventures. My amendment therefore makes it clear that the corporation can only conduct sporting, entertainment and other events at facilities that it manages, and not just anywhere.

MS CARNELL (Chief Minister) (10.51): Mr Speaker, this amendment proposes that sporting or entertainment facilities managed by the corporation be prescribed under regulations. There are no provisions for regulations under this Bill. While there is no objection to public notification of the facilities, it may be more immediate if the normal reporting mechanisms were to be used to advise the Assembly rather than regulations which would be more onerous to update. As I say, there is no capacity or no provision for regulations under this Bill. Mr Speaker, this is simply unnecessary.

Question put:

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

The Assembly voted -

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

Question so resolved in the affirmative.

MR QUINLAN (10.54): I seek leave to move together amendments Nos 11 to 13 circulated in my name.

Leave granted.

MR QUINLAN: I move the following amendments:

> Page 3 -
> Line 21, paragraph (e), omit “corporation”, substitute “authority”.
> Line 25, paragraph (g), omit “corporation”, substitute “authority”.
> Line 27, paragraph (i), omit “corporation”, substitute “authority”.

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 6 to 19, by leave, taken together.

MR QUINLAN (10.55): Mr Speaker, I seek leave to move together amendments Nos 14 to 25.

Leave granted.

MR QUINLAN: These amendments all relate to the name again, I believe. I move:

> Clause 6 –
> Page 3 –
> Line 32, subclause (1), omit “corporation”, substitute “authority”.
> Line 34, subclause (2), omit “corporation”, substitute “authority”.
> Clause 7 –
> Page 4, line 2, subclause (1), omit “corporation” (wherever occurring), substitute “authority”.
> Clause 8 –
> Page 4, line 16, omit “corporation”, substitute “authority”.
> Clause 9 –
> Page 4 –
> Line 20, subclause (1), omit “corporation”, substitute “authority”.
> Line 23, paragraph 2 (a), omit “corporation”, substitute “authority”.
> Line 24, paragraph (2) (b), omit “corporation”, substitute “authority”.
> Clause 10 –
> Page 3, line 28, subclause (2), omit “corporation”, substitute “authority”.
> Page 5, line 2, subclause (4), omit “corporation”, substitute “authority”.
> Clause 11 –
> Page 5, line 6, subclause (1), omit “corporation”, substitute “authority”.
> Clause 15 –
> Page 6, line 13, paragraph (3) (c), omit “corporation”, substitute “authority”.
> Clause 16 –
> Page 6, line 29, after subclause (3), insert the following subclauses:

> "**(4)** The chairperson must, when requested by the Minister to do so, give to the Minister a statement of any disclosure of interest made under subsection (1) or (2).
> **(5)** The Minister must cause a copy of a statement under subsection (4) to be laid before the relevant committee of the Legislative Assembly within 14 days after receiving the request.
> **(6)** In subsection (5)—
> ***relevant committee*** means —
> (a) a standing committee of the Legislative Assembly nominated by the Speaker of the Legislative Assembly for the purposes of subsection (5); or
> (b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.".

Amendment No. 25 does not relate to the name but rather relates to disclosure of interest. As I understand it, the Bill provided for disclosures to the Minister by the authority, and this amendment makes that information available to the Assembly. In light of recent days, I think it is a rather acceptable amendment. I commend the amendments to the Assembly.

MR KAINE (10.57): Mr Speaker, I support this particular amendment put forward by Mr Quinlan. I think this document is an interesting one when you read clause 16 in conjunction with clause 13 because these two clauses together place very real responsibility on people appointed to be directors. They are matters which under normal circumstances you would take for granted, but the Government has chosen in this Bill in connection with this particular authority to specifically state these requirements. They are quite onerous because clause 16 requires disclosure of personal or pecuniary interest direct or indirect.

Yet subclause (2) of that clause tends to be a bit of a let-out because it says:

> The disclosure must be recorded in the minutes of the meeting and, unless the board otherwise decides, the director must not … be present … or take part in - - -

And so on. That let-out subclause tends to negate somewhat the important issue made in subclause 16(1). If the board were to decide that a disclosure, having been made, should be disregarded or set aside on some grounds, I think it is important that somebody should have a look at that and ensure that clause 13 is being meticulously adhered to. Particularly because of those words in subclause (2), "unless the board otherwise decides", I think there does need to be some sort of a check and balance on this, and for that reason I support Mr Quinlan's amendment.

MS TUCKER (10.58): Yes, we also support this amendment. I had an amendment which was quite similar, in fact. It will give the opportunity to the Assembly to debate and possibly disallow any government proposals to transfer particular facilities to the corporation when regulations are tabled. It is just about accountability and it is very worth supporting.

MR SPEAKER: When are you moving that amendment? Are you foreshadowing it?

MS TUCKER: No, no. , it is fine. It is just that I had a similar amendment.

Amendments agreed to.

Clauses, as amended, agreed to.

Clause 20

MS TUCKER (10.59): Sorry, I am a bit confused as to where we are up to.

Ms Carnell: You are up to your amendment that wants to make the executive director a public servant.

MS TUCKER: My amendment No. 3. Okay.

MR SPEAKER: Ms Tucker, I am advised that you will need to seek leave to amend your amendment No. 3 to replace the word "corporation" with "authority" wherever it appears. That is consequential upon Mr Quinlan's amendments Nos 2 to 9 having been agreed to.

MS TUCKER: I seek leave to amend my amendment by deleting the word "corporation" wherever occurring and inserting the word "authority".

Leave granted.

MS TUCKER: I move:

> Page 8, line 3, omit the clause, substitute the following clause:
> **"20 Appointment of chief executive**
> (**1**) The administering chief executive must create and maintain in the government service an executive office of Chief Executive of the authority.
> (**2**) The chief executive is the person for the time being holding, or performing the duties of, the executive office mentioned in subsection (1).
> (**3**) The chief executive is appointed by the board after consultation with the Minister.
> (**4**) Subject to this Act, the chief executive holds office on the terms and conditions (in respect of matters not determined under the Remuneration Tribunal Act 1995) determined in writing by the board.
> (**5**) A retiring chief executive is eligible for reappointment.
> (**6**) A person appointed to be the chief executive must, as soon as practicable after being appointed and on each subsequent 30 June, give written notice to the Minister of all his or her direct or indirect pecuniary interests.
> (**7**) If the chief executive has or acquires a direct or indirect pecuniary interest in a matter that, to his or her knowledge, is being considered or about to be considered by the board, the chief executive must given written notice to the Minister of that interest.".

This amendment and my amendment No. 4 relate to the staffing of the corporation. The Bill proposes that the chief executive be appointed by the board of the corporation on the terms and conditions the board determines. The employees of the corporation are also employed under whatever terms and conditions that the board of the corporation determines. This is in contrast to the provision that is common across virtually all statutory authorities in the ACT - that the chief executive and staff are still public servants, with their terms and conditions determined in accordance with the Public Sector Management Act. Even the Canberra Tourism and Events Corporation, which is probably the closest organisation we currently have to this new corporation, has its chief executive and staff appointed as public servants, so I was surprised to hear the Chief Minister's response to this amendment.

I believe, as a general principle, that all people who are employed by ACT government agencies should be employed on similar terms and conditions. We should not be setting up different employment conditions across different organisations within the ACT Government. I am worried that this Bill may be a thin edge of the wedge in promoting the Liberal Party's industrial relations ideology, which ideally would want all workers to be on individual contracts and would want to destroy workers' ability to collectively bargain with their employers. I do not see any justification of why the people employed by the stadiums corporation should be treated differently to other public employees. My amendment therefore copies the staffing provisions that are found in a number of other pieces of legislation relating to statutory authorities.

MS CARNELL (Chief Minister) (11.03): Mr Speaker, fairly obviously, the Government will not be supporting either of the amendments that Ms Tucker has just spoken about. Ms Tucker proposes that the chief executive be appointed to an executive office in the Public Service. It is simply ridiculous to suggest that heading an authority running a large stadium, Bruce Stadium, should somehow come under the same terms and conditions as somebody heading up the Chief Minister's Department. It strikes me that they are two somewhat different jobs, Mr Speaker.

I am sure we all, even Ms Tucker, want the stadium to have the flexibility to operate in the environment that it needs to, and that is not nine to five, five days a week. It is not even 24 hours a day. It needs, I suppose, a very spasmodic approach. Games are usually at night or in the afternoon. The times that people are required are simply very different from in the more traditional parts of the Public Service, Mr Speaker. We do need to ensure that this Bill gives maximum flexibility to the corporation to meet their commercial needs, and Ms Tucker's amendments would significantly undermine that. It is simply ridiculous to tie the authority's hands to the extent that Ms Tucker would like.

MR QUINLAN (11.04): Mr Speaker, the ALP will not support this amendment because we would like to see a business appointment made. We envisage that in the early days there may be some shaking out periods and appointments, and we would like to see the authority operate as a business.

However, to save time, I might just add to that. We are moved to support the following amendment in relation to staff. I am pretty sure that the Public Service conditions allow for part-time and temporary staff. I am concerned, if the authority does need managerial staff, that there is the capacity for interchange between the stadium and other arms of

the public sector, some free movement. I would like to think that that does happen so that there is cross-fertilisation between the bureaucracy and its business arms. We cannot support Ms Tucker's amendment No. 3, but we will be supporting amendment No. 4.

Amendment negatived.

MR QUINLAN (11.06): I ask for leave to move together my amendments Nos 26 to 30.

Leave granted.

MR QUINLAN: I move the following amendments which relate to name and nomenclature:

> Page 8 –
> Line 4, subclause (1), omit "corporation", substitute "authority".
> Line 5, subclause (2), omit "corporation", substitute "authority".
> Line 10, subclause (3), omit "corporation", substitute "authority".
> Line 11, subclause (4), omit "corporation", substitute "authority".
> Line 13, subclause (5), omit "corporation", substitute "authority".

Amendments agreed to.

Clause, as amended, agreed to.

Clause 21

MR QUINLAN (11.07): Mr Speaker, I move amendment No. 31 circulated in my name. It reads:

> Page 8, line 18, paragraph 21 (1) (a), omit "corporation", substitute "authority".

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 22 to 24, by leave, taken together.

MS TUCKER (11.08): I move amendment No. 4 circulated in my name.

MR SPEAKER: You will need leave to amend your amendment in order to replace the word "corporation", where occurring, with the word "authority". Would you seek leave?

MS TUCKER: I seek leave to have that amended in that way so that the word "authority". is substituted.

Leave granted.

MS TUCKER: I move:

> Division 3.2, page 8, line 25, omit the Division, substitute the following Division:
> **"Division 3.2—Staff and consultants**
> **22 Staff**
> (1) The staff of the authority are employed under the *Public Sector Management Act 1994*.
> (2) That Act applies in relation to the management of the staff of the corporation.
> **23 Consultants**
> (1) The authority may engage consultants.
> (2) Subsection (1) does not confer on the authority a power to enter into a contract of employment."

MS CARNELL (Chief Minister) (11.09): Mr Speaker, as I already said, the Government will not be supporting this amendment. This amendment provides for staff of the corporation or authority to be public servants, public sector employees. The new clause 23 appears to specifically limit the corporation to staff and consultants. No contractors could be engaged. This clause clearly indicates that Ms Tucker has no understanding of the commercial imperatives facing the stadium authority or, indeed, any enterprise in this sort of arena. If taken literally it means that all groundsmen, cleaners and caterers et cetera would need to be public servants.

Everybody who knows anything about the way stadiums operate would understand that that is simply not an appropriate way to go, Mr Speaker. This would severely limit the capacity of the stadium to act in a commercial manner. It would severely limit the capacity of the stadium to create the returns that both the codes and the ACT community want. It would certainly mean that a number of the people who are working there at the moment would no longer be able to work there. I would not have thought that that was what members of this Assembly wanted to do, because the people who are there at the moment, on the whole, are not public servants.

MR QUINLAN (11.10): Mr Speaker, I cannot accept the literal interpretation that Ms Carnell has put on Ms Tucker's amendment; that, simply because an amendment says "the authority may engage consultants", somehow that can be immediately interpreted as precluding this authority from - - -

Ms Carnell: That is my advice, Mr Quinlan.

MR QUINLAN: Well, you had better table it right now. I am not a lawyer, but I read it and it says "the authority may engage consultants". I cannot see any exclusion from this particular organisation engaging contractors if and when necessary. I think it is a rather straw man argument. It expands what Ms Tucker has said and what Ms Tucker has included in her amendment. I simply cannot accept it.

Question put:

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

The Assembly voted -

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

Question so resolved in the affirmative.

Clauses, as amended, agreed to.

Clauses 25 to 37, by leave, taken together.

MR QUINLAN (11.14): Mr Speaker, I move amendment No. 37 circulated in my name. It reads as follows:

> Page 10, line 2, insert the following new subclause:
> "**(1)** The authority must provide the Legislative Assembly with all the information that it requests.".

Mr Speaker, this amendment is consistent with the previous amendment. What it does is make information available to the Minister available to the Assembly if it so requests. The Bill provides for the Minister to seek information and be furnished with same. We believe that that should be extended to the Assembly. I repeat the observation I made earlier - this is probably a most propitious week to be moving such an amendment.

Amendment agreed to.

MR QUINLAN (11.15): Mr Speaker, I ask for leave to move amendments Nos 38 to 72 together.

Leave granted.

MR QUINLAN: I move amendments Nos 38 to 72 circulated in my name. Again, I think they all only address the title of the business enterprise. The amendments read as follows:

Page 10, line 3, omit “corporation”, substitute “authority”.
Clause 26 –
Page 10 -
Line 6, omit “corporation”, substitute “authority”.
Line 8, paragraph (a), omit “corporation”, substitute “authority”.
Line 10, paragraph (c), omit “corporation”, substitute “authority”.
Line 11, paragraph (d), omit “corporation”, substitute “authority”.
Clause 27 –
Page 10 -
Line 13, subclause (1), omit “corporation”, substitute “authority”.
Line 16, paragraph (2) (a), omit “corporation”, substitute “authority”.
Line 17, paragraph (2) (b), omit “corporation”, substitute “authority”.
Line 19, paragraph (2) (c), omit “corporation”, substitute “authority”.
Line 22, subclause (4), omit “corporation”, substitute “authority”.
Line 24, subclause (5), omit “corporation”, substitute “authority”.
Line 27, paragraph (6) (a), omit “corporation”, substitute “authority”.
Line 31, paragraph (6) (b), omit “corporation” (wherever occurring), substitute “authority”.
Page 11 –
Line 1, paragraph (6) (c), omit “corporation” (wherever occurring), substitute “authority”.
Line 6, subclause (7), omit “corporation”, substitute “authority”.
Clause 28 –
Page 11 –
Line 9, subclause (1), omit “corporation”, substitute “authority”.
Line 13, subclause (2), omit “corporation”, substitute “authority”.
Line 26, paragraph (2) (g), omit “corporation”, substitute “authority”.
Line 27, paragraph (2) (h), omit “corporation”, substitute “authority”.
Line 32, subparagraph (2) (i) (i), omit “corporation”, substitute “authority”.
Clause 29 –
Page 12 –
Line 2, subclause (1), omit “corporation”, substitute “authority”.
Line 6, subclause (2), omit “corporation”, substitute “authority”.
Line 12, subclause (3), omit “corporation”, substitute “authority”.
Clause 30 –
Page 12 –
Line 16, subclause (1), omit “corporation”, substitute “authority”.
Line 18, subclause (2), omit “corporation”, substitute “authority”.
Clause 31 –
Page 12, line 30, subclause (1), omit “corporation” (wherever occurring), substitute “authority”.
Part 5, Division 5.1 (heading), page 13, line 2, omit “*corporation*”, substitute “*authority*”.
Clause 32 –
Page 13, line 7, definition of ***relevant person***, paragraph (b), omit “corporation”, substitute “authority”.
Page 13, line 8, definition of ***relevant person***, paragraph (c), omit “corporation”, substitute “authority”.
Clause 33 –
Page 13, line 13, omit “corporation”, substitute “authority”.
Clause 34 –
Page 13, line 19, omit “corporation”, substitute “authority”.
Clause 35

Page 13, line 23, omit “corporation” (wherever occurring), substitute “authority”.
Clause 36 –
Page 13 –
Line 26, omit “corporation” (wherever occurring), substitute “authority”.
Line 32, paragraph (b), omit “corporation”, substitute “authority”.
Clause 37 –
Page 14, line 3, omit “corporation” (first and second occurring), substitute “authority”.

Amendments agreed to.

Clauses 25 to 37, as amended, agreed to.

Proposed new clause 37A

MR QUINLAN (11.16): I move amendment No. 73 which proposes new clause 37A. It reads as follows:

Page 14, line 4:
“**37A Regulations**
The Executive may make regulations for this Act.”.

This follows on from the previous sentiments incorporated into the Bill and allows the Executive to make regulations in conjunction with the Act and to facilitate the provisions of the Act, as amended.

Amendment agreed to.

Clause 38

MR QUINLAN (11.17): Mr Speaker, I ask for leave to move amendments Nos 74 to 76 circulated in my name together.

Leave granted.

MR QUINLAN: I move:

Page 15 –
Line 5, subclause (1), omit “corporation”, substitute “authority”.
Line 7, subclause (2), omit “corporation”, substitute “authority”.
Line 10, subclause (4), omit “corporation” (wherever occurring), substitute “authority”.

Amendments agreed to.

MS TUCKER (11.18): I move amendment No. 6 circulated in my name, which reads as follows:

Page 15, line 14, after subclause (4), add the following new subclause:
"**(5)** An instrument under subsection (1)—
(a) is a disallowable instrument for the *Subordinate Laws Act 1989*; and
(b) unless disallowed under section 6 of that Act, takes effect—
(i) on the day immediately following the last day on which the instrument could have been disallowed under section 6 of that Act; or
(ii) on any later day stated in the instrument.".

This amendment makes the instruments by which assets are passed to the corporation a disallowable instrument. It will give the Assembly the opportunity to debate and possibly disallow any government proposals to transfer particular facilities to the corporation.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole.

MR QUINLAN (11.19): I ask for leave to move amendments Nos 77 to 85 and No. 1 circulated in my name together.

Leave granted.

MR QUINLAN: I move the following amendments:

Clause 39, page 15, line 17, subclause (1), omit "corporation", substitute "authority".
Clause 40, page 15, line 29, subclause (1), omit "corporation" (wherever occurring), substitute "authority".
Clause 41 –
Page 16 –
Line 18, definition of ***proceeding***, omit "corporation", substitute "authority".
Line 19, definition of ***vesting day***, omit "corporation", substitute "authority".
Line 22, subclause (2), omit "corporation", substitute "authority".
Line 28, subclause (3), omit "corporation", substitute "authority".
Line 30, subclause (4), omit "corporation" (wherever occurring), substitute "authority".
Line 37, subclause (6), omit "corporation", substitute "authority".
Page 17, line 1, subclause (1), omit "corporation", substitute "authority".
Long title, page 1, omit "Corporation", substitute "Authority".

Amendments agreed to.

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

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

Bill, as amended, agreed to.

INDEPENDENT COMPETITION AND REGULATORY COMMISSION AMENDMENT BILL 1999

Debate resumed from 9 December 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR QUINLAN (11.19): The Opposition generally supports this Bill, which is broadly in line with recommendations of the Finance and Public Administration Committee, which I chair. It was originally prompted by the Assembly's concern over deregulation of the Canberra milk industry. The committee undertook to review the Chief Minister's statement concerning the implementation of an independent council on competition policy.

The committee reported and recommended the establishment of an independent competition and regulatory commission to continue the functions of the existing pricing regulator, as currently provided for in the Act, as a separate entity within the ICRC; to monitor the implementation of competition policy; and to inquire into and resolve issues of competitive neutrality and the implementation of competition policy.

The committee also recommended that the ICRC comprise five members or commissioners. I note that the Bill provides for only three members but with the option of appointing up to two more temporary assistant commissioners to act as specialists for particular inquiries. We see that as a reasonable approach.

The committee made several other recommendations dealing with consultation by the commission, its reporting requirements to the Assembly, the commission's method for deciding whether it should take on inquiries or not, and avenues for appeal and arbitration. The Bill addresses these recommendations to varying degrees.

The major point of concern for the Opposition is in relation to the self-funding authority aspect of the Bill. The Bill includes a provision for individuals or groups who wish to make an application to the commission for an inquiry to pay for that inquiry. The cost of such inquiries could run into many tens of thousands of dollars if it is lawyers at 30 paces. I am told that the reason for this is that it dissuades people from making frivolous or vexatious applications. I am also assured that it is not likely that the commission will refuse to conduct an inquiry purely on the basis that an applicant cannot pay. That is an assurance that we have perceived in very recent times. There are provisions for the commission to seek funding from other sources if it needs to.

I am not convinced that the references to a self-funding authority will not dissuade people who may otherwise have a legitimate application to make from proceeding with that application. However, I have been assured that the department is now working on an education program that will ensure no member of the community is disadvantaged by the Government's desire, as contained in the Bill, to avoid dealing with frivolous

claims. The Government will need to make every effort to highlight the fact that the commission is there for the entire community and not just for those who can afford to pay.

Based on the assurances I have received, the Opposition intends to support the Bill, pending Ms Tucker's amendments. We will look at how the commission operates in the next few months and reserve the right to make amendments at that point, particularly in relation to the waiving of fees. We had intended to move amendments to the Bill to allow for the waiving of fees where people could not afford them, to ensure that the cost did not become an inhibition to the pursuit of justice, but we note that there other provisions in the Bill. The commissioner can decide whether a matter must go forward or should be investigated and can seek funds elsewhere. We will be monitoring the Bill in practice and give notice that we reserve the right to come back and change this Bill if it appears that there is any inhibition to legitimate claims going forward simply because of the funding process.

MS TUCKER (11.25): This Bill is the culmination of a long debate which I have been involved in about the adequacy of monitoring the implementation of national competition policy in the ACT. Unfortunately, the history of this debate shows that the Government has not adequately taken into account community concerns about the impacts of competition policy and the need for the community to have direct input into decisions to introduce more competition into what were once government services or were regulated industries.

Members may recall that state and territory Ministers agreed to implement the national competition policy in 1995. On my motion, the Bill to enact competition policy in the ACT was referred to a select committee. One of the recommendations of that committee was that the Government establish a forum to provide ongoing monitoring and advice on the implementation of competition policy. Such a forum was to include representatives of community, environmental, consumer, union, business and academic organisations.

The Government did not support this recommendation, so I put up a motion in 1996 to establish a competition policy forum. The Government opposed that motion but the support of the ALP and Mr Moore allowed the motion to pass. The Government went through the actions of setting up the Competition Policy Forum, but had no commitment to its operations. Members of the forum felt that government officials marginalised the forum's function. This came to a head when proposals were put forward by the Government in 1998 to reform the ACT milk industry. It became clear that the Competition Policy Forum was being given no role in the debate over these proposals.

Around this time I began developing a private members Bill to establish a statutory competition policy forum, but in June 1998 this work was overtaken by a motion from Mr Osborne in the Assembly calling on the Government to establish such an independent council and requesting the Chief Minister to develop a model for such a council.

The Chief Minister came back with a model that was not a forum composed of a range of representatives of different community sectors but an expansion of the existing single-person Independent Pricing and Regulatory Commission to enable it to inquire into competition policy issues, including complaints about competitive neutrality. This model was referred to the Chief Minister's Committee, which reported in October 1998. It supported the establishment of the Independent Competition and Regulatory Commission, or ICRC, but wanted the commission to consist of five commissioners so that it was more representative of the broader community. The Government, in its response to the committee's report, accepted most of the committee's representations but did not want such a large commission. It did, however, agree to increase the commission to three commissioners, with the option of adopting extra associate commissioners for particular inquiries.

Turning to the Bill before us today, I believe that what is being proposed now is significantly different from my original concept of a community-based advisory forum to address competition policy issues. This Bill will give inquiries into competition policy issues more structure and clout. I also like the provision that will allow individuals and non-government bodies as well as the Government to request the commission to undertake inquiries and for the commission to initiate its own inquiries. The ability of the commission to investigate competitive neutrality complaints independently of the Government is also welcomed.

On the down side, however, I am concerned that the incorporation of the forum role into the bureaucratic framework of the old IPARC will result in community involvement in the conduct of inquiries being significantly reduced from the original Competition Policy Forum model. I should also point out that this Bill does not address the avenues that should be available for appeal against decisions of the ICRC. This is a weakness in the current legislation that the Government, in its response to the Chief Minister's Committee, said that it would address, but we have not seen any proposals yet.

I guess, however, from the amount of Assembly time that has so far gone into developing this model that I would not get the numbers to go back and try to make the original Competition Policy Forum model work effectively. I am therefore left with the option of attempting to make the ICRC work as closely as possible to my original intention, which is why I am putting up some amendments to this Bill. I believe that some of the detail of the Bill in the areas of the membership of the commission and the allocation of inquiry costs does not reflect comments made by the Chief Minister's Committee in its report or even the Government's response to that report. I will talk about this further when I put my amendments.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.30), in reply: Mr Speaker, I thank members for what I think is support for this Bill and its passage today and the opportunity, by doing so, to significantly expand the independent pricing oversight and general overview of competition in the ACT which the new Independent Competition and Regulatory Commission will be able to exercise. It is important that we understand that there has been a serious community debate about the kind of role which a body of this kind should be playing. It is important also to acknowledge that the Government has taken on board concerns raised in the community about these issues and has put forward to the

Assembly a Bill which comprehensively responds to those issues and deals with a capacity both to have independent pricing oversight where appropriate for things like monopoly services and to examine competition issues generally in the ACT.

I have to express considerable surprise at Ms Tucker's comments that the Government has not adequately taken into account community concern about these issues. With great respect, the only things that she has proposed to amend in this legislation deal with who pays for references in certain circumstances and some small changes to the composition of the commission. With respect, it is a bit rich to be told that there are all sorts of problems with the Government's model, that we have not taken into account community concern, that there are all sorts of unaddressed issues and that we need a more consultative model, when apparently members are not prepared to put forward any other model.

The Government has put forward a three-person commission which has a broader focus than the narrow economic focus, which was a criticism sometimes levelled at IPARC, the predecessor to this new body. It is able to examine a range of critical issues in the ACT concerning competition policy. That is the very kind of issue that members in this place have complained about on a number of occasions. It is there in this legislation. I say to members that if you do not like it do not vote for it, or amend it significantly.

The issues that were raised in the standing committee report to which Ms Tucker referred have been dealt with. We have proposed, for example, a three-person commission, with the capacity to appoint other commissioners on an ad hoc basis. There was originally a call for five commissioners. I think we have argued successfully that a five-person commission would be an unnecessary expense to the ACT community. The evidence of that is that there are not any amendments to change that basis. I hope that before Ms Tucker goes out and makes these criticisms she explains why it is today that she is prepared to support this Bill if she does not believe these issues are adequately addressed in the Bill.

Mr Speaker, the Government accepted the preference of the Standing Committee for the Chief Minister's Portfolio for vesting the commission with more than one commissioner, but we considered that a large board would prove administratively cumbersome and very costly. The model proposed in this Bill meets the spirit of the committee's recommendation by creating a structure of a senior commissioner and two assistant commissioners and provides for the appointment of any number of extra temporary associate commissioners where the nature of an inquiry requires specific skills or experience not held by the standing commissioners.

I should correct one thing that Mr Quinlan said. He suggested there was only capacity to appoint a further two temporary commissioners. That is not the case. There can be any number of temporary commissioners, and that capacity would be exercised if there were a range of inquiries going on.

Mr Quinlan: I just had a fixation on five.

MR HUMPHRIES: That is understandable but we have gone beyond five. To quote a character my sons like to watch, we are now to infinity and beyond. I think the arrangement put forward in the Bill provides for a strong capacity for specialisation in appropriate circumstances, combined with a relatively low-cost model. We bring these resources forward only as and when we need them for particular inquiries. They are not standing there all the time unnecessarily if the volume of work is sufficient or if the budget does not stretch that far.

On a related issue, I note that in the *Canberra Times* on Saturday, 12 February, Mr Quinlan called for an independent regulatory authority to oversee the operation of electricity, water, sewerage and gas supply to the community. Subject to the passage of the proposed Utilities Bill, the new ICRC will be responsible for administering utility licences and a range of utility regulatory tasks. In other words, what Mr Quinlan was calling for is not only within the Government's contemplation but actually embodied in legislation which is now before the Assembly. I look forward to Mr Quinlan's support for that proposal, since he has called for it.

Even if the Utilities Bill is not enacted, the ICRC will continue to have a responsibility for pricing, access and other regulatory issues described in this Bill. Members will be aware that the decision on the Territory's application to the National Competition Council for certification of the ACT's third-party gas access arrangements has been delayed pending resolution of a mechanism for dealing with disputes about access pricing determinations. This Bill provides an independent mechanism that addresses the appearance of a conflict of interest which concerned the National Competition Council. My advice is that as soon as this Bill is enacted the NCC will certify the access arrangements.

There is an high degree of accountability in the arrangements that have been presented in this Bill. The ICRC will be accountable to the Government and to the Assembly through legislative reporting requirements, annual reporting requirements, accountability forums such as the Estimates Committee and the portfolio committees of the Assembly, and its own reports published from time to time. It will be responsive to stakeholders through its reporting requirements and through its potential role in communicating the benefits of economic and regulatory reform.

The ICRC will retain IPARC's current public processes such as conducting public hearings, publishing submissions and publishing issues papers and draft and final reports. These reporting requirements are strengthened in the ICRC Bill. For example, it will be mandatory for the ICRC to disclose the details of any inquiry except where the public interest would best be served by non-disclosure. Also the provision for appointing assistant commissioners for particular inquiries will extend the skill base available for the ICRC and opportunities for input from specialists in a variety of fields.

Consideration of social and environmental issues will continue to be mandatory in determining prices and access issues. Again, the problems and concerns raised by Ms Tucker have been addressed in the way this Bill has been presented. The full range of issues the ICRC must consider in an inquiry, found in section 20 of the IPARC Act, will remain in tact in the ICRC legislation.

We have sought, in addition, to ensure that the regulatory referee for the Territory is accessible not only to members of the Government or the bureaucracy but more broadly and more effectively, and the Bill gives effect to that intention. There are some amendments on that which I want to come to later on in the debate on this Bill.

The ICRC Bill has referencing powers that are open for examination by the Assembly or any member of the community as a check against frivolous, vexatious or politically motivated references unlikely to deliver a benefit to the community or make a contribution to the quality of governance in the Territory. References will be adopted by the ICRC on a number of conditions, one being that the referring authority is able to fund the investigation demanded. However, there are avenues for ensuring that beneficial references are taken up, even where financial capacity is inadequate.

Mr Quinlan raised the issue of people raising appropriate issues that ought to be addressed and that are in the public interest but which they do not have the capacity to fund an inquiry into. I want to assure Mr Quinlan that it is the Government's intention that such matters should not be left unpursued because of an incapacity on the part of a person to pay for that kind of inquiry. I intend that there should be resources available to make sure that the commission is able to keep within its purview that particular function to deal with matters from people who might not be able to pay for an inquiry.

I will not debate the amendments at this stage, but I say to members, who I hope have not yet determined that they are going to support Ms Tucker's amendments, that there are some very important reasons why we should not accept those amendments to do with the management of the resources of the ICRC. I hope members will consider those arguments carefully before they vote on the amendments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MS TUCKER (11.40): I ask for leave to move amendments Nos 1 to 6 circulated in my name together.

Leave granted.

MS TUCKER: I move:

> Clause 6, page 3, line 27, paragraph (b), proposed new definition of ***self-funding referring authority***, omit the definition.
> Clause 7, page 4, line 14, proposed new subsection 3A (3), omit the subsection.
> Clause 12 –
> Page 6 –
> Line 3, proposed new paragraph 19B (2) (b), omit "; and".

Line 4, proposed new paragraph 19B (2) (c), omit the paragraph.
Line 20, proposed new subsection 19C (2), omit the subsection, substitute the following subsection:
" '(2) The commission may accept the reference only if it considers that the proposed investigation would be in the public interest, taking into account the competition policy considerations (as set out in Schedule 1A).".
Page 8, line 29, proposed new section 19K, omit the section.

My amendments 1 to 6 address the issue of allocation of costs of inquiries. I will speak to all these amendments now. My amendments remove all references in the Bill to the concept of a self-funding referring authority - in other words, the requirement for people who request the commission to investigate a matter to have to pay for the commission's costs in undertaking the investigation. Let me first quote the Chief Minister's Committee report on this subject, which really says it all:

> The Department also indicated that persons or agencies initiating an inquiry by the ICRC in competition policy matters would be required to meet the costs involved in the inquiry … The committee is not attracted to this proposition. It would impose an economic penalty on those persons or agencies concerned enough to progress a matter with the ICRC. As importantly, the concept could well act as a disincentive for persons or agencies to progress with the ICRC matters of vital Territory interest or concern.
>
> The committee would expect that the ICRC in accepting any reference for inquiry would do so on the basis of the public and/or the Territory interest. Accordingly, the committee does not consider it appropriate for costs involved to be charged to the person or agency which initiated the inquiry.

From the Government's response to the committee's report, one might think that they agreed with this comment. The response said:

> Provision will be made for references from people or groups that are unable to fund the inquiry from their own resources, where there is a perceived public benefit and the ICRC is able to either fund the inquiry from its own resources or from funds agreed by the government for the purpose.

However, the Bill that the Government finally presented does not have this provision. The Government's position is quite contradictory. In the proposed new sections 19B and 19C it is clear that the commission can accept a reference for an inquiry only if it considers that there are legitimate grounds for the complaint and that the proposed investigation would be in the public interest. Obviously, the commission will investigate only matters that are in the public interest. It is therefore very unfair for the individual making the complaint, which may have implications for a whole industry, to have to pay for the inquiry, for all the reasons that the Chief Minister's Committee identified. For example, should the pool owner who objected on competitive neutrality grounds to the

Government's decision to proceed with the Belconnen swimming pool have paid for the inquiry when the issue had implications for all private pool operators in the ACT and the complaint was found to have some substance?

The approach of the Government in this Bill is inconsistent with investigation mechanisms in other pieces of legislation. For example, people who make complaints to the Commissioner for the Environment do not have to pay for the commissioner's inquiry. A person who makes a public interest disclosure does not have to pay the cost of the investigation of that disclosure. A person making a complaint to the Ombudsman does not have to pay the costs of the Ombudsman's investigation. A person making a complaint to the ICRC should not have to pay for the inquiry into that complaint.

I understand Mr Quinlan will move an amendment to allow the commission to waive the costs that would be payable by a person for an investigation only if the commission considers that the person's financial circumstances warrant it. But this is weaker than our amendment and would also require the person to prove to the commission that they are too poor to pay the costs, which is very undignified and leaves complete discretion to the commission on judging whether a person is poor enough, and it will still discourage people from putting in complaints. It also goes against the principle that inquiries being done in the public interest should be paid for by government and not the individual who raised the issue.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.45): Mr Speaker, I understand Ms Tucker did not seek a briefing on this Bill. She certainly has not approached any member of the Government to ask about the reason for these provisions appearing in the Bill. As a result I think she has misunderstood what these provisions were designed to achieve.

First of all, I want to make it clear what the structure of the inquiry process is. There are a number of ways in which the commission can initiate an inquiry. It can do it of its own volition. It can do it because it is urged to do so by the Government. It can do it in circumstances where the community - indeed, members of the Assembly - raise particular issues for investigation. In looking at all those issues, there is an important question. I hope Ms Tucker is listening to this very carefully. There is an important question about managing the resources of the commission.

If, for example, paragraph 19B(2)(c) is removed from the Bill, the commission will not be able to conduct an inquiry that it considers to be in the public interest or that it considers has legitimate grounds for complaint, the matters dealt with in paragraphs (a) and (b), if it does not have the budget to be able to conduct that inquiry. Members need to appreciate that there are a very large number of issues which the commission could, and over a period of time will, have to deal with in relation to competition in the ACT. I name a few off the top of my head. There are issues to do with the way that the professions in the ACT operate - medical-related professions, doctors, solicitors, barristers.

These are all issues that have a very strong bearing on competition policy. It would be very easy, on the day after this legislation is enacted, for a person - particularly someone who has been aggrieved by a member of one of these professions - to say to the commission, "I have legitimate grounds for complaint about the way in which the profession operated. I want you to conduct an inquiry into these matters".

The commission may well agree that there are legitimate grounds for complaint and that there is a public interest in investigating such a matter. But it may not be able to manage an inquiry into that matter at the time the first person comes to the door demanding an inquiry into that matter. There may not be the capacity to do that, because there are issues to do with the professions, issues to do with all sorts of monopoly providers in the ACT, issues to do with the taxi industry or other issues. We would be able to list a dozen or more issues in the competition field right now which would be potentially on the work plate of the ICRC.

If we expect every one of those to be picked up at the same time, where is the commission going to do that and how is it going to manage its workload if it is handling all these inquiries at the one time? The point of the provision in clause 19B is that when someone comes to the door you can say to them, "We agree you have legitimate grounds for complaint, and we agree that there is a public interest in investigating this matter, but not just yet. We have other things we have to do first" or "There are other processes under way to examine the competitive issues relating to this particular matter".

Do not forget that the Government itself has a large program of reviewing legislation for its anti-competitive effects on the ACT community, and there are other mechanisms, some initiated by the National Competition Council, which would have a bearing on these sorts of issues. It would be legitimate for the commission to say, "We do not want to investigate this matter just at the moment".

With paragraph 19B(2)(c) in place it could, however, say to a person coming through the door, particularly a corporation, complaining about the anti-competitive conduct of somebody else in the marketplace, "Yes, we can conduct an inquiry into this matter now if you are prepared to pay for it to happen. If you want to pay for the inquiry now, which is not within our budget, which is not within our work timetable, we can appoint an associate commissioner to do that and we can get on and we can do it". But without paragraph 19B(2)(c) they cannot do that. That is principally what that provision is about.

If a matter is in the public interest, if the grounds for complaint are legitimate, I am sure the commission will conduct an inquiry. I have no doubt about that at all. Its job is to do these sorts of inquiries. But it will have to do it at a time and at a pace which allow it to get through the very large load which will come onto its plate from day one of its operation as the new competition overviewing body. Of course, it will also inherit from IPARC the role of regulating prices and oversighting prices, which is also an ongoing task which will be quite expensive for the commission to continue to do.

The Government is not opposed to these matters being investigated. In fact, the reason for having the legislation is to allow them to be investigated. But we also have to give the commission the power to regulate its workload. For that reason the amendments Ms Tucker has moved have not been thought through. If she had come to us and

explained what she wanted to do and explained why she was doing this, we could have explained to her why these amendments were not a good idea, why they would create a significant problem for the commission. I urge members not to accept the amendments, because without these provisions there will be a significant disability on the part of the commission to investigate matters for which it had not budgeted but which it believed could be paid for by a particular party coming through the door that was prepared to pay for them, if that was in the public interest.

MS TUCKER (11.51): I would like to respond to Mr Humphries' comments. I stick by the amendments that I have put here. I am concerned to hear his response. The arguments seem to be about resources. Does this mean that we are moving in the direction of user pays for all the other complaints mechanisms that exist? We have already had discussions about that with the Commissioner for the Environment. It is an issue of resources. That is what is being put here. To me, if in the environment of competition policy we have a commitment to ensuring that the public interest will always be discussed and that there will be input from a broad variety of people in the community, then we have to facilitate in every way possible their ability to do that.

As people are well aware, this has been a hot topic in this place for a long time. I went through the history of it in my speech. The public interest debate needs to be facilitated. I do not accept Mr Humphries' comments that it is going to make it more difficult for the commission because they will not be able to budget for particular complaints and the system will not be able to cope with them. This is an issue of how committed the ACT Government is to ensuring the public interest debate is facilitated. That is what these amendments are about.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.53): I have a brief response to what Ms Tucker said. The Government expects that the vast majority of inquiries conducted by the new commission will be paid for by the commission, funded by the taxpayer through an appropriation each year. That is how the vast majority of its inquiries will be conducted.

But it should not be limited on having other inquiries, if it believes they are appropriate, if there are parties in the community prepared to fund them. By having this clause we do not move inquiries into user pays. The vast majority of the inquiries of the commission will still be publicly funded inquiries, but the commission may wish to conduct other inquiries which it cannot manage without some supplementation to its budget. This is the mechanism for making it happen.

Question put:

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

The Assembly voted -

AYES, 3	*NOES, 14*
Mr Kaine	Mr Berry
Mr Osborne	Ms Carnell
Ms Tucker	Mr Corbell
	Mr Cornwell
	Mr Hargreaves
	Mr Hird
	Mr Humphries
	Mr Moore
	Mr Quinlan
	Mr Rugendyke
	Mr Smyth
	Mr Stanhope
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

Amendment (by **Ms Tucker**) proposed:

> Clause 23, page 13, line 26, proposed new Schedule 1, clause 1B, omit the clause, substitute the following clause:
> " '1B **Qualifications**
> '(1) The Executive must appoint 2 standing commissioners with knowledge or experience in 1 or more of the following fields:
> (a) commerce;
> (b) economics;
> (c) industry;
> (d) law;
> (e) public administration.
> '(2) The Executive must appoint 1 standing commissioner with knowledge or experience in consumer rights or the provision of services to disadvantaged persons.
> '(3) The Executive may only appoint as associate commissioner for a particular investigation a person who has knowledge or experience related to the investigation.".

Amendment (by **Mr Quinlan**) to Ms Tucker's amendment proposed:

> Clause 23, proposed new Schedule 1, subclause 1B (1), omit the subclause.

MS TUCKER (11.58): I will speak to my amendment and Mr Quinlan's amendment. My amendment No. 7 expands the qualifications required of commissioners and goes to the heart of the issue of how representative the commission should be of broader community interests. The Chief Minister's Committee report said there should be five commissioners with broad representation. The Government, in its response, said that five was too many and that three should be enough, with provision for further associate

commissioners to be appointed on a short-term basis for specific inquiries. It further said that the associate commissioners should have qualifications and experience pertinent to the inquiries being undertaken.

However, the Bill contains a provision that the commissioners can only be qualified in commerce, economics, industry, law or public administration. This is certainly a much narrower range of backgrounds than was originally envisaged. The narrow make-up of the commission will not end up being broadly representative of the range of perspectives and views in the community about competition policy. I have therefore put up an amendment to ensure that one of the three standing commissioners have a different background to the others and will be more representative of the public interest side of competition policy considerations. This commissioner will be required to have knowledge or experience in consumer rights or the provision of services to disadvantaged persons.

Competition policy is not just about economic reform. The competition policy principles included in the Schedule to the Bill include a number of non-economic considerations that address the public benefit side of competition policy. I believe that the commission's inquiries will be more comprehensive and effective if the people undertaking these inquiries have a good understanding of all aspects of the competition policy issue and not just an economic or industry perspective.

I have also put up an amendment that the associate commissioners only need to have knowledge or experience related to the investigation for which they have been appointed. The whole point of having associate commissioners was for the standing commissioners to be able to draw upon a wider range of expertise in the conduct of specific investigations. But the provision in the Bill that the commissioners have a limited range of background severely restricts this.

For example, it might be good to have an expert on environmental protection as a commissioner in an investigation of an industry that has major environmental impacts, where this might be a factor in determining what level of regulation should be imposed on the industry and how the public interest will be served. Similarly, it might be good to have an expert in the care of aged persons in an inquiry into the competitiveness of government services for aged persons. However, the restrictive qualifications of commissioners in the Bill will make it difficult to find appropriate people to be associate commissioners. My amendment will give much more flexibility in the appointment of associate commissioners.

It is only logical that if you are bringing in associate commissioners they have expertise in the particular area. That was the point of the associate commissioners. I hope that the Government will concede this point.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.02): We will support the amendment of the Labor Party, but we have to ask whether the two remaining subclauses in that clause of Bill are necessary. The idea of appointing as one of the commissioners someone with a particular characteristic which, as Ms Tucker says, represents the broader community better - - -

Ms Tucker: Socially disadvantaged people, I said.

MR HUMPHRIES: You said that this commissioner would represent the interests of the community in these sorts of issues better - - -

Ms Tucker: No. I said they would bring a different perspective.

MR HUMPHRIES: Look at the *Hansard*. I think you said something different to that, Ms Tucker. You said something to the effect that this person is going to be closer to the community's interests than the other two commissioners would be. I will look at *Hansard*. Perhaps I misheard you, but it seemed that that is what you were saying. All three of the commissioners will be protecting community interests. That is what they are there for. It is designed for them to be there in that particular role.

In recent days the Assembly, as I recall, has voted against provisions which require particular characteristics for people on committees or boards, and I would urge them to do so again today. The amendment reads:

> The Executive may only appoint as associate commissioner for a particular investigation a person who has knowledge or experience related to the investigation.

I am concerned about the narrowness of that. What if the Executive want to appoint somebody who had a very strong generalist background and who had a very good mind for the conduct of investigations to handle a particularly tricky process? For example, you might want to appoint a lawyer to overview a process in an inquiry which does not have anything to do with the law as such but which is a matter of concern.

I am concerned that by having a requirement that the person has to have experience in the particular area that is the subject of investigation we limit the capacity of the commission to have an inquiry with somebody who might have very good skills in a different field but who cannot be appointed because of the provisions of subclause (3).

MR QUINLAN (12.05): Mr Speaker, the import of the amendment that I have put forward is to support the last two provisions of Ms Tucker's amendment No. 7 - that is, to include the provision for someone with knowledge and experience in consumer rights and/or the provision of services to disadvantaged persons, and then the further provision that an associate commissioner for a particular investigation should have knowledge and experience related to the investigation.

Quite obviously, in competitive neutrality investigations and issues as they arise, we will touch regularly on what is in the public interest. I am sure that each of us would have a slightly different view of the public interest as it relates to any particular issue. As a flint-hearted old accountant myself, I think it is important that we do not populate a commission with people who have a background in economics, law or commerce but who do not necessarily have experience in the wider community in dealing directly with community issues. From our perspective, the results of many of these investigations will not be about which business wins but more about the eventual impact upon the public interest.

In recent times it has been our policy not to be prescriptive in the qualifications of board members appointed by legislation. However, in this particular area, given that the Government has described these fields of commerce and economics, et cetera, we believe that it is necessary to balance and modify those - not to decrease the capacity of the commission by any means but in fact to strengthen the capacity of this commission so that it has greater skill, greater understanding and greater perception of the community, the area which it will be impacting upon by its decision.

We feel that the last two subclauses put forward in Ms Tucker's amendment warrant the Assembly's full support.

MS TUCKER (12.08): I would like to respond to Mr Humphries again. He said there may be a particularly tricky legal question and that my amendment about associate commissioners would preclude the possibility of a legal person being brought in. My amendment says:

> The Executive may only appoint as associate commissioner for a particular investigation a person who has knowledge or experience related to the investigation.

That is exactly the point. If a particular expertise is needed, you would bring in such a person. I would like to give an example Mr Rugendyke might relate to. I am not sure how he is going to vote on this. Say we end up with a proposal that policing in the ACT should be outsourced; that because of competitive neutrality the government service should not be providing policing; that we should be just getting it out wider. That is an argument that has been put by the independent schools lobby too. They say that we should have competitive neutrality in education; that everyone has exactly the same right to provide a service; that the public school system should not be favoured in any way. Someone could put that argument in respect of policing as well.

If we had a complaint about that, I would have thought you would want the commission to be able to bring in someone with expertise in policing to put their view on the public interest. In theory it might look fine. The Government would say, "Anyone can deliver these police services. We will have contracts that regulate and specify a standard. Because of our regulatory regime" - we are having this discussion now about a prison - "we can guarantee that the service will be the same". A person who has a strong relationship with policing might like to say to that committee, "I do not know that the public interest would be served by this". For that reason it would be very useful in that debate to bring in as an associate commissioner someone who has experience and expertise in policing.

This is a totally reasonable thing to put. The Labor Party have said they will support it. Mr Rugendyke, you will be critical to this, I think. Mr Kaine, I am not clear on your position. It is something that all of us would think is sensible, so I do ask for your support.

MR RUGENDYKE (12.11): You just need to look at the name of this Bill. The first word is "Independent". We want an independent competition and regulatory commission. If you are going to stack it with people with vested interests, how independent would it be?

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

Amendment (**Ms Tucker's**), as amended, agreed to.

Question put:

That the Bill, as a whole, as amended, be agreed to.

A vote having been called for and the bells being rung -

MR SPEAKER: Mr Rugendyke, you are calling for a division on the question that the Bill as a whole, as amended, be agreed to. Are we clear on that?

Mr Rugendyke: I believed it was on the amendment.

MR SPEAKER: I had declared the result on Ms Tucker's amendment, Mr Rugendyke.

Mr Rugendyke: Mr Speaker, I understood that I was calling for a division on the amendment. If that was not the case, I withdraw the call.

Mr Humphries: I believe there is a power, Mr Speaker, to recommit a motion where there is confusion about the result. I think in the circumstances it would be appropriate to recommit the question.

MR SPEAKER: Very well. Is it the wish of the Assembly to recommit?

Mr Berry: No.

MR SPEAKER: Mr Berry, if I recommit the question that Ms Tucker's amendment, as amended, be agreed to, we will simply go into this division and resolve the matter. I am asking whether leave is granted.

Mr Berry: This division was called in respect of the Bill though, was it not?

MR SPEAKER: It was, but Mr Rugendyke is arguing that he wanted to call the division in respect of Ms Tucker's amendment, as amended, being agreed to. I am asking the Assembly whether they are prepared to recommit that motion. There being no objection, I will put the question on Ms Tucker's amendment, as amended, again.

Question put:

That the amendment (**Ms Tucker's**), as amended be agreed to.

The Assembly voted -

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

Question so resolved in the negative.

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

Bill, as amended, agreed to.

Sitting suspended from 12.16 to 2.30 pm.

QUESTIONS WITHOUT NOTICE

Bruce Stadium - Agreement with Canberra Raiders

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. In answer to a question about the value of the Bruce Stadium hirer's agreement to the Canberra Raiders, the Chief Minister on 24 September 1997 told Mr Whitecross, among other things:

> There is no guaranteed income payable by the Stadium to the Raiders regardless of how many patrons they attract to their home games … There is no guaranteed income payable. The Raiders, as a hirer, will receive the greater percentage of revenue from ticket sales, but this is not predicated on any minimum or maximum crowd figure.

The Chief Minister went on to say:

> … obviously, if no advertising or corporate suites are sold, there will be no revenue to share. Everyone will get nothing. A share of zero, the last time I checked, is zero.

Now that the hirer agreements are public, will the Chief Minister confirm that under the contracts between BOPL and the Raiders and the Brumbies there is in fact a guaranteed revenue assurance clause? Will she confirm that under that clause the Raiders and Brumbies are in fact guaranteed a minimum amount of revenue for using Bruce Stadium?

MS CARNELL: Mr Speaker, the answer I gave in 1997 was on the advice of the Department of Business, the Arts, Sport and Tourism and was prepared by those directly involved in negotiations on the heads of agreement. As you will appreciate, a heads of agreement indicates those areas that are to be negotiated for a final contract but does not indicate the final negotiated position. There was clearly some movement between the heads of agreement and the final contracted position. This movement was as a result of a position to ensure that the Raiders were no worse off and to ensure their continued presence in Canberra.

Initially there was a heads of agreement. That is not a legally binding document, but it is an indication of the basis upon which negotiations will continue. I am advised that the answer I gave was put together by those who were directly involved in the negotiations on the heads of agreement. From there, certainly many things changed, not the least of which was the whole financial basis upon which the Bruce Stadium reconstruction occurred, as members will be aware.

It is interesting to note that under the previous agreement with the Raiders that those opposite negotiated - the Labor Party, I assume, negotiated it, because it was the one before the one the Raiders are on now - the Raiders were to take all revenue from all products at the stadium, and the stadium received a flat hiring fee. The stadium got a flat fee for use and the Raiders kept everything.

I am absolutely categorical on this. I believe the Raiders are important to Canberra. I believe it was absolutely essential to ensure a contract with the Raiders that would guarantee not just their continued presence in Canberra but their continued presence in the competition. I think that is absolutely essential. I am fascinated that those opposite would continue to put down the Raiders and the Brumbies and say that they would not support them. If they would not support them, they simply would not be in the competition.

In a nutshell, yes, things changed between the heads of agreement and the final agreement. So did many other things with regard to Bruce Stadium. That is not an unusual situation in a negotiating process.

MR STANHOPE: Mr Speaker, can the Chief Minister, in light of the answer she just gave, explain to the Assembly why in her answer to Mr Whitecross on 24 September 1997 she referred to the deal struck with the Raiders at that time as a contract? Is it the Chief Minister's understanding that "contract", when used in this place, should be given its usual meaning? Can the Chief Minister explain why, in that answer to Mr Whitecross, she spoke of the income which would be generated and which the Raiders would receive. To which arrangement, which agreement and which contract was she referring in the answer to Mr Whitecross when she spoke about the contract entered into and when she spoke about, for instance, as reported on page 3226 of

Hansard, the share of income which would be generated and which the Raiders "will" receive - the language used was "which the Raiders will receive" - under, as I have just said, the contract?

MS CARNELL: Mr Speaker, as I have already said, the document I was speaking about was the memorandum of understanding, or the heads of agreement, that existed between the Raiders and the ACT Government at that time. That obviously had to be negotiated through to a final contract. That was done. The situation changed between 1997 - it is a big surprise to everyone that the situation changed, is it not? - and when the contract was finally signed with the Raiders. It is that simple, Mr Speaker. I was referring to the heads of agreement that existed at that stage. As I said, I was speaking on advice from the department, the people who were actually involved in those negotiations. From there we negotiated a contract that ensured that the Raiders stayed in Canberra. I am fascinated that those opposite simply do not support that.

This is not about who loves the Raiders more. It is about who was willing to do what it took to keep them here. We were. Those opposite have tried to undermine the stadium, the basis on which the Raiders can maintain their position in the competition. Remember, the Raiders and the Brumbies - - -

Mr Stanhope: Did Mick Lilley tell you about his discussions with Richard Farmer?

MR SPEAKER: Order, please! Mr Stanhope, you have asked your question and a supplementary question.

Mr Stanhope: We have not had an answer yet, Mr Speaker.

MR SPEAKER: I am sorry, but if you believe you are missing something and you want to interject I can only suggest you phrase your questions a little better in future.

MS CARNELL: Mr Speaker, I have answered the question, I believe, absolutely fully. I finish by saying that if those opposite had been in government obviously we would be standing here now debating why the Brumbies and the Raiders were no longer in Canberra.

MR SPEAKER: I call Mr Osborne.

Mr Stanhope: Didn't you watch WIN last night? What did Kevin Neil say about that?

Ms Carnell: Ask Mr Neal what he said.

Mr Stanhope: He said you were telling fibs.

MR SPEAKER: Order! Mr Osborne has the call.

Ms Carnell: Ask him.

Mr Stanhope: He said they had no intention, ever.

Ms Carnell: That is not true.

Mr Stanhope: Oh, he was lying?

Ms Carnell: No. Gawd, you are a smart-arse.

Mr Stanhope: Who is a smart-arse?

MR SPEAKER: You are pushing your luck, Mr Stanhope.

Mr Stanhope: Mr Speaker, I am responding to the Chief Minister. What is good for the goose is good for the gander.

MR SPEAKER: I do not want any response at all. Would you both mind not interjecting and exchanging comment across the chamber?

ACTEW - Expressions of Interest

MR OSBORNE: My question is to the Treasurer, Mr Humphries. Minister, last year when the Government called for expressions of interest for some kind of future business arrangement with ACTEW, were any received for a joint venture or purchase agreement for the retail arm of ACTEW only, similar to AGL's electricity interests in South Australia? If so, why were they rejected?

MR HUMPHRIES: I do not know the answer to that question. I will take it on notice. As I have explained before, the ACTEW board handled the process of receiving the expressions of interest and considering their worth. I do not recall such an expression. I might remind members that, without naming the organisations, we published a list - Mr Quinlan appears to have a copy there - explaining the nature of the offer that was made by each of the parties that were seeking some kind of commercial relationship with ACTEW. I will check that list. I will take the question on notice.

MR OSBORNE: I ask a supplementary question. You might have to take this on notice too, Minister. I hope that Mr Mackay is listening. Given that it is the retail arm of ACTEW that has the most doubt about its future viability, has ACTEW or the Government exclusively pursued this option? You can take that on notice as well.

MR HUMPHRIES: I will take it on notice, Mr Speaker.

ACTEW - Expressions of Interest

MR QUINLAN: I think Mr Osborne just asked my question. Maybe if I ask my question we will get an answer to some of his question. Can the Treasurer confirm that AGL, amongst its several expressions of interest relating to the future arrangements for ACTEW, as option No. 1 proposed a retail joint venture that included customer services to water and sewerage operations and that this, it was quoted, provided risk reduction and cost synergies? I recall that the evaluators stated that this met the criteria set but

went on to say that greater economies of scale could be achieved by, I presume, adding gas distribution to this body. Is that the reason, and effectively the only reason, for dismissing this particular expression of interest? Are we contemplating all of the changes in relation to ownership of assets and forfeiture of 50 per cent of ownership of assets to achieve this questionable and marginal economies of scale that might accrue for the addition of the local gas business to the water and sewerage?

MR HUMPHRIES: My answer to this question is largely the same as the previous answer. The Government entrusted the ACTEW board with the task of processing the expressions of interest. Their brief was to assess which of the proposals that were being put forward under that expression of interest process would produce the best opportunity for ACTEW to be positioned more securely in its marketplace and to lower its exposure to risk. That kind of brief led the ACTEW board, a very competent board, to examine the issues surrounding the various expressions of interest with some care.

The resulting short list, as I think I mentioned in the previous sittings of the Assembly, consisted of four organisations or consortia, one of which was AGL. I take it that the reasons for ACTEW considering or not considering certain of these proposals were based on the commercial experience of the members of the ACTEW board. I am happy to ascertain the reasons that the board took the decision it did on the particular matter that Mr Quinlan and Mr Osborne have raised.

MR QUINLAN: I ask a supplementary question. We were talking earlier about the evaluation that was tabled in the house. I have it here. I think for comparison purposes I should hold up the document that evaluates one proposal, that for GSE. The document the Minister referred to evaluates 29. Can we presume, Treasurer, that we can look forward to a report relating to AGL that details the economies to scale in a way that compares, in its depth and seriousness, with the comprehensiveness of the other report I have, as opposed to what we have been given so far?

MR HUMPHRIES: Mr Speaker, let me correct something Mr Quinlan has said. The press release that you have held up is not the full evaluation of the various expressions of interest. That is a summary provided by the Government to ensure that there was a measure of transparency in the process of considering each of those expressions of interest. The expressions of interest themselves were put forward, I assume, almost exclusively, if not exclusively, on a commercially confidential basis.

You tell me how else you consider sensitive proposals from major Australian and overseas companies seeking to come to some kind of financial relationship with ACTEW without supplying commercially sensitive information. Clearly that process engaged those kinds of issues, and clearly the ACTEW board had to sit down and sift through those with all the information in front of it to assess what appeared to be the best options to pursue in more detail. It did that. It went through that entire list and selected companies or consortia to do further work with.

What the Government published was a summary of those expressions of interest. If you think that we assessed each company on the basis of about half a page of evaluation, then you have a very strange idea of what a thorough assessment of those matters amounts to by a board of the competency of the ACTEW Corporation board.

That assessment process that Mr Quinlan compares the GSE proposal with will proceed with respect to a proposal for a joint venture with AGL if it is appropriate to do so. I would put it to the Assembly that it is appropriate to do so in the event the Assembly gives a clear green light to ACTEW and AGL to proceed with consideration of this commercial venture.

The Government has spent several million dollars in taxpayers' money producing, among other things, that report on the GSE proposal which Mr Quinlan held up, considering alternative proposals to the one which is before the Assembly today, namely, the sale of ACTEW outright, or most of ACTEW, and the proposed merger between ACTEW and AGL.

Mr Quinlan wants a more detailed assessment of the AGL proposal. He will get that, but it will have to occur once there is some kind of signal from this Assembly that the investment to be made by ACTEW and AGL will not be a wasted exercise. That is a reasonable request to make. It is the request the ACTEW board has made and it is the request the Government has made. It is not a particularly bizarre request, given that we have, in a sense, wasted already several million dollars, money which could be - - -

Mr Corbell: The onus is on you. The onus is on the Government.

MR HUMPHRIES: That may well be, Mr Corbell. But we are in a situation where we are developing proposals for the community and the Assembly to consider to secure ACTEW's place in a very uncertain future marketplace. We put proposals on the table from time to time to achieve that objective, and all we have from the Opposition of this place is: "No, we do not like that. Go away. Try something else". It is not surprising that we should be cautious before committing the ACTEW Corporation to further expenditure of public money on this venture before a signal has been sent that this proposal is, in principle, acceptable to the Assembly. I think that is a reasonable position to take, Mr Speaker. I dare say that if the Labor Party were in our shoes they would do precisely the same thing. Of course careful evaluations have to occur, but they will have to be on the basis that it is worth spending public money.

Bruce Stadium - Agreement with Canberra Raiders

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Chief Minister, on ABC radio yesterday morning you said the ACT Government entered into a hirer's agreement with the Canberra Raiders rugby league club to keep the team in Canberra. This agreement, of course, guarantees payments to the Raiders of up to $1.387m each year for the next five years. You said it was money well spent, given the economic and social impact of the club on the Canberra community. Chief Minister, on WIN TV last night Mr Kevin Neil, the chief executive officer of the Raiders, said that the Raiders had never considered leaving Canberra. Chief Minister, can you confirm that in the course of negotiations over the agreement the Raiders threatened to leave Canberra?

MS CARNELL: My understanding from discussions with Mr Neil was that his comment was they would not leave Canberra; they just would not have been in the competition.

MR CORBELL: I ask a supplementary question. Will the Chief Minister confirm that the Government was simply far too generous in its dealings with the Raiders and other major hirers of Bruce Stadium and that as a consequence the Territory is exposed to higher payments than were absolutely necessary?

MS CARNELL: Mr Speaker, that is a hypothetical question, and it is absolutely untrue. It is very important to go back to what the $1.3m is. It is a maximum payment. Even last year, when the crowds were reasonably low and the Raiders were not doing very well, the amount that was paid was nowhere near that. That would be a maximum payment if nobody turned up and we did not hire any corporate suites or sell any naming rights. The figure comes down from there, based upon attendances, corporate sales, naming right sales, and sales of food and beverages at the stadium.

As members who have looked at the contracts would know, there is only commitment, at the most, to five years. After that the last four or five years of the contracts are with no guarantee. We would assume that the Raiders would get to the break-even point a long time before that, at which stage there will start to be a clawback of the money that the ACT Government has already paid. That means that in the later years we can recoup money paid in the earlier years. That was not the case with the old agreement that the previous Government had with the Raiders, which gave the Raiders access to all of the revenue from everything, with no clawback provision at all.

One could say that the chances are that the deal we have will be significantly better than the one the previous Government had. By providing the assurance we did we guaranteed that the Raiders would be in the new competition, with the significantly fewer teams that are involved. That certainly was not the case with Adelaide, Perth or other cities that have lost their teams. I am very proud of that.

Freedom of Information Requests

MR HIRD: Mr Speaker, my question is to the Attorney-General, Mr Humphries. Has the Attorney's attention been drawn to the comments made by Mr Simon Corbell about the performance of the Government in relation to requests for information under the Freedom of Information Act? Are these claims accurate? How does this Government's record compare with that of its predecessor?

MR HUMPHRIES: Thank you very much for that question, Mr Hird. Yes, I have seen Mr Corbell's comments on the freedom of information record of this Government. I would like to quote him. He said:

> The FOI statistics provided in ACT department and agencies 1998-99 Annual Reports reveal the addiction to secrecy that surrounds the operations of the Carnell Government.

He went on to claim that 44.7 per cent of requests resulted in only partial release of documents, to prove that this Government clearly was addicted to secrecy. Let me make a few observations about those matters. First of all, what Mr Corbell fails to mention is that, whereas 44.7 per cent of requests resulted in partial release of documents, a greater

number than that, 45.6 per cent of requests, resulted in a full release of documents, and that that left only 9.7 per cent of requests that were dealt with other than by full or partial release, generally by refusal or in some cases by withdrawal of a claim.

Let us be clear about this. In 90.3 per cent of requests, the Carnell Government released information in full or in part as requested by the person seeking the information. Let us compare that with the performance of the previous Labor Government in their last year in office, 1994-95. In that year 41.1 per cent of requests were met with full release. Bear in mind that we got 45.6 per cent in 1998-99, a rather better record, I would have thought, for the present Carnell Liberal Government.

But let us look at those requests that were met with only partial success. The Follett Government released only 26.6 per cent of its documents on the basis of partial release. Under the final year of the Labor Government only 67.7 per cent of requests were met with either full or partial release, compared with 90.3 per cent under this Government. Turning it the other way around, the Liberal Government has declined altogether to release information in 6.3 per cent of cases, half of the figure under the Follett Labor Government of 11.1 per cent.

But that is not the full story. I can understand why half your colleagues are deserting you to go and sit on the benches, Mr Corbell. I would be a bit embarrassed as well.

Mr Corbell: No, they are bored.

MR HUMPHRIES: I would be bored with the facts as well. Back in 1992 I introduced a Bill into this place to require that FOI applications be processed within 30 or 45 days, depending on the sort of request it was. Under the Labor Government, in the first full year of the operation of that legislation a staggering 44 per cent of requests, almost one in two requests, were processed outside the statutory timeframes required by the legislation.

Mr Smyth: Secretive and slow.

MR HUMPHRIES: Secretive and slow, and in breach of the law. The law required the release of the documents within 30 or 45 days and, lo and behold, the Labor Government of the day broke the law. We have had serious consequences flow to us in recent days from claims that we have broken the law, have we not, Mr Speaker? Let us compare the 44 per cent of requests outside the timeframe in Labor's first year of operation of the new laws with the last financial year for which figures are available. In that period only 5.1 per cent were not processed under the Liberal Government within the timeframe provided for by the legislation.

Of course, the other major difference between FOI under this Government and under the previous Government is that under your Government it cost you a motzer to seek access to the information in the first place, because you charged very substantial fees to those people who had the audacity to put forward requests for freedom of information.

Let me ask members in this place to judge for themselves. If releasing 90 per cent of information in full or in part to people is a veil of secrecy, what would you call releasing 67 per cent of information to people? I would call it a tarpaulin of stealth, compared with a mere veil of secrecy. I will let me Corbell think of a term for himself.

We have seen that Labor was slower, it was more secretive and under them it was much more costly to obtain access to FOI. Let members and the community judge for themselves who is being secretive about FOI and who is not.

MR HIRD: I ask a supplementary question. Can the Attorney advise the parliament why the Government's performance has improved over that of the previous Government?

Mr Kaine: Just good luck.

MR HUMPHRIES: No, not just good luck. It does appear as if there were some good reasons why there was a difference in the approach between the two governments. I have a memorandum dated 10 March 1993, headed "Freedom of Information Administration", from the Attorney-General's Department under the former Government. It has some very interesting reflections on the way in which the former Government approached freedom of information. This note is addressed to the senior private secretary to my predecessor as Attorney-General. It says in part:

> You also made comments in relation to the processing of requests by agencies before a decision is taken on remission of the application fee.

This is the fee that we have now done away with in most cases. The memorandum goes on:

> This has been an ongoing problem since Mr Humphries' amendment was passed early last year. Requests are now valid from the time they are received by the FOI Office provided that the application fee is paid or remission of the fee is sought. This means that there is additional pressure on agencies to make a decision on the statutory deadline, because the time of decision-making has been considerably shortened, work needs to begin from the time the request is received by the agency.
>
> Because of this, there has been a tendency on the part of some agencies since Mr Humphries' amendment was passed, to delay the decision on remission to a point where the decision-maker is locked into deciding to remit the fee.
>
> The FOI Office has applied a number of strategies to ensure prompt decision-making in relation to the application fee all of which have had a follow-up element built in. None of these strategies has worked.

What you saw in this arrangement, clearly, was - - -

Mr Stanhope: Have you got public servants digging out your question time for you?

MR SPEAKER: Would you be quiet, please, Mr Stanhope?

MR HUMPHRIES: I will come back to the origin of this document, Mr Stanhope, if you would like to hear about it and you have to ask about it. We had a culture which resulted in the delay of processing applications for remission of fees as a device to allow the time to be extended before a person had to have information supplied to them under FOI - what you might well call a curtain of secrecy, a veil of secrecy, pursued as a matter of agency policy. That is reprehensible conduct, the sort of thing this Government would get censured for if it came to light. You can imagine what would be said about it.

But there is more. There is information about how the former Government manipulated the FOI process to suit its own political advantage. I quote again from the same document:

> The Attorney's request that all applications for remission of application fees from members -

that is, members of the Legislative Assembly -

> be decided by the Minister concerned will be implemented immediately.

Ms Carnell: And Wayne always charged me.

MR HUMPHRIES: That is right. Mrs Carnell recalls that Mr Berry always charged her for the release of information. The minute goes on to say:

> We assume that the policy enunciated by successive Governments, as reported in each of the FOI Annual Reports, that applications for remission of fees on the grounds of public interest from Members of the Assembly should be decided by the decision-makers on their individual merits, now no longer applies.

Those opposite often accuse us of interfering in the process of considering FOI applications. The reason they make that accusation of us is that, under their Government, every FOI request from a member of the Assembly was dealt with personally by a Minister. Under this Government we take the spirit of the FOI Act seriously and such applications are dealt with routinely at arms length from the Government. Do not snigger, Mr Corbell. Under your Government, as a matter of policy, you had political influence on the decision-making in these matters. Under your Government decision-making on FOI requests was done politically, not on the basis of their individual merits by the decision-maker, as required by the Act.

Mr Moore: It was much more secretive than what happens now.

MR HUMPHRIES: Yes, much more secretive, much more costly, much slower, and politically motivated, I would have thought. To conclude, Mr Stanhope asked how this information was obtained by my office. The documents concerned were left in the drawers of my office at the time that the previous Government vacated the office.

Ministerial Travel

MR KAINE: Mr Speaker, my question, through you, is to the Chief Minister. It concerns the quarterly ministerial travel report which she tabled in this place only a couple of weeks ago. To be more precise, it concerns what I think might be a possible omission from this report. I can find no reference in it to the infamous Qantas slush fund which the Chief Minister and certain members of her staff have been wont to dip into from time to time. It does not even mention when the Chief Minister went to Melbourne for the 1999 tourism awards. My question to the Chief Minister is: What on earth has happened suddenly to the Qantas slush fund, variously know by the euphemisms of promote ACT fund and travel assistance fund? Has this special fund, available to only a select few, simply not been utilised in the last few months or has it been axed quietly? If the latter, what was done with the balance of funds in the account?

MS CARNELL: Mr Speaker, it has not been axed. It still exists and it is used when we are promoting the ACT. It is that simple. A trip to the tourism awards by the tourism Minister would not normally be regarded as a promote ACT effort. It would be part of my ministerial role, as going to other ministerial events would be for me and for my ministerial colleagues. The promote ACT fund is used to do that - to promote the ACT. It has been used in the last few weeks. I know, because I have done a number of board room lunches and dinners in Sydney. Guess what? We used the promote ACT fund.

MR KAINE: I ask a supplementary question. I noticed in earlier quarterly reports, Mr Speaker, that similar visits to Sydney were included. However, I will leave that ride. My supplementary question is: When the arrangements with Qantas are extended - and I understand that you are negotiating for an extension of the present arrangements - do you intend also to extend this restricted access to the travel assistance plan?

MS CARNELL: Mr Speaker, it is not restrictive access. As I have said many times, it is for anybody who would like to apply. Public servants use it; other Ministers use it. If members of the crossbenches are promoting the ACT - I would have to be convinced it was positive, but for all of that I am very happy to be convinced - the promote ACT fund can be used. It is quite that simple. I think it is a very important part of the travel contract that we have with Qantas. It was, I understand, one of the benefits that flowed from the last contract. Yes, at this stage we are looking at extending the contract with Qantas but for only a very short period of time until the current airline situation pans out a bit. We do not want to go into a new contract when the whole basis of domestic airline fares in Australia may change over the next 12 months or so.

Sale of Territory Assets

MR BERRY: Mr Speaker, my question is to Mr Humphries in his capacity as Treasurer. Treasurer, again today you have said that the final details on the sale of the Territory's assets will not be made available until the necessary legislation facilitating a sale is passed. What you say to us, Mr Humphries, is: "Trust us". For somebody who has behind them a Bruce Stadium, a hospital implosion, a Kingston-Acton land swap, Kinlyside and a failed sale of ACTEW, how can you stand up in this place and say, "Trust us."? How can you say in this place, "Trust us" when you have a record with baggage like that? After the last attempt to sell ACTEW, which failed dismally, how can you say to us, "Trust us" when you have kept so much secret from this place in the past? How can workers be assured that they will keep their jobs when you keep these sorts of secrets on the basis that you want us to give you a tick first?

MR HUMPHRIES: Mr Speaker, the irony is unbelievable. I think my answer can be summarised by saying nothing other than reading a letter dated 21 December 1993, under the heading "ACT Government, Wayne Berry MLA, Deputy Chief Minister, Minister for Health, Minister for Sport":

> Dear Mr De Domenico

That is overwritten with "Tony". Very friendly. It goes on to say:

> I have had referred to me your request for the remission of the application fee and non-imposition of processing charges in relation to the matter of the contract between VITAB and ACT TAB.
>
> You sought remission on public interest grounds.
>
> On this occasion I have decided not to remit the application fee and to impose charges for the processing of the request.

Mr Berry: What is the point? The question I asked was in relation to ACTEW.

MR HUMPHRIES: You asked about secrecy.

MR SPEAKER: Yes, there was "secrecy" in the question, and I think Mr Humphries is probably addressing that point first.

MR HUMPHRIES: Absolutely, Mr Speaker. It was about secrecy.

Mr Stanhope: I raise a point of order, Mr Speaker. The Treasurer's response to a question about the future of workers at ACTEW deserves a more serious response than this nonsense. Mr Berry has asked the Treasurer to give some assurances about those workers at ACTEW whose futures are seriously affected by the proposed AGL sell-out. The question asked by Mr Berry, about the futures, the lives, of the families of the 1,000 people employed at ACTEW, deserves a more serious response than this from the Treasurer.

MR SPEAKER: There is no point of order. Frankly, the chair did not interpret Mr Berry's question as anything like that. I do not know whether the Treasurer did.

MR HUMPHRIES: He did not say that, Mr Speaker, so it is not surprising you did not interpret it like that.

MR SPEAKER: He mentioned the words "trust us" on at least half a dozen occasions.

Mr Stanhope: He asked a question about the rights of workers at ACTEW.

MR SPEAKER: He asked a question, and I can remember the words "the workers" and "the future", but it also covered a vast range of other matters. I wondered whether the Treasurer would pick it up.

Mr Berry: If you could take the blinker off, you might have heard the word "ACTEW" as well.

MR SPEAKER: I did hear the word "ACTEW", but I did not see it linked in the same way as Mr Stanhope suggested. There is no point of order.

Mr Stanhope: It is not blinkers, Mr Speaker. It is alternating temporary deafness. It is becoming far more prevalent and I am becoming quite concerned about you.

MR SPEAKER: Withdraw that reflection on the chair, please.

Mr Stanhope: I withdraw it out of deference to the chair, Mr Speaker, but I retain my concern.

MR SPEAKER: Thank you.

MR HUMPHRIES: Mr Speaker, the question of me was about secrecy, and I am answering that question about secrecy. I am explaining why you can trust this Government and not the alternative to this Government on these issues. I want to continue to quote from this letter. It states:

> On this occasion I have decided not to remit the application fee and to impose charges for the processing of the request. I do not believe you have demonstrated how -

this is the VITAB contract, remember -

> the public interest would be served in providing the documents to you. Nor have you demonstrated how a substantial section of the community would benefit from you obtaining access to the documents.
>
> If you wish to proceed with your request you should forward a cheque for $30 made payable …

If you have not responded to the Freedom of Information Office by 7 January 1994 your request will be considered to be withdrawn.

Mr Speaker, you can trust this Government to handle these matters appropriately, to have regard to the interests of workers. It is not the sale of ACTEW. It is the entering into of a joint venture with AGL. Mr Berry, you have characterised everything from corporatisation through to the introduction of more commercial principles into ACT organisations as privatisation by stealth. You obviously have a very broad view of what privatisation is. Almost anything that looks vaguely related to the private sector is privatisation to you.

The fact is that we retain control of our assets in effective terms under this arrangement. It is not a sale. We will provide information to this Assembly to satisfy requirements of this Assembly to proceed with this important venture. We are prepared to put the information on the table. We are prepared to do so without charge. We are prepared to ensure that we are accountable and responsible for our actions. We will not hide, for example, behind the Freedom of Information Act to prevent disclosure or behind the commercial-in-confidence principles to hide the VITAB contract from the scrutiny of the ACT community.

Mr Moore: It is still secret.

MR HUMPHRIES: That document is still secret. It has still never been seen by the public of this Territory, Mr Berry. Why? Because it is commercial-in-confidence, Mr Berry told us at the time. Mr Speaker, I ask for leave to have the letter I have just read incorporated in *Hansard.*

Leave granted.

The letter read as follows:

A.C.T. GOVERNMENT
WAYNE BERRY MLA
DEPUTY CHIEF MINISTER
MINISTER FOR HEALTH
MINISTER FOR SPORT

1 Constitution Ave Canberra ACT 2601

Mr Tony De Domenico MLA
Deputy Opposition Leader
Legislative Assembly for the
Australian Capital Territory
1 Constitution Avenue
CANBERRA ACT 2601

Dear Mr De Domenico

> I have had referred to me your request for the remission of the application fee and non-imposition of processing charges in relation to the matter of the contract between VITAB and ACT TAB.
>
> You sought remission on public interest grounds.
>
> On this occasion I have decided not to remit the application fee and to impose charges for the processing of the request. I do not believe you have demonstrated how the public interest would be served in providing the documents to you. Nor have you demonstrated how a substantial section of the community would benefit from you obtaining access to the documents.
>
> If you wish to proceed with your request you should forward a cheque for $30.00 made payable to the ACT Government Service. You should send your cheque to the:
>
> ACT Freedom of Information Office
> PO Box 921
> CIVIC SQUARE ACT 2608
>
> The Freedom of Information Act does not provide a right of appeal against a decision not to remit the application fee.
>
> If you have not responded to the Freedom of Information Office by 7 January 1994 your request will be considered o be withdrawn.
>
> Yours sincerely
>
> Wayne Berry
> 21 December 1993

MR BERRY: I ask a supplementary question. Is it not true, Mr Humphries, that Mr De Domenico was happy and did not appeal the decision which was mentioned in the letter you have? Is it not true that he was content and never appealed it or paid? Do not try to distort the facts on that one. Is it not true also, Mr Humphries, that you did not have the wit over that side to move a motion to require the tabling of the VITAB contracts? Otherwise, you would have got them. Or have you not worked that out? Is it true, Mr Humphries, that you have a case of terminal fancy footwork syndrome and you have been caught out because you have refused to come up with documents which this Assembly directed you to table? Mr Humphries, is it not true that workers ought to be in terror for their jobs because of your refusal to break the secrecy which you have tended to insist upon in this deal over the sale of the Territory's assets? Is this not true, Mr Humphries?

MR SPEAKER: The last part of the question calls for an expression of opinion. The first relates to a matter relating to Mr De Domenico, and I do not know whether you are in a position to answer - - -

Mr Berry: I take a point of order, Mr Speaker. I asked him whether it was true or not. I did not ask him for an opinion.

MR SPEAKER: I would think that was an opinion, to be perfectly honest. The other two parts of the question I will leave for you to answer if you wish, Minister.

MR HUMPHRIES: Mr Speaker, the Government's record, compared with the Opposition's record when in government, speaks for itself. People have only to read what we have been prepared to disclose, what we are prepared to put on the table, what we are prepared to reveal to the public of this Territory, to see what our approach is on these issues. Mr Berry has the gall to stand up and say, "If you had moved a motion on the floor of the Assembly, we would have tabled the VITAB documents". That is so mealy-mouthed as to defy description. The fact is that those documents are still secret . You still have the power, Mr Berry, to reveal those documents. Why do you not do that? Prove what a champion of open government you are and table the documents for the world to see.

Mr Speaker, we have been prepared to conform to the Assembly's process to be able to deal with the proposed joint venture between AGL and ACTEW. We have not defied any of the Assembly's demands of us on that issue. Nothing the Assembly has required of us has not been done.

Mr Corbell: Huh!

MR HUMPHRIES: You go, "Huh". What have we been required to provide which we have not provided, Mr Corbell?

Mr Stanhope: Answer the last question for a start. What guarantees will you give about jobs?

MR HUMPHRIES: That was not the last question at all.

Mr Stanhope: You were asked to guarantee the jobs of the people at ACTEW. You will not answer the question.

MR HUMPHRIES: It was not the last question. The Government knows it cannot secure a new arrangement for ACTEW without the support of the Assembly. We will work with the Assembly to achieve it, because we believe it is important to position ACTEW better in the future than it is today. I remind members that in the near future there will be a deregulation of the domestic power market in this country.

Mr Stanhope: And gas.

MR HUMPHRIES: And gas. When that comes about, ACTEW's position is going to be considerably weaker than it is today. We are prepared to do something about that. We are prepared to try to get a position for ACTEW which will make it capable of reducing its exposure to risk. That is our position. I invite those opposite, if they are satisfied with that process, to require other things of the Government if they wish that and we will do our best to comply. We believe it is important to take a step of this kind. If we do not have the right formula as far as the Assembly is concerned, then let us hear from the Opposition what it wants us to do in its place.

Dental Health Program - Waiting Times

MS TUCKER: My question is to Mr Moore as Minister for Health. Mr Moore, in the State of the Territory Report, on page 35, there is a summary of public dental service waiting times. Next to it is a down arrow and the words "improvement needed". The report explains that in July 1998 the waiting period for dentures was 78 weeks, compared with the pre-denture scheme peak of 126 weeks in July 1997 following the withdrawal of Federal funding, and claims that the waiting periods are now the lowest since April 1994. We are hearing that there is 1½-year wait for dentures but that there is an improvement there. Then it says that between 1997 and 1998 the waiting period for the restorative scheme increased from 67 weeks to 110 weeks. If you look at the graph in the report and go back another year to 1996, you see that the waiting time for the restorative scheme increased from what looks like about 10 weeks to 110 weeks, so there is an issue of selective information in this State of the Territory Report. But we know there is a two-year wait for restorative work. After seeing that and obviously being concerned about it, as anyone would be, I was interested to see a glossy publication from ACT Community Care on the dental health program. It says in the boldest print, "You told us we were doing our jobs well", and there is a little testimonial from a person about the children's dental program. Then you turn the page and in smaller print it says, "And there were some areas where we could improve" and it mentions a complaint from one person about the waiting time. There is then a table which tells us the five general aspects of service the community rated as most important in the dental health program, and there are quite good performance ratings there. But there is no reference to waiting times in that table. My question to you, Minister, is: Could you give us information about how this survey is carried out, who is asked, how many, why you do not say what the proportion of satisfaction versus concern is, what the questions were that meant that you did not ask people the relevance of waiting times and how you reconcile the main statement in this pamphlet - "You told us we were doing our jobs well" - with waiting periods of over two years for restorative work and 1½ years for dentures?

MR MOORE: Ms Tucker's comment about selective reporting is interesting. It was very generous of Ms Tucker at the beginning of question time to come over and hand me a piece of paper and say, "I am going to ask you a question about the dental health program". But she was selective in what she presented to me. What she did not present to me at the same time was page 35 of the State of the Territory Report, with the graph that she refers to. That is what the nub of the question was about. Fortunately my staff, realising there was going to be a question - and thank you for letting me know - did provide me with that page. It just shows how anybody can play with selective use of data. There is an irony in Ms Tucker asking me about the dental health program and being selective.

In the State of the Territory Report we made it very clear that we were dissatisfied and that improvement was needed. To suggest that we were somehow secretive about that information is just nonsense. The information is there, with a very clear graph, which is no doubt what caught your eye. We put the picture there so you would know that we have a problem with the waiting periods. It is there in front of you to see from that graph.

Ms Tucker: Not in print.

MR MOORE: Not printed? Okay, Ms Tucker.

Ms Tucker: You were selective in what you printed.

MR MOORE: Ms Tucker says we were selective in what we wrote, but it is there visually in the graph, the down arrow and the words "improvement needed". It is there for you to see clearly. Ms Tucker, I am going to take on notice the specific question as to why the information was collected in this way. I do know that Community Care, in seeking to improve their service, goes out and asks people, "Where are we doing well; where are we doing badly?" and then continues to improve the service. They publish the results and identify some of the areas where they are doing well and some where they are doing badly.

The results show "Long-term availability of service" with an importance rating of 8.9 and a performance rating of 7.9 and "Staff find solutions to need" with an importance rating of 8.8 and a performance rating of 8.1. These are very good results. They are not perfect, but they say that things are going very well.

I remind members that the withdrawal of Federal funds from our dental service has been going on for some time. If my memory serves me correctly - I think it does - the Federal Labor Government in about 1995, having run a dental program for some time, said, "We are pulling out of this", and the Labor Government made the decision to pick up the shortfall. I think it was a good decision. But considering that this Territory is trying to get its finances into a reasonable state, it was a difficult decision made by the Labor Government and then taken over by the Liberal Government and continued under me as Minister for Health. There are long-term pressures on it.

I am not for one minute saying that the increase in waiting time for restorative work is a good thing. It is a bad thing, but we are still setting our priorities and working in the most effective way we possibly can.

Ms Tucker, that is not to take away from the good news. Yes, there is one bit of bad news. Kofi Annan the other day at the National Press Club gave the example of a teacher coming into his class of young men. It must have been an all-boys school, by the way he described it. The teacher put a little dot on the corner of a very large whiteboard and he said, "Boys, what do you see?". To a person, they all said, "We can see a black dot". He said, "Yes. The trouble is that none of you saw the big whiteboard. All you saw was the black dot". Ms Tucker, all you are seeing is the black dot. There is some fantastic stuff going on in community care and general health. Look at that as well. At the same time, we are going to work on the black dot.

MS TUCKER: I ask a supplementary question. You will probably have to take this on notice, but could you tell us exactly how much ACT Community Care spends on producing this advertising material? Could you also let me know whether or not you think it might be useful to develop some sort of regulation to ensure integrity in advertising from government service providers?

MR MOORE: Ms Tucker's question carries an inference that there is a lack of integrity in the advertising. That is entirely appropriate. It is not true. Ms Tucker, we will provide you with appropriate details. If you wish, as I often do, I will be happy to provide you with a personal briefing as well as providing the information here in the Assembly.

Bruce Stadium - Television Rights

MR RUGENDYKE: My question is to the Chief Minister. Yesterday during an interview with Chris Uhlmann on radio 2CN the Chief Minister asserted that the Bruce Stadium redevelopment now enabled the stadium to derive revenue from television rights. The Chief Minister, before the redevelopment, said:

> Media facilities weren't up to much either so our capacity to sell the stadium for television rights and so on wasn't high.

To my knowledge, the major tenants - the Raiders and the Brumbies - do not negotiate television rights directly. I believe they are negotiated by the organisations which administer the competitions the Raiders and the Brumbies compete in. I am rather curious to know whom the Chief Minister expects Bruce Operations to secure televisions agreements with. Could the Chief Minister inform the Assembly what television rights she was referring to, the details of any television rights Bruce Operations are presently negotiating and how much the stadium has budgeted to receive from television rights?

MS CARNELL: I do not think Mr Rugendyke was listening to me properly yesterday morning. I was talking about getting games onto television. All the codes - whether rugby league, rugby union or soccer - need to get as many of their games as possible onto prime-time television, whether it be pay TV or free-to-air TV, because it gets their sponsors names up and so on. Obviously, if the television or the media facilities at the stadium are better, the capacity to get our games on television is significantly better. That helps the codes in terms of their sponsors' names and so on.

The importance of having good media facilities also runs through to the Olympics. Figures indicate a possible cumulative audience for Olympic soccer of something like 20 billion. An amazing number of people around the world could be watching Olympic soccer. If Mr Rugendyke is suggesting that media facilities, proper lines of sight and so on are unimportant to a stadium, he simply does not understand modern football or media requirements at these sorts of matches. They do require good facilities. I was not talking about selling television rights. I do not believe there is any budget for television rights sales at all.

MR RUGENDYKE: I ask a supplementary question. Is it the case that the Chief Minister was determined to put a positive light on the Bruce Stadium contracts by suggesting to the public that we were going to derive income from television rights when it is simply not the case?

MS CARNELL: I do not believe that is the case at all. I do not have to put a positive light on the contracts. We are quite happy to stand right behind them. From the annual reports last year, we have put on the public record exactly how much the maximum assurance was from the ACT Government over the five-year period to all three codes. I have absolutely no problems with that at all. The codes produce significant dollars for the ACT economy - - -

Mr Hird: And jobs.

MS CARNELL: And jobs, as Mr Hird says. The maximum assurance has been on the public record since last year. The $1.37m to the Raiders is a maximum assurance. Even last year not nearly that amount was paid. In fact, I think assurances across all three codes was $1.2 m. If crowd numbers continue at their current level, if we have success with naming rights and other things, that amount will come down significantly.

Goods and Services Tax

MR HARGREAVES: Mr Speaker, my question, through you, is to the Treasurer. Can the Treasurer explain to the Assembly how the decision to exempt two particular ACT government services from the GST, but not others, was made? I notice from the list of exempt items agreed to by the Federal Treasurer that the fee paid by outdoor cafes for occupying public space is GST exempt, as is the fee for the use of public land, of green areas, for storage during construction projects and for short-term commercial use. I also notice that the fee for hiring sporting grounds is not exempt. Why is it that commercial organisations do not have to pay the GST for using public space but non-profit community bodies such as junior sporting organisations do?

MR HUMPHRIES: Mr Speaker, I will get the details Mr Hargreaves seeks on that matter, but 40 or 50 pages of exemptions were tabled by the Federal Treasurer a few weeks ago. I do not have the details, but essentially the distinction between being GST exempt and being subject to GST is whether or not the activities concerned amount to commercial-type activities by government. I have seen a media release from somewhere in the Opposition criticising the fact that there is GST on the merry-go-round. The fact is that the merry-go-round is a commercial activity. There are private sector merry-go-rounds, and if there is a government-run merry-go-round it ought to be subject to the GST, in order to be on the same level playing field as the private sector competitors. That is fairly clear.

Where activities are carried on by government with respect to the marketplace, where it is providing a commercial service for which a fee is collected, then appropriately I think GST ought to be attracted on that fee. In other circumstances where it is providing a community-based benefit which is not commercial, then it should not. I do not have the details of the particular cases Mr Hargreaves has mentioned, but I will find those and provide the answer.

MR HARGREAVES: Mr Speaker, my supplementary question is: Given the examples I have just given of two uses of public space, one by commercial people who do not have to pay the GST and would appear capable of doing so, and the other by junior

sporting organisations that do have to pay the GST and cannot do so, does the Treasurer agree that the Government's apparent ad hoc application of the Howard-Costello GST indicates that once again it is discriminating against the powerless in our community?

MR HUMPHRIES: I think I have answered that question already. I take it on notice.

Alzheimer's Association of the ACT

MR WOOD: Mr Speaker, my question is to Mr Moore. Minister, you would be only too well aware of claims by the Alzheimer's Association of the ACT for funds to carry out their work. We all know they have been campaigning very strongly, and I think validly, for such help. Minister, the association runs a wide variety of high-quality and well-supported programs without the support, certainly to my knowledge, of the ACT Government. There is currently one joint program with another ACT body which is funded by the Federal Government, and I believe that ACTTAB a little time ago provided a start-up grant for one program. If there is more, I am sure you will tell me. Certainly the vast amount of work and the programs are funded and operated voluntarily. This entails a major effort by competent and dedicated people. Minister, the programs are much needed and demand is growing. The association is stretched to provide the resources to continue its important work. Bearing in mind the support for similar bodies in the ACT, will you allow the work to continue by allocating necessary funds?

MR MOORE: Mr Speaker, I think Mr Wood knows that we are interested in ensuring that our limited finances have the best possible effect by going to service delivery. It is not a case of us funding a wide range of organisations that are made up of volunteers. Those organisations are worth while and good. There is a very wide range of them. They are full of volunteers who do fantastic work, and they can continue that work should they so wish. The Government measures needs. It then funds those needs and the best people to deliver the services to meet those needs.

The proposal that came to me personally from the Alzheimer's Association in the original instance, although I understand they did modify it, was for something in the order of $200,000, of which $18,000 was for service delivery. Mr Wood, I will not support such an application, and I would hope you would not. Secondly, I will not support an application for funding on the basis that somebody has run a good campaign, that they have managed to embarrass me in the media or in some other way or that they have some important person as a patron and therefore believe I should fund them. We will do it on the basis that the funding goes where it is most needed.

The ACT and Commonwealth governments provide a wide range of services to people with dementia and their carers, including centre-based respite care, residential support, and home and community care programs. The Department of Health and Community Care alone provides funding to Red Cross, ACT Community Care and a wide range of other agencies already providing services for people with dementia. For example, ACT Community Care provides important extended respite care services for young men with dementia.

In support for carers, the Department of Health and Community Care provides funding for the Carers Association to provide an information and counselling service and funding for Respite Care ACT for in-home respite and provision of excursions and recreation activities. There are currently 215 places in residential aged care facilities catering especially for people with dementia. This represents about 12.5 per cent of total available beds in the ACT. Therefore, there is a diversity of services already available for people with dementia and for their carers.

The ACT Government is committed to developing an integrated approach to aged health care and closer cooperation between service providers. We are also committed to avoiding doubling up where we can, because the money we spend on doubling up is money we do not have for service delivery. We are currently examining an appropriate service model for aged care, including support for people with dementia, which promotes a cooperative approach.

Mr Wood, I am not eliminating the possibility of funding for the Alzheimer's Association but I am also not committing to it on the basis that it has run a particularly good campaign. We will provide funding on an equitable basis, the same as we do to other non-government organisations, for service delivery.

MR WOOD: I ask a supplementary question. I thank Mr Moore for his answer. I think my question did focus on the service delivery side of what the association does. They are out there in the field working with people who desperately need their help. But that does need some backup; that does need some support. It does not happen by someone clicking their fingers. Minister, you talked about a cooperative approach and said that you are not ruling out assistance. When do you think negotiations between you and your department and the Alzheimer's Association might produce some beneficial result for them?

MR MOORE: Whilst I respect the work the Alzheimer's Association are doing and the voluntary nature of much of the work they are doing, I am interested in an improved outcome for people with Alzheimer's, for people with dementia. That is the critical issue. It may well be that there is no positive outcome for the Alzheimer's Association in those terms. On the other hand, if we believe that through the departmental processes and through the setting of our priorities the Alzheimer's Association can deliver services that are not provided by somebody else or that they can provide in a more efficient and effective manner than somebody else can, then there will be a positive outcome. But we are putting our focus first and foremost on the people who need help, and they include carers of people with dementia.

Ms Carnell: Mr Speaker, I ask that all further questions be placed on the notice paper.

Conference on Policy Advice

MS CARNELL: On 16 February 2000, Mr Wayne Berry, during question time, asked a question relating to my attendance at the performance measures on policy advice conference on 30 May. I have already advised Mr Berry of the answer. I seek leave to incorporate it in *Hansard*.

Leave granted.

The document read as follows:

Mr Berry - Asked the Chief Minister on 16 February 2000:

Can the Chief Minister say if she is being paid to address the conference or is she paying to address the conference and could she also advise this Assembly what rate she is being paid if she is being paid?

MS CARNELL - The answer to Mr Berry's question is as follows:

The invitation to speak at the Performance Measures for Policy Advice Conference on 30 May 2000 did not include a fee. The conference organisers included, as part of the invitation to address the conference, an offer of a complementary registration to the conference and all workshops.

Bruce Stadium - Fun Day

MS CARNELL: On 17 February Mr Trevor Kaine asked a question relating to the Prime Television Olympic open day at Bruce Stadium on 20 February. I have already given the answer to Mr Kaine. I ask for leave to have the answer incorporated in *Hansard.*

Leave granted.

The document read as follows:

MR KAINE - To ask the Chief Minister upon notice:

• The projected cost of the Prime Television Olympic Open Day in the Bruce Stadium;
• The names of the individuals who are paid to appear at this event;
• Confirmation that taxpayers' funds are not being used to pay individuals on a 'cash for comment' basis.

MS CARNELL - To answer to the Member's question as follows:

• This was not a promotion instigated by the Bruce Stadium authorities. This was an Olympic promotion as outlined in the Canberra Tourism & Events Corporation's (CTEC) marketing strategy launched in August 1999 and distributed extensively, including to all MLA's and the tourism industry.

• This promotion fits into the overall campaign of "Another Face of our National Capital" which encompasses Olympic marketing activity.

• This promotion was held at both the Australian Institute of Sport (AIS) and Bruce Stadium. Bruce Stadium is the venue where all Olympic Football Games will be played in Canberra and the AIS as the training venue for

a variety of international teams and the main training centre for a large number of Australia's Olympic athletes.

Organisers estimate that between 4,500 and 5,000 people attended the day's activities.

Projected Cost:

The estimated cost was $84,024 and was funded in the 1999-2000 Budget as part of CTEC's marketing activities.

Names of Individuals appearing at the Event:

Christine Anu, Rick Price, Robert De Castella, Shane Gould (arranged by Prime Television), Matt Dunn, Kyle van der Kuyp, Patrick Johnson, Sarah Ryan, Olympic Mascots - Olly, Millie and Syd.

All other athletes appearing have been provided by the Australian Institute of Sport. All .sporting teams appearing have provided their athletes time free of charge in support of the event.

Are taxpayers' funds are being used to pay individuals on a 'cash for comment' basis?

Project 2000 has an agreement with Mr Rob de Castella to write 26 articles for publication fortnightly in The Canberra Times relating to Olympic activities. No editorial control is exercised by Project 2000 over these articles.

In addition, as part of the agreement, Mr De Castella is required to attend three Olympic-related functions in 2000. The Open Day was one of those functions.

On this basis, the answer to the Member's question is no.

Dental Health Program - Waiting Times

MR MOORE: Mr Speaker, I would like to clarify part of the answer I gave in response to a question from Ms Tucker a few minutes ago. I said that my recollection was that the Labor Party took over the funding of dental health when they were in government after the Federal Government had reduced funding for dental health. I am advised that the Federal Labor Government funded the dental program from 1992 to 1996, which would go into the time of Mrs Carnell's first government, and it was the Howard Government that did not renew the funding. I would like to make sure that that is clear on the record.

PRESENTATION OF PAPERS

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

Legislative Assembly (Broadcasting of Proceedings) Act –

Authority to broadcast proceedings, pursuant to subsection 4 (3) – Authorisations (2), dated 17 February 2000, given to specified government offices to receive sound broadcasts of Legislative Assembly and committee proceedings, subject to certain conditions.

Authority to broadcast proceedings, pursuant to subsection 8 (4), concerning:

The public hearings (9) of the Standing Committee on Planning and Urban Services, dated 18 February 2000.

The public hearings of the Standing Committee on Planning and Urban Services and the Standing Committee on Health and Community Care inquiry into the Draft Budget 2000-01, dated 18 February 2000.

Study trip – Report – Mr Stanhope, MLA – Burnie, Tasmania, 18 February 2000.

PRESENTATION OF PAPERS

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

Subordinate legislation (including explanatory statements) and commencement provisions

Bookmakers Act –

Determination of directions for the operation of a sports betting venue – Instrument No. 51 of 2000 (No. 7, dated 17 February 2000).

Revocation of instruments imposing a maximum number of sports betting licences that may be granted – Instrument No. 55 of 2000 (No. 7, dated 17 February 2000).

Building Act - Publication of Building Code and the Australian Capital Territory Appendix – Instrument No. 30 of 2000 (No. 6, dated 10 February 2000).

Casino Control Act – Determination of fees – Instrument No. 14 of 2000 (No. 6, dated 10 February 2000).

Dental Technicians and Dental Prosthetists Registration Act –

Appointment of Chairperson of the Dental Technicians and Dental Prosthetists Board – Instrument No. 56 of 2000 (No. 7, dated 17 February 2000).

Appointments of members of the Dental Technicians and Dental Prosthetists Board – Instruments Nos 57 to 61 of 2000 (inclusive) (No. 7, dated 17 February 2000).

Health Act –

Appointment of Chairperson to the ACT Health and Community Care Human Research Ethics Committee – Instrument No. 40 of 2000 (No. 6, dated 10 February 2000).

Appointments of members to the ACT Health and Community Care Human Research Ethics Committee – Instruments No. 41 to 50 of 2000 (inclusive) (No. 6, dated 10 February 2000).

Health Promotion Act – Appointments of members of the ACT Health Promotion Board – Instruments Nos 32 to 39 of 2000 (inclusive) (No. 6, dated 10 February 2000).

Kingston Foreshore Development Authority Act 1999 – Notice of commencement (17 February 2000) of provisions of the Act that are not in force (No. 7, dated 17 February 2000).

Mediation Act –

Declaration of approved agencies – Instrument No. 64 of 2000 (No. 8, dated 24 February 2000).

Declaration of standards of competency – Instrument No. 65 of 2000 (No. 8, dated 24 February 2000).

Mental Health (Treatment and Care) Act – Appointment of Mental Health Officer – Instrument No. 31 of 2000 (No. 6, dated 10 February 2000).

Nature Conservation Act – Appointment of member of the Flora and Fauna Committee – Instrument No. 66 of 2000 (No. 8, dated 24 February 2000).

Public Sector Management Act - Management standards - Nos. 4, 5 and 6 of 1999 and No. 3 of 2000 (No. 6, dated 10 February 2000).

Rates and Land Tax Act – Determination of interest rates – Instrument No. 29 of 2000 (No. 6, dated 10 February 2000).

Road Transport (General) Act 1999 – Notice of commencement (1 March 2000) of provisions of the Act that are not in force (S5, dated 21 February 2000).

Subsidies (Liquor and Diesel) Act – Determination by the Treasurer of the maximum percentage of ethyl alcohol in low alcohol liquor, and the subsidies payable on diesel and low alcohol liquor – Instrument No. 62 of 2000 (No. 7, dated 17 February 2000).

Supervised Injecting Place Trial Act - Appointments of members of the Supervised Drug Injection Trial Advisory Committee – Instruments Nos 15 to 28 of 2000 (inclusive) and Instruments Nos 52, 53 and 54 of 2000 (S3, dated 9 February 2000).

Taxation Administration Act – Determination for the purposes of the calculation of the ambulance levy payable by health benefits organisations – Instrument No. 63 of 2000 (No. 8, dated 24 February 2000).

Miscellaneous papers

Remuneration Tribunal Act, pursuant to section 12 – Determinations, together with statements for:

Part-time holders of public offices – Determination No. 48, dated 21 January 2000

Chief Justice of the Supreme Court – Determination No. 49, dated 21 January 2000.

Master of the Supreme Court – Determination No. 50, dated 21 January 2000.

Chief Magistrate, Magistrates and Special Magistrates – Determination No. 51, dated 21 January 2000.

Part-time holders of public offices – National Capital 100 Advisory Board – Determination No. 52, dated 21 January 2000.

Full-time holders of public offices (Fire Commissioner) – Determination No. 53, dated 21 January 2000.

Petition – Out of order

Casuarina Sands – ACT housing residents – Mr Quinlan (493 residents).

SUPERANNUATION AND INSURANCE PROVISION UNIT AND CENTRAL FINANCING UNIT - REVIEW OF INVESTMENT AND OTHER OPERATIONS
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.47): For the information of members, I present the report entitled "Review of Investment and Other Operations of the Superannuation and Insurance Provision Unit and the Central Financing Unit" prepared by Mr Bernie Fraser. I move:

That the Assembly takes note of the paper.

Mr Speaker, I am pleased to present this report which has been prepared by Mr Bernie Fraser, former Governor of the Reserve Bank and currently a board member to a number of industry-based superannuation funds. I can think of no other person who is as qualified to undertake this review as Mr Fraser.

This review was announced by the Chief Minister, and then Treasurer, in June 1999 to ensure that all the necessary guidelines and delegations were in place to effect the proper administration of the Superannuation and Insurance Provision Unit, the Central Financing Unit and OFM generally. This review was commissioned in response to problems in respect of guidelines and delegations which were identified by legal counsel advising on the Bruce Stadium redevelopment transactions.

In presenting this report I am pleased to note that Mr Fraser found that:

> …on a broad level, apart from some aspects of the funding of Bruce Stadium … the administrative procedures of the Central Financing Unit and Superannuation and Insurance Provision Unit have not led to either expressions of public disquiet or to significant adverse comments by the Auditor - General.

However, Mr Fraser noted that there was, and continues to be, room for improvement.

The main recommendations of the report are the creation of a Finance and Investment Advisory Board, consisting of three external experts in financial markets and superannuation plus the Under Treasurer ex-officio, and the creation within the Department of Treasury and Infrastructure of a Finance and Investment Group, made up of the former Central Financing Unit and the Superannuation and Insurance Unit, excluding the insurance role. The Government has accepted these recommendations, and I will be seeking to implement them as a matter of high priority.

The report also suggested that more emphasis should be placed on maintaining and developing the body of skills necessary to ensure satisfactory performance of current and prospective functions of the Central Financing Unit and the Superannuation and Insurance Provision Unit. With the increasing complexity of financial transactions and the inherent limitations on the supply of in-house skills, the recourse to external advice is both necessary and unavoidable. Accordingly, the creation of a Finance and Investment Advisory Board will significantly enhance the decision-making processes by providing a range of skills at a relatively low cost.

Additionally, the report recommends that the core body of expertise embodied in the Central Financing Unit and Superannuation and Insurance Provision Unit be maintained and strengthened through the enhancement of resources and the creation of a separate Finance and Investment Group within the Department of Treasury and Infrastructure with direct reporting lines to the Under Treasurer.

The board will serve to test ideas and proposals, provide second opinions on market advice, and ensure appropriate monitoring of relevant financial activities. The discipline on officials to consult with and service the board will produce improved financial outcomes in respect of investment returns, lower cost of borrowings and improved public perceptions of the soundness and prudence of the Government's financial transactions.

Mr Speaker, these recommendations are eminently sensible and the Government accepts them without reservation. However, Mr Speaker, these proposals are only the first, albeit important, step in the process of ensuring that the ACT community's valuable financial assets are effectively and prudently managed. As Mr Fraser quite rightly points out in his report, the task remains for the proposed Finance and Investment Group and the Advisory Board to establish appropriate guidelines, processes and procedures to provide a suitable balance between improved prudential controls and the necessary degree of flexibility to respond to the rapidly developing financial markets.

This report, written by one of our country's most prominent leaders in the financial market sector, is a very worthwhile contribution to the overall strategy for managing and protecting the ACT's assets. I urge the members of this Assembly to make themselves familiar with its content.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Report on Agents (Amendment) Bill 1998 - Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.53): For the information of members, I present the Government's response to the Standing Committee on Justice and Community Safety's report No. 6 entitled "The Agents (Amendment) Bill 1998". The report was presented to the Assembly on 7 December 1999. I move:

> That the Assembly takes note of the paper.

Mr Speaker, the Standing Committee on Justice and Community Safety tabled the report on the Agents (Amendment) Bill 1998, proposed by Mr Berry, on 7 December. Mr Berry's Bill proposes to amend the Agents Act by introducing a licensing regime for all ACT employment agents. The Government lodged a submission with the inquiry opposing the introduction of a licensing system for employment agents in the Territory.

The standing committee's report contained seven recommendations from the inquiry. The Government is disappointed with the outcome of the inquiry, particularly its conclusions about the need to regulate this class of agents under the Agents Act. Other classes of agents are regulated under the Act because of a continuing social need to do so to protect the interests of the community. This is not the case, however, with employment agents. Neither the committee, ACTCOSS nor Mr Berry have been able to produce details of any unscrupulous operators out there exploiting unemployed people in the ACT. Even if there was one unscrupulous operator out there, is not having a costly licensing scheme a bit like using a sledgehammer to crack a walnut? There are other ways, Mr Speaker, such as industry co-regulation, perhaps through a code of practice under the Fair Trading Act, or a negative licensing scheme to deal with that operator. Indeed, in the absence of industry exploitation of unemployed people, it would be preferable to monitor the conduct of the industry and act only when there is sufficient evidence to justify costly government intervention.

Notwithstanding this, Mr Speaker, the Government does not believe that the committee's proposal is warranted at all. There is not a tittle of evidence to show that ACT employment agents are charging genuinely unemployed people fees that could justify the imposition of Mr Berry's costly regulatory regime.

This is an industry which is unable to take advantage of economies of scale, unlike the bigger States, to fund government regulation. There are over 2,260 employment agencies in New South Wales to fund their regulation compared with 70 or fewer agencies in the Territory. None of the smaller jurisdictions have imposed this type of costly regulation on their communities unnecessarily.

The standing committee's recommendation that employment agents pay a $200 fee in parity with New South Wales is inconsistent. In fact, New South Wales employment agents only pay $100 per annum for a licence. Mr Speaker, in introducing a regulatory scheme it is essential to get the money right,. and yet here again Mr Berry's proposal has tripped up. The Government has estimated that the licensing regime will cost around $100,000. Based on Mr Berry's figures, assuming that there would be 100 corporate and individual licences issued, there will be an estimated shortfall of $90,000 if the licence fee is set at $100, or $80,000 if the licence fee is set at the committee's level, $200, that is, twice as high as New South Wales. Either way, there will be a significant shortfall in the cost of running the scheme of in the order of $800 to $900 respectively for each registered employment agent.

The Government cannot support the committee's endorsement of this regulation because it is unfair. It is unfair because it fails to discriminate between genuinely unemployed people and those people who can afford to pay for an employment agency

service. Employment agencies will be prevented from charging a fee for ancillary-type services like resume preparation or career counselling, yet their competitors, who are not employment agents, will be able to charge a fee for those services.

The Government cannot support the committee's endorsement of this regulation because it fails the national competition policy test. NCP principles declare that regulation should only be imposed on an industry where there is an obvious need to protect the public interest. In this case, as there is no public detriment, there is no public interest to protect,. a point clearly acknowledged by the standing committee and also by ACTCOSS, both of which have relied on anecdotal evidence of problems occurring in other places.

Mr Speaker, the committee's recommendations starkly go against the Government's longstanding commitment to the reduction of the red tape burden on the business community. This regulation also offends Commonwealth government policy which favours cross-subsidisation of Commonwealth employment funding by encouraging these agencies to develop related business activities.

The Government would, without hesitation, support Mr Berry's proposal if there was a genuine social need to protect the interests of disadvantaged people in our community. However, in the absence of any evidence of this industry charging genuinely unemployed people fees, the Government is unable to support such a financially irresponsible use of ACT taxpayers' money.

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

LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION (NO. 100) TO THE TERRITORY PLAN - TELECOMMUNICATIONS FACILITIES POLICIES
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present, pursuant to section 29 of the Land (Planning and Environment) Act (1991), Variation No. 100 to the Territory Plan relating to telecommunications facilities policies. In accordance with the provisions of the Act, this variation is presented with the background papers, a copy of the summaries of reports, and a copy of any directions or report required. I ask for leave to make a statement.

Leave granted.

MR SMYTH: Mr Speaker, Variation No. 100 to the Territory Plan proposes to insert at Part C of the Territory Plan Written Statement a new section, to be known as C5 Policies for Telecommunications Facilities, to provide specific controls for telecommunications development. It is also proposed to amend the definition of a communications facility at Appendix VI of the Territory Plan and to amended clauses 2.3 and 2.4 of the Hills, Ridges and Buffer Areas Land Use Policies at Part B12 of the Territory Plan Written Statement.

The proposed variation to the Territory Plan has been initiated in response to the Commonwealth Government's Telecommunications Act 1997 and consequent transfer of approval responsibilities for medium and high impact telecommunications facilities to the States and Territories. This has resulted in the need for the Planning and Land Management Group to review the existing policies for telecommunications facilities in the Territory Plan.

In reviewing these policies PALM has taken into account relevant provisions set out in the National Capital Authority's Amendment 21 of the National Capital Plan, called Policies for Telecommunications Facilities. Amendment 21 to the National Capital Plan was released concurrently with Draft Variation 100 to the Territory Plan and was gazetted on 16 June 1999.

The second item that initiated the response also was an inquiry into amenity rights held by the Planning and Environment Committee of the previous Assembly during 1997. PALM was involved in an examination of the potential environmental impact of telecommunications infrastructure, and the opportunities for ensuring that the impact of the infrastructure is reduced to an acceptable and balanced level, commensurate with the expected technological benefits.

The then Planning and Environment Committee produced a report in October 1997 on the inquiry. The Government's response to the committee's report was tabled in the Legislative Assembly on 11 December 1997.

Mr Speaker, the third factor was the need for additional policies to address new forms of telecommunications technology and the need for more detailed policies to supplement existing ones. The Standing Committee on Planning and Urban Services considered the revised draft variation, and in their report No. 40 of February 2000 endorsed the variation. I now table Variation 100 to the Territory Plan for Telecommunications Facilities Policies.

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

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, I present the schedule of lease variations and change of use charges for the period 1 October 1999 to 31 December 1999, and the schedule of leases granted for the same period, pursuant to the Land (Planning and Environment) Act 1991. I ask for leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value, and leases granted over public land. The schedule I now table

covers leases granted for the period 1 October 1999 to 31 December 1999. I am also tabling two other schedules relating to variations approved and change of use charges for the same period.

In September 1997 my colleague Mr Humphries, the then Minister for the Environment, Land and Planning, tabled a Disallowable Instrument, No. 228 of 1997, for the direct grant of land for any or all of commercial, residential, industrial and tourism purposes. In the tabling statement Mr Humphries indicated that a copy of the lease and a statement setting out why the lease was sold would be tabled in the Assembly. I would now like to table a copy of the lease and a statement notifying the Assembly of the reasons for the direct sale of block 5, section 39, Nicholls.

Mr Speaker, the lease in question is the result of an application lodged for a direct grant of land under Disallowable Instrument No. 228 of 1997. The instrument determines the criteria for the direct grant of a lease and requires the Executive to be satisfied that it is in the public interest to grant the lease. The grant of the lease is estimated to provide benefits to the Territory through expanding business in the wine industry in the ACT, creating new job opportunities, and providing a new purchaser of grapes from local and surrounding district producers. A new quality wine producer in the ACT region would positively impact on the export earnings of the Territory.

The lease was granted at a discount of 30 per cent, $195,000, of the current market value of $650,000. Mr Speaker, the Government believes that this application was processed in accordance with the criteria set out in Disallowable Instrument No. 228 of 1997 and complies with the Government's policy for direct grants.

TAX REFORM
Discussion of Matter of Public Importance

MR SPEAKER: I have received a letter from Mr Hird proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> The importance to the ACT of tax reform to improve the Territory's capacity to deliver high quality services to the community.

MR HIRD (4.04): Tax reform, particularly the GST, the goods and services tax, has the potential to bring massive benefits not only to the Territory but also to the south-east region of New South Wales – and, most importantly, jobs. I dare say that everyone in this place looks forward to creating more jobs, more wealth. But, judging by the way the local Berry and Stanhope Labor Party is behaving, one would think that they did not want those benefits. Instead the Berry-Stanhope Labor Party has meekly trotted along behind their bumbling Federal leader, Kim Beazley.

Kim Beazley does not know where he is going or what he is doing. That is evident from what has been in the media in recent times. The left hand does not know what the right hand is doing. All he knows is that he opposes the GST. Even his New South Wales

colleague, Mr Carr, and the Treasurer in New South Wales have supported the proposition. In recent times we have seen the new Labour Prime Minister of New Zealand come over to give him a little bit of education about the GST.

So whom has Mr Beazley turned to? England. England will save you. Mother England. That is to whom he has turned. And because he opposes it, the ACT Labor Party - that is, the Berry-Stanhope Labor Party - also opposes it. They follow along like sheep. It does not matter to Mr Berry or Mr Stanhope that the tax reform package would make the people not only of Canberra and the south-east region of New South Wales but also the people of Australia much better off - even those people in Mr Beazley's own State, Western Australia. But no, we are still trying to find our way through this GST maze. It does not matter to these people opposite. The ideology - the quest - to bring down the Liberal incentives - - -

Mr Stanhope: Theology.

MR HIRD: I heard Mr Stanhope, part of the Berry Labor movement, interject. He would be interested to know that in the mid-1980s the world's greatest treasurer, Mr Keating, supported - he came up with the idea that we had to have a recession and he made the banana republic statement that everyone knows about - and applauded the introduction of a GST. Yes, I hear silence on the Opposition benches. That would be no surprise to me because they are stunned. It is more important to them to toe the Labor line - that is, the Berry-Stanhope line – than to look at what is best for the people of this great Territory and to create jobs.

I throw this challenge out to the Berry-Stanhope consortium - the Labor Party: Where is your loyalty? Do your loyalties lie with Labor or do they lie in creating opportunities for the people of this great Territory so that they prosper?. I wonder what their answer would be. Are the people of Canberra and the Territory or are Kim Beazley and your ranking in the Labor Party more important, gentlemen? Why do you choose to make the people of this great Territory do with fewer jobs and fewer opportunities?

What I am saying speaks for itself. There is not only deadly silence but also no-one on the Opposition benches. This proves my point. There is no-one there. The Leader of the Opposition has gone. Berry has gone. Everyone has gone. They do not give a damn. As Mr Humphries said earlier today, they do not give a toss about the wellbeing of their own constituency. Now that one member of the Berry-Stanhope consortium is back, I say: Why do you not do the right thing for the people of Canberra? Show a bit of leadership; do something useful for a change.

Let us look at why tax reform is so important not only to the ACT - that is the area that we are charged with; our jurisdiction; that is the area this side of the house is concerned about – but also to the south-east region of New South Wales. We are concerned for these people. Since it came to government in 1995 this Government has introduced programs to support the south-east region of New South Wales.

We will now have a little lesson. This is how we can be better off with a new package when it comes in. First, there will be $200m worth of income tax cuts. That means disposable income and jobs. It means that Mr and Mrs Average will have more money

in their pay packets, more disposable income, more to spend on their choices, and more to create jobs and wealth within this Territory and the region.

Subsidies will be given to the first home buyer. This will give people a great start. This is a very important area. In the last few months during question time in this chamber we have heard the Opposition's concerns about subsidies for those first home buyers who are not fortunate financially. It is interesting that this Government is offering, through the Treasurer, a first home buyer's start.

There will be the abolition of ineffective taxes such as the wholesale sales tax, financial institution duty, debit tax, stamp duties – they go on and on. These taxes drag down small business and cut jobs and employment, which. is much needed by small businesses. I again notice that there is no-one on the Opposition benches. I will say it again: This means employment opportunities for businesses not only in Canberra but within the region so that they can prosper. The replacement of those ineffective taxes with a goods and services tax guarantees a maximum rate of 10 per cent.

Revenue available to the ACT from the GST is expected to grow by about 3 to 4 per cent in real terms. I know that the Leader of the Opposition, part of the Berry-Stanhope consortium, is now back sitting at the table. I will say it again: The revenue available to the ACT from the GST is expected to grow by about 3 to 4 per cent in real terms. That is more than double the rate of growth under the existing arrangements.

The bottom line - and I am delighted to see the member for Brindabella, Mr Hargreaves, is supporting some action, and so he should – is that from 2002 to 2009 the Territory will be better off by a total of $216m as a result of the GST and associated tax reforms. Fantastic, well done. Are they interested? No; not a toss, as I said earlier.

That is funding which can be used for delivering higher quality services to the community. At question time we heard those opposite insist that we lift our game. We have attempted to do that, but you cannot get blood out of a stone. If you have not got the money to spend, you should not spend it.

However, I know a previous government that put us, the residents of the ACT, into nearly $300m worth of hock. But we are not going to do that, and we will prove it. We are not going to go down the path of the Stanhope Labor Party in the ACT, this great Territory, in supporting the Federal Labor Party in a Beazley-back of the GST - whatever that means; I do not know.

Labor is typically lost and confused over this issue. But, according to Mr Beazley, Labor would either reduce or abolish the GST on education, policing, law enforcement and charities. That is what Mr Beastly has said. But the shadow Treasurer, Simon Crean, said, "No, no. All of those details will be announced later".

At question time I heard a very good phrase used by Mr Berry - part of the Stanhope-Berry consortium. He said, "Trust me". Where do Mr Berry and Mr Stanhope stand on this? Mr Beazley says that the so-called roll-back, which he is not sure of, would be paid by increasing income taxes. Do Mr Berry and Mr Stanhope agree with him? Do they want to increase the tax burden on ACT residents? Let us stick to the

nitty-gritty, boys and girls. Will we see a blow-out of taxes or will we go out and borrow? Or would they increase borrowings to fund the shortfall, which means shifting the burden onto future territory residents, children and parents, as they did prior to 1995?

Labor's proposed roll-back of the GST means less revenue from the GST. That means less is being provided for education, health, police, medical services and urban services for the community in the ACT. They know that. Is that what the Berry and Stanhope consortium want to do? How else is Labor going to pay for the roll-back? Mother England might tip in a boatload of money.

The Federal Labor shadow Treasurer is now talking about doing away with a 30 per cent rebate for private health care insurance, affecting thousands of families, retirees and pensioners. That is what they are talking about. Does the ACT Labor Party agree with this? Are they so uncaring about the people of Canberra that they would put at risk the provision of health care? It surprises me. I am horrified. Because of their questioning of the Minister for Health over many years, I find it wanting.

Every person in Canberra is waiting to hear what the Berry-Stanhope Labor Party will do. What will it be? No income tax cuts? Will they keep wholesale sales tax? Will they keep financial institutions duty and debits tax? How much will they cut ACT revenue? What services are they going to cut? Or will they do it in the time-honoured Labor way and go into debt once again in a big way? This is a matter of utmost importance to the ACT and every Territorian. I ask for an extension of time.

MR DEPUTY SPEAKER: Not in an MPI, Mr Hird. Your time has expired.

MR STANHOPE (Leader of the Opposition) (4.19): If we could give you leave, Harold, we would. The Labor Party would have been happy for you to take up the whole hour because of the damage that you have just done to the Liberal Party's chances for re-election. I came here today prepared for a serious debate, but I think Mr Hird has almost destroyed that possibility by his presentation. It is pleasing for us in the Labor Party to see the extent to which the Liberal Party in the ACT is prepared to embrace the GST.

I look forward to the Liberal Party campaigning in the next ACT election for support for the GST. In fact, during that election campaign I have no doubt that I will quite willingly assist them in reminding the people of the ACT about their dedicated support for this very regressive tax. I will give this commitment to Mr Hird and the Liberal Party in terms of their support for this tax: I will willingly assist them in letting every elector in the ACT know of their dedicated rusted-on support for this regressive, appalling tax. I look forward to campaigning with the Liberal Party in the next ACT election in relation to the application of the GST and their support for it.

Last week when the Chief Minister broke her until then deafening silence on the imminent introduction of the most regressive tax ever imposed on the Australian community, she did more than merely reveal her position. The Chief Minister, in launching an attack on Labor's commitment to roll back the goods and services tax, simply fell in behind her Federal Leader, Mr John Howard. She joined the

Howard-Costello GST cheer squad. She grabbed the lines as they rolled off the fax machine. It was a cut and paste job as she removed the word "Beazley" and substituted "Stanhope". Of course, it denied reality, just as the rhetoric of her Federal colleagues denies the reality of the GST.

The essence of the Chief Minister's attack was a simple distortion. It was a distortion of what territory, state and Federal Labor leaders had announced when they met in Burnie in Tasmania. Mrs Carnell claimed, wrongly again, that Labor leaders had agreed to a plan that would result - when Labor is inevitably returned to government at the next Federal and ACT elections and initiates its roll-back - in less money being available to the States and Territories. That is simply wrong. If Mrs Carnell had cared to read the communique from the Labor leaders forum, she would have seen these words:

> An incoming Federal Labor Government would guarantee that the States and Territories would not carry any of the burden of rolling back the GST.

What part of "guarantee" does Mrs Carnell not understand? Perhaps she has it confused with the core and non-core promises of her Federal colleagues, in particular, her Federal leader. Perhaps she has confused it with the type of commitment that saw her Federal leader - the one in whose GST shadow she now stands - swear that in government "he would never ever introduce a GST". That is the commitment of the Liberal's Federal leader - that he would never ever introduce a GST - and we are asked here whom we believe, Mr Beazley's guarantee or Mr Howard's promise to never ever introduce a GST. I know whom I believe. I am certainly not believing the never ever man. I have a lot more confidence in Labor's definition of a guarantee than in Mr Howard's definition of "never ever".

Labor is united in its belief around the country that the GST is a harsh and regressive tax that imposes an unfair burden on low and middle income Australians and their families. Already the impact of a GST's introduction is being felt, and it feeds through into higher prices and higher interest rates. The impact will only be greater when smaller business people grapple with the cost of compliance. Already ordinary Australians can see the promise of tax cuts growing dimmer before they even arrive.

It is that belief that led Labor leaders to resolve at the Burnie forum that they would: One, confirm their continuing opposition to the GST; two, pledge to work together to improve the transparency of the GST; three, condemn the plans of the Howard Government to scrap the intergovernmental agreement by cutting specific purpose payments to the States after the GST is introduced - and we have not heard very much from our ACT Treasurer about that; and, four, pledge to work together to facilitate the roll-back of the GST.

That resolve of Labor leaders is clearly and unambiguously framed in the commitment of Kim Beazley to guarantee that the impact of the roll-back will not be borne by the States and Territories. Labor can make that guarantee, but the Government cannot guarantee that individual low or middle income taxpayers, pensioners or fixed income retirees will be no worse off under the GST. Mr Howard and Mrs Carnell cannot make that guarantee, simply because most will be worse off.

More than two years ago the Australian Consumers Association published a study that confirmed that the income tax cuts already eroded by interest rate hikes and the steady drip-feed of price increases will leave ordinary families, the poor, single parents and the elderly worse off. The only winners from the GST will be people on incomes well above average weekly earnings.

The Chief Minister has often claimed the credit for the Territory's economic success. She has the penchant for grabbing the economic indicators as they emerge and trumpeting their positive impact on the local economy. Small business and the growth of the private sector are favoured topics when the Chief Minister talks up the local economy, but these are the very sectors that will be hard hit by the GST. I think some of the small business community around Canberra will be very interested when I send them Mr Hird's speech and they get some feeling for what Mr Hird thinks about the impact of a GST and his complete disregard for the impact of a GST on businesses out in Belconnen.

The New South Wales Department of State and Regional Development recently commissioned a study on the impact of the goods and services tax on small business. Mr Hird obviously has not read it. The case studies examined by Ernst and Young make interesting reading, Mr Hird. These were not uncommon businesses - a jewellery retailer, a small manufacturer with export markets, a smash repairer, a business that installs and repairs air-conditioning. Any of these businesses could be operating in the ACT.

Each of the businesses had a high general level of awareness of the new tax regime. Each recognised that the financial and time costs of GST implementation would be considerable. Most had already commenced preparations to implement the GST. The Ernst and Young study found, in relation to implementing the GST, that the estimated costs incurred up to 1 July ranged from $9,750 to $19,930. They are those small business constituents of yours out there in Belconnen, Mr Hird. All business will have to commit time and training to implementation. These are hours of business forgone, and the nature of small business means that owners will typically have to spend some of their own time, after hours, in grappling with GST implementation issues.

The extent of implementation costs will obviously vary with the nature of the business. But all businesses face common costs: Initial contract reviews; general start up and compliance costs; price tag ticket amendments; computer software upgrades and testing; point of sale register upgrades; advertising and brochure replacements; design, test and issue of GST tax invoices; and outside technical training. I am sure struggling small businesses of the ACT will thank and embrace the Liberal Party for their support of that extra burden.

Beyond the implementation stage, small business will face further costs. Studies taken overseas show an unmistakable fact - that the ongoing compliance costs of the GST will be greatest for small business. This is a tax regime that makes small business the taxman.

Of course, the Government in some respects is also a business and, like business, will have to face the implementation and ongoing compliance costs in meeting its GST obligations. The ACT Government will have to change its administrative systems to deal with the new tax regime. It will have to pay GST on goods and services it buys. What will be the cost to the ACT Government? The Treasurer suggests the implementations cost will be in the order of $2.5m in the next year.

Mr Humphries: No, $3.5m.

MR STANHOPE: The Treasurer tells us $3.5m, paid for from the Treasurer's Advance. Perhaps I have covered the point. Other costs estimated to be about $1m will be provided for. Labor is sceptical about these estimates. The costs to business are well researched and there seems no reason to assume that they will be less for government. Is the real cost of the ACT Government's GST implementation more likely to be the same as that suggested for business, about a third of the cost of Y2K compliance?

The Prime Minister and his mouthpieces, such as the Liberals in this place, insist that tax reform in the shape of the GST will dramatically improve the financial position of the States and Territories. Mr Deputy Speaker, one thing is certain: The GST will have an impact on the manner in which the Territory goes about its business, and the inequities of that impact will be felt by the Canberra community. On 1 February our Treasurer stated in a media release that Labor's claims of a substantial GST impact on the ACT budget could be dismissed because his Federal colleague Mr Costello had exempted ACT government fees, taxes and charges from the GST.

Mr Humphries' media release pointed to the Treasury web site and a large document listing the exempt charges. It was mentioned earlier that the list for the ACT runs to 30 pages and canvasses a broad range of government taxes and charges - but of course the list is as revealing for what it does not mention as for its bulk. As this place heard in question time today, in a question from my colleague Mr Hargreaves about the impact on the commercial sector as opposed to the community sector in relation to the hiring or leasing of community space, the hirers of sports ovals will be charged GST. Some commercial operations leasing government land will not be charged.

I look forward to Mr Hird explaining that to his sports constituency, particularly to those running junior sport and who come to Mr Hird and ask, "Mr Hird, why are we paying GST to hire this sports oval, when our colleagues down the street, who are hiring a bit of land for their cafe to utilise some pavement space, are not paying the GST?". I look forward to Mr Hird explaining that to his constituents. I will raise the matter with them and suggest that they approach Mr Hird with it - the champion of the GST and the champion of the imposition of GST on junior sport in the ACT.

There are a range of other issues that this Government has yet to explain to us, or to explain to this community, and, as they go about Canberra selling the GST now that they have embraced it so nobly, we look forward to the answers to some of these questions. Why is it that levies imposed on convicted people under the criminal injuries compensation scheme will be GST free, but payments made to victims under the

scheme will not be? Good question. Why is it that a charge to replace a lost library card will be GST exempt, but not the fine on an overdue book? And what other ACT government charges are not exempt from the clutches of the GST?

The Government has not revealed the full list, even though we are in the process of debating a draft budget. But, of course, we all know about power bills, water and sewerage bills, parking fees, bus fares, grants to community organisations, and - as the Treasurer mentioned before - a ride on the Civic merry-go-round. We look forward to this Government committing to Labor's suggestion that all bills in relation to these issues be transparent.

The Chief Minister and the Treasurer have each adopted the Howard-Costello mantra that no State or Territory will be worse off under the GST regime than it would be under current financial arrangements. To that end the Commonwealth has committed itself to a transitional arrangement in the form of payments and loans while governments wait for the benefits to kick in. The shortfall between net GST and financial assistance grant revenue to the States and Territories for 2000-01 was estimated by the Commonwealth in last year's budget papers as around $1.2 billion.

Now, of course, there have been significant changes to the GST arrangements and the shortfall is estimated to be in the order of $3.5 billion. What is the ACT's share of this shortfall? What proportion of it will be delivered in the form of loans and in transitional payments in order to meet the Commonwealth's guarantee? What impact will these arrangements have on the ACT budget? Does the sheer size of the shortfall pose risks to the guarantee? Mr Humphries has not mentioned any of these things.

The rhetoric of the Government is based on a false premise that a Federal Labor government would not meet the cost of its pledge to roll back the inequitable GST. Why should Canberrans pay any heed to the false rhetoric of the Chief Minister and her Treasurer? After all, this is rhetoric that emanates from a man who distinguishes between core and non-core promises and makes "never ever" promises and never ever promised to introduce the GST. We are talking about the core and the non-core promise, and the never ever a GST under a Liberal government.

Canberrans are under no threat from the future Labor Government's commitment to roll back an inequitable tax. The threat Canberrans face comes from the impact of the new tax regime, an impact that the Chief Minister, as is her wont, is doing her best to hide. We have not, for instance, heard from the Chief Minister about her views on the imposition of a tax on tampons.

We have not heard views about other aspects of the implementation of this incredibly inequitable and regressive tax. What about its impact on education and the capacity of parents to purchase those aspects? I have no doubt that Mr Stefaniak will give us chapter and verse on the impact on parents seeking to educate their children.

What about the delivery charge for groceries to the elderly in the community? What about the fact that people with a disability, currently exempt from the payment of sales tax, will have to pay the GST? What about the impact on charities such as the RSPCA,

who say that they may have to close down some of their services What about these impacts? What does Mr Hird think about them and what do the Liberals in this place think about them?

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.34): Let me start by congratulating Mr Hird on bringing this matter of public importance into the Assembly for debate today. At the same time, I ask why it took so long for Mr Hird, a member of the Government, to raise in this place an issue of enormous import to this community and indeed to the rest of Australia. We have been expecting a GST matter of public importance in this place for some time, but we certainly were not expecting one of our own members to have to bring this matter up for debate.

I congratulate Mr Hird for the decision to make this matter of public importance public. I also have to ask why you people did not bother to do it before today. Why did it take Mr Hird to bring this matter of public importance into the public arena?

Mr Stanhope: I rise on a point of order, Mr Deputy Speaker. I have raised questions relating to the impact of the GST on ACT government services at every single hearing of the budget committees that I have attended. I have not had a cogent answer yet.

MR DEPUTY SPEAKER: There is no point of order.

MR HUMPHRIES: The reason we have not had Labor raising this matter in this place is explainable by looking at the behaviour and the statements, in particular, of Mr Kim Beazley, the Federal Opposition Leader; the man in recent days who has muddied the waters on the goods and services tax in the most deplorable way. Even his Federal colleagues are quietly stepping away from him, inch by inch, to make sure that they are not associated with this complete and utter muddle. This community and everybody else knows that Mr Beazley cannot possibly keep to the promises he has made with respect to the GST without something giving in the equation which he has not yet explained. He says he is going to roll back the GST without affecting the position of the States and Territories.

Let me put on the record what the benefit of the GST is to the ACT community over the next nine or 10 years. The conservative estimates that have been made by various treasuries, not just the ACT, over an eight - year period suggest that there will be an additional $11 billion in revenue to States and Territories in this country, revenue which will now be available, in the next 10 years, to spend on schools, hospitals, public safety, housing and better roads - all the things that we debate in this place week in and week out. All the things that we are criticised for not being able to provide for, because of our strained circumstances, are covered by that $11 billion.

The total benefit to the ACT in particular is conservatively estimated, from the years 2002-03 to 2009-10, to be $216.1m. I repeat, $216.1m. That buys an awful lot of community services in this place.

I can well understand why Mr Beazley rolled up to Burnie and told the state and territory Labor leaders, many of whom are in government, "We are not going to affect your access to that money". I can understand why he took that decision. What he did not explain to the leaders in Burnie – at least not publicly to the rest of the community about what was said to the leaders in Burnie - was how he was going to preserve the other components of this equation and keep his promise.

How is he going to deliver the tax cuts amounting to I think about $47 a week to every taxpayer? How is he going to deliver on that promise to the Australian community if he is rolling back the GST but preserving the effect on States and Territories in terms of a benefit to their budgets? How is he going to do that?

Quite rightly, Mr Beazley has been attacked and condemned by most sides of politics and by most commentators because of the uncertainty he has created in this debate. He knows, the Labor Party knows and everybody who has looked at this issue with any depth knows that the main beneficiaries of the goods and services tax are the States and Territories. This is the level of government to which most of those essential services are delivered - services that matter to people in the community, such as whether their school has enough equipment to be able to provide their children with the right kind of education; whether hospitals have the machines that will provide lifesaving assistance; and whether the police have enough numbers to be able to keep the community safe. That is where this money is going to go. That is where the GST is going to make an impact and that is why the GST is supported by this Government. There is no question or doubt about it; it is on the record. It is supported by this Government because it means an awful lot to this community over the next 10 years and in the years to follow.

As Mr Hird has said, the annual estimated growth rate in this tax - revenue which goes to the States and Territories - is 3 to 4 per cent per annum in real terms. This is compared with a 1.3 per cent growth in financial assistance grants from the Commonwealth in the last few years. We have heard all sorts of diversions and furphies from the Labor Opposition in the debate today. We have heard, "Oh, the money can't be counted upon because it's only loans; it's not actual grants to the States and Territories".

I was accused of not having discussed this issue before in this place. I have discussed this issue. I have made it perfectly clear that these are the sorts of loans any of us would like to receive in our daily lives if we could get access to them - a loan which has no interest rate and which is repaid by the lender, not the borrower, a year after it is made. It sounds pretty good to me. I will have one of those any day you are offering one. If one is going, I will have one, please.

I was struck by the comment by Mr Stanhope that the Prime Minister said he would never ever introduce a GST and therefore he cannot be trusted to keep his promise on other things to do with the GST. We all know that the Prime Minister went to the last Federal election and put his promise on the table. He amplified and explained in considerable detail how he was going to introduce and implement a GST in this country. He won that election and now proposes to carry out the promise that he made to the Australian community.

Just as a matter of interest, I contrast that with the situation taken by Labor federally back in the early 1980s when Mr Hawke went to the 1983 election promising not to introduce a capital gains tax. "There will no capital gains tax under Labor", he said. Such a tax was introduced in 1985, as I recall. Mr Hawke said at the time, "Well, my promise in 1983 was only good until the 1984 Federal election. Then it expired".

In the few years subsequent to that we had a very vigorous debate within the Australian Labor Party about the introduction of a goods and services tax in Australia. We had many key figures in the Labor Party, including the former Prime Minister, Mr Keating, and, as I recall, Mr Beazley, arguing within internal party circles for the introduction of a goods and services tax. When members of the Labor Party come in here and tell us that Labor is absolutely opposed to this GST, that "we don't really want this money", this $216m, which is going to flow to the ACT, that "we can live without this", you have to ask what kind of reality check you impose on that kind of promise and those words.

But this is the real crunch, the real test, that I would apply to the Labor Party's position on this matter. They say that they are opposed to the goods and services tax. They think it is a bad tax. It is the most regressive tax ever seen, according to the hyperbole of Mr Stanhope. What are they going to do about the matter? If they ever come to office in this place, they will inherit the intergovernmental agreement which says that we are bound to implement the goods and services tax in this Territory. What will they do? Will they take that agreement and tear it up? Will they send back the money that is flowing to the ACT as a result of the new tax system? What will they do?

You know where the ACT Government is coming from on this. The Liberal Government has made it clear what it is going to do. It is going to accept this benefit to the ACT. It is going to implement the tax in the ACT and ensure that we fight to protect the ACT's interest in that process. What is Labor's position? The fact is we do not know.

MS TUCKER (4.44): I also am pleased to have the opportunity to talk about tax in this place. The Greens also do not support the current form of the GST that we have been presented with by the Federal Government. We have fundamental concerns about a tax on services. The Greens' position on taxation is that, first, it should definitely be a progressive tax; the GST is not. It should be part of redistribution of wealth. It should encourage and facilitate ecological sustainability. The GST does neither. It needs also to maintain a level of revenue which is adequate for government spending on essential services, and also support the possibility of socially responsible investment.

If you benchmark Australia with OECD revenue standards - and this Liberal Government likes to benchmark; we are very familiar with the use of benchmarking – you see that it would increase public revenue by around $15 billion. The problem is not that we are taxed too much; rather that we tax the wrong things too much and we do not tax other things enough.

We also need to try to look a little bit clearly at the issue of tax. Revenue acts are not the acts of some kind of hostile enemy; they are the means by which we ensure the overall wellbeing of our community. There is always a great reluctance to look at the question

of tax by, in fact, Labor and Liberal because they are so concerned that they will lose votes. The surveys of the broad community say that if people really believe that taxes are going to be properly and fairly distributed and appropriately spent, they do not mind paying them.

Obviously a key platform of the Greens on taxation is ecological taxes, because ecological taxes recycled into the economy would lower pollution and increase employment. Our current taxation system has a negative impact. It is encouraging pollution and resource depletion. It encourages waste and discourages conservation.

We need a tax system which encourages positives, such as employment and investment. Labour costs can be reduced through increasing pollution charges. The GST, particularly thanks to the Democrats, does the opposite by reducing excise on diesel fuel, encouraging more use of fuel and consequent pollution. I would like to read just a short section from a paper by Robert Constanza, Herman Daley, Paul Hawken and John Woodwell on ecological taxes because they can say it much better than I can:

> The proposed tax reform would replace much of the current income tax with a "natural capital depletion tax" aimed at providing incentives to use natural resources and ecosystems (natural capital) in sustainable ways. Consumption of natural capital would be taxed to the extent that the material is not recycled, thus encouraging "closed loop" use. Use of fossil energy (which of course cannot be recycled) would be taxed but may be offset by credits for investment in renewable alternatives. This provision would encourage development of energy efficient technology and renewable sources of energy. Non-sustainable uses of ecosystems would be taxed. This provision would encourage sustainable uses of forests and fisheries and prevent debacles like the collapse of fisheries on both coasts –

that is, of the United States –

> and the artificial dichotomy between "jobs vs. the environment" in the Pacific Northwest.

The same applies to Australia obviously. Let me continue:

> Damages to natural capital stock caused by pollution would be taxed, thus encouraging the development of low- or zero-pollution industrial technology and processes and a closed loop industrial system.
>
> Since the natural capital depletion tax would be applied mainly at the "front end" of the economy, the tax would be passed through the entire system and affect the prices of all goods and services that consumed natural capital, either directly or indirectly. This would encourage the development of products that do not consume natural capital, which would then have a competitive edge in the marketplace and would tend to displace their non-sustainable alternatives. The tax

> reform would be implemented gradually, over a number of years to allow businesses and consumers to anticipate and adjust to the new rules and incentives.

This is the sort of debate that unfortunately we did not have in this country. It is a debate that we wanted. On going through the file I see I wrote letters to members of this place asking that we have a proper summit on taxation. We could have really canvassed these very progressive ideas that are gaining weight, incidentally, not only in the United States but also in Europe. Unfortunately, what we ended up with was a very narrow view, and mainly a political bunfight, which is also what is happening today in this debate, rather than any real investigation of how we can reform the tax system to meet the needs of the community now and into the future.

Of course, there are issues around vertical fiscal balance, which is what Mr Hird's MPI seems to be dealing with. I am not saying that that is not an issue, but that is an issue that can be dealt with as well separately. The GST is not necessary to deal with that problem. What is necessary is that we have, as a society, a proper look at what our taxation system at the moment is doing. As I just clearly explained, it is not having a positive impact on ecological sustainability or social justice. Taxation policy could be an important instrument for social cooperation and for making an economy into a society.

I will briefly touch on the concept of the Tobin tax too because we do have a lot of discussion in this country and internationally about global action, global treaties, international conventions, whatever. The idea of the Tobin tax is that you would have a tax on speculative foreign exchange. Speculation would be determined by the period of time between purchase and sale. The figures that have come out through investigation show that a Tobin tax of one quarter of a per cent would bring about $250 billion a year. At present $1.5 trillion is gambled daily on the speculative money market. This is an issue that the United Nations says we could look at. If we had a quarter per cent and we got that $250 billion tax on that, there would be enough from that, according to the United Nations, to deal with poverty, education, nutrition, health issues and to clean up our ravaged environment.

There are solutions. There are ways we can look at the destructive activities that occur on the earth. There are ways that we can use economics to bring about social change. Unfortunately, we do not see a willingness to do this in this country or in many developed countries. I can only guess why that is. I think it has to be said that it has something to do with the fact that most leaders in most developed countries are inappropriately affected by people who are people of money, or people who are people of business and who have a vested interest in ensuring that governments around the world take an approach to taxation which is much more about keeping rich people rich than caring about the earth or social justice.

MR QUINLAN (4.52): I have to disagree a little with my leader on this. I was a bit bemused as to why this topic was raised by Mr Hird in this place. From what I gather so far, we are in the process of terrifying Kim Beazley. If I bump into him in the next week or so I will let you know just how shaken he was at the end of the day.

During Mr Humphries' speech he talked about a reality check. He talked about the extra $216m that the Territory would get and he talked about the tax cuts that would be implemented. Now, by my sums, somewhere in there we have created a lot of money somehow, or, conversely, we have joined the cargo cult because we are still talking about the Government taking a quantum of money, in one manner or form, for you and me, and spending it generally for the community through the normal revenue and expenditure processes. I am sure there is an element missing in what Mr Humphries has put across. If there are going to be these gains, then, unless there is some economic miracle flowing from the GST, somebody is going to lose. I think it was quite clearly pointed out by Mr Stanhope that there are regressive elements of this particular tax.

Now, when we talk about a growth tax, I, as a pretender to the job of Treasurer of the ACT, am reasonably interested in a growth tax. However, I do not have pixies at the bottom of my garden. At the moment, it is within the province of the Federal Government.

Mr Hargreaves: You have them all. We want some pixies.

Mr Humphries: Leave the Democrats alone.

Mr Hird: You leave my Greens alone,. you so-called Treasurer.

MR QUINLAN: Sorry, Harold. I was not trying to assault you personally or the Hird/Moore Government. It is within the province of the Federal Government to give us States and Territories pretty much what they damn well please. I think the draft budget predicts that we will be getting Commonwealth funding of about $673m, of which $301m will be specific purpose payments. There is a bit of mystery surrounding the future of specific purpose payments. I think it was supposedly clarified by Peter Slipper, Parliamentary Secretary, who virtually said that specific purpose payments would decrease; that there would be a compensating clawback because things were going to be better or things would cost less, and I think the Prime Minister repeated that. I think he was quoted as saying, "No, we are providing less dollars, but, because costs of operating will fall, the real financial position will be the same".

At this stage, this particular year, we have a situation where, under Commonwealth horizontal fiscal equalisation, we have a positive relativity factor. We are on the positive side of the distribution between the States. That was based on the Grants Commission analysis and the various elements affecting our economy. It goes to show that there are so many different elements of the funding that we will get from the Commonwealth that it will always be possible for them to wind it on and wind it off. I think we had the forward estimates, and the equalisation payment has some factors in it that relate to growth and some factors that relate to assessments of embedded wholesale tax, all about just maintaining the same nominal number.

In passing, I might refer to the spurious accounting differential between the Commonwealth who can make us a loan and we can call it a grant, but I guess the Commonwealth - - -

Mr Humphries: That is what the Auditor-General says - we can call it a grant.

MR QUINLAN: Our Auditor-General? My heart is not - - -

Mr Humphries: Yes, he agrees with that.

Mr Hird: No, it is not in this speech.

MR QUINLAN: Well, Harold, really, nothing much has happened. I am just sort of playing a bit of a role here, because if the debate has a purpose I do not think the purpose is ever going to be achieved if you think you are going to frighten Kim Beazley or Federal Labor. Personally, I have to say I am not a fan of the GST. I am not as young as I used to be, Harold, and I look forward to not too far distant times and living on a modest pension. Being in a position where I own most of my assets, I am one of the people who are going to pay through the nose. For having made the effort of providing for myself, for having made the effort to set myself up so that I will not be a charge upon the general community in my dotage, I am going to pay the extra 10 per cent on my consumption, but because I will be a relatively low income earner I am not going to get the benefit of the income tax changes.

Mr Hird: Shop at Woolworths and you will be all right.

MR QUINLAN: The income tax changes are going to go to your mates - well, they are not really your mates, but you would like to think they are your mates - at the big end of town. This is an entirely regressive tax. It is a regressive tax because it is going to hit, amongst others, those people who have made the effort to provide for themselves. I do not believe that it is going to create the money that somehow Mr Humphries believes it is going to make, with additional funds coming to the States, income tax cuts for all, and somehow we will all be better off and happy days will be here again. I do not think that is at all possible.

Then we must turn, of course, to the problem of implementation or the compliance cost. As Mr Stanhope pointed out, there is great confusion. There is a nice little parallel here. We have had the Federal Government, the Howard Government, come forward with great fanfare and promise of what the GST will do for us, and then, "Hang on, there are a few details of practicalities". Now, in terms of implementation, in terms of still defining what is to be covered and what is not to be covered, we have a total descent into a shambles. Does that remind you of anyone? It reminds me of the Carnell Liberal Government in the ACT. We start with great promise - - -

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

MR QUINLAN: I was referring to the parallel of the Howard Government coming forward with great promises and fanfare, saying everything will be all right immediately we introduce this. Then we get, "Oh, we have to implement that; there are a few things we did not think of". Now we have a descent into almost a total shambles as it operates - a shambles contributed to by Mr Slipper and Mr Howard.

In relation to Mr Beazley's promise - he has promised a roll-back - I think Mr Beazley does realise, whereas Mr Humphries does not, that the cake is so big. I think even Mrs Carnell has said that, defending one government initiative or another, you are going to carve it in a different way.

MS CARNELL (Chief Minister) (5.02): Mr Speaker, I will finish quickly by saying I find this debate really amazing because if there is one part of Australia that can benefit from a GST it is the ACT. The thing that is wrong with our current tax system in Australia is that it relies very definitely on PAYE taxpayers like the workers, the people who live in the ACT;. not the big end of town, not the people who can arrange their tax business in different ways, but those PAYE taxpayers who predominantly make up our environment in Canberra.

What we see with the GST is a move away from total reliance on PAYE taxpayers. We see tax cuts, significant money in the back pockets of people who are currently PAYE taxpayers, and a move to a broader based tax system where everybody, including the big end of town, pays on the basis of their consumption of goods and services. Therefore, Mr Speaker, if you buy a Mercedes you are going to pay more than if you buy a smaller car, and so on.

Mr Quinlan: A Celica, for example.

MS CARNELL: A Celica. Mr Speaker, this is a good deal for Canberrans.

MR SPEAKER: The time for the discussion has now expired.

PLANNING AND URBAN SERVICES - STANDING COMMITTEE
Inquiry - Betterment and Change of Use Charges - Alteration to Reporting Date

MR HIRD (5.04): Mr Speaker, I ask for leave to move a motion to alter the reporting date for the Standing Committee on Planning and Urban Services inquiry into betterment and change of use charges.

Leave granted.

MR HIRD: I move:

> That the resolution of the Assembly of 1 July 1999, as amended on 26 August 1999 and 25 November 1999, referring the inquiry on betterment and change of use charges to the Standing Committee on Planning and Urban Services be amended by omitting from paragraph (3) "by the first sitting day of March 2000" and substituting "by 2 March 2000".

The reason for this alteration is that one of my colleagues, unfortunately, is not well at this time and we will be unable to comply with the wishes of the house and report on 1 March. By giving us the extra day - that is, reporting on or before 2 March - I am sure

that both of my colleagues and I will be able to comply with the requirements of the house for reporting.

Question resolved in the affirmative.

ADJOURNMENT

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

That the Assembly do now adjourn.

Freedom of Information

MR BERRY (5.06): During question time today, Mr Humphries made great play of a letter signed by me in relation to a refusal to give remission under the Freedom of Information Act. Mr Humphries made the point that he thought that the then Labor Government was more secretive than the current Liberal Government and that I, in particular, was more secretive than his colleagues have been. Mr Speaker, the freedom of information application was in relation to the contract between VITAB and ACTTAB. I will bet right now Mrs Carnell would rather have in her bag a dozen or so VITABs than the Bruce Stadium or the hospital implosion, for which she was directly responsible, and would wish to have well behind her a couple of inquiries without any adverse comments.

Mr Speaker, in relation to that letter, I am able to draw attention to a letter I received on 20 September last year concerning a freedom of information application. Guess what that was about, Mr Speaker? It was about finding out why it was that the Government had relieved its friend Mr Murphy of Market Cellars of the costs in relation to the taking of his trailer and the giving of it back and matters associated with that, which, I am told through my inquiries, were of the order of $200 or $300. Giving that sort of relief to friends is okay, but it is not given to ordinary people in the street.

I made that application under the current Freedom of Information Act. I included with it a cheque for the application fee, which is my practice because I do not like to see these things held up by some artificial means. Guess what again, Mr Speaker? Remission of the fee to me was refused. That is fair enough and I have copped it, but it is a bit of a joke for the Government to stand up here and make great play of a remission being refused by some government eons ago - in 1993 - when they have refused to make a remission themselves.

Ms Carnell: Did we give you the documents? Yes.

MR BERRY: Mr Speaker, they did give me the documents because they were required to do so under the legislation, but they did not give us the documents in relation to Bruce Stadium which they were required to by direction of this Assembly. I cannot help it if the former Liberal Opposition did not have the wit to pursue a course which might have achieved its aims, but in the end, Mr Speaker, this Government is just as secretive as any that has ever existed in this country; in fact, it is worse, and it is arrogantly so.

East Timor

MR STEFANIAK (Minister for Education) (5.09), in reply: Last week an event occurred which will be of significance in Australian history; that is, Interfet ceased doing the job it had been doing exceptionally well. I would like to pay tribute to the 6,000 or more men and women of the Australian Defence Force who did a magnificent job in East Timor. Interfet had its genesis in September of last year. We all remember the horrific scenes of the militia running rampant after East Timor voted to become independent. Hundreds, probably thousands, of people were killed. Within a very short space of time, about two or three weeks, Interfet was created. The politicians in Australia did a good job in acting quite quickly there. The allies also came to the party fairly effectively. Much was said about the actions of the United States. Whilst they did not provide a huge amount of military support, obviously they lent on the Indonesian Government and that was very important in terms of assisting in the initial deployment of our troops.

I come now to the role of our troops, many of whom come from Canberra and many of whom have been rewarded by things such as being awarded honours in the Australia Day honours list and through the general attitude of the Australian public, which has been one of intense gratitude for a job well done. Over 6,000 troops participated in Interfet. I think they performed to the highest traditions of the Australian Defence Force. They found themselves in an incredibly difficult situation. Indeed, prior to their arrival there, a number of local members of the AFP found themselves in probably an even more difficult situation. Although unarmed, they were responsible for saving the lives of probably hundreds of East Timorese by staring down, through sheer personality and moral force, some militia in very dangerous situations.

Getting back to the troops, they performed exceptionally well and brought peace very quickly to a very troubled and incredibly devastated land. The fact that they were able to do so with only two fatalities, both of which were not battle related, and only several battle-related injuries speaks volumes for their ability, their training, and the way they went about their job. That they achieved their aim with only six known deaths in the Indonesian militia and military forces was most impressive. They were exceptionally well led by Major General Peter Cosgrove, who must go down in Australian military history as one of the greatest generals since Monash. Being a very modest man, he pays full tribute to the magnificent troops he had under his command, but I think that both the commander and the troops are deserving of the accolades that they have received.

I might just make some mention of the Indonesians. Whilst some horrendous activities occurred in East Timor immediately prior to and after the actual vote, there were some good signs there, including the fact that the Indonesians complied, although reluctantly, with the UN pressure to let Interfet go in. In one particular incident that springs to mind there were a couple of fatalities on the Indonesian side, but the very prompt action of an Australian regular army corporal and a second lieutenant in the Indonesian Army defused a situation that could have got completely out of hand. That is a very hopeful sign for the future.

The Australian Government is conducting a general review of the Australian Defence Force to determine what should happen in the defence area from here on in. I think it is very important to ensure that our Defence Force is adequately resourced to do its job. That will not be easy. We will face major problems over the next 20 years in terms of capital equipment replacement, but it is probably unavoidable that there will have to be an increase in defence expenditure. I think that that is something that will need to happen.

Our troops did exceptionally well in difficult circumstances in East Timor. However, we owe it to them to ensure that, if they get into other difficult situations in the years to come, they will have adequate back-up, physically and morally, from the people of Australia and the Federal Government, so the results of the review will be of particular importance. But that is for the future. I think we can be justifiably proud of the wonderful effort of the young men and women of the Australian Defence Force in East Timor. One had only to see the farewell that the Interfet people were given last week to understand how much the East Timorese people had appreciated their presence. I think that will stand Australia in good stead, not only with the East Timorese people but with the region generally, for many years to come. I think we all owe the troops a debt of extreme gratitude.

Question resolved in the affirmative.

Assembly adjourned at 5.13 pm