

Mr BURKE: A point of order, Madam Speaker. Just before the vote is taken, whilst it is not appropriate to have a division, is there any way we can record that the vote was unanimous?

Madam SPEAKER: Yes, we will.

Motion agreed to unanimously.

SUSPENSION OF STANDING ORDERS **Pass all stages**

Dr TOYNE (Justice and Attorney-General): Madam Speaker, I move that so much of standing orders be suspended as would prevent bills entitled Criminal Property Forfeiture Bill 2002 (Serial 60) and Criminal Property Forfeiture (Consequential Amendments) Bill 2002 (Serial 61) (a) being presented and read a first time together and one motion being put in regard to respectively, the second readings, the committee's report stage and the third readings of the bills together; and (b) the consideration of the bills separately in the Committee of the Whole.

Motion agreed to.

CRIMINAL PROPERTY FORFEITURE BILL **(Serial 60)** **CRIMINAL PROPERTY FORFEITURE** **(CONSEQUENTIAL AMENDMENTS) BILL** **(Serial 61)**

Bills presented and read a first time.

Dr TOYNE (Justice and Attorney-General): Madam Speaker, I move that the bills be now read a second time.

The existing Northern Territory legislation in this area, the *Crimes (Forfeiture of Proceeds) Act*, is ineffective and outdated. This is not a recent phenomena, not something restricted to the nine months since this government came into office. The original act was introduced in 1988 and has been largely useless since that time. The relevant records reveal that there were 64 cases where offenders were arrested or summonsed for matters involving possession or receipt of the proceeds of crime under the existing legislation.

Of those matters, only three proceeded to a court hearing. Of those, two resulted in confiscation of proceeds. Only one of these matters involved the proceeds of drug crime. In that case, only \$7000 in cash was successfully confiscated.

The purpose of the bills I am introducing today is to repeal the existing scheme, replacing it with a non-conviction based civil scheme that reflects best

practice in this regard. This scheme will bring the Northern Territory into line with developments occurring in most other Australian jurisdictions.

This legislation is aimed at preventing the unjust enrichment of certain individuals as a result of criminal conduct. Criminals should not profit from their criminal activity or benefit from their ill-gotten gains. This legislation provides a mechanism outside the criminal jurisdiction for forfeiture of property used in, or in connection with, the commission of a criminal offence. In particular, the legislation makes provision for the forfeiture of property of a declared drug trafficker, a person convicted of three serious drug offences.

The proceeds of crime are derived at the expense of the rest of the community. They are earned through harm and suffering of others. They can be used to finance future criminal activity and they are tax free. Criminals have no legal or moral entitlement to the proceeds of their crimes and, where property is used to facilitate criminal activity, that property will be forfeited to the Territory.

The need for strong and effective laws for the forfeiture of proceeds of crime is self-evident. The objective of such laws is threefold:

- (1) to deter those who may be contemplating criminal activity by reducing the possibility of gaining a profit from that activity;
- (2) to prevent crime by diminishing the capacity of offenders to finance future criminal activities; and
- (3) to remedy the unjust enrichment of criminals who profit at society's expense.

Since the 1980s, all Australian jurisdictions introduced laws enabling proceeds of crime to be confiscated after a conviction had been obtained - that is, conviction-based laws. These laws have not been fully effective. In particular, they have failed to have an impact upon those individuals involved at the more serious levels of criminal activity. Advancements in technology and the ease of national, even global communication allow individuals to be involved in sophisticated and large-scale criminal activity while being distanced from the actual criminal act. These individuals are able to evade conviction and, therefore, place their profits beyond the reach of conviction-based laws.

In its 1999 report entitled *Confiscation That Counts*, the Australian Law Reform Commission concluded that conviction-based laws were