



**DEBATES**  
OF THE  
LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

18 October 2000

**Wednesday, 18 October 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.

**RESIGNATION OF CHIEF MINISTER  
Papers**

**MR SPEAKER:** I wish to advise members that, in accordance with section 45 of the Australian Capital Territory (Self-Government) Act 1988 (Commonwealth), on 17 October 2000 I received a letter from Mrs Carnell, Chief Minister, dated 17 October 2000, in which she tendered her resignation as Chief Minister. I present the letter and also a notice in *Gazette No S62* convening a meeting of the Legislative Assembly at 10.30 am on Wednesday, 18 October 2000, pursuant to paragraph 40(2)(b) of the Australian Capital Territory (Self-Government Act) 1998 (Commonwealth), for the purpose of electing a Chief Minister.

**ELECTION OF CHIEF MINISTER**

**MR SMYTH:** Mr Speaker, I propose that Gary Humphries be elected as Chief Minister for the Australian Capital Territory and I move:

That Mr Humphries be elected Chief Minister for the Territory.

**MR SPEAKER:** Is there any further proposal?

**MR QUINLAN:** Mr Speaker, I propose that Jon Stanhope be elected as Chief Minister for the Australian Capital Territory and I move:

That Mr Stanhope be elected Chief Minister for the Territory.

**MR SPEAKER:** Are there any further proposals? Thank you. The time for proposals has expired. There being more than one candidate proposed, the election of a Chief Minister will proceed by ballot.

**Mr Stanhope:** I wish to speak to my nomination, Mr Speaker.

**MR SPEAKER:** Thank you. Of course. Debate may now ensue.

**MR STANHOPE** (Leader of the Opposition): Mr Speaker, a vote for the election of the Chief Minister is a very important vote. The vote today has an additional significance. It reaffirms the process for resolving a lack of confidence by the Assembly in a Chief Minister. The Assembly's determination to hold Mrs Carnell to account may have been a crisis for her and members of her government—

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**Mr Moore:** I raise a point of order, Mr Speaker. Whenever we speak we must be relevant. What Mr Stanhope has already said indicates that he is speaking to a no-confidence motion. This is not a no confidence motion. We are talking about the election of a Chief Minister, not who has gone.

**MR SPEAKER:** Mr Stanhope, whilst you may develop an argument for your own candidature, I would ask you to be aware of the matter that we are discussing, which is a proposal to elect a new Chief Minister, not any other matter.

**MR STANHOPE:** Thank you, Mr Speaker. The Assembly's determination to hold Mrs Carnell to account may have been a crisis for her but it has not been a crisis for the Assembly or the community. The ACT (Self-Government) Act, our constitution, provides the mechanisms to resolve these issues and the process is clear. This clarity has been missing at times over the last 15 months or so. It was first lost, for instance, when Mr Moore and other ministers declared that they would not accept nomination as Chief Minister. That declaration persisted until yesterday, when it disappeared in a flash.

Clarity was missing as late as Friday when Mr Osborne introduced another apparently new standard to ACT politics. He proposed, in concert with the government, that we have an early election. That proposal required amendment of the Electoral Act and seriously compromised our constitutional arrangements. As always, anything old is new again.

That deal evaporated yesterday when Mrs Carnell and Mr Osborne found a late developing concern for the stability of our system of government. Anyone with a concern for our system of government, and standards new or old, would not have made that suggestion in the first place and would not have waited for the storm of public protest before withdrawing it.

Mr Speaker, I am standing for election as Chief Minister because I have the capacity to do the job properly. I will be supported by a cabinet of capacity. As Chief Minister I will restore faith in the processes of government. I will rebuild the public service and restore its confidence, and restore the confidence of the public in the public service. Mr Speaker, I will restore the integrity of our decision-making process and make government open and accountable. I ask the Assembly for its support in this ballot.

**Mr Moore:** Mr Speaker, under standing order 46, I wish to make a personal explanation. Mr Stanhope, at the beginning of his speech, raised the issue that in some way I had refused nomination as Chief Minister. Mr Speaker, I have never been nominated and I have never refused nomination. It is an inaccuracy from the man who talks about integrity.

**MR HUMPHRIES:** Mr Speaker, I also wish to speak to the matter of my candidature for this position. I will not take my full five minutes. Yesterday I was honoured to be chosen by my colleagues in the Liberal Party room and elected leader of the Liberal Party of the ACT. I thank those members for that confidence. As the leader of the party which was endorsed overwhelmingly at the last election to be the government of the ACT, I offer myself as a candidate for Chief Minister at this time. I ask for the support of members to respect not only the decision taken by the Liberal Party room yesterday but also the decision taken by the electors of the ACT at the last election.

The Labor Party has told the community that the motion to move no confidence in the Chief Minister of the ACT was not a grab for power, yet today Mr Stanhope has risen as a candidate for Chief Minister in this place. Mr Speaker, there was a clear decision by the electors of the ACT at the last ACT election, and it is dangerous indeed for the fabric of self-government in this territory if the Assembly is to decide to change the government of the day when the electors have indicated no such intention.

**Mr Quinlan:** Why did you sign that letter?

**MR SPEAKER:** Order! Mr Stanhope was heard in silence. I expect the same courtesy to be extended to Mr Humphries.

**MR HUMPHRIES:** If they do so, Mr Speaker, in 12 months time we will all, as democrats, accept that result; but that has not been the decision of the electors to date and therefore it is appropriate for there to be a government elected from this side of the chamber.

*A ballot having been taken—*

**MR SPEAKER:** The result of the ballot is: Mr Humphries, 10 votes; Mr Stanhope, seven votes. Therefore Mr Humphries, the candidate with the majority of votes, is declared Chief Minister.

**MR HUMPHRIES** (Chief Minister): I seek leave to make a short statement, Mr Speaker.

Leave granted.

**MR HUMPHRIES:** I thank members. Mr Speaker, I want to thank members who have reposed confidence in me to form a government in the ACT. A great responsibility has been placed in my hands and I intend to discharge that responsibility diligently and passionately. I have understudied this role for a great many years. I am the only Chief Minister to come to the role of Chief Minister with any previous experience as a minister. Clearly, I will need every bit of that experience, as I suspect that the honeymoon I will receive, if any, will be very short.

I want to put on record my appreciation for the work of the retiring Chief Minister, Kate Carnell. I am reminded a little of the words from *Julius Caesar*: "I come to bury Caesar, not to praise him." The achievements of the retiring Chief Minister have been myriad and tangible. History, I think, will better remember and understand her achievements than her failings.

Mr Speaker, I recall very clearly what I was doing this day 20 years ago. Members might not be able to do that. I remind members that this day 20 years ago there was a federal election and Malcolm Fraser won his last term as Prime Minister of Australia. At that stage I had recently joined the Liberal Party and was appointed booth captain for the Kaleen South polling booth at that election. That was an exciting experience for me in politics, and the excitement has kept on coming in the years since.

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I consider today, Mr Speaker, how much the ACT has changed in those 20 years since that day. Probably in no period has it changed as much as it has in the last six years. The former Chief Minister, Kate Carnell, takes much of the credit for that change. Among many other achievements, the ACT economy today is stronger, not just in the cyclical sense of being in an upswing rather than a downswing at the moment. It is quite demonstrably more sustainable than it was in the past and better able to withstand the downturns and reverses that inevitably come any economy's way. Kate Carnell takes that knowledge with her, brought down, as she has been, by people whose vision and whose energy is greatly inferior to her own.

The ACT can face a confident future. I intend to lead a government which will further secure that future. I know I have the support in that venture of wonderful colleagues, dedicated staff, an outstanding public service, and, of course, my own family who I have asked to forgive me in advance for neglecting them over the next year.

Once again, Mr Speaker, I thank the house.

**MR STANHOPE** (Leader of the Opposition): I seek leave to make a short statement.

Leave granted.

**MR STANHOPE:** Mr Speaker, I would like to take the opportunity to congratulate Mr Humphries on his election as Chief Minister. It certainly is a very significant and signal honour to be elected as Chief Minister of the ACT, and it is an achievement that Mr Humphries can be justly proud of. I think it is an acknowledgment of his standing within his party room, and I am sure it reflects the respect with which his party holds him. I guess to that extent it reflects the length and breadth of his political experience.

Mr Humphries commented on his doubts or concerns about the length of the honeymoon that he will receive as a new Chief Minister. I am sure Mr Humphries will receive a honeymoon of a length that he deserves, and we, of course, will look forward to having some contribution to that.

Once again, Mr Speaker, on behalf of myself and the Labor Party, I congratulate Mr Humphries on this honour today.

**CHIEF MINISTER**  
**Motion of Want of Confidence**

*Notice No 1 having been called on and the member failing to move the motion—*

**MR SPEAKER:** Pursuant to standing order 128, the motion will be withdrawn from the notice paper.

**MINISTERIAL APPOINTMENT—MS CARNELL MLA**

**MR STANHOPE** (Leader of the Opposition): Mr Speaker, I ask for leave to move a motion arising out of the resignation of Ms Carnell as Chief Minister.

Leave not granted.

**Suspension of Standing and Temporary Orders**

**MR STANHOPE** (Leader of the Opposition) (10.49): Mr Speaker, I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Stanhope from moving a motion arising out of the resignation of Ms Carnell as Chief Minister.

Mr Speaker, I move this motion with some regret. I had hoped that the resignation of Ms Carnell yesterday as Chief Minister would have put an end to the need for this motion today. The concern that the Labor Party has, and it is a genuine and appropriate concern, is the expressed intention of the then Chief Minister elect to appoint Ms Carnell to the ministry. The Labor Party thinks that is simply inappropriate.

The Labor Party's concerns arise out of the expressed views of the now Chief Minister that he is actively considering the possibility or the prospect of appointing Ms Carnell to the ministry. Our view, the view which we wish to debate in this place, is that that is simply inappropriate. It is unprecedented. It would be unprecedented in any parliament in Australia for a minister who resigns as a result of a no confidence motion to be immediately recycled back into the ministry. That this is an appropriate standard to apply to this parliament, or to any parliament, is something with which we simply will not agree. The prospect that someone facing a no confidence motion, which they know they will not survive, simply resigns and then rotates straight into another ministry—

**Mr Moore:** Mr Speaker, this is about the suspension of standing orders.

**MR SPEAKER:** Yes. Please remember that we are dealing with a very narrow debate here, Mr Stanhope.

**MR STANHOPE:** Absolutely—the need for the suspension of standing orders to allow debate on this basis to proceed. That is an issue. This is unprecedented. It is an attack on the basis of a no confidence motion. This parliament has effectively expressed its want of confidence in the former Chief Minister. The former Chief Minister acknowledged that by resigning yesterday in the face of that motion. That is the basis of and the reason for the Chief Minister's resignation. We know that. Yet we are faced today with the prospect that that minister who has that want of confidence will go straight back into the ministry. It is unprecedented that that device would be used. In any circumstance where a minister is sin-binned as a result of a motion of want of confidence or as a result of a censure—

**Mr Moore:** Mr Speaker, I take a point of order.

**Mr Hargreaves:** Sit down, Michael.

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**Mr Moore:** I am entitled to take a point of order, Mr Hargreaves. The point of order, Mr Speaker, is that you have always been very careful that debate on the motion for a suspension of standing orders does not go to the substantive motion.

**Mr Berry:** Hang on. Mr Speaker, it is very difficult to speak to a motion to suspend standing orders without referencing the motion which you wish to debate. It is almost impossible. Does it mean that we would just rise in this place and say, "I wish to suspend standing orders," and be able to make no further contribution to debate? Mr Moore's proposal is absolutely silly.

**MR SPEAKER:** I am afraid, Mr Berry, that I am not responsible for the standing order, but the fact is I do have to enforce it. Mr Stanhope, please be aware of the narrowness of what we are discussing, which is leave not being granted for the suspension of standing orders.

**MR STANHOPE:** Thank you Mr Speaker. Leave should be granted to allow this matter to be debated: that, having regard to the circumstances of Mrs Carnell's resignation, she not be recycled immediately back into the ministry, into the cabinet. It is a nonsensical notion that a person who resigns from the ministry in the face of a motion of no confidence should then go straight back onto the front bench and into the cabinet as a minister.

It is also, in our contention, simply unacceptable that a minister should resign, signal that she intends to go straight into the private sector as soon as an appropriate offer is presented, but says she wants to remain in the ministry. This represents an outstanding conflict, an unacceptable conflict, of interest. Can you imagine in any other parliament a minister signalling, "Look, I have had enough of this. I want out. I want to go into the private sector. I want to go into the corporate world, but I want to remain in the ministry until I get the job offer that suits me." Is that not the most staggering conflict of interest that you can imagine? What if Costello, up in the house as Treasurer, said, "I propose—

**Mr Moore:** Suspension of standing orders, Mr Speaker.

**MR SPEAKER:** Order! You are now debating the main point.

**MR STANHOPE:** It is not. It is a justification of the need for this important issue of principle to be debated. We have this range of issues. This is not a sin-bin offence that the Chief Minister has committed; it is a send-off offence. If one is sin-binned one can at least sit on the sideline, perhaps. If one is sent off one takes no further part in the game. This is a send-off offence that we have dealt with. The former Chief Minister has acknowledged that it is a send-off offence. When you are sent off you do not even lurk on the sideline, let alone remain part of the game. We have this amazing—

**MR SPEAKER:** Order! The member's time has expired.

**MR MOORE (10.55):** Yes, Mr Speaker, but when you walk off from a game of soccer or basketball, using the Olympics, you have a chance of course to walk on.

**Mr Stanhope:** Oh, there is no acknowledgment! There was no blame! "Don't blame me; I'm Kate Carnell!"

**MR SPEAKER:** Order! Settle down or somebody else will be walking off very quickly.

**MR MOORE:** Mr Stanhope suggests that this is because of a motion of no confidence. No no-confidence motion against Mrs Carnell has been carried. She chose, under pressure—nobody is missing that—to resign. Mr Stanhope continuously said through his speech that there is no precedent. Well, in fact, a person I consider now to be a very good friend, the health minister in South Australia, Mr Dean Brown, under a great deal of pressure, was forced from the premiership of South Australia and immediately was appointed by the Premier to be the health minister.

**Mr Corbell:** What an absurd suggestion.

**MR MOORE:** Mr Corbell, this is very upsetting. It is a precedent that exists and you have had to listen to your leader say that there is no precedent.

**Mr Corbell:** He was forced out by a party room too.

**Mr Quinlan:** The standing orders, Mr Speaker.

**MR SPEAKER:** He is responding to Mr Stanhope.

**Mr Quinlan:** Oh, it's okay. All right. I will respond to him.

**MR MOORE:** Of course there is a precedent. Mr Brown resigned from the premiership and was then appointed to a ministry. This is not uncommon. Even if there was not a precedent it is also reasonable to say there is no precedent for an independent member being appointed a minister. Things do happen here that are different.

**MR SPEAKER:** Mr Moore, do not debate the substantive motion, please.

**MR MOORE:** Than you, Mr Speaker. I hope you give me the same liberal approach that you gave to Mr Stanhope.

**MR SPEAKER:** Careful, careful.

**MR MOORE:** I shall be careful. Mr Speaker, I think this is a fairly simple and a fairly straightforward issue. Mr Stanhope stood and began his speech by saying that he had hoped that the resignation of Mrs Carnell would have been the end of this matter. I do not think there is a single person in this room who would believe that, Mr Speaker. His very standing to move the motion that he has circulated to members about Mrs Carnell, the motion that in view of the circumstances of her resignation she should not be appointed as a minister during the term of the Fourth Assembly, is interesting in itself because it does raise the very spectrum—

**Mr Quinlan:** You guys don't get it, do you?

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**MR MOORE:** Mr Speaker, there is something else that is extraordinarily important. Mr Humphries has said, "I shall appoint my ministry." He has not given any indication of how he is doing it, but he said he has not closed off any options. That, of course, is what concerns—

**Mr Quinlan:** You don't get it, do you? You just don't get it.

**MR MOORE:** I hear Mr Quinlan saying, "You just don't get it." This is the same Mr Quinlan who was on radio this morning saying that Gary Humphries has broken the law. He just asserts these things and we have a radio station that is stupid enough to run any kind of assertion. This is from a person who said, "We don't want to continue this matter because, after all, it was resolved by Mrs Carnell's resignation."

Mr Speaker, the critical issue here is that no no-confidence motion was carried against Mrs Carnell. When we are talking about parliamentary process, that is the critical factor. That is the absolutely critical factor. That members wish to express an opinion to a Chief Minister who will appoint the ministry as he sees fit is, of course, entirely appropriate, and they can do that in a range of ways.

When Mr Kaine was Chief Minister and he appointed his ministry he understood the ramifications of what he was doing. He understood how people felt. I do not remember any discussions, but I know Mr Kaine knew that I would disagree with him about the appointment of some of the ministers that he appointed. I recognised that it was his prerogative.

**Mr Kaine:** You just copped out.

**MR MOORE:** It was his prerogative. Maybe it took me a few too many years, Mr Kaine. The reality is, Mr Speaker, that there has been no no-confidence motion. The suspension of standing orders is entirely inappropriate at this time. We have just had a new Chief Minister appointed. That new Chief Minister does deserve to be given some time to consider the issues properly. In every case that a Chief Minister has been appointed in the middle of a sitting, the Assembly has largely risen, apart from dealing with some mechanical matters, and he has been given the opportunity then to do the work and appoint his own ministry. Mr Speaker, we should oppose this motion for the suspension of standing orders.

**MR OSBORNE (11.00):** Mr Speaker, I am a little bit confused because I heard Mr Stanhope attack me earlier today for daring to suggest that we do something that is not in the ACT constitution. I seriously took that criticism on board, Mr Speaker, so I thought I would go to the ACT constitution. This is the thing that I dare to suggest we contravene when we go to an election to change government. I did take his criticism on board, but I am a little bit confused. I am confused because that same man who attacked me 10 minutes ago is now attempting to do the same thing. I don't quite know what to do, Mr Speaker. If Mr Stanhope could just clarify his hypocrisy—

**Mr Berry:** I take a point of order, Mr Speaker. I am sure you would not have allowed this motion if it was out of order. Would you confirm—

**MR SPEAKER:** There is no point of order.

**Mr Berry:** Okay. The motion is in order.

**MR SPEAKER:** There is no point of order, Mr Berry.

**Mr Berry:** The motion is in order, Paul.

**MR SPEAKER:** There is no point of order.

**MR OSBORNE:** Mr Speaker, I never once said that it was out of order. I just said that I am confused.

**Mr Berry:** Fine, good.

**MR SPEAKER:** The chair has made no claim to that effect. It is up to the Assembly.

**MR OSBORNE:** If you are going to be a hypocrite you would wait at least 10 minutes before you do it, surely. Perhaps when Mr Stanhope sums up he could explain the sudden turnaround on the constitution in the last 10 minutes.

**MS TUCKER (11.02):** I will speak briefly to this motion. This is a debate about whether or not we can debate, as a parliament, a very important issue that should be of concern to the whole ACT as a community. I believe it would be of concern that we at least have the right to have this debate. If we do not have this debate today we will have it another day if Mrs Carnell is made a minister. We will obviously have that debate because there will be a no confidence motion put against her as that minister. I am assuming that the Labor Party would be considering that, and I certainly would be. We would want to see that debate.

This is about democracy. This is about the right to discuss an important issue. Mr Rugendyke and Mr Osborne claim they want an early election because they have great respect for democracy. I ask them to give this parliament the right to have this debate now.

**MR BERRY (11.03):** Mr Speaker, this debate is merely about the suspension of standing orders to consider a matter which is important so far as the standing orders of this Assembly are concerned. Mr Osborne's contribution to the debate merely muddied the waters a little bit. I think you agree that the motion is completely in order. Nice try, Ossie, but it is still in order, and it is a motion that should reasonably be considered by this place.

I do not think there is any doubt in this place that the majority of members have had no confidence in this former minister because of the way she handled her job. It is merely a test of this Assembly, through this motion for the suspension of standing orders, to discover whether this Assembly would support her being appointed as a minister again. If it is the wish of this Assembly for her to be recycled, then it is most important that those members who think she ought to be recycled be counted. I see nothing wrong with that and I think it is a very good argument for having the debate now instead of running away from it. Do not run away from the debate.

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**MR QUINLAN** (11.04): Mr Speaker, I think this matter must be debated, and it must be debated now. Mrs Carnell has resigned as Chief Minister, and has effectively resigned as a minister, because of the Bruce Stadium scandal, and we accept that. We accept that as full admittance of culpability. It is my view that she should be given the opportunity to step down with dignity and with grace, but that is largely within her control and within the control of the newly appointed Chief Minister. As I said, I would be happy to fall in with this dignified exit. But this rank abuse of accepted practice is—

**MR SPEAKER:** Order! The time for debate in relation to the standing and temporary orders being suspended has expired.

Question put:

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

The Assembly voted—

Ayes, 8

Noes, 9

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Quinlan  
Mr Stanhope  
Ms Tucker  
Mr Wood

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak

Question so resolved in the negative.

## SUSPENSION OF STANDING AND TEMPORARY ORDERS

**MR BERRY** (11.07): Mr Speaker, I move:

That so much of the standing orders be suspended as would prevent private Members' business orders of the day Nos 29 and 30 relating to the Occupational Health and Safety Amendment Bill 2000 (No 3) and the Dangerous Goods Amendment Bill 2000 being called on forthwith and in seriatim.

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

That the question be now put.

**MR BERRY:** Mr Speaker, I need to explain why standing orders should be suspended.

**MR SPEAKER:** The question is that the question be put.

**MR BERRY:** It is within your discretion, Mr Speaker, to allow debate—

**Mr Moore:** It is not on the program, Mr Speaker. He did not seek leave and I have moved that the question be put.

**Mr Humphries:** You agreed that—

**MR BERRY:** No, I did not. I wrote you a letter and told you that there were—

**MR SPEAKER:** Order!

**MR BERRY:** Mr Speaker, it is within your discretion to allow me to speak on this matter.

**MR SPEAKER:** You can only speak as to why you wish to bring the bills forward.

**MR BERRY:** Indeed, that is what I want to do. Mr Speaker, this motion relates to two pieces of legislation, the effect of which will be lost on 4 November if the Assembly does not agree to extend the period in which a prosecution may be brought before the courts. This Assembly has previously endorsed an extension which the government opposed. If we do not act today to again extend the period we will be faced with the prospect of having to do so retrospectively on 28 November. Therefore, it makes sense to deal with this today.

Mr Speaker, this debate is an old one and it would not take long to put it again. Members all understand the issues, which are about being timely in dealing with the matter. That is why the standing orders ought to be suspended.

**MR HUMPHRIES** (Chief Minister) (11.09): Mr Speaker, I oppose the suspension of standing orders, for two simple reasons. First of all, I understand that there was discussion some week or so ago in the Administration and Procedure Committee about business for today. At that time, as I understand it—I was not there, of course—there was no proposal put forward by the Labor Party for this or any other bill to be debated today. In fact, it was the indication of the Labor Party at that meeting that there would be no other private members business dealt with today.

**Mr Berry:** Other than the no-confidence motion.

**MR HUMPHRIES:** That has now lapsed because the Chief Minister has resigned. So that may indicate that no other business was to be dealt with today.

Secondly, Mr Speaker, I received a letter from Mr Berry this morning, today, telling me that he wanted to bring on private members business, notwithstanding the earlier indication from the Labor Party. Again, no mention was made of these bills. If the Labor Party had indicated to the government that there was some urgency we would have been able to consider that. But they have not done so. They tend to proceed obviously by way of ambush. In the circumstances, they should fall on their own tactics.

**Mr Berry:** That was a shocking Gary, Mr Speaker.

**MR SPEAKER:** Order! Sit down, Mr Berry.

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**Mr Berry:** This matter was brought to that minister's attention yesterday.

**MR SPEAKER:** Sit down.

Question put:

That the standing and temporary orders be suspended.

The Assembly voted—

Ayes, 10

Noes, 7

Mr Berry

Ms Carnell

Mr Corbell

Mr Cornwell

Mr Hargreaves

Mr Hird

Mr Kaine

Mr Humphries

Mr Osborne

Mr Moore

Mr Quinlan

Mr Smyth

Mr Rugendyke

Mr Stefaniak

Mr Stanhope

Ms Tucker

Mr Wood

Question so resolved in the affirmative.

### **OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 3)**

Debate resumed from 6 September 2000, on motion by **Mr Berry**:

That this bill be agreed to in principle.

**MR MOORE** (11.12): I move:

That the debate be adjourned.

Mr Speaker, there are no ministers here to respond to this matter. It is entirely inappropriate that it should be brought on.

**MR SPEAKER:** The question is that the debate be adjourned. Those of that opinion say aye, to contrary no. Mr Moore, where are you going?

**Mr Berry:** He wants to—

**MR SPEAKER:** Order!

**Mr Corbell:** On a point of order, Mr Speaker: Mr Moore called that the noes have it. He shouldn't leave his seat. You should draw that to his attention, Mr Speaker.

**MR SPEAKER:** There is no point of order. Lock the doors, please.

Question put:

That the debate be adjourned.

The Assembly voted—

Ayes, 9

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak

Noes, 8

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Quinlan  
Mr Stanhope  
Ms Tucker  
Mr Wood

Question so resolved in the affirmative.

### **DANGEROUS GOODS AMENDMENT BILL 2000**

Debate resumed from 6 September 2000, on motion by **Mr Berry**:

That this bill be agreed to in principle.

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

That the debate be adjourned.

The Assembly voted—

Ayes, 9

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak

Noes, 8

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Quinlan  
Mr Stanhope  
Ms Tucker  
Mr Wood

Question so resolved in the affirmative.

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## PRIVATE MEMBERS BUSINESS

**MR KAINE:** Mr Speaker, I direct your attention to standing order 77(a), which states:

On sitting Wednesdays private Members' business shall have precedence of Executive business;

Today is Wednesday, and the very first time a member seeks to bring up a matter concerning private members business we vote it out of order. I would like a ruling from you, Mr Speaker, as to whether or not today is a private members business day. The urgent matter that we sat to deal with has been dealt with. Are we now to revert, under the standing orders provision, to private members business or are we not? I would like a ruling on that matter.

**MR SPEAKER:** In answer to the second part of your question: no, we are not going to revert. The Assembly decided to adjourn the two items raised by Mr Berry which were, if you wish, private members business. I am in the hands of the Assembly. The Assembly chose to adjourn the debate, as we could have done if this were a normal private members business day. It is not unusual on a Wednesday to have private members business adjourned. That is what happened today. But we are not intending to revert to any other arrangement.

**MR KAINE:** I take it, though, Mr Speaker, that I can move the adjournment of every item of government or executive business that is brought up today and that will be accepted. As long as I know the rules.

**MR SPEAKER:** You may try, Mr Kaine, you may try.

## LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) AMENDMENT BILL 2000

**MR HUMPHRIES** (Chief Minister): Mr Speaker, I ask for leave to present the Legislative Assembly (Members' Staff) Amendment Bill 2000.

Leave not granted.

## SUSPENSION OF STANDING AND TEMPORARY ORDERS

**MR HUMPHRIES** (Chief Minister) (11.19): I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Humphries presenting 10 Bills listed on the *Daily Program*.

Mr Speaker, notice of these bills was given informally to members yesterday. The bills are all important and they need to be put on the table for consideration by the community as well as the Assembly.

**Mr Quinlan:** Who says?

**MR HUMPHRIES:** Mr Quinlan can debate that when the bills come up but they are all matters of substance and importance. Mr Speaker, I think it would be unfortunate if the bills were not presented today. If they are not presented today, members will undoubtedly be confronted with the problem in the future of having to deal with them without adequate time to consider them properly. I therefore ask members to agree to the motion to enable these bills to be presented.

**MR BERRY (11.20):** Just a few moments ago the government protested vigorously that two urgent matters of private members business could not be considered because there were no ministers available. Now all of a sudden there is the required number of ministers to deal with this issue. I sense a stench of hypocrisy, which is not a good omen for the leadership of the new Liberal government by Mr Humphries. Mr Speaker, this hypocrisy is breathtaking. On the one hand you resist, not because it was procedurally unfair to deal with the motions but because you oppose them, and you use the phoney argument that you have no ministers.

I have no doubt that Mr Moore said to Mr Osborne and Mr Rugendyke that they have no minister to deal with it, so we cannot deal with the occupational health and safety matter and the dangerous goods matter. Mr Humphries, in my recollection of this, was a strident debater against the proposals which I put forward before.

**MR SPEAKER:** Order! We are not debating those two matters. They have been adjourned.

**MR BERRY:** Mr Speaker, if it is good for the goose, it is good for the gander here. If there is no minister here to argue important issues which need to be dealt with because they are date sensitive then I submit that there is no minister here to introduce bills.

Question put:

That the standing and temporary orders be suspended.

The Assembly voted—

Ayes, 11

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Kaine  
Mr Moore  
Mr Osborne  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak  
Ms Tucker

Noes, 6

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Quinlan  
Mr Stanhope  
Mr Wood

Question so resolved in the affirmative.

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**LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) AMENDMENT BILL 2000**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.25): I move:

That this bill be agreed to in principle.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, I am pleased to present the Legislative Assembly (Members' Staff) Amendment Bill 2000, which clarifies the employment conditions of Members' staff.

Mr Speaker, the Legislative Assembly (Members' Staff) Act provides for default links to standard employment conditions in the ACT Public Service where conditions are not already specified in the Act or in employment agreements. While the majority of employment conditions of Members' staff are now covered by employment agreements, conditions such as maternity leave continue to be derived from the ACT Public Service.

The introduction in recent years of agency-based enterprise agreements has allowed for significant improvements in conditions for staff in the ACT Public Service. However, this has also meant that there is no longer a 'standard' set of employment conditions that apply across the Service, apart from those provided by the Public Sector Management Act and Management Standards. In other words, Mr Speaker, the current default links to conditions in the ACT Public Service are ambiguous and need to be clarified.

Mr Speaker, the Bill will provide that clarity by replacing the reference in the Act to 'standard conditions in the Government Service', with a specific link to the *Public Sector Management Act 1994* and Management Standards. This will preserve the existing employment conditions of Members' staff including access to relevant conditions in the ACT Public Service. The current employment agreements are unaffected by the Bill.

Mr Speaker, the Legislative Assembly (Members' Staff) Act contains links to the repealed Commonwealth *Merit Protection (Australian Government Employees) Act 1984*. Last year, amendments were passed in the Assembly to preserve the existing role of the Commonwealth Merit Protection Commissioner in relation to review processes and reintegration assessments, notwithstanding the repeal of the Merit Protection Act.

These amendments to the Legislative Assembly (Members' Staff) Act mirrored amendments to the Public Sector Management Act and the Fire Brigade (Administration) Act to preserve existing review systems. However, as I made clear at the time, these were interim arrangements that would operate only until 31 December 2000.

Mr Speaker the Bill would retain the existing arrangements for review of employment decisions. This means that ACT Public Service review arrangements would apply unless individual employment agreements specified other arrangements.

New review arrangements have been proposed for the ACT Public Service which provide a system of fair and open review, including the right of review of employment-related decisions by Chief Executives, with a second tier review right on procedural grounds by the Commissioner for Public Administration.

Under this Bill, any new ACT Public Service arrangements would translate to staff of Members unless their employment agreements specified a different mechanism.

Under the proposed Public Sector Management Act review arrangements, where the original decision involved the employing Member, the Member would need to have an independent person review the decision and make recommendations to them. If staff thought that the decision of the Member was not fair, they would have a right to seek a review on procedural grounds by the Commissioner for Public Administration.

Mr Speaker, unless staff agree otherwise, the existing employment agreements would continue to apply. Most employment agreements specify a simple mechanism for the resolution of such matters, which allow staff and their employing Member to agree on an independent mediator.

Only those staff who had elected to retain links to public service review processes would have access to the ACT Public Service review arrangements—including any new arrangement that might subsequently be introduced. The Bill also offers staff the chance to choose specific review processes similar to those of the majority of Members' staff. This would operate as a variation to their employment agreement, with the agreement of their employing Member.

Mr Speaker, this Bill also preserves the reintegration assessment rights of ACT public servants who are employed in Members' offices. This is in recognition of the value of the experience gained by these staff while working in the Legislative Assembly.

Mr Speaker, this Bill will put in place reintegration arrangements that do not rely on links to repealed Commonwealth legislation. Under these amendments, reintegration assessment panels convened by the Commissioner for Public Administration would replace the role of reintegration assessment committees constituted by the Commonwealth Merit Protection Commissioner.

Mr Speaker, it is important to remember that reintegration is a public service arrangement to determine suitable placements upon return to the public service. As reintegration involves not only a right to return to the ACT Public Service, but also a right to seek an assessment for a higher level classification or salary upon return,

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the process should be in line with the processes that are in place in the ACT Public Service.

Therefore, under the Bill the panels would include a nominee of the relevant Chief Executive, and a nominee of the Commissioner for Public Administration. In addition, Mr Speaker, following consultation with Members, their staff and the union, the Bill now incorporates an 'independent officer' of the ACT Public Service on the panel.

Mr Speaker, this approach will provide further balance on the panels and is consistent with similar arrangements proposed for the ACT Public Service. In the Government's view this approach is more appropriate than legislating for union representation, as has been suggested by one union.

The reintegration assessment panels would make recommendations to the Commissioner for Public Administration for determination of an appropriate classification and rate of salary. The independent statutory role of the Commissioner for Public Administration means that the Commissioner would be best placed to make that determination.

Mr Speaker, in summary, the main objectives of the legislation are:

- to clarify, the employment conditions of Members' staff, through default links to the Public Sector Management Act and Management Standards;
- to ensure that the amended review framework under the Public Sector Management Act can be available to staff employed under the Legislative Assembly (Members' Staff) Act when the interim arrangements expire on 31 December 2000; and
- to put in place more appropriate reintegration assessment arrangements, which do not rely on links to repealed Commonwealth legislation.

It is important to remember that existing employment conditions of Members' staff are retained under these amendments. There has been a process of consultation with Members, their staff and the union. Changes to the legislation have been made to address the main issue raised during consultation.

Mr Speaker, I commend the Bill to the Assembly.

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

## **TREASURY AND INFRASTRUCTURE LEGISLATION AMENDMENT BILL 2000**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.26): I move:

That this bill be agreed to in principle.

I seek leave of the house to have my presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, this Bill provides omnibus legislation to implement a range of minor amendments covering a number of different Acts which have administrative ownership within the Department of Treasury and Infrastructure. The Bill amends, where appropriate, the *First Home Owners Grant Act 2000*, the *Gaming Machine Act 1987* and the *Rates and Land Tax Act 1926*.

Mr Speaker, the guiding principles set out in the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (IGA) for the First Home Owner Grant (FHOG) state that “Eligible applicants must be natural persons who are Australian citizens or permanent residents”.

In drafting FHOG legislation, all States and Territories included provisions which made Australian citizens and permanent residents, within the meaning of section 30 of the *Migration Act 1958* (Cwlth), eligible for the FHOG. Unfortunately Mr Speaker, this does not encompass New Zealand citizens permanently resident in Australia.

The Assistant Commonwealth Treasurer, Senator Kemp, wrote to all State and Territory jurisdictions expressing the Commonwealth’s view that “it would be highly desirable” if the States and Territories extended eligibility to New Zealand citizens permanently resident in Australia. After considering the issue, I wrote to the Commonwealth agreeing that the ACT would amend the FHOG legislation accordingly.

All other jurisdictions have already legislated for the necessary changes or are in the process of doing so.

In addition Mr Speaker, so as not to disadvantage these New Zealand citizens, the amending provisions are to be given effect from 1 July 2000, in line with the commencement of the FHOG scheme.

Mr Speaker, Members may recall that in July this year a majority of Members consented to the making of the Goods and Services Tax Consequential Regulations 2000, under the *Goods and Services Tax (Temporary Transitional Provisions) Act 2000*.

This regulation modified subsection 58A(1) of the *Gaming Machine Act 1987* to correct a timing issue with regard to the adjustment of gaming machine taxes to account for the GST.

As the GST (Temporary Transitional Provisions) Act only provides for the making of temporary transitional arrangements with respect to the implementation of the GST, the effect of the regulation is limited in time to 31 October 2000.

This Bill therefore provides a permanent amendment to the Gaming Machine Act to clarify that the GST must have already been paid by gaming machine operators on their margins in order to claim against their ACT gambling tax liability.

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Mr Speaker, in order to maintain the regulation's effect, and to provide ongoing certainty for gaming machine operators, it is proposed that the amendment will be taken to have commenced on 1 November 2000.

Finally Mr Speaker, advice from the ACT Government Solicitor's office has confirmed that where a person purchases a property that is already tenanted and the new owner continues that tenancy, the Commissioner for ACT Revenue is not required to be informed, for land tax purposes, because there is no change in circumstances surrounding the use of the property.

Unfortunately Mr Speaker, in these circumstances, there is no obligation under the Rates and Land Tax Act on the new owner to notify the Commissioner that the property is liable for land tax. Consequently, the new owner may delay or avoid land tax and effectively transferring the onus of detection and liability notification to the Commissioner.

This Bill therefore proposes to amend the Rates and Land Tax Act to provide that if a person becomes the owner of land that is subject to land tax, and the land continues to be subject to land tax under the new ownership, that person must notify the Commissioner of that fact.

In conclusion, Mr Speaker, it is anticipated that this omnibus legislation will become a regular feature of the legislative program and will obviate the need to present numerous minor bills into the Assembly and therefore contribute to the more efficient passage of Assembly business.

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

### **RATES AND LAND RENT (RELIEF) AMENDMENT BILL 2000**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister ) (11.27): I move:

That this bill be agreed to in principle.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, this Bill amends the *Rates and Land Rent (Relief) Act 1970* (the Act) to provide all persons in the ACT holding a Gold Card issued by the Commonwealth Department of Veterans' Affairs (DVA); with the same land rates concessions provided to pensioners and other recipients of Social Security benefits and allowances specified under the Act.

Mr Speaker, the Government announced on 10 August 2000 that it would extend the eligibility for concessions on ACT Government services to all DVA Gold Card holders residing in the ACT. The decision to widen ACT Government concessions to include all DVA Gold Card holders follows the Commonwealth Government's decision to extend eligibility for the DVA Gold Card to include any veteran with eligible war service in World War 2. There are about 1,000 such veterans in the Territory.

Mr Speaker, the Bill amends the definition of "pensioner" under the Act so that all DVA Gold Card holders will be eligible for a rebate and, if they so choose, deferment of the unrebated balance of their rates.

DVA Gold Card holders will receive a rebate on their land rates, in respect of the property which they own and reside in, of 50% of their liability, up to a maximum of \$250 annually.

Given that land rates are annual charges, the effective date for these amendments will be backdated to 1 July 2000. This will ensure that the rebate for rates given to DVA Gold Card holders for the financial year 2000-2001 is consistent with that provided to all other pensioners who were eligible on 1 July 2000.

As I have already mentioned, Gold Card holders will also receive a number of other ACT Government concessions, namely on electricity, motor vehicle registration, motor vehicle licences, and public transport. The cost of extending existing Government concessions is estimated to be \$375,000 per annum, approximately \$98,000 of which will be attributable to the extension of eligibility for rates rebates under this Bill.

The extension of pensioner concessions to all DVA Gold Card holders is in recognition of the valued contribution these veterans, especially World War 2 veterans, have made to Australia and to the people of the ACT.

Mr Speaker, in addition to the amendments to extend concessions to all DVA Gold Card holders, the Bill also includes some minor technical amendments to the Act. These amendments will commence on gazettal of the legislation.

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

### **CRIMES (AMENDMENT) BILL 2000 (NO 2)**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.28): I move:

That this bill be agreed to in principle.

I ask that that the presentation speech be incorporated in *Hansard*.

Leave granted.

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*The speech read as follows:*

Mr Speaker

I present the Crimes Amendment Bill 2000 (No 2)

This Bill replaces the existing section 34A of the *Crimes Act* 1900, which is the provision dealing with stalking.

The existing section 34A has proven overly restrictive and, as a result, only a small number of stalking convictions have been obtained since it commenced operation in 1996. This is of obvious concern to my Government, which recognises the need for strong and effective laws to deal with stalking behaviour. This Bill will strengthen the section in an effective and workable manner.

Currently, a person may only be found guilty of stalking if he or she *intends* to cause serious harm to the victim or a third person, or to cause fear of serious harm in that person.

This is problematic because alleged stalkers often argue that they were ‘in love’ with the victim and did not intend to cause the victim fear. In addition, the requirement that the harm be “serious” is an unnecessary complication to prosecutions under the section.

Accordingly, in order to improve the effectiveness of the section and facilitate the prosecution of stalkers, a number of amendments to section 34A are proposed.

Firstly, it will be an offence to stalk someone if *you know* that your behaviour is likely to cause apprehension or fear in the victim or a third person, or if you are *reckless* to that possibility. These grounds are in addition to the actual intent ground that currently exists.

This will ensure that offenders who have considered the possibility of their actions causing fear or apprehension, but who proceed with their actions regardless, can be prosecuted for stalking.

People who have genuinely not considered the possible effects of their actions will continue to be dealt with in the first instance by the civil regime, that is, by way of restraining or protection orders. It would not be appropriate to criminalise conduct of this nature. However, if such people are alerted to the possible consequences of their actions but continue with the offending behaviour, they would then be caught by the proposed new recklessness provision..

Secondly, Mr Speaker, it is proposed to add a ground of harassment. This is in response to concerns that proving psychological harm may sometimes require expert evidence from psychiatrists or psychologists. It is not intended that the concept of psychological harm be limited to the sort of harm which requires such evidence to be given in court. Including ‘harassment’ as a ground will remove this difficulty.

Thirdly, it is proposed to exempt conduct engaged in by a person in the course of their employment, as long as that person’s actions are reasonable in the circumstances and are not otherwise unlawful. This will allow people such as bailiffs, sheriffs and other law enforcement personnel, to carry out their lawful duties without leaving themselves open to a charge of stalking.

Finally, all references to “serious harm” in the section will be replaced by references to “harm”. As I mentioned before, the requirement that the harm suffered or feared be “serious” is unnecessary—harm of itself should be sufficient.

Mr Speaker, these amendments have been developed in consultation with the Director of Public Prosecutions, the Legal Aid Office and the Courts. The proposed new section 34A is a balanced and workable provision that will operate in conjunction with the existing civil regime of restraining and protection orders to provide stalking victims with the proper and necessary level of protection.

I commend the Bill to the Assembly.

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

### **ELECTORAL AMENDMENT BILL 2000 (NO 2)**

**Mr Humphries**, on behalf of the Attorney-General, presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.29): I move:

That this bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

This Bill provides for the introduction of electronic voting and voting counting for ACT Legislative Assembly elections.

After the last election the Electoral Commissioner undertook to investigate possibilities for the introduction of electronic voting (E-voting) and vote counting. As a result of these investigations the Commissioner recommended to the Government that electronic voting and vote counting be introduced for the 2001 ACT election.

The Government supports that recommendation.

It is anticipated that for the 2001 ACT election E-voting will be provided in a secure environment at pre-poll centres and a limited number of polling places on polling day. Voters at those polling places will be able to cast their vote using a computer. Paper ballots will also be available for those electors who do not wish to vote electronically.

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E-voting will be combined with manual data entry of paper ballots completed at ordinary polling places on polling day or by postal voters. The data from these ballots will be manually entered into a computerised backend scrutiny system. This data combined with the E-voting data will provide for a fully computerised election count.

This Bill amends the *Electoral Act 1992* and the *Referendum (Machinery Provisions) Act 1994* to allow for:

- electronic ballot papers;
- electronic capture of ballot information; and
- electronic counting of ballots.

The Bill also allows for the use of electronic data to determine outcomes for recounts and for the filling of casual vacancies.

In addition, the Bill allows for:

- the security of electronic voting and vote counting processes;
- processes for disputed elections where electronic voting and counting have been used;
- offences related to interfering with electronic voting or vote counting; and
- publication of electronic voting statistics.

The ACT is the first jurisdiction in Australia to introduce legislation that will allow for electronic voting. While electronic vote counting has been used for the Senate and Upper House elections in Western Australia, South Australia and New South Wales, no other jurisdiction has extended their Electoral Act in the way this Bill does. It is hoped in the future that when suitable and secure technology is available that electronic voting could be extended further to Internet voting.

Mr Speaker, I am pleased to introduce this Bill which will allow electronic voting to be trialled in pre-poll voting centres and a limited number of polling places at the next ACT election in October 2001. It will also allow for the count for the election to be fully computerised.

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

## **ELECTRONIC TRANSACTIONS BILL 2000**

**Mr Humphries**, on behalf of the Attorney-General, presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.30): I move:

That this bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, the Electronic Transactions Bill represents a remarkable achievement by all Australian jurisdictions to commit legislatively to the development of a uniform national scheme to promote electronic commerce in Australia and across the world.

Electronic commerce opens up new competitive horizons with the promise of exciting new business prospects and greater choice for ACT consumers. This is why all jurisdictions agreed to develop regulatory initiatives consistent with national and international best practice. The Bill is modelled on the *Commonwealth Electronic Transactions Act 1999* which in turn adopts most provisions of the United Nations Model Law on Electronic Commerce 1996. The model law has been endorsed by a number of international jurisdictions.

Mr Speaker, this Bill will complement the Government's Electronic Service Delivery Strategy earmarked in the recent ACT Budget to receive \$18 million for the delivery of online Government services to the ACT community by the year 2001.

This Government is fully committed to delivering its services to the public electronically.

The growth of the Internet and other electronic communication technologies heralds great opportunities and benefits for our community. In the business sector, companies will be able to use e-commerce to increase efficiency, access new markets and respond creatively to business opportunities and customer needs.

The Bill will also enable business and the community to deal electronically with government. The Bill will remove existing legal obstacles to conducting electronic transactions and put in place default rules for the time and place of sending and receipt of electronic communications.

The Bill will facilitate and promote business and community confidence in the use of electronic transactions. ACT firms, the community and government will be able to deal with each other, via electronic means, in the knowledge that their communications have the clear support of the law. It will enable contractual dealings, such as offers, acceptances and invitations to be conducted electronically.

Mr Speaker, this legislation is founded on two basic principles. The first of these is the principle of media neutrality which means that traditional paper type transactions and transactions conducted using electronic communications are treated equally by the law. The second principle is technology neutrality which means that the law should not provide advantages to or favour any particular style of

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technology. The application of these principles will ensure that the Bill does not require constant amendment to deal with technological changes.

Importantly, Mr Speaker, ACT government agencies will be able to specify their particular information technology requirements before accepting electronic communications to satisfy requirements or permissions under ACT law. This means that ACT agencies can receive information in a form that is most appropriate for the type of transaction, or for which the entity has the relevant technology, to enable it to receive the communication.

Mr Speaker, the Bill adopts a minimalist approach to the regulation of electronic transactions. It establishes the basic rule that a transaction is not invalid just because it took place by means of one or more electronic communications. It contains specific provisions stating that a requirement or permission under a law of the Territory for a person to provide information in writing, to sign a document, to produce a document, to record information or to retain a document can be satisfied by electronic communication, subject to minimum criteria being satisfied. Those criteria establish objective tests that are based on criteria of reliability and reasonableness.

The Bill also makes clear that the conduct of electronic transactions will require the prior consent of parties. That consent may be inferred from conduct or given subject to certain conditions. This comprises an electronic method that identifies the person and shows their approval of the contents of the document to a reliable level in the circumstances. Digital signatures are an example of a technology that currently performs these functions.

A regulation making power has been included to enable the government to respond to any issues that may arise in the future.

Mr Speaker, this Bill proposes a legal and regulatory strategy for electronic transactions; a strategy which will place both the public and private sectors of the ACT community in the best possible position to take advantage of the domestic, national and global market opportunities that electronic commerce offers.

I commend the Bill to the Assembly.

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

## **LAW REFORM (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 2000**

**Mr Humphries**, on behalf of the Attorney-General, presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.31): I move:

That this bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, in this Bill I invite the Assembly to reverse the effect of the decision of the High Court in *Astley v Austrust Pty Ltd*.

The decision in that case was about contributory negligence—a complex area of law.

Originally the law provided that if you contributed to the damage you suffered, your claim would fail.

This provision was ameliorated in the ACT by the *Law Reform (Miscellaneous Provisions) Act 1955*. Other jurisdictions passed similar laws. Until recently, it was thought that the effect of this change was to allow a claim to succeed even where a claimant contributed to the damage. The change also allowed a court to reduce the damages payable to what was just and equitable.

However, in *Astley v Austrust Pty Ltd* the High Court found a defect in the framing of a similar provision in another jurisdiction. It decided that the provision does not apply to a wrong under a contract (effectively restricting the effect of the law to wrongs under the law of tort).

This is too narrow. There are many circumstances where a claim can raise both a contractual claim and a tortious claim. Common examples are a patient's claim against their doctor; a client's claim against their solicitor or accountant; and a worker's claim against their employer.

The High Court's decision in these types of cases leads to uncertainty. With uncertainty, comes cost and delay.

The proposed amendments restore the law to previous understandings about how the law applied, before the High Court decision. The provision concerning contributory negligence will apply equally to legal proceedings based in tort or in contract.

Mr Speaker, I commend the Bill to the Assembly.

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

## **LEASES (COMMERCIAL AND RETAIL) BILL 2000**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.32): I move:

That this bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

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Leave granted.

*The speech read as follows:*

Mr Speaker, the Bill I am presenting today deals with commercial and retail leases in the ACT.

It represents a detailed, comprehensive and all-encompassing approach to this area of law. The Bill is the culmination of an exhaustive consideration by stakeholders over a lengthy period. It represents a balance of competing commercial interests. Most importantly, it addresses real problems inherent within the existing legislation.

### **Process—a comprehensive approach**

Mr Speaker, this Bill has taken a number of years to develop. It is the product of many hundreds of hours of detailed consideration by Government and stakeholders.

In December 1998, the Government tabled an exposure draft of the *Leases (Commercial and Retail) Bill 1998*. This draft resulted from Government consideration of the ACT Government Working Party review of commercial and retail tenancy legislation.

Following tabling of the document, extensive negotiations on the Bill were held with stakeholders. In particular, the Law Society subsequently undertook a detailed technical analysis of the Bill. The Law Society was also provided with copies of comments made on the Bill by other stakeholders; (with their concurrence), so that these might also be taken into consideration in the analysis of the Bill.

The Law Society subsequently issued a detailed analysis of the Bill containing over 260 recommendations for amendment to over 110 of the 156 clauses of the draft Bill. This report was prepared by commercial lawyers working in this area of law—both tenant and landlord lawyers. While many of the recommendations were of a technical legal or drafting nature, they have made a significant contribution to the quality of the Bill and have largely been accepted by Government.

Mr Speaker, I now turn wish to direct member's attention to some of the specific changes in the Bill.

### **Overview of Bill**

The Bill I am tabling will replace the *Tenancy Tribunal Act 1994* and the *Commercial and Retail Leases Code of Practice*. It brings the law into one place, avoiding the criticism of the former two-level legislative structure.

The Bill makes comprehensive provision for the regulation of the relationships between lessors and tenants of commercial and retail premises in the ACT.

### **A new jurisdiction**

The Bill transfers jurisdiction with respect to commercial and retail tenancy matters from the Tenancy Tribunal to the ACT Magistrates Court.

The issue of effective dispute resolution was a key issue during the review of the legislation. Accordingly, during the course of the review, the Government carefully considered the existing dispute resolution system in the Tenancy Tribunal. Because of the number of disputes brought under the new system, the Government was able

to analyse the existing system and determine a method to deal with the problems that emerged.

Since inception there have been over 200 dispute notices under the existing scheme. Over half of these disputes were mediated, most within 21 days (and this may have been a contributing cause in 35% of all disputes not proceeding). However, of those disputes that continued, it then took approximately 170 days to get to a first directions hearing and 292 days to a hearing.

The Tribunal has taken great efforts to improve the process of dealing with disputes. Since 1998, there has been a steady decrease in the time required to bring a matter on for hearing. However, the time taken for hearings to be brought on and dealt with are still far too long

It has been a common desire of members in this place to provide a low-cost, simple dispute resolution process for commercial and retail leases. However, the jurisdiction encompassed by the scheme is large—from the most simple disputes to disputes between large commercial players.

It is clear that any scheme to be implemented must be flexible. It must provide for simple processes where possible and a more formal ones where this would be the only practical method for the dispute to be properly determined. It is necessary to provide for the active management of applications before the court to meet the problems of delay presently experienced in this jurisdiction.

Accordingly, save where the court otherwise provides, the ordinary processes in the Magistrates Court (Civil Jurisdiction) Act will apply to proceedings. However, the court would be required to actively manage disputes within a flexible framework that would accommodate both simple and complex disputes through a case management hearing process.

At such a hearing, the court would be required to:

- assess the likelihood of the parties resolving issues in question before hearing and assisting or encouraging parties to do so by the most appropriate method (eg, by promoting early dispute resolution—including, but not limited to, mediation, conciliation, facilitation, early neutral evaluation and arbitration); and
- where settlement seems unlikely, give directions concerning the manner in which the proceedings will be pursued which, in the opinion of the court, will enable costs to be reduced and will help to achieve a prompt hearing of the matters in issue between the parties to the proceedings

Mr Speaker, this approach has the flexibility to enable a sensitive response to the dispute resolution requirements of each dispute. Additionally, it will require the court to encourage the resolution of disputes by non-litigious means. In so far as it does all these things without exceeding the current resources and capacities of the court system, it is a model preferable to that provided for elsewhere.

### **Conduct of the Parties**

The Bill prohibits conduct that is unconscionable or harsh and oppressive—whether by a tenant or a landlord. The Bill gives a Court clear examples of matters it may consider when determining whether or not the parties have engaged in unconscionable conduct.

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### **Bonds, Guarantees, Rent and Outgoings**

The Bill makes comprehensive provision about bonds, including the manner of holding bond moneys and deductions that can be made from such moneys. It also streamlines provisions relating to the determination of market rent in cases of rent reviews and lease renewals, in cases where the parties cannot agree. The Bill makes it clear what outgoings may be recovered from a tenant.

### **Damage**

The Bill includes detailed provisions dealing with damaged premises, including the circumstances as to the kind of damage that may give rise to the right to terminate the lease.

### **Assignments, Subleases and Mortgages**

The Bill includes new provisions dealing with the need for consent to be obtained from the lessor's mortgagee or head lessor in relation to a proposed assignment by a tenant. A lessor is able to withhold consent to a proposed assignment but only if to do so is reasonable in all the circumstances.

### **Extension, Renewal and Termination of Leases**

The Bill confirms the requirement that tenants must be offered a lease for a minimum period of five years, unless independently advised by a legal practitioner. A lease for less than five years may be extended by the tenant as a matter of right in certain circumstances and, in such cases, provision is now made for the terms of such extended leases to be ascertained.

### **Shopping centres**

The Bill requires lessors to consult with a majority of tenants or their representative body, about substantial redevelopment proposals for a shopping centre or part of a shopping centre.

I commend the Bill to the Assembly.

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

## **LIQUOR AMENDMENT BILL 2000**

**Mr Humphries** presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.33): I move:

That this bill be agreed to in principle.

I ask for leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, this is an amendment to the Liquor Act 1975 to enable a regulation to be made which will restrict the sale of beer in glass containers for off premise consumption at specified times of the year.

Mr Speaker, this Bill will permit, for example, the making of a regulation that would force the sale of beer in plastic containers in time for New Year's Eve celebrations. Such a regulation would help avoid the repetition of smashed glasses and consequent injuries that have occurred on previous occasions.

Admittedly, Mr Speaker, there may be some business impact on affected liquor licensees. However, in this case, public interest would outweigh any impact the amendments may have on business. Under existing laws, there is no other simple alternative to achieve the aim of decreasing, if not preventing, the number of injuries resulting from glass injuries during public merry-making but to restrict the sale of beer in glass containers at specified times of the year.

Mr Speaker, I commend the Bill to the Assembly.

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

## **CONSTRUCTION PRACTITIONERS REGISTRATION AMENDMENT BILL 2000**

**Mr Humphries**, on behalf of the Minister for Urban Services, presented the bill and its explanatory memorandum.

Title read by Acting Clerk.

**MR HUMPHRIES** (Chief Minister) (11.34): I move:

That this bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows:*

Mr Speaker, I present the *Construction Practitioners Registration Amendment Bill 2000*, together with its explanatory memorandum.

This Bill alters details of the professional indemnity insurance required to be held by private building certifiers registered under the *Construction Practitioners Registration Act 1998*.

Private building certifiers have replaced government building inspectors in approving building plans and inspecting buildings under construction. The insurance is intended to allow the private certifiers to meet their potential liability for negligence.

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The Bill removes ambiguities in the relationship between the requirements of the Act for insurance and the further details that appear in the Construction Practitioners Registration Regulations. The effect of the Bill is to remove all the details from the Act.

Another aim of the amendments is to reword the description in the Act of the point at which building work is complete. The Bill separates this from requirements for the completion of associated plumbing and electrical work.

I propose to make changes to the Regulations that will alter details of the description of the insurance. They will remove any implication that the insurance covers every negligent action by a building certifier or plumbing plan certifier or that an insurer who begins to provide building certifiers with insurance is unable to stop doing so and they will make it clear that a building certifier who has been insured by more than one insurer can only make a claim for an event under one insurance.

Further changes in the Regulations will deal with the remaining questions, such as ensuring that the scope of the insurance is limited to building certifiers' statutory obligations and that only one insurance can be applicable to a building certifier's actions.

The insurance that the ACT and the States in eastern Australia require for building certifiers contains elements that are not part of standard insurance products. Producing a satisfactory result for regulators and insurers has required rethinking as ambiguities and potential hazards came to light. I would like to thank the Insurance Council of Australia for its assistance in developing these amendments.

I now seek that the Bill be agreed to in-principle.

**MR HUMPHRIES:** I thank members for their courtesy.

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

## **2001-2002 BUDGET—SELECT COMMITTEE**

### **Appointment**

**MR HUMPHRIES** (Chief Minister) (11.35): Mr Speaker, I ask for leave to move a motion to establish a select committee to examine the broad parameters of the 2001-02 budget.

Leave granted.

**MR HUMPHRIES:** I move:

That:

(1) a Select Committee on the 2001-2002 Budget be appointed to inquire into and report on the broad parameters of the 2001-2001 Budget, with particular reference to:

- (a) spending priorities;
- (b) changes to the mix of outputs;
- (c) the surplus/deficit operating position and strategies for ageing assets;
- (d) unfunded liabilities; and

- (e) any other related matter;
  - (2) the Committee be composed of:
    - (a) one Member to be nominated by the Government;
    - (b) two Members to be nominated by the Opposition; and
    - (c) two Members to be nominated by either the Independent Members or the ACT Greens;
- to be notified in writing to the Speaker by twenty minutes after the commencement of this debate;
- (3) the Committee shall report by 15 December 2000;
  - (4) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its report to the Speaker or, in the absence of the Speaker to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication.
  - (5) the Committee is authorised to release copies of its report pursuant to embargo conditions and to persons to be determined by the Committee, prior to the Speaker or the Deputy Speaker authorising its printing, circulation and publication; and
  - (6) the foregoing provisions of this resolution so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Mr Speaker, I have moved this motion today on behalf of the government—I admit that this is a day on which ideally it would not wish to have to move such a motion—to reflect concerns raised about the draft budget process followed in respect of this financial year by the previous Select Committee on Estimates.

Mr Speaker, the government was trialling for this financial year a very different and, I would say, quite revolutionary process for involving the broader community—in particular, Assembly committees—in the process of drafting budgets. Today, we have a proposal to modify the draft budget process to reflect some of the criticisms which have been made by members of this place, particularly members of the Select Committee on Estimates, and to refine and improve that process.

Members will recall that the committee was critical, among other things, of the fact that there was no opportunity, with the presentation of a draft budget and its referral in components to portfolio committees of the Assembly, for any one committee to obtain a broad overview of the way in which the draft budget as a whole operated. Mr Speaker, it is most important, I would contend, for there to be a process of scrutiny of the budget process. I accept and the government accepts the criticism that there is a need also for people on a committee to have the opportunity to view the whole of the budget picture and make comments about the whole of the budget picture.

Mr Speaker, a matter relating to, for example, the allocation of funds between different portfolios is a matter that quite properly should be commented upon by a committee and the passing of this motion would allow that to occur; that is, there would be a select committee which would report in December and would have the capacity to indicate to the Assembly how it believes that the budget for next year should be constructed with respect to issues such as the dividing of the pie between different portfolios or the different departments of the ACT government, the spending priorities adopted in a tentative form at least by the government, the meeting of unfunded liabilities, the changes to the mix of outputs which is suggested by the government and, perhaps very

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importantly, the proposed deficit or surplus situation that the government puts forward for future budgets. In other words, should the surplus be as high as the government predicates in its forward estimates, should it be lower or should some other spending priority or budgetary priority be adopted as the view of the Assembly and of the government? All those matters are now possible under this structure. Mr Speaker, I commend that part of the process to the Assembly.

What will follow that, Mr Speaker, is somewhat different from the process that was followed in respect of this financial year. The government presented a complete draft budget in January of this year with respect to the present financial year. That will not be the case for the coming financial year. Rather, there will be a set of papers presented to committees—

**Mr Corbell:** I rise to a point of order, Mr Speaker. I am sorry to interrupt the Chief Minister, but there is far too much audible conversation in the chamber. We are debating an important motion and I think it is important that the Chief Minister be heard in comparative silence.

**MR SPEAKER:** Thank you. I uphold the point of order. I would ask for silence in the chamber and elsewhere, please.

**MR HUMPHRIES:** I thank you, Mr Speaker. What will follow this will be a process of having initiatives in particular portfolio areas and capital works proposals, again in particular portfolio areas, provided to committees on certain conditions; that is, that the committees adopt the premise in considering the particular initiatives and capital works proposals for a particular portfolio that they have the liberty to reorganise or suggest changes to the proposals put forward, but not so as to exceed the amount which has been provided for the particular portfolio.

That, of course, was a provision that occurred in respect of last year's budget consultation and committee consideration of the draft budget, but it was done in the context that there had been no previous attempt by or capacity for an Assembly committee to consider the big picture on the budget. Today's motion gives the Assembly the capacity to consider the total picture of the budget before details of the budget are determined by the government and then provided, in turn, to Assembly committees.

I hope that members will agree that this proposal addresses the concerns that were raised by the Estimates Committee, at least in respect of this matter, and provides the Assembly with a capacity to further refine and develop what a majority of members of the Assembly have said that they believe is an important process; that is, to have the draft budget or a draft budgetary process available to the committee and to the community for public consideration.

Mr Speaker, there is not a great deal of time to consider this matter. The committee will have approximately two months in which to determine its views about the matters which will be referred to the committee by the government as a submission early in the period of its appointment; that is, the committee will have from the government an outline of the government's proposals in these areas so that it has a chance to comment on them, criticise those it wishes and suggest changes.

Two months is not a long period, Mr Speaker, but it reflects the sort of consideration time which is available to the government itself. The government will have to determine these sorts of priorities by December in order to prepare papers and documents for presentation to Assembly committees by early in the new calendar year. Although members might wish that there was longer, we have the sad reality that a budget has to be presented in respect of each financial year.

Each financial year is approximately 365 days long and we only have those 365 days in which to prepare a budget, bring it down and have it passed, lest we start to cut into the time provided in other financial years for the same budgetary process. I urge this motion on members. I hope that members will accept that it is an important evolution in the process of improving budget accountability to the community of the ACT and that there will be support for this motion for that reason.

**MR QUINLAN (11.42):** I must say that I do recall the now Chief Minister calling the last draft budget process something of a failure and something of a success between then and now, depending on what he wanted to put forward. This proposal, on the face of it, sounds pretty good. It sounds like open government and sounds like participatory government. But let me say that it is probably the most transparent piece of political manoeuvring that you could bring to this place.

I presume that it has something to do with Mr Humphries' desire for a honeymoon period. Going back a year, we had a draft budget that was brought down towards the end of January or early February, the main elements of it having been leaked over January and the maximum political advantage milked from them, and then there was the challenge for members to put up their ideas—the old put-up or shut-up type of process—which was, I guess, a way for the government to traverse the estimates process.

The government did not like the estimates process and would not have that, so it decided that we had better have an inverse estimates process: “You give us your budget proposals and we will have the last say upon them and maybe some good ideas will come forward.” I am sure that there was some constructive discussion last year. But the system last year was really corrupted. The corruption of the system started when the leaks started coming out before Christmas, I think, and then we received a draft budget. It was a draft budget, I have to say, that at the end of the day did not look a whole lot like the budget we finished up with.

**Mr Humphries:** You said that it would be identical when we presented it.

**MR QUINLAN:** The draft budget?

**Mr Humphries:** Yes, you complained that it would be the same as the budget brought down in May.

**MR QUINLAN:** No, I said that your draft budget was a repeat of your forward estimates of the previous year and you had done no work on them and invented social capital later. In fact, what you wanted to do was take the best thoughts of the brighter people in this place, embroider them into your budget and then do what you please over the top of that.

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The point has been made in the public forum that, effectively, the budget is a government's primary political document. It is its statement of what it intends to do. It is the program that it sets for the following year. It just so happens that the one we are talking about, the year we are talking about, will overlap an election.

That would be a good idea, would it not! Why do we not all get together—the political opponents—and come up with our best ideas, set our priorities and hand them to the government! Then, about four or five months before the election, the government can bring down a budget having the best of the thoughts or deliberations of the committee. Conversely, the government could wander around during the election campaign saying, “Why didn't you bring that up in the Assembly when the opportunity arose?” The rationale behind this motion is so naive and so transparent that it is really an insult to the intelligence of the collective Assembly.

I have a feeling that this exercise will get the numbers. Let me tell you that, if this exercise does receive the numerical support of the Assembly and is adopted in the Assembly, the ALP representatives on the committee will contribute but will contribute within the confines of saying, “We are not going to sit here now, less than a year out from the election, and tell you all the things that we think should be brought into a budget in an election year.”

The new Chief Minister will know, I am pretty sure, that the government is not going to present to us this far out the intended initiatives, expenditure and election campaign incentives. You are not going to bring those forward and give them to us. You are going to bring those out at a time of your choosing. We respect your right to do that. We just have to observe that you would need to respect our right to bring forward the campaign and election initiatives that we intend at a moment of our choosing. Within that rather severe parameter, we do expect to participate.

I have absolutely no respect whatsoever for the motivation behind the proposal; let me put that on record. It is quite transparent. It is pretty much high school-level politics, but it might sell. If the newspaper happens to be on your side and the newspaper wants to sell the banner of participatory democracy within the ACT, so be it; but we know, at least on this side of the chamber, that the best form of process for informing the public is the constructive tension that exists when you do have a government and an opposition and the opposition can adopt the role of devil's advocate.

When the government enjoys the resources and the accoutrements of high office and enjoys all the support of a complete administration then, in order to maintain that situation, it does have an obligation to put its political manifesto forward. We would like to hear from the government at the same time about its initiatives and its parameters.

I notice Mr Hird making comments on the side. Mr Hird, I understand that you are going to be involved in this committee. I saw a previous document where you were mentioned in dispatches and I do look forward to your contribution.

**Mr Hird:** I look forward to you being chairman.

**MR QUINLAN:** I rather look forward to your chairmanship, Mr Hird. I will, in parallel with this process, have a considerable workload within the public accounts committee. A number of issues that go to the heart and style of government need to be addressed. A number of amendments to legislation and administrative regulations need to be brought forward so that we never get anywhere near the shambolic exercise that is catalogued in here, and it is not completely catalogued because we cannot find all the papers. I rather suspect that I will be busy and I do look forward to your leadership in this matter, Mr Hird.

Let me conclude by saying that, if it is the will of this Assembly that we do so, we will participate; but we will participate with the reservations, and I think quite reasonable reservations as we head up to an election next year, that I put forward. Having anything other than that expectation is being quite naive. I do not know how Mr Humphries can keep a straight face while he delivers with high tone as to the motivation behind this motion. You know the motivation behind it and we know the motivation behind it but, given the numbers, we shall go through the pantomime.

**MR CORBELL (11.52):** Mr Speaker, my colleague Mr Quinlan has outlined the major objections which the Labor Party has to this proposal. I want to outline a number of others. Having been chairman of an estimates committee for the past two years, I am conscious of the resourcing implications of the tasks that such committees take on. It is quite clear to me that the proposal put by the Chief Minister this morning is a dramatic change from the way that these matters have been addressed. It also presents a significant challenge to the ability of any such committee to adequately address the matters the Chief Minister proposes in his motion.

Put simply, I do not have any confidence that any committee, regardless of the capacity or well meaning of its members, will be able to properly address such terms of reference, simply because this Assembly and individual non-government members, non-executive members, do not have the resources to properly analyse the broad range of complex issues Mr Humphries proposes in this motion.

The Chief Minister and the government have the Treasury and their respective departments. Members of this place operate on a shoestring in comparison. For that reason, I do not believe that the government's intent is a serious one in relation to this motion. Indeed, it is more a mechanism for showing that you are doing something because you know you have to be seen to be doing it. That, Mr Speaker, is really the underlying motive for this motion today. As Mr Quinlan has said, if this motion is successful today, of course Labor will participate; but it will participate with a cynicism and with the reserve that this motion deserves.

**MS TUCKER (11.54):** Mr Speaker, I wish to speak to this motion. It presents difficulties for me because, while in principle the Greens have been supportive of trialling this sort of concept, I had not seen this motion until last night and I do not understand the detail. We are sympathetic with the concept and I have nominated for the committee. I circulated an amendment to the reporting date, but Mr Humphries has just spoken to me about it and said that he feels that it would not work because of what he understands the brief of this committee to be, which I did not understand because he had not had a chance to explain it to me and it is not clear from the written terms of reference.

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As Mr Humphries has just explained to me, it is an additional committee which will meet before the draft budget is produced and the draft budget will still go to the portfolio committees for them to look at. This committee is an addition to the whole process. I understood it to be a select committee that was being set up to have carriage of the budget issue for the whole time—through the pre-budget, budget and estimates process.

That was one of the things on which we had something to say to Mr Humphries in response to his request for feedback on the trial for the last draft budget process. The Greens wrote back to Mr Humphries and expressed concerns about the draft budget being split in such a way that we are confined to looking at one portfolio area because we want overall priorities to be discussed as well.

This model, as I understand it from what Mr Humphries said a minute ago when we had a very quick chat on the floor, is supposed to deal with that concern. I can see how, if it is preceding the normal draft budget process, it is not reasonable to have a reporting date of 28 February, as has my proposed amendment, so I will not move that amendment. But I want to put on the record that I am still concerned about how this process is going to work. I still do not understand quite what it is we will be doing.

I did talk about it to one of Mr Humphries' advisers this morning and she said that she was aware that the Greens are interested in revenue issues being a part of any broad discussion about the budget in the ACT. I can see from this motion that it is not restricted to the things listed. I am just trying to see what Mr Humphries has put there. There is a reference to any other related matter. That could cover the revenue issues. I put on the record now that I would want to see those issues as part of the discussion.

I am not quite sure whether the government is envisaging having the community come into this process in that short timeframe. Maybe Mr Humphries explained that. There has been a lot going on in the chamber this morning and there was a lot of discussion at the same time as people were presenting arguments on this issue. He may have explained it, but I did not hear him do so. That is a concern I would put on the record as well. We need to allow some vehicle for community input to the broad discussion about such an important issue as well.

Those are probably the main points that I would want to make at this time. I will work with this committee with good will, but I will also not be shy about saying what I think is not working with this proposal if something is not working. Clearly, it is an important initiative but it will need to be refined as we work with it.

**MR HUMPHRIES** (Chief Minister) (11.58), in reply: Mr Speaker, I want to speak briefly in closing the debate. I will explain again, very briefly, how I see this process working if the motion is passed today. The government will present to the select committee which this motion establishes an outline of the matters that it sees governing the coming year's budget, the 2001-02 budget, such as, approximately speaking, the government's spending priorities—that is, approximately the division between different agencies of government in terms of spending—the way in which we intend to deal with unfunded liabilities, and the projected surplus or deficit, whatever it may be, for the coming financial year.

Those things will be laid before the committee in a fairly simple statement. The committee will have nearly two months to consider that matter and then report to the Assembly in December to allow the government to get on with the business of drafting the budget in light of the committee's recommendations.

Ms Tucker raised the question of the capacity to raise revenue. That capacity to recommend revenue-raising measures will be contained in the brief of the committee and it will be able to make those recommendations. If, for example, Ms Tucker suggests that there should be a carbon tax to raise more revenue, that can go into the committee report. If the government adopts the idea, that will have an influence on the forming of the budget for the next financial year. I think the motion addresses the concerns that the Greens and others raised about the budget process for last year, at least in this respect.

Mr Quinlan has now said that the budget is going to change significantly. At the time of the draft budget in January of this year—I can recall his words very clearly—he said, “I predict that the final budget will not change one iota from the draft budget.” The criticism now is that it will change too much to be of any relevance. I am not sure how to deal with criticisms that come at either end of the spectrum, that are diametrically opposed.

Either way, Mr Speaker, what the government can see at the point where it presents the report to the committee is what the government will be basing any decisions on as it proceeds to make those decisions for the coming financial year. We can do no more or less than that, than put before the committee the vista that the government has of the budgetary position as this task gets under way.

Mr Corbell said that basically the issues were too complex to get across in the time available. I have to say that that is not what the community organisations that made submissions to this process said about this exercise. They all said that there needed to be a capacity for an overview to occur of the budget position, of the parameters of the budget for the coming year. They wanted to see that occur.

I particularly recall the Council of Social Service submission on this point. They argued very strongly that this very process should be put in place. This process will allow for public consultation—I am sure that there will be time for that—and Assembly committee examination of me or whoever happens to be Treasurer at that point on these very issues. I think that it is an appropriate response to what the Estimates Committee itself raised about these matters only a few months ago. I commend the motion to the house.

Question put:

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

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The Assembly voted—

Ayes, 10

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak  
Ms Tucker

Noes, 7

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Quinlan  
Mr Stanhope  
Mr Wood

Question so resolved in the affirmative.

### **Membership**

**MR SPEAKER:** I have been notified in writing of the nomination of Mr Corbell, Mr Hird, Mr Osborne, Mr Quinlan and Ms Tucker to be members of the Select Committee on the 2001-2002 Budget.

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

That the Members so nominated be appointed as members of the Select Committee on the 2001-2002 Budget.

### **PRESENTATION OF PAPERS**

**Mr Humphries** presented the following papers:

Financial Management Act, pursuant to section 26—Consolidated Financial Management Report for the month and financial year to date ending 31 August 2000.

#### **Annual reports**

Annual Reports (Government Agencies) Act, pursuant to section 14—

Chief Executives, pursuant to section 7—

Chief Minister's Department—Report (2 volumes) and financial statements, including the Auditor-General's reports for 1999-2000 for:

ACT Executive.

InTACT.

and as annexes the 1999-2000 reports for:

Commissioner for Public Administration.

ACT Business Incentive Scheme.

The InTACT Group—Resources.

Department of Education and Community Services—Report and financial statements, including the Auditor-General's report for 1999-2000, together with annual reports for:

Board of Senior Secondary Studies.

Vocational Education and Training Authority.

Accreditation and Registration Council.  
Children's Services Council.  
Official Visitor's Report on Marlow Cottage.  
Department of Health and Community Care—Report and financial statements, including the Auditor-General's report for 1999-2000, together with annual reports for:  
Chiropractors and Osteopaths Board.  
Dental Board.  
Dental Technicians and Dental Prosthetists Board.  
Medical Board.  
Nurses Board.  
Optometrists Board.  
Pharmacy Board.  
Physiotherapists Board.  
Podiatrists Board.  
Psychologists Board.  
Veterinary Surgeons Board.  
ACT Radiation Council.  
ACT Mental Health Services.  
ACT Health and Community Care Human Research Ethics Committee.  
Department of Justice and Community Safety—Report (2 volumes) and financial statements, including the Auditor-General's report, for 1999-2000 and annual reports for:  
Administrative Appeals Board.  
Agents Board of the ACT, including financial statements and the Auditor-General's report.  
Chief Coroner for the ACT.  
Children's Court.  
Commissioner for Land and Planning.  
Discrimination Tribunal.  
Guardianship and Management of Property Tribunal.  
Mental Health Tribunal.  
Official Visitor—*Remand Centres Act 1976*.  
Official Visitor—*Children and Young People Act 1999*.  
Parole Board.  
Residential Tenancy Tribunal.  
Tenancy Tribunal.  
Department of Treasury and Infrastructure—Report (2 volumes) and financial statements, including the Auditor-General's report for 1999-2000, together with letter for late submittal and financial statements and the Auditor-General's report for 1999-2000 for:  
Office of Asset Management.  
Central Financing Unit.  
Superannuation and Insurance Provision Unit.  
ACT Gambling and Racing Commission.  
ACT Casino Surveillance Authority for the period 1 July 1999 to 30 November 1999.  
Bruce Property Trust.  
Bruce Operations Proprietary Limited.  
Bruce Stadium Special Purpose.  
and reports for:  
Bruce Operations Pty Ltd.  
Registrar of Co-operative Societies.  
Bookmakers' Licensing Committee.

ACT Gambling and Racing Commission.  
ACT Casino Surveillance Authority.  
Joint Ventures.  
Department of Urban Services—Report (2 volumes) and financial statements, including the Auditor-General's report for 1999-2000 and annual reports for:  
Environment Management Authority.  
Architects Board.  
Electrical Licensing Board.  
ACT Occupational Health and Safety Council.  
Plumbers, Drainers and Gasfitters Board.  
Surveyors Board.  
ACT Heritage Council.  
Agricultural and Veterinary Chemicals Coordination Network  
Animal Welfare Authority.  
Bushfire Fuel Management Requirements.  
The Conservator of Flora and Fauna.  
Essential Services Review Committee.  
Trustees of the Canberra Public Cemeteries.  
Gas Technical Regulator.  
and audited financial statements for:  
ACT Housing.  
ACTION.  
ACT Forests.  
Trustees of Canberra Public Cemeteries.  
Nominal Insurer of the ACT.  
ACT Workers' Compensation Supplementation Fund.  
ACT WorkCover.  
Public authorities, pursuant to section 8—  
ACT Construction Industry Long Service Leave Board—Report and financial statements, including the Auditor-General's report, for 1999-2000.  
ACT Electoral Commission—Report for 1999-2000.  
ACTEW Corporation—Environment Report for 1999-2000.  
ACTEW Corporation Limited—Report and financial statements, including the Auditor-General's Report, for 1999-2000, pursuant to section 22 of the *Territory Owned Corporations Act 1990*, together with the Environment Report 1999-2000.  
ACTEW Corporation—Reports and financial statements, including the Auditor-General's reports for 1999-2000, for:  
ACTEW Energy Limited.  
ECOWISE Environmental Limited.  
ECOWISE Services Limited.  
ACTEW Investments Pty Ltd.  
ACTEW China Pty Ltd.  
ACT Health and Community Care Service—Report and financial statements, including the Auditor-General's reports for 1999-2000, for:  
The ACT Health and Community Care Service.  
The Canberra Hospital.  
ACT Community Care.  
ACT Human Rights Office—Report for 1999-2000.  
ACT Ombudsman—Report for 1999-2000, pursuant to section 21 of the *Ombudsman Act 1989*.  
ACTTAB Limited—Report and financial statements, including the Auditor-General's report, for 1999-2000, pursuant to section 22 of the *Territory Owned Corporations Act 1990*.

Australian Federal Police—Report for 1999-2000 on police services in the Australian Capital Territory, including financial statements and the report of the Australian National Audit Office.

Australian International Hotel School—Report and financial statements, including the Auditor-General's report, for 1999-2000.

Canberra Tourism and Events Corporation—Report and financial statements, including the Auditor-General's report, for 1999-2000.

CanDeliver Limited—Report and financial statements, including the Auditor-General's report, for 1999-2000.

Commissioner for the Environment—Report for 1999-2000.

Community and Health Services Complaints Commissioner—Report for 1999-2000, pursuant to section 77 of the *Community and Health Services Complaints Act 1993*.

Cultural Facilities Corporation—Report and financial statements, including the Auditor-General's report for 1999-2000.

Director of Public Prosecutions—Report for 1999-2000.

Gungahlin Development Authority—Report and financial statements, including the Auditor-General's reports for 1999-2000 for the Gungahlin Development Authority and Palmerston Four Pty Ltd.

Healthpact—Report and financial statements, including the Auditor-General's report, for 1999-2000.

Independent Competition and Regulatory Commission—Report for 1999-2000, including a report on activities of the Independent Pricing and Regulatory Commission to March 2000.

Kingston Foreshore Development Authority—Report and financial statements, together with the Auditor-General's report, for 1999-2000.

Legal Aid Commission—Report and financial statements, together with the Auditor-General's Report, for 1999-2000.

Milk Authority of the Australian Capital Territory—Report and financial statements, including the Auditor-General's report, for 1999-2000, pursuant to section 62 of the *Financial Management Act 1996*.

National Exhibition Centre Trust—Report and financial statements for Exhibition Park in Canberra, including the Auditor-General's report, for 1999-2000.

Office of the Community Advocate—Report for 1999-2000.

Public Trustee for the Australian Capital Territory—Report and financial statements, including the Auditor-General's reports, for 1999-2000, for the Office of Public Trustee's corporate financial statements and the Trust Account's financial statements.

Totalcare Industries Limited—Report and financial statements, including the Auditor-General's report, for 1999-2000, pursuant to section 22 of the *Territory Owned Corporations Act 1990*.

*Victims of Crime (Financial Assistance) Act 1983*—Report for 1999-2000.

**EDUCATION, COMMUNITY SERVICES AND RECREATION—  
STANDING COMMITTEE  
Reference**

Motion (by **Ms Tucker**, by leave) agreed to:

That the Standing Committee on Education, Community Services and Recreation inquire and report on, as part of its inquiry into Departmental Annual and Financial Reports, the Canberra Institute of Technology Report and Financial Statements 1999.

**DISABILITY SERVICES**  
**Board of Inquiry**

**MR RUGENDYKE:** I ask for leave to move a motion in relation to a board of inquiry to inquire into services for people with a disability in residential care in the ACT.

Leave not granted.

**Suspension of Standing and Temporary Orders**

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

That so much of the standing and temporary orders be suspended as would prevent Mr Rugendyke from moving a motion in relation to a board of inquiry to inquire into the services for people with disability in residential care in the ACT.

**MR MOORE** (12.08): Mr Speaker, I did not give leave for Mr Rugendyke to move his motion, and I will oppose the motion to suspend standing orders. Ms Tucker has been talking for some time about the kind of inquiry Mr Rugendyke proposes. Some time ago I had a rather acrimonious phone conversation with Ms Tucker about this matter, resulting in her hanging up on me. The very first time that I or any member of the government saw Mr Rugendyke's proposed motion was less than half an hour ago.

This motion ought to be considered carefully by the department and the minister given advice as to how we should respond. If somebody seeks to have an inquiry, they should present a clear reason why we should do that. The health complaints commissioner has the power to do this sort of inquiry, and there are other checks and balances.

Ms Tucker, a person who always seeks to consult widely, phoned me, I presume to make a recommendation to me about Professor Roger West. As I said, it was an acrimonious telephone call. I am not putting the blame on Ms Tucker. It was as much my fault as hers; there is no doubt about that. Nevertheless, we have not had the time to properly consider the motion Mr Rugendyke seeks to move.

Ms Tucker goes on long and hard about the fact that there should be an appropriate opportunity for people to talk about things and consider them, but today is the first time we have actually seen Mr Rugendyke's proposed motion. I therefore think today is a terribly inappropriate time to debate it.

**MS TUCKER** (12.11): I understand that Mr Moore does not want this inquiry. He has been consistent in that line. Yes, I did hang up on Mr Moore. I did seek to have a cooperative approach. I am interested in how Mr Moore is speaking today. Is he speaking as the minister or not as the minister? We were told that there were no ministers.

**Mr Moore:** No, I am not a minister.

**MS TUCKER:** There is no minister, but Mr Moore still spoke about his department looking at it the motion.

**Mr Moore:** I did not say “my department”.

**MS TUCKER:** Mr Moore corrects me. I misunderstood. He is not saying “his department” but “the department”.

I did seek to work with Mr Moore on this. Our conversation was acrimonious. I am not prepared to be told to “get stuffed”. I will hang up on someone who is aggressive in the way they are dealing with me. I was trying to be professional. Obviously, I irritate Mr Moore, and I am sorry about that. But I did not feel it was necessary to listen to his language. I told Mr Moore before I hung up that I was happy to talk to him.

**MR SPEAKER:** Is this a personal explanation?

**MS TUCKER:** No, but it will do. I do not mind what it is, but I offered Mr Moore the opportunity to speak again when he felt calm. He has not responded since then. So I assume he does not want to cooperate. Hopefully, in a minute we will have the debate about why we need this inquiry, about the health complaints commissioner and so on.

As I understand it, the majority of members in this house are very supportive of this inquiry, because there have been very strong and clear arguments from a broad range of people involved with disabilities in the ACT. This is not some whim. This is the result of a lot of work in the Assembly with the community. The terms of reference have been developed by several people with legal expertise, a broad spectrum of people who are involved in the sector as clients, people with disabilities, parents, guardians, carers, and legal professionals who have worked with advocacy agencies and other service providers. There has been a lot of interest in this.

Mr Moore could have worked with us. He chose not to. I am—and I believe Mr Rugendyke, Mr Wood and Mr Kaine are also—very confident about the terms of reference and the need for this inquiry to start now rather than later. There are still things about the service that we are getting calls from the electorate about. This is a matter of people’s lives in a service that is seriously flawed in ways that are having a serious impact on people with a disability. To say it does not matter for another month while Mr Moore tries to whiteant the terms of reference—

**Mr Kaine:** The former minister.

**MS TUCKER:** The former minister. He is not acknowledging the urgency that is felt in the community about the need for this inquiry.

Question resolved in the affirmative, with the concurrence of an absolute majority.

## Motion

**MR RUGENDYKE (12.14):** I move:

That this Assembly:

(1) calls on the Government to appoint a Board of Inquiry, pursuant to the *Inquiries Act 1991* (the Act), within 21 days, to inquire, in a manner which recognises the limited capacity of some persons to participate and protects individual interests, into the services for people with disability in residential care in the ACT and in particular to examine:

(a) Service Quality, particularly the safety, dignity, well being and development opportunities for people who reside in disability services provided or funded by the ACT Government (directly or indirectly) including, but not limited to:

(i) the degree of compliance with legislative requirements and disability standards; and

(ii) the degree of participation by residents, families, carers, advocates and guardians in decisions affecting them or the persons for whom they care;

(iii) the adequacy and effectiveness of staff selection and training;

(b) Service Monitoring and Accountability, particularly the adequacy and effectiveness of mechanisms employed by the ACT Government to ensure the quality of services, compliance with legislation and the disability standards and their efficient and the effective use of government funds;

(c) Consumer Protection, Complaints and Appeals, particularly the adequacy and effectiveness of consumer and appeals mechanisms external to individual services, including the Community and Health Services Complaints Commissioner, the Community Advocate and the Human Rights Office of the ACT;

(d) Resource Allocation, in particular the adequacy, equity and efficiency of disability services funding allocation generally and, in particular:

(i) between government and non-government service providers;

(ii) between program administration costs and direct services; and

(iii) between permanent accommodation, respite and other disability services;

(2) recommends that the Government, in accordance with section 5 of the Act, appoint Professor Roger West to conduct the inquiry;

(3) recommends that the Government, in consultation with the Board of Inquiry, ensure that the Board of Inquiry be provided with the necessary staff and resources to effectively perform its functions;

(4) recommends that the Government fix 31 May 2001 as the date for submission of the report to the Chief Minister in accordance with section 14 of the Act.

This is the motion I said I would bring back to the Assembly in due course to replace the initial motion I presented to the Assembly. Mr Speaker, my commitment to this inquiry is as strong as it was then. The motion has been discussed widely within the sector and with members of the legal profession. I thank Ms Tucker and Mr Wood for their assistance in the generation of this motion as it stands today. I think it is a very good motion. It looks at all the issues that need to be looked at in an inquiry.

I believe it is important to note paragraph (2), where we suggest an appropriate person to conduct the inquiry, Professor Roger West, a man of great esteem in the legal profession and in this area. I think it is important to note the seriousness with which we take this motion and go ahead with what we believe is a very serious need for an investigation into disability services. I commend the motion to the Assembly.

**MS TUCKER** (12.16): This is indeed a very important motion, because it will lead to a thorough and constructive look at the performance of the services for people with disability in residential care. The government claims that they are doing a good job and that this inquiry is unnecessary. This is clearly not the view of key people in the sector. People with disabilities, carers, guardians, advocates, members of the legal profession and service providers have all expressed grave concern to me and other members of this place. The terms of reference for this inquiry reflect these concerns.

Subparagraph (a), under the heading “Service Quality”, deals with the basic issues of safety, wellbeing and dignity of people who reside in disability services. Recent tragedies have brought the adequacy of current administration in this crucial area seriously into question. People have died—and it cannot get worse than that.

Mr Moore claims this inquiry is a waste of money. That is not the view of those people whose loved ones have suffered under the current arrangements. The government would look more credible if they acknowledged the value of this inquiry and accepted responsibility for these significant failures. But, of course, as we know, this government will go to extraordinary lengths to avoid taking responsibility for its failures.

Subparagraph (b) is “Service Monitoring and Accountability”. This is obviously a very important responsibility of government. We now have in place federal, state and territory legislation whose objectives are to eliminate discrimination and to promote recognition and acceptance within the community of the principle that people with disabilities have the same fundamental rights as the rest of the community. However, these worthy goals are empty of meaning and will not be realised if they are not supported with resources and accountable systems of management.

Subparagraph (c) of the motion covers consumer protection, complaints and appeals. This is a very important aspect of any system of quality assurance. I recall that in the original debate on this matter Mr Moore—and he mentioned it again today—claimed that this motion was a motion of no confidence in the health complaints commissioner. The terms of reference refer not only to the Community Services and Health Complaints Commission but also to the Community Advocate and Human Rights Office. Clearly, it is in the community’s interests to look at the efficacy of such complaints mechanisms.

If Mr Moore and the government are so confident about their effectiveness, then Mr Moore has nothing to worry about. I would have thought he would be interested to know whether, and how, such offices could be improved. The issue has certainly been a consistent concern raised by almost all people who have contacted my office and other members’ offices about this inquiry.

It is clearly quite inappropriate for Ken Patterson to be given the job of undertaking this inquiry, when one of the factors that have come out from the community and the various stakeholders I have mentioned is concern about the external complaints mechanisms. He clearly would be in a very inappropriate situation if he had to look at his own office. I am sure that, as a man of integrity and a person I respect immensely as an individual, he would not want to. But this is about looking at the structure of the office which he heads.

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As we have said in this place many times before, there is also the consistent claim from people who are involved that complaints within the service are not welcomed and in fact are a punishable offence. This is of course denied by government and officials. However, what we can say with absolute certainty is that the perception is there that this is the case.

I understand that the minister at the time suggested to people that this inquiry would be funded from the disability program budget, implying that services would be affected. If that is true—and I sincerely hope it is not and I sincerely hope the minister refutes that he would have said that and will deny that—then it is obviously seen as a threat to the quality of services. That is how people took that, whether or not he said it. As I said, I hope he did not, because it is a totally unacceptable threat.

Another rumour that spread through the service from I have no idea where was that the agenda of this inquiry was to dismantle the government provider—obviously an alarming thought for those employed in the sector and for those who are dependent on it. As I said at the beginning, this is a very important and constructive opportunity to look at the performance of the services for people with disability. It is not about changing the provider or government policy.

I had to spend a considerable amount of time with one person who was very distressed at having heard this rumour. She thought her house was going to be closed down. She thought that was because on a previous occasion, even before this inquiry was mooted, she claimed—and others supported this claim—that the minister at the time, the Chief Minister, implied that if they did not stop making the fuss their houses would be closed down. This was extremely traumatic for this person, who regarded the people she lived with as family, and she was very distressed. People need to realise the impact on the individuals concerned when people make these kinds of empty claims.

Subparagraph (d) covers resource allocation, looking at adequacy, equity and efficiency of funding allocation. This is very important, because it deals with effectiveness of the use of public money. The government and the previous minister continually explained that the Commonwealth is negligent in its funding of disability services. I do not disagree with that. However, the bottom line is not the amount of dollars. The bottom line is that this government is responsible to ensure that vulnerable members of our community are properly acknowledged and supported. If the federals are failing in the area of resourcing, we have to pick up the tab. It is not negotiable. It is the basic responsibility of government to ensure that those people in our community who are vulnerable are properly supported.

As Mr Rugendyke said, we have recommended that Professor Roger West conduct the inquiry. Professor West was suggested to us by several different groups of people. It was very interesting to me that his name kept popping up. He is currently a visiting professor of law at Newcastle University. He is also a lawyer, consultant and mediator specialising in public interest and human rights law, particularly as they affect people with disabilities, elderly people, children and young people, and indigenous Australians.

His interest is in ways of improving the social impacts of laws, policies, practices and ethics of both public and private organisations. This includes effective consumer consultation and participation processes, dispute avoidance and resolution mechanisms, and complaints and appeals systems. He is an experienced lawyer and he also held

several chief executive posts in public and private sectors, including most recently as the first Commissioner for Community Services in New South Wales. Obviously, this is highly relevant to this inquiry, because he has such broad experience.

The Community Services Commission, as members may know, is a statutory watchdog responsible for quality assurance and best practice in government and funded non-government community services in New South Wales. Professor West established this highly regarded agency from scratch and produced many high-quality influential reports that did much to improve the quality of community services in New South Wales.

The Community Services Commission is also recognised for its sound management and quality systems. A Premier's Department review in 1996 commended it for its transparent decision-making processes, clear lines of accountability and reporting, comprehensive operational policies and processes, and effective support system.

For the preceding five years Professor West was the first president and CEO of the New South Wales Guardianship Tribunal, a multidisciplinary tribunal involved in the appointment of guardians for, and the resolution of disputes about, adults judged to be incapable of managing their own affairs. Again, he established this body from the ground up on sound quality-management principles. It also gained high respect for its competence, efficiency and sensitivity to the needs of its constituency.

Professor West also headed the Public Interest Advocacy Centre and before that the Welfare Rights Centre and the Redfern Legal Centre. Obviously he has very broad experience. He has most recently been employed by the Victorian government, who had an Auditor-General's performance audit carried out on disability services there. It is not surprising that he was recommended as a very credible person and someone who would do a very good job with this inquiry.

I understand that Mr Moore is very concerned about the process here, and I regret that he has been so consistently against this inquiry, but I am very firm in my conviction that this is something that needs to happen because there are too many people in the ACT who have to work in this sector or are affected by the sector and who are absolutely sure about, and desperate for, this inquiry. I am absolutely clear that this motion needs to be supported in this house.

**MR MOORE** (12.26): I rise to oppose this motion and to clarify some of the things that have been said. I have not been against an inquiry. That is a misunderstanding of my position. What I strongly suggested was that this matter first goes to the Health and Community Care Committee, which Mr Wood chairs and which Mr Rugendyke is on, to find the evidence that an inquiry is necessary.

Although, Ms Tucker, you say that you have spoken to a number of people who say that they need the inquiry—and I do not doubt that—I have to ask whether you have spoken to the people who run Community Care. Have you spoken to Miss Grace or have you spoken to Michael Szwarcbord, the people with the responsibility, about this inquiry? You may well have done.

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When I was the minister in this area, I saw the information from the Disability Advisory Council, which comprises a very broad range of people who are involved in disabilities. Their response to me was that they do want an inquiry. They want an inquiry into the deaths that occur. I understand that, and I think that is a very sensible thing for them. They were very keen about an inquiry narrowed to that matter.

There is, if you like, a higher level inquiry going on, because two deaths occurred in a disability residence. Those deaths will be inquired into by the coroner. Mr Wood, you may recall that when the hospital implosion came before us the former Chief Minister, Mrs Carnell, had appointed an inquiry under the Inquiries Act to conduct an inquiry. The coroner objected. The coroner said, "No, do not do that. That is crossing the ground. I am doing that inquiry." We have two coronial inquiries going on into this matter. You are recommending that we set up an overriding committee of inquiry that goes across them but does more—and I do not miss that.

Another factor important to recall is that the health complaints commissioner did inquire into this matter less than three years ago and brought down a report. The recommendations of that report are in the process of being implemented in as far as that is financially possible. The recommendations on many of things you are talking about here—the training and so on—have been implemented.

Surely the responsible thing to do is for Mr Wood, Mr Rugendyke and Mr Hird, as a committee of inquiry, to check whether those things have been done. If they have not, or if even a quarter of the way through your inquiry it becomes very clear that the evidence is so overwhelming that the matter is such that you need to take some further action, then that is the appropriate time to set the terms of reference and make sure that they do not overlap with the coronial inquiry, then proceed down the path of an inquiry under the Inquiries Act.

It is worth keeping in mind the health complaints commissioner, because the commissioner has the same powers as an inquiry under the Inquiries Act—almost identical powers. The health complaints commissioner, whom Ms Tucker seems to be dissatisfied with and wants looked at, has his own board which has a responsibility to make sure the commissioner is delivering in the best way. Who chairs that board? It is Ms Tucker's former running mate, Miss Fiona Tito, whom I have a great deal of faith in. You have told me on many occasions, Ms Tucker, that you have a great deal of faith in her. She was recently appointed—she has not had time to do it yet—to look at the health complaints commissioner in her responsibility to the board. The correct first step is to make sure that she and her board can deal with these matters.

There is no question that extra funding is needed in disabilities. Everybody in this house has heard me say that publicly and here. We would expect a recommendation from the select committee that has just been established that this is an area of high priority, and I look forward to it. I am hoping that my colleagues will agree with me that some of the cross-border money that comes, and with which we have done very well, will go into disabilities. The pressure on disabilities has been made greater by the fact that the hospital has put pressure on the amount of money that I had across my portfolio. If I am reappointed minister or if I am in cabinet—and that matters has yet to be resolved—then I would argue in that way.

It is important to understand that the previous inquiry into this area by the health complaints commissioner had two parts to it. The first part was the public part and the second part was the confidential part. When I was minister, I sought to have that confidential part brought to me. The health complaints commissioner gave it to me on the grounds that it was for my eyes only. I read that report, and I went back to him and said, "Why don't we cross out the names of the people involved and make that report available to members of the Assembly, preferably in a committee situation where they can judge whether it should be confidential?" His reply to me was that we could cross out the names, but if that report was made public it would be very clear to people exactly whom the report was about, because it is a relatively small community involved in the issues. I am aware that there were some individuals who did not like the outcome of that inquiry because it did not deliver what they wanted it to. Nevertheless it was fair, and it was done at arm's length, with the powers the commissioner has.

The other issue that was raised was that if we go ahead with the inquiry it would cause a huge focus on, and legal expense for, people defending their positions as they see them. It depends on the inquiry and how it is conducted. We already have a process in place to ensure that we can deal with health complaints, although the health complaints commissioner, after looking at some matters, has said to people, "Sorry, we disagree with you." That was the outcome of the previous inquiry. Having read the confidential report, I think I can say that it was a very small number of people who had a number of unsustainable complaints about abuse. Today we have not heard any allegations of abuse. This inquiry will disrupt the reform process that has been going on in disabilities and that will always continue whilst the very confident Mr Szwarcbord is manager of Community Services.

You can self-refer this matter. This debate ought to be adjourned. You ought to look at the matter carefully, with the power to self-refer to the committee. Mr Wood, Mr Rugendyke and Mr Hird will be happy with that, and I have always agreed with that. That could have started happening six weeks ago when I suggested that that was the appropriate way to go. Then you would be able to make a sensible decision as to whether to make this recommendation to government or not.

**MR WOOD (12.34):** Mr Speaker, I will comment on just a couple of issues. The matter did come to the committee. The committee has an agenda that is filled because of references from this chamber. It is as simple as that. It was a critical matter and became more critical because of events that I believe the committee simply did not have the time to inquire into.

The motion refers to Professor West as the preferred person to conduct the inquiry. I hope Mr Moore reads the script afterwards, because I want to refer him to the Stein report, the generally useless report that was done some years ago. I and my colleagues got it moving, and we paid very careful attention to what Mr Moore said about the people who should conduct that inquiry.

We saw to it that we had an inquirer that was agreed on. Mr Moore was able to have his input there. He expressed very strongly his view on who should or should not be on that board of inquiry. I expect that he will pay attention to the respects of the Assembly on this occasion.

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Question put:

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

The Assembly voted—

Ayes, 10

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Osborne  
Mr Quinlan  
Mr Rugendyke  
Mr Stanhope  
Ms Tucker  
Mr Wood

Noes, 7

Ms Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Smyth  
Mr Stefaniak

Question so resolved in the affirmative.

### **PRESENTATION OF PAPER**

**Mr Speaker** presented the following paper:

ACT Legislative Assembly Secretariat—Report and financial statements, including the Auditor-General's report, for 1999-2000, dated 18 October 2000.

### **PLANNING AND URBAN SERVICES—STANDING COMMITTEE Report No 59 of 2000**

**MR HIRD** (12.39): I present the following report:

Planning and Urban Services—Standing Committee—Report No 59—Examination of allegations of possible improper influence of a witness, dated 17 October 2000, together with a copy of the extracts of the minutes of proceedings.

I move:

That the report be noted.

I have pleasure in tabling the committee's report today. This inquiry commenced on 25 May this year and it has been an especially sensitive inquiry. I understand that it is the first time that an Assembly standing committee rather than a select committee has been asked to look into a matter of this nature. To assist us, we consulted the then Acting Clerk on three occasions for advice about procedural and other aspects of the inquiry. In this regard I want to record the committee's appreciation for the professionalism and

assistance of the then Acting Clerk, Ms Weeks. Following from the inquiry, the committee is unable to find that any improper influence was applied to a witness appearing before the committee at a public hearing on 5 May this year concerning the Gungahlin Drive extension.

A number of key documents helped the committee to reach its findings. These documents are also listed in the report and I seek leave of the house to table them now.

Leave granted.

**MR HIRD:** I table the following documents:

Submission by the Gungahlin Community Council in relation to proposals for the Gungahlin Drive extension.

Transcript of oral evidence given by Mr Gower at the public hearing of the Standing Committee on Planning and Urban Services on 5 May 2000.

Correspondence between Mr Gower and the Standing Committee on Planning and Urban Services, dated 2 June 2000, 3 July 2000, 3 August 2000 and undated.

Thank you, Mr Speaker, and I thank members. In relation to the claims that the government pressured the Gungahlin Community Council to adopt the government's view of where the Gungahlin Drive extension should go, the committee report specifically notes that the Gungahlin Community Council did not agree with the government's preferred route—in particular, one member. While both want the route to go to the east of the Australian Institute of Sport, the government wants it to continue to join Barry Drive while the Gungahlin Community Council sees no need for this extension. This is a pretty major difference of viewpoint and suggests that, if any influence were exerted upon the council—or a member of it—by the government, it was not too successful.

I want to turn now from the detail relating to Gungahlin Drive to a different matter, a more wide-ranging issue. Arising out of the inquiry, the committee can see a need to strengthen the public hearing process for parliamentary committee proceedings. We think it would be useful if all witnesses appearing before a parliamentary committee were told about their rights and responsibilities by the chair of the committee at the time they come to the table to give evidence.

We carefully considered whether there was a need to administer an oath or affirmation to stress the importance of the evidence being truthful and accurate, but we see no need to go this far, given that we are, as far as practicable, an informal and down-to-earth parliament that is close to the people we serve, both in respect of local government matters and our territory responsibilities. Rather, we think the chair should advise witnesses about their rights and protections, using the form of words shown on the first page of our report. The Standing Committee on Planning and Urban Services intends to adopt this procedure at all public hearings, and we recommend that all parliamentary committees of this Assembly do the same.

I would like to take the opportunity of thanking all those that assisted us in our deliberations on the matter before us. It was unique and interesting. I would like to acknowledge not only Ms Weeks for her professionalism, as I mentioned earlier, but also

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the committee's secretariat and my colleagues Mr Corbell and Mr Rugendyke for the professional way that they handled this sensitive matter. I commend the report to the house.

**MR CORBELL** (12.43): Mr Speaker, this certainly was an interesting but difficult and sensitive inquiry. Having initially raised this matter in the Assembly, I certainly took the opportunity to explore fully the range of issues that was ultimately referred to the standing committee—after some flipping and flopping.

The conclusions that the committee has drawn are, I think, the only reasonable ones to draw in the circumstances. And I think it is important to note that the committee is unable to conclude whether an improper influence did or did not occur. The evidence remains unclear and contradictory. For that reason, the standing committee was simply not in a position to say that something definitely did or did not happen in relation to the allegation made by the witness at the standing committee's hearing on the John Dedman Parkway issue some months ago now.

Ultimately it will be for individual members to judge the strength and validity of the evidence provided to the committee by Mr Gower. The committee made considerable efforts to seek clarification of Mr Gower's comments to the committee. On each occasion, whenever we received a response the contradiction in his evidence remained. The committee considered carefully the issue of actually calling Mr Gower and asking further questions of him. Having considered that matter, the committee felt that that was not going to assist the committee further in its resolution of this matter. In fact, I think, on balance—and I am sure Mr Rugendyke and Mr Hird will agree with me that it was on balance—it was almost certain that confusion would still remain, if not become further entrenched.

For that reason, it is indeed up to individual members to decide upon the strength and validity of the evidence presented to the committee by Mr Gower. There will, I think, always remain a question mark over whether or not an improper influence took place, but it is simply not possible for the committee to draw a conclusion one way or another.

Mr Speaker, it is important to note also that the committee has decided to make the second of its recommendations in relation to evidence given before Assembly committees. Members will be aware that committees of this place do have the power to swear witnesses, but this is not a process that to my knowledge has ever been undertaken by an Assembly committee since self-government.

The committee considered the option of making the recommendation that committees should swear witnesses. But, on reflection, the committee considered that it was an overly legalistic process which perhaps would intimidate witnesses to an extent that would be unhelpful in the information-gathering process that committees undertake. The committee was therefore grateful—and I certainly was as a member of the committee—for the suggestion that committees instead should consider using a set form of words advising witnesses on their responsibilities and rights when giving evidence before parliamentary committees.

Briefly, as members will see, this recommendation outlines that witnesses should be advised that they are protected by parliamentary privilege in relation to comments that they make before Assembly committees on the day that they give that evidence. This means that they are protected from defamation suit, but it also means that they have a responsibility to give truthful evidence, and that to give false or misleading evidence is a serious matter.

I think that is a fair warning to be given to all witnesses, particularly in light of the incident that this committee was asked to examine. I think, on balance, this was the only conclusion that we could have come up with. But I stress again that it is up to individual members to decide upon what occurred. The committee has been unable to reach such a conclusion.

Question resolved in the affirmative.

### **SUSPENSION OF STANDING AND TEMPORARY ORDERS**

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

That so much of the standing orders be suspended as would prevent orders of the day Nos 29 and 30, private Members' business relating to the Occupational Health and Safety Amendment Bill 2000 (No 3) and the Dangerous Goods Amendment Bill 2000, respectively, being called on seriatim.

### **OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 3)**

[COGNATE BILL:

DANGEROUS GOODS AMENDMENT BILL 2000]

Debate resumed.

**MR SPEAKER:** Is it the wish of the Assembly to debate this bill concurrently with the Dangerous Goods Amendment Bill 2000? There being no objection, I remind members that in debating order of the day No 29 they may also address their remarks to order of the day No 30.

**MR HUMPHRIES** (Chief Minister) (12.50): The government has informally determined a view about this bill and the next bill and therefore what I indicate to the house is merely my view about the way in which these bills would affect the ACT legal system. The government will not support the bills but it will not expressly oppose them either. Hopefully there will not be a division to put that complicated position to the test.

The government's view, or my view, is that this is an extension of the provisions that were previously adopted in other legislation, where there were—first by Mr Berry, I think, in some legislation and then by the government in the Magistrates Court Act—some amendments which provided for an extension of the period during which prosecutions could be brought for a variety of offences. I am aware that there were some

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amendments to the Magistrates Court Act which provided for an extension of the period after which a coroner has brought down a finding in which prosecutions arising out of those coronial findings can be brought.

In fact, the government amended the Magistrates Court Act late in 1999 to provide a comprehensive coverage of legislation in relation to the limitation on proceedings. At that stage we provided that, generally speaking, there was in respect of coronial matters a period of one year following a finding in which there could be the bringing of prosecutions.

What Mr Berry is apparently doing with these bills is extending limitation periods from one year to three years in respect particularly—or only—of the Occupational Health and Safety Act 1989 and the Dangerous Goods Act 1975. I assume it is the situation that prosecutions that might be brought under other legislation—and of course there is a myriad of items of legislation in the ACT that provide for prosecutions to be brought—are not being extended. It is just the Dangerous Goods Act and just the Occupational Health and Safety Act.

Now, I do not know why it is just those two bills. At a political level I would say, if I was very cynical, that Mr Berry is pursuing the matter of the Royal Canberra Hospital implosion and wishes to provide a capacity for some people to be prosecuted in respect of that particular matter—people who have not yet been prosecuted and who apparently might be prosecuted with an extension beyond 4 November this year, when that 12-month period in respect of Mr Madden's findings from last year expires.

But the question needs to be answered why this extension should occur in respect of those two acts and none of the other acts in the ACT under which people might commit crimes. If it is good enough in respect of those two acts, why is it not good enough in respect of other acts? I think the fact that there is a political scalp to be obtained somewhere down the line is not sufficient reason to provide what would have to be called distortion in the ACT's laws. Perhaps Mr Berry has an answer to that question, and I would be interested in hearing it.

The government has put on record before its views about this legislation. I think they are well on the record and I do not propose to repeat them today. But I have to say that this is potentially further uncertainty to the status of the law in the ACT. Any person who is potentially to be prosecuted for some offence under those acts, whether in relation to the Royal Canberra Hospital or for other reasons, would have had until today the right to expect their liability would end at the end of that 12-month period—to the extent that it might still be there.

What Mr Berry's bill would do is extend that period to three years. I will give the example of a person for whom a 12-month period in respect of such matters has already expired. I do not know whether such a case exists, but let us imagine there was a person who was referred to adversely in coroner's findings that were brought down, say, in August of 1998. That 12-month period in respect of that person has already expired. That person is now, as it were, a free person, free of any risk of prosecution. But Mr Berry's legislation will have the effect of making that person again liable for prosecution.

**Mr Berry:** No, it runs till November anyway.

**MR HUMPHRIES:** No, that is in respect of the Royal Canberra Hospital implosion only. You are not limiting this to the Royal Canberra Hospital implosion, not as far as I am aware. This covers any prosecution that may be brought under the Occupational Health and Safety Act 1989 or under the Dangerous Goods Act 1975, if I am not mistaken, Mr Berry. You can correct me if I am wrong about that—any prosecution. For any person who has been mentioned in a coronial finding in the last three years, where the finding is more than a year ago, that person's liability has now been revived in respect of that offence.

They have not been prosecuted in the space of 12 months after the coronial finding, but they now can be, even though that person—if there were such a person in existence—has breathed a sigh of relief and said, “Well, I'm off the hook; I'm a free person now.”

**Mr Berry:** Why should they get off the hook?

**MR HUMPHRIES:** Mr Berry poses the question: why should they get off the hook? The answer is that, irrespective of what moral culpability a person might have in these circumstances, the law of the land, the law of the territory as of today, says that this person, this notional person, is free of any liability for prosecution. They are regarded in every sense as innocent people. And Mr Berry's legislation has the effect of making them potentially guilty people again.

Now, if you do a certain act, the law can apply to you to make that act illegal, and the law of course can change from time to time; the law does change. I will give you an example. A hundred years ago, if I had sold Mr Smyth a packet of opium I would have committed no offence because it was not against the law to sell opium in those days. If I sold Mr Smyth a packet of opium today, the same act would certainly attract strong criminal penalties.

So it is a question of how the law impacts on certain acts. What is fundamentally important, I would argue, is that you do not take acts that have already been committed and change their status at the law after the person has done them. That is, I would suggest, a very wrong thing to do. But that is precisely what Mr Berry's bill does. A person who did something three years ago, in respect of which there have been coroner's findings since that time and for whom a year has elapsed since those coroner's findings, has no liability at the law in respect of those matters—until today. But after today they will have a liability, because of the legislation Mr Berry is proposing today. I would hope members would consider that fairly seriously.

**MS TUCKER (12.58):** The Greens will be supporting these bills, for the same reasons we supported them when they came up last year. We are not of the view that the former statute of limitations should come into effect simply because the legal system in the ACT is overburdened or otherwise too slow, or because a coroner's inquest, in dealing with legal representation from countless separate entities in the scrambled chain of command, takes two years.

The point of the OH&S and dangerous goods acts is that those people who are negligent in the performance of their duties are held accountable. Given the seriousness of the consequences of the decision to conduct a public implosion of the hospital, and given the

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tortuous exploration of the ingredients that brought about this event, I believe it is fair and just that the acts in question do hold people to account, as they were always intended to.

I understand the principle that the Liberal Party ministers referred to in their previous speeches—that to retrospectively make criminal some act or action is improper and unjust. But I do not believe for a moment that this is what is happening here. No-one could be found criminally guilty of an action that was not illegal at the time it was committed simply due to the passage of these bills; this is about resurrecting liability.

Furthermore, it cannot be argued that the effect of these acts is intended to expire after a year; in fact the reverse is obviously the case. But the other thing I have to point out is that the Attorney-General—rather the Chief Minister now, I should say; maybe he is still the Attorney-General; I guess he is at this point; he is everything, we have been told—has been debating these points of justice and principle. And we have heard the Attorney-General claim no interest in assuring that entitlements under the law he is responsible for introducing into this Assembly were fair and equitable, consistent with other national and international law, or applied equally and fairly to all members of the community. Of course, I am talking about the Victims of Crime (Financial Assistance) Act. The then Attorney-General wiped his hands of any responsibility regarding such fairness and equity.

He has in fact said explicitly it is not his responsibility, so how we can be expected to take him seriously on matters of law I do not know. Here the Chief Minister pretends concern at the notion that we might extend the application of these acts so that, after the coronial inquiries and consequent criminal court cases have been resolved, people who may have acted outside the law can be brought to account.

**MR BERRY** (1.01), in reply: Mr Speaker, this morning there was a bit of a debacle when I attempted to bring this legislation on, and the Chief Minister advised the Assembly that he had not been told that I intended to do this. I would just like to table a document.

Leave granted.

**MR BERRY:** I present the following paper:

Occupational Health and Safety Amendment Bill 2000 (No 3) and the Dangerous Goods Amendment Bill 2000—Draft program—Copy of email from Ms Robinson Adviser to Mr Berry MLA to Ms Dunne, dated 17 October 2000.

It is a copy of an email that was sent to the now Chief Minister's office and it confirms that I had advised the minister's office. He might like to consider saying something in the adjournment debate about this. I think the Assembly—certainly some members of the Assembly—might have been misled by the assertion that was being made at the time. So he might respond to that later.

I thank members for their support for this legislation. They have supported it in the past, and I heard the Chief Minister make certain comments in relation to it which have remarkable similarity to what he said when we were extending the period in the legislation by one year.

Mr Speaker, this has become necessary only because of the extraordinary delay which has occurred—and such delays may well occur in the future—in relation to the inquiry into the tragic hospital implosion which killed Katie Bender and then, of course, the drawn-out proceedings which remain in the courts or are yet to come before the courts. I think that the last I heard they were due to come before the courts next March. I think I saw something on the television last night about it but I am not quite sure what that was about. It was some reference to this court matter which is impending.

This bill merely allows prosecutions to be pursued in the event that further evidence turns up in further criminal or civil proceedings which might occur in relation to this particular event, but also in relation to any such event because it seems to me that this has the possibility of setting a precedent for drawn-out cases in the future. So I thank those members who have supported the bill, and I thank the government at this stage for its indifference.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

### **DANGEROUS GOODS AMENDMENT BILL 2000**

Debate resumed.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

### **SITTING PATTERN**

**MR HUMPHRIES** (Chief Minister) (1.04): I seek leave to move a motion in relation to the sitting pattern.

Leave granted.

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**MR HUMPHRIES:** I move:

That the resolution of the Assembly of 9 December 1999 setting the days that the Assembly shall meet in 2000 be amended by omitting the date of 19 October 2000.

I move this motion simply to reflect the convention in this place that there be a suspension of sittings for a few weeks after the election of a new Chief Minister to allow such things as the appointment of a ministry to occur and other administrative arrangements to be made. I commend the motion to the house.

Question resolved in the affirmative.

### ADJOURNMENT

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

That the Assembly do now adjourn.

### Clare Holland House

**MR STANHOPE** (Leader of the Opposition) (1.05): Mr Speaker, I wanted to take the opportunity in the adjournment debate today to commend the former minister for health for his decision to name the new hospice Clare Holland House. I felt moved to acknowledge this today on the basis that Clare Holland was a strong personal friend of mine, and I really am quite touched that Clare has been honoured in this way.

I think it is quite significant that Clare Holland, a very significant Australian, somebody that led the palliative care team at the hospice for a significant number of years, has been honoured in this way. I think it quite appropriate in that Clare devoted much of her professional life to the care of people with terminal illness and to advancing the cause of hospice and palliative care.

Clare came to Canberra in 1973 after a period of service in the Australian Army. Clare served with the Australian Armed Forces in Vietnam and was in fact awarded the Australian overseas humanitarian medal for the services she rendered in Vietnam. The Australian overseas humanitarian medal is awarded to those people who have rendered humanitarian service in hazardous circumstances, and it was a very significant award that she gained.

As I said, she then came to Canberra in 1973, worked for a period in Woden Valley Hospital, then in community nursing, and she was ultimately appointed as the manager of the palliative care home-based program in 1988. Clare remained in that position for a number of years. Regrettably, Clare contracted breast cancer and she ultimately died as a result of that cancer.

I commend the former minister for the decision. I think it is a very appropriate decision. I am really pleased to see that Clare has been honoured in this way. I think it is wonderfully fitting that the hospice has been named after Clare Holland.

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In conclusion, in acknowledging this honour today I mention that Bosom Buddies has its annual fashion parade tonight. I think it is significant that we acknowledge and keep in mind the enormous impact and effect that the Bosom Buddies has, the wonderful work it does and the enormous spirit that the participants in that particular program demonstrate in relation to those women who are living with breast cancer—that cancer which still causes the greatest number of cancer deaths of women in our community. It is good to focus on the enormous devastation that is wreaked individually and on us as a community as a result of breast cancer and the difficulties that we have in both diagnosis and treatment.

Question resolved in the affirmative.

**Assembly adjourned at 1.09 pm until Tuesday, 28 November 2000, at 10.30 am**

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**ANSWERS TO QUESTIONS**  
**Master Builders Association—Sponsorship of Awards**  
**(Question No 286)**

**Mr Corbell** asked the Minister for Urban Services, upon notice:

In relation to the response to Question on Notice number 270:

1. What criteria are utilised to determine whether the Department of Urban Services should sponsor any event.
2. On what basis did the Master Builder's Association (MBA) Awards meet any criteria for departmental sponsorship.
3. Are there any Public Service wide guidelines for sponsorships of events.

**Mr Smyth:** The answer to Mr Corbell's question is as follows:

1. Urban Services has a comprehensive sponsorship policy, which incorporates public guidelines. This document is provided to organisations or individuals seeking sponsorship to assist them in meeting the department's requirements for sponsorship support. This document provides clear criteria for sponsorship and outlines Urban Services' objectives, ACT Government priorities, Urban Services commitments, target audiences for sponsorships, categories of sponsorships and obligations expected in return for sponsorships.

Sponsorships will be selected based on the following criteria:

- they must reach one or more of the department's target audiences;
- they must be one of the types of sponsorship the department supports;
- they must meet at least one of Urban Services' objectives for sponsorships;
- the benefits being offered must be worth the cost of the sponsorship;
- they must not impose or imply conditions that would limit or appear to limit the department's ability to carry out its functions fully and impartially;
- must not involve Urban Services in controversial issues or potentially expose the department to adverse criticism;
- must not create a conflict of interest, for example, an activity or organisation that the department has, or could have, regulatory or inspectorial responsibilities over.

The public guidelines are available from the Urban Services web site at <http://www.act.gov.au/urbanservices/org,anisation.html>

2. The Master Builder's Association (MBA) Awards met the following criteria, according to the Urban Services Public Sponsorship Guidelines:

- the sponsorship reaches industry groups related to Urban Services functions, which is one of the target audiences;
- the sponsorship is in the industry category, a type the department supports;
- the sponsorship aims to develop relationships with the Canberra community, businesses and community groups;

- the benefits offered by the

sponsorship were deemed to be cost effective. The exposure the

department received by having logos displayed at the awards and business

names associated with the awards is a good result;

- the sponsorship did not impose conditions that would limit the department to carry out its functions, nor create a conflict of interest, nor involve the department in controversial issues.

3. No. Different Output Classes across the various portfolios requires that sponsorship guideline criteria are in line with achieving the outputs. The Public Sector Management Standards provide a broad framework for the formulation of departmental guidelines.

**Olympic Football Matches in Canberra—Free Tickets**  
**(Question No 288)**

**Ms Tucker** asked the Chief Minister, upon notice, on 30 August 2000:

In relation to any free tickets given by the ACT Government to Olympic Games Football matches being held in Canberra:

- (1) what are the names of each person given a free ticket;
- (2) if the person was representing an organisation, what is the name of the organisation;
- (3) for which games were tickets provided to those persons;
- (4) and for what reason; and
- (5) what is the total value of the free tickets provided by the Government if they had been sold to the general public.

**Ms Carnell:** The answer to the member's question is as follows:

The ACT Government has offered a free ticket to Olympic Games Football matches being held in Canberra to individuals in the following groups of persons:

- Children performing in the Gala Ceremony on 13 September 2000. Approximately 1400 children are performing in the Gala Ceremony and each has been provided with a free ticket to any other night of Football in Canberra. The children were students from a variety of primary and secondary schools throughout the ACT. These tickets were Category C tickets, worth \$19 each. Names of each of the 1400 children who performed are only available through each school involved. These tickets were provided as a thank you to the children who each dedicated much time and effort towards rehearsals and the very successful performance.
- SOCOG Volunteers working at the Canberra Olympic Football matches. This is a total of 462 people. These tickets were again Category C tickets worth \$19 each. These tickets have been distributed through SOCOG so details of names have not been provided to the ACT Government. These tickets were provided as incentive and reward to the Volunteers who have each committed many hours to the success of the tournament.
- Volunteers working at each of the ACT Olympic Torch celebration sites. This is a total of 185 people, sourced through Apex, Rotary, Lions Club, Woden Valley Youth Choir, Canberra Youth Theatre and the ADFA Precision Drill Team. Names of these volunteers are only available through these organisations. They were provided with Category C tickets worth \$19 each. Again, these tickets were provided as incentive and reward to volunteers who have freely committed their time to make these celebrations a success.
- School children who performed at each Olympic Torch celebration site in the ACT. This is a total of 437 children, representing 12 different primary and secondary schools throughout Canberra. These tickets were Category C tickets, worth \$19 each. Names of each of the children are only available through each school involved. These tickets were provided as a thank you to the children for their time and effort involved in very successful performances.

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Individuals in the groups listed above have been provided with a voucher that can be used to redeem a free ticket to the Olympic Football. They have been encouraged to buy additional tickets for family and friends when redeeming their voucher. Not all issued vouchers will be presented to redeem free tickets, so the value of the vouchers redeemed will not be known until after the Tournament. Tickets have also been offered to the following people:

- Twenty tickets were given to disadvantaged young people from youth refuges in Canberra by the Community Liaison and Indigenous Affairs area of the Chief Minister's Department. These were to be used in conjunction with the "two for one" marketing vouchers in place for the Games (ie a total of 40 tickets were obtained by the group). The tickets were worth \$30 each.
- Corporate suite guests. The ACT Government has a total of 2-3 corporate suites plus a function room available on each night of the Olympic Football Tournament for entertaining appropriate guests. Invited guests include all Members of the Legislative Assembly, ambassadors of competing nations, Canberra and national businesses, representatives of key organisations and those that have contributed in some way to the Canberra Olympic Football Tournament. A guest list for these corporate suites is at Attachment A. The total value of these suites, had they been sold, is \$44,500. (Note the suites were marketed and unable to be sold).
- Staff members of the ACT Government Olympics Unit. As a staff incentive, key people involved with the organisation of the Olympic Football Tournament listed at Attachment B were offered 4 tickets each, worth between \$45 and \$65 per ticket. These were tickets that remained unsold after promotions to Canberra businesses.

The total value of all of the above tickets provided by the Government, had they been sold to the general public, is a maximum value of \$96,936.00. It should be noted that most of the tickets provided were only given away after they were first offered, unsuccessfully, to the general public for sale.

**ATTACHMENT A****ACT GOVERNMENT CORPORATE SUITE GUEST LISTS  
CANBERRA OLYMPIC FOOTBALL**

<b>Name</b>	<b>Organisation</b>
Robyn CALDER	Chief Minister's Department
Robert DE CASTELLA.	
Ted QUINLAN MLA	Legislative Assembly
John MACKAY	ACTEW
David MARSHALL	Talk Force Communications
Josef SLADEK	Embassy of the Czech Republic
Ross MACDIARMID	Ansett
Margaret COALDRAKE	Minter Ellison
Michael PHELPS	CanTrade
Edward GNEHM	Embassy of the USA
Horst BACHMANN	Embassy of Fed. Republic of Germany
Michael BAUME	Office of the President of the Senate
Pamela SLOCUM	Ideas and Directions
Rufail SOULE	High Commission for Fed. Rep. of Nigeria
Michael SZWARCBORD	ACT Community Care
Masaji TAKAHASHI	Embassy of Japan
Arjan VAN DER HERLM	Royal Netherlands Embassy
Francis GERONIMI	French Embassy
David BUTT	ex CEO Dept Health
David DICKSON	ACT Olympic Council
Zolile MAGUGU	High Commission for Rep. of Sth Africa
Branimir MULLER	Embassy of the Republic of Croatia
Howard RONALDSON	Dept of Treasury and Infrastructure
Ronen SHEM TOV	Embassy of Israel
Chris REEVES	Canberra Business Council
Davino SENNA	Brazilian Embassy
Maxwell SHEAN	Consulate of the Republic of Cameroon
Michael SMITH	National Capital Printing
Michelle WILLIAMSON	DPM
Paul DONOHOE	BDW Special Events Management
Kate LUNDY	Senator for the ACT
Ricardo NEIVA	Embassy of the Federative Rep. of Brazil
Christopher PETERS	ACT Chamber of Commerce
Tu PHAM	Dept of Treasury and Infrastructure
Tracy MCTERNAN	Ansett
Philippe GUERIN	French Embassy
Anna TURENICOVA	Embassy of the Slovak Republic
Denis MCDERMOTT	Australian Federal Police
Ken NOSWORTHY	AMP Financial Services
Wenzhong ZHOU	Embassy of the People's Rep. of China
Mark OWENS	Right D & A
Heather REID	ACT Women's Soccer
Brendan SMYTH MLA	Legislative Assembly
David THISTLETHWAITE	Prime Television
Ben MCDEVITT	Australian Federal Police
Greg CASTLE	Westpac
Annette ELLIS	Member for Canberra
Greg FRASER	Taskforce
Michel KOOPMAN	Hyatt Hotel Canberra

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David LAMONT	Montage Services, Australia Pty Ltd
Debbie ALDRIDGE	Centenary of Federation
Don BEAUMONT	Pendon Constructions
Robert CUSACK	Calvary Hospital
Nick EDWARDS	Prime Television
Catherine GARRETT	Prime Television
Daniel GIBSON	Prime Television
Robert GRIFFIN	Calvary Hospital
Marika HARVEY	Chief Minister's Dept
Peter HIGGISON	Australian Institute of Sport
Anna LENNON	Dept of Justice & Community Safety
Katie TSIAGALIS	ex Olympics Unit
Geoff APPLEBEE	Ernst & Young
Barbara BARRETT	ACTION
Andrew COLLINS	Australian Institute of Sport
Katrina FANNING	Chief Minister's Dept
Liz HARDY	CIT Solutions
Marilyn HARRINGTON	ex Dept of Health
Travis HASLAM	ACT Academy of Sport
Matilda HOUSE	Ngunnawal
Gino JACOVELLI	ACTEW
Angela KNOCK	Grey Advertising
Brian LANE	Defence Estate Organisation
Harnish MCNULTY	ACT Roads & Stormwater
Domenic MICO	National Multicultural Festival
Alf MOSCARITOLO	ACT Contracts & Purchasing
Rachel O'NEILL	Grey Interactive
Kate PRATLEY	Australian Institute of Sport
Ken ROBERTS	National Capital Authority
Kathleen ROLFE	BDW
Agnes SHEA	Ngunnawal
George SIMPSON	ACT Fesitivals
Peter TINSON	Canberra Urban Parks & Places
Jenny ADAMS	Chief Minister's Dept
Mary BARR	Canberra Tourism & Events Corp.
Susan BECCARIA	Hyatt Hotel Canberra
Ruth BODDY	Dept of Health
Alexandra DE VALINTINE	Parkroyal Canberra
Steve DORAN	SOCOG Torch Relay
David LALOR	Ainslie Football & Social Club
Pauline MCGUIRE	Commonwealth Bank
Val ALLEN-WRIGHT	Mawson Primary School
Yodie BATZKE	Queanbeyan Regional Council
Mr & Mrs BELL	Ngunnawal
Tim BOHM	Grey Advertising
George CHRYSOSTOMOU	Nova Multimedia
Darren CLARK	BDW
John CLARKE	Dept of Urban Services
Stuart DUNKELD	Stuart Barlen Hire
Hisayasu FUKUNISHI	
Joanna JUDGES	DPM
Greg KENT	ACT Fire Brigade
Phil LAWLER	Ecowise
Paula OSTLE	DPM Conferencing.
Stephen SIH	Totalcare

Steve AMOS	Canberra Urban Parks & Places
Liz LYNCH	Centenary of Federation
Cathy ATKINS	Chief Minister's Dept
Graeme CHAMBERS	CTEC
Paul DILLON	National Capital Authority
Lee-Anne HORVAT	Centenary of Federation
Leigh INCHER	Australian Institute of Sport
Kylie LEE	Canberra Urban Parks & Places
Danielle MORRIS	Morris Walker
Malcolm MUNRO	Malcolm Munro and Associates
Karl PHILLIPS	Dept of Treasury and Infrastructure
Rick RAND	ACT Bureau of Sport & Recreation
Tania SMITH	Morris Walker
Roger WAINWRIGHT	Ainslie Football and Social Club
Narelle WALTERS	Health Insurance Commission
Keith YOUNG	Centenary of Federation
Brian ASHCROFT	ACT Bureau of Sport & Recreation
Helen COHEN	Totalcare
Tony GILL	Dept of Urban Services
David LEA	DPM Conferencing.
Trish PATEMAN	Prime Television
Terry WILKINS	Prime Television
Cindy YOUNG	Parkroyal Canberra
Loretta ZAMPROGNO	ACT Govt Solicitor's Office

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*OLYMPIC GAMES FOOTBALL*

**CHIEF MINISTER'S CORPORATE  
HOSPITALITY**

*Suite 13, Western Grandstand*

*GUEST LIST*

**13, 14, 16, 17, 20 & 24 September 2000**

13 September: 5:00-10:00 pm

**Australia vs Germany (w); Gala ceremony; USA vs Czech Republic (m)**

<b>Name/organisation</b>	<b>Organisation</b>
Chief Minister	
Ray Kiley	
Rob Tonkin	
Beijing Mayor	
Chinese Ambassador	
Chinese Embassy	
Chinese Embassy	
Haitao Wen	
John Walker	Macquarie Bank, Sydney
Jim Murphy	CanTrade
Peter Gordon	
Simon Latimer	
Jo Elsom	

14 September: 5:30-10:00 pm

**China vs Nigeria (w); South Africa vs Japan (m)**

<b>Name/organisation</b>	<b>Organisation</b>
Chief Minister	
Peter Gordon	
Peter Phillips	CanTrade
John Hearn	ANU
Howard Powell	Telstra
Dale Budd	Dale Budd & Associates
Richard Luton	Richard Luton Properties
Zia Qureshi	Business Catalyst Int'l, Sydney
Maree Lowe	ASI Solutions, Sydney
Peter O'Brien	Investment 2000, Sydney
Mike Kinniburgh	ACT Chamber of Commerce
Simon Latimer	
Jo, Elsom	
Peter Cheng	CanTrade
Name to be advised	Businessman from Hangzhou

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16 September: 5:30-10:00 pm

**Germany vs Brazil (w); USA vs Cameroon (m)**

<b>Name/organisation</b>	<b>Comments</b>
Peter Gordon	
Peter Fritz	TCG, Sydney
Elaine Kos	Protocom Consulting
Stephanie Chapman	Former IIDB
Peter Howse	
Des Walsh	CanTrade/Austrade
Michael Britten	IIDB
Wing Tran	Chinese community rep.
David Malloch	Australian Business Limited
Declan Barry	Premiere Tax Free Services
Darrell Williamson	IIDB/ANU
Cr Robert Gledhill	Boorowa Mayor
Mrs Gledhill	
Yolanda Hanbidge	
Simon Latimer	
Jo Elsom	

17 September: 5:30-10:00 pm

**Norway vs Nigeria (w); Slovakia vs Japan (m)**

<b>Name/organisation</b>	<b>Comments</b>
Peter Gordon	
Denis Page	CanTrade
Stephen Collins	CSC
Brian Jones	CanTrade
Neville Roach	
Chris Day	BRL Hardy
Grant Christian	Computron, Sydney
Cr Lawrie Willet	Gunning Mayor
Cr Max Hadlow	Goulburn Mayor
Mrs Helen Hadlow	
Michael Hadlow	
Mark Goodall	Computer Associates
Cathy Atkins	
Simon Latimer	
Jo Elsom	

**20 September: 5:30-10:00 pm****Norway vs China; Slovakia vs South Africa (m)****Name/organisation                      Other preferences**

Rob Tonkin  
 Peter Gordon  
 Sandra Lambert  
 Peter Sesterka  
 Jim Murphy  
 BRL Hardy Director  
 BRL Hardy Director

**24 September: 5:30-7:30 pm****Women's Semi-final**

<b>Name/organisation</b>	<b>Organisation</b>	<b>Address</b>
Chief Minister Ray Kiley Sam Pearce	AGL	Locked Bag 944 North Sydney NSW 2059 (Ph 99228979)
Lenna Savolainan } Sandra Lambert Peter Sesterka	As above	As above
Jim Murphy Margaret Murphy Simon Latimer Jo Elsom Hungarian Ambassador Ambassador's wife	CanTrade	

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**ATTACHMENT B**

**OLYMPICS UNIT STAFF TICKET—CANBERRA OLYMPIC FOOTBALL**

<i>Name</i>	<i>Date</i>	<i>No. Ticket</i>	<i>Total</i>	<i>Tickets</i>	<i>Value</i>	<i>Value</i>
Gayle Wills	13 September 20004	\$65	\$260			
Elaine Young	13 September 20004	\$65	\$260			
Linda Syrek	13 September 20004	\$65	\$260			
Michelle Hunter	13 September 20004	\$65	\$260			
Liz Lynch	13 September 20004	\$65	\$260			
Kathy Strehar	1 September 2000	4	\$65	\$260		
Rachael Wood	1 September 2000	4	\$65	\$260		
Nicole Coyles	13 September 20004	\$65	\$260			
Kay Edwards	13 September 20004	\$65	\$260			
Emile Borrer	16 September 20004	\$45	\$180			
Neil Goodwin	16 September 20004	\$45	\$180			
John Muir	16 September 20004	\$45	\$180			
Frank Kocsis	17 September 20004	\$45	5180			
Linda Horbat	17 September 20004	\$45	\$180			
Sam. Stewart	17 September 20004	\$45	\$180			
Rebecca Gorman	20 September 20004	545	\$180			
Debbie Aldridge	24 September 20004	\$65	\$260			
Sue Baker-Finch	24 September 20004	\$65	\$260			
Marika Harvey	24 September 20004	\$65	\$260			
Liza Holroyd	24 September 20004	\$65	\$260			
Roz Laing	24 September 20004	\$65	\$260			
Greg Potter	Various	24	\$45	\$1080		
(Bruce Stadium staff)						
Greg Potter	24 September 20004	\$65	\$260			
(Bruce, Stadium staff)						

**Civic Interchange—Bus Shelters**

**(Question No 290)**

**Ms Tucker** asked the Minister for Urban Services, upon notice:

In relation to the new bus shelters in the Civic bus interchange:

1. What was the design brief
2. Who designed them
3. Who within Government approved the design
4. What evaluation has been, or will be, undertaken of the effectiveness of the shelters in meeting the needs of bus users; and
5. Will the Government consider altering the shelters to address the already identified problems of lack of shading and shelter from rain.

**Mr Smyth:** The answer to Ms Tucker's question is as follows:

1. The design and construction of the shelters was carried out as part of the refurbishment of the East Row/Alinga Street/Mort Street refurbishment project. The brief for this work required the designer to respond to many issues raised as part of the original brief and coming from the extensive public consultation program undertaken as part of the design process of the refurbishment works.

Some of the issues included

- Refurbishment of an area that had become run down and was looking unkempt
- Businesses were closing and shops being boarded up
- A strong perception by all users that the area was not safe
- Poor lighting
- Visual dominance of the area by the bus shelters
- The need for adequate shelter for bus patrons

2. The design consultants are Munns Sly Architects. The Department's Project Manager is Totalcare Projects.

3. Design approval was provided through the project management area after a comprehensive review process involving Government stakeholders. In this case, there was also an extended public display following advertising of the proposals by PALM as part of the Development Approval process, and the model of the proposed structures was given wide publicity through the media. In addition, there was a public meeting held at Gorman House in November 1998.

4. It is proposed to conduct a post construction evaluation of the refurbishment works about 12 months after the work is completed in November this year. The aim will be to find reaction of all groups using the area to the changes, and will include responses from bus passengers.

5. Identified problems have already been addressed during the construction phase of the refurbishment work and include:

- (a) Shade from the sun

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Changes were made to the roof design to provide a more visible shadow on the ground by increasing the colour tint in the glass and increasing the density of the “frit” or pattern in the glass roof. This modified roof was installed in all shelters facing West and North.

The glass itself is a very effective barrier to Ultra Violet (UV) radiation, blocking about 99.9%. It also blocks more than half the incident Infra Red (IR) radiation, which causes heat. The open nature of the structures allows the passage of breezes through the shelters and provides a cooling effect on hot days.

Temperature measurements undertaken in February 2000 showed that the new shelters perform as well as the old shelters with the opaque roofs. The old shelters with the acrylic roofs performed worst of all in providing shelter from the sun and heat.

(b) Shelter from rain

The roof design was modified by the inclusion of extensions at the back of the roof. Since the installation of these extensions, inspections have shown there is a marked improvement in shelter from rain.

Because of the open nature of the structures, chosen to overcome the “closed in” feeling experienced by users of the old structures, and the need to provide gaps at ground level for cleaning, it is not possible to provide complete shelter in all levels of weather. The new shelters aimed at providing a reasonable level of protection for commuters, while also providing an open, pleasant and inviting environment in the interchange.

**Housing Development—McKellar  
(Question No 291)**

**Ms Tucker** asked the Minister for Urban Services, upon notice:

In relation to the answer to question 259 regarding the housing development next to McKellar shops:

- (1) How and when did ACT Housing come to be aware of this housing development and the opportunity to buy units in the development;
- (2) Did the Office of Asset Management or any other part of Government ask ACT Housing to consider the purchase of these units;
- (3) Were the units originally designed as aged persons units, before the involvement of ACT Housing;
- (4) If not,
  - (a) did ACT Housing negotiate any change to the design of the units to accommodate aged persons;
  - (b) what were the nature of any changes; and
  - (c) did these changes affect the purchase price;
- (5) Is ACT Housing normally required to compete against private bidders in Government auctions of unleased land;
- (6) If so, why doesn't the ACT Government allocate unleased land to ACT Housing directly according to its need for additional housing sites.

**Mr Smyth:** The answers to the member's questions are as follows:

- (1) ACT Housing was first approached by the developer on the McKellar proposal in January 1999. ACT Housing often meets with developers and builders to discuss its future needs and priorities.
- (2) No.
- (3) The developer submitted a proposal to ACT Housing indicating that the units would be suitable for older persons accommodation.
- (4) (a) Yes.  
(b) Following the proposal from the developer ACT Housing requested some small changes including door relocations and minor kitchen modifications.  
(c) No.
- (5) ACT Housing is always required to pay market value for land it purchases. ACT Housing chooses to attend some land auctions if a particular site is attractive to it as part of its general purchase program.
- (6) From time to time ACT Housing does negotiate directly with Infrastructure and Asset Management for sites but this is not the only mechanism for meeting its needs for residential sites.

**Traffic Calming—Warrants  
(Question No 294)**

**Mr Quinlan** asked the Minister for Urban Services, upon notice:

**In relation to warrants for Traffic Calming:—**

1. How many warrants for Traffic Calming Measures have been approved in the last calendar year and for what streets have they been approved.
2. How many warrants for Traffic Calming Measures are planned to be considered in the next 6 months and what streets are they planned.

**Mr Smyth:** The answer to Mr Quinlan's question is as follows:

- 1) The Legislative Assembly only approved the traffic warrants system for use in March 2000.

Consequently there were no locations identified for traffic calming measures last calendar year using the traffic warrants system.

- 2) Two locations have now been identified using the warrant system—Goyder Street in Red Hill and Launceston Street in Lyons and a local traffic study is currently in progress to assess the traffic calming requirements in these streets.

**Speed Cameras  
(Question No 295)**

**Mr Osborne** asked the Minister for Urban Services, upon notice:

In relation to the operation of speed cameras in the Territory;

(1) In areas where speed cameras operate, in (a) the year prior to their operation and (b) from 6 October 1999 to date: How many,

- (i) accidents were there;
- (ii) fatalities were there;
- (iii) fines were imposed resulting from infringements; and

(2) What is the total amount raised from speed camera related fines.

**Mr Smyth:** The answer to the member's question is as follows:

(1) The information sought by Mr Osborne in (1)(i) and (1)(ii) is not readily available in the level of detail defined in the Question, and the analysis and presentation of the data would involve significant cost and diversion of staff resources. Nevertheless, some relevant information is contained within my Media Statement of 8 September 1999, a copy of which is attached.

Speed cameras in the ACT are deployed on the basis of a number of road safety considerations at locations according to Urban Services' residential area traffic management criteria. These include speed-related crash history, speed surveys, land use type, traffic volume and levels of heavy vehicle and through traffic. The roads are chosen by a committee on which the NRMA, the AFP and Urban Services are represented.

The Government has committed itself to a full and open evaluation of the speed camera program and ARRB Transport Research, a leading transport consultancy company, is undertaking an independent evaluation of the ACT program. The Government considers that this is the most appropriate method of formally evaluating the road safety effects of speed cameras.

The incidence of crashes is in itself an inadequate measure of the merits of the ACT speed camera program; reducing the speed of traffic involved in accidents is, at this time, a more significant measure since it will reduce the severity of injuries. The ARRB research on the first six months of the program, which analysed 'before and after' speed surveys, showed resounding success in increasing speed limit compliance in this initial period and I have arranged for a copy of the report to be provided to Mr Osborne.

National road safety evaluation guidelines require a minimum of twelve months, and ideally two years crash data, to judge the effectiveness of a new program. The next ARRB report, due later next year, will include crash record evaluation, as sufficient data will then be available for analysis in a meaningful way.

In regard to Question 1 (iii), the relevant details for the 27 speed camera roads which have been operational from 6 October 1999 to 31 August 2000 is attached.

(2) The total amount raised from speed camera fines in 1999/2000 was \$1.195 million. The estimated revenue for 2000/2001 is \$2.0 million.

**SPEED CAMERAS START 6TH**  
**OCT 1999—LOCATIONS &**  
**SIGNS UNVEILED**

ACT Urban Services Minister Brendan Smyth will today unveil the first of 62 signs being erected on speed camera approach routes and release the list and map of approved sites throughout Canberra where speed cameras will be used.

“Speed camera operations begin on Wednesday 6 October 1999 and we have begun installing prominent warning signs on the approach routes to the 27 locations selected for speed camera operations. The 54 site signs are progressively being installed over the next three weeks and are located at each end of the speed camera area and appear in the direction of the traffic. These signs advise motorists that speed cameras are used in the area,” Mr Smyth said.

“We have already installed boarder signs at eight entry roads into Canberra including the Federal, Barton and Monaro Highways, Sutton Road, Pialligo and Canberra Avenues and Lanyon Drive. The boarder signs advise motorists upon entering the ACT that speed cameras are used in the ACT.

“Additional signs will be positioned near the cameras when they are operating, and the cameras themselves will be placed in the open so they will be clearly visible to passing motorists. The total cost of the signs including installation is \$35,000.

“A committee of road safety experts from Urban Services, Australian Federal Police and NRMA, selected the camera locations, based on crash histories over the past two years and current speed surveys. They also evaluated the sites for public and operator safety as well as the suitability for camera operations, such as line of sight, hills and curves of the roads. **See attachment for list of speed camera locations and individual crash histories.**

“As part of the camera location approval process, the speed limit was reviewed in accordance with national and ACT speed limit standards to ensure it was at an appropriate limit. The locations are also checked to make sure they are safe and suitable for speed camera operations.

“We will regularly review the site locations and add or change them as necessary to ensure the cameras clearly target road safety enforcement in current problem areas. The public will also be notified of any changes.

“The effectiveness of speed cameras in reducing both speeding and crashes has been well documented, and they are an effective way to improve road safety in addition to education campaigns, police radars and other methods currently used to help stop speeding on our roads.

“A comprehensive public education campaign to inform motorists of the introduction of speed cameras will begin soon and includes the distribution of an information pamphlet to all Canberra households.

“We are determined to stop the speeding culture among ACT drivers. Speed is by far the major contributing factor in serious road crashes. We want to reduce our road trauma.

“Even if we can get a conservative 10% drop in ACT crashes, we will save our community about \$18 million in road trauma a year—not to mention the personal trauma and cost.

“Evaluations of speed camera programs in other states show the proportion of vehicles exceeding the speed limit fell by up to 80% and crash rates dropped by an average of about 20%.

“Motorists will really have no excuse if they are caught speeding by one of the cameras after they are introduced on Wednesday 6 October. We are giving Canberrans as much information as possible to encourage them to slow down. They can carry the list of sites with them, they can see the clearly marked signs and if they speed they only have their foolishness to blame.

“Remember, there is no such thing as safe speeding. It’s really very simple, don’t speed, don’t pay, and our roads will be much safer for everyone,” Mr Smyth said.

**\*\*\*SEE 2 PAGE ATTACHMENT, map will be supplied at event**

**TIME:** 11.45am  
**DATE:** Wednesday 8 September 1999  
**WHERE:** Roadside, Antill Street, Watson  
(approximately 400 metres from the  
junction with the Federal Highway)  
**WHAT:** Launch of speed camera signs, and  
location list and map

ACT SPEED CAMERA SITE LOCATIONS AND CRASH HISTORIES

These sites are based on speed-related crash history over the past two years, 1997 and 1998, (fatalities also include most recent figures of Jan-Jun 1999) and current speed surveys. Their speed limits have been independently reviewed in accordance with national standards and best practice.

The locations will, of course, be regularly reviewed and updated, with roads and sites being added or changed to ensure that the speed camera program clearly targets road safety enforcement in current problem areas.

		<b>current speed limit</b>	<b>2-year crash history</b>
Adelaide Avenue- Hopetoun Cct to Kent St	80		1 fatal, 6 serious
Antill St- Northbourne Ave to Federal Hwy	60 & 80		1 fatal, 3 serious
Athllon Drive- Beasley St to Sulwood Drive	80		1 fatal, 8 serious
Belconnen Way- between Barry and Coulter Drives	80		2 fatal, 6 serious
Bowen Drive- between Brisbane and Kings Avenues	70		5 serious
Coppins Crossing Road- Uriarra Rd to William Hovell Drive	80		1 fatal, 5 serious
Drakeford Drive- between Sulwood and Athllon Drives	80		1 fatal, 1 serious
Erindale Drive- Sulwood Drive to Sternberg Cresc	80		8 serious
Florey Drive- between Southern Cross and Ginninderra Drives	60		1 fatal
Ginninderra Drive- between Tillyard and Kingsford Smith Drives	80		1 fatal, 2 serious
between Ellenborough and Tucker Streets	80		1 fatal, 1 serious
Gungahlin Drive- between Wells Station and Gundaroo Drives	80		2 fatal
Hindmarsh Drive- Dalrymple St to Jerrabomberra Ave	80		1 fatal, 6 serious
between Athllon and Melrose Drives	60		1 fatal, 2 serious
Kingsford Smith Drive- Kuringa Drive to Spalding St	70		1 fatal
Lady Demnan Drive- Cotter Rd to Barrenjoey Drive	70		6 serious
Long Gully Road- Erindale Drive to Mugga Lane	80		5 serious
Melrose Drive- between Athllon and Hindmarsh Drives	60		1 fatal
Monaro Highway- Canberra Ave to Hindmarsh Drive	80		1 fatal, 6 serious
between Hindmarsh and Isabella Drives	80 & 100		6 serious
Mugga Lane- Narrabundah Lane to Long Gully Rd	80		1 fatal, 6 serious

Northbourne Avenue- Macarthur Ave to Antill St	70	7 serious
Parkes Way- Clunies Ross St to Glenloch Interchange	90	6 serious
Tuggeranong Parkway- between Lakeside Interchange and Cotter Roads	100	13 serious
Hindmarsh Drive to Cotter Rd	100	12 serious
between Hindmarsh and Sulwood Drives	100	1 fatal, 5 serious
Yamba Drive- Mawson Drive to Beasley St	80	1 fatal

*18 October 2000*

TABLE NOT INCORPORATED

**Roadworks—Drakeford and Erindale Drives Intersection  
(Question No 296)**

**Mr Wood** asked the Minister for Urban Services, upon notice:

**In relation to road works at the intersection of Drakeford and Erindale Drives:-**

- 1) What is the cost of the Work
- 2) How will the new turning lanes be integrated into the proposed new four lane sections on Drakeford Drive
- 3) Will the four lane section follow the same alignment as the new turning lanes; and
- 4) What is the expected cost of the future Drakeford Drive work

**Mr Smyth:** The answer to Mr Wood's question is as follows:

- 1) The cost of the design and construction of the intersection upgrade is \$847,000.
- 2) The design of the intersection upgrade has taken into consideration the requirements for the future duplication works.
- 3) Yes the duplication will follow the same alignment established as part of the intersection upgrade.
- 4) The current estimate for the future Drakeford Drive works is \$8.0 million.

18 October 2000

**Canberra International Airport—Noise  
(Question No 298)**

**Mr Corbell** asked the Minister for Urban Services, upon notice:

In relation to the noise generated by aircraft on the ground at the Canberra International Airport, including aircraft involved in engine testing and maintenance:

1. Does the Environment Protection Act 1997, apply to this noise.
2. If not, what legislative protections exist in relation to the noise from aircraft on the adjacent residential areas, such as Pialligo.

**Mr Smyth:** The answer to Mr Corbell's question is as follows:

1. No.
2. The Commonwealth provides legislative protection from noise generated by aircraft on the ground, including engine testing and maintenance. The Federal Department of Transport and Regional Services regulates airport activities through various mechanisms including the Airports Act 1996, the Air Navigation Act 1920 and airport environmental management strategies. In the first instance residents affected by on-ground aircraft noise should contact the Airport Environment Officer, a statutory officer of the Commonwealth on 62474600.

**Speed Camera Sites—Number of Accidents  
(Question No 299)**

**Mr Hargreaves** asked the Minister for Urban Services, upon notice:

How many accidents involving injury or death occurred at each speed camera site before and after the introduction of speed cameras during each of the following years;

- (a) 1996/1997
- (b) 1997/1998
- (c) 1998/1999
- (d) 1999/2000

**Mr Smyth:** The answer to the member's question is as follows:

The information sought by Mr Hargreaves is not readily available in the level of detail defined in the Question, and compiling the data requested would involve a significant cost and diversion of staff resources. Nevertheless, some relevant information is contained within my Media Statement of 8 September 1999, a copy of which is attached.

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Hindmarsh Drive to Cotter Rd	100	12 serious
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Yamba Drive- Mawson Drive to Beasley St	80	1 fatal

**Ministerial Council Meetings  
(Question No 301)**

**Mr Stanhope** asked the Treasurer, upon notice, on 7 September 2000:

In relation to the Ministerial Council meetings:

- (1) For the period 1 July 1999 to 30 June 2000, how many meetings of Commonwealth and State and Territory Ministers were held relating to your portfolio responsibilities;
- (2) When and where were each of these meetings held;
- (3) Which of these meetings did you attend;
- (4) If you did not attend:
  - (a) why not;
  - (b) was the ACT represented; and
- (5) If so, by whom.

**Mr Humphries:** The answer to the member's question is as follows:

- (1) (a) Three meetings were held during the period relating to my responsibilities as the ACT Treasurer; and  
(b) two meetings were held relating to my responsibilities as Minister for Gambling and Racing.
- (2) (a) The States only meeting of the Ministerial Council for Commonwealth-State Financial Relations was conducted at the Hyatt Hotel in Canberra on 16 March 2000, the inaugural meeting of the Ministerial Council for Commonwealth-State Financial Relations was conducted at Parliament House, Canberra, on the 17 March 2000, and the Australian Loan Council meeting was conducted at the same venue following the Ministerial Council meeting; and  
(b) the Ministerial Council on Gambling was held in Canberra on 19 April 2000 and a Racing Ministers' meeting was held in Brisbane on 26 May 2000.
- (3) (a) I attended all three meetings and indeed, hosted and chaired the inaugural States and Territories only meeting of the Ministerial Council for Commonwealth-State Financial Relations; and  
(b) I attended the Ministerial Council on Gambling.
- (4) I did not attend the Racing Ministers' Meeting held in Brisbane on 26 May 2000 because:
  - (a) the ACT Budget was brought down on the 23 May 2000 and, as Treasurer, it was necessary for me to be in the ACT; and
  - (b) the ACT was appropriately represented.
- (5) A senior officer within the portfolio, Mr Desmond McKee.

**Ministerial Council Meetings  
(Question No 302)**

**Mr Stanhope** asked the Minister for Health and Community Care, upon notice, on 7 September 2000:

In relation to Ministerial Council meetings:

- (1) For the period 1 July 1999 to 30 June 2000, how many meetings of Commonwealth and State and Territory Ministers were held relating to your portfolio responsibilities;
- (2) When and where were each of these meetings held;
- (3) Which of these meetings did you attend;
- (4) If you did not attend,
  - (a) why not;
  - (b) was the ACT represented; and
  - (c) If so, by whom.

**Mr Moore:** The answer to the member's question is:

1) 8

- 2) **3 August 1999, Canberra**—Australia New Zealand Food Standards Council (ANZFSC)  
**4 August 1999, Canberra**—Australian Health Ministers' Conference (AHMC)  
**5 August 1999, Canberra**—Community Services Ministers' Conference (CSMC)  
**22 October 1999, Canberra**—Australia New Zealand Food Standards Council (ANZFSC)  
**22 November 1999, Canberra**—teleconference—Australia New Zealand Food Standards Council (ANZFSC)  
**26 November 1999, Canberra**—(Disability Ministers')
- 10 February, 2000, Canberra**—teleconference—Australia New Zealand Food Standards Council (ANZFSC)  
**17 March 2000, Sydney**—Australian Health Ministers' Conference (AHMC)
- 3) **3 August 1999, Canberra**—ANZFSC  
**4 August 1999, Canberra**—AHMC  
**5 August 1999, Canberra**—CSMC  
**22 October 1999, Canberra**—ANZFSC  
**26 November 1999, Canberra**—Disability  
**10 February 2000, Canberra** teleconference—ANZFSC

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**4) (a) 22 November 1999**, Canberra—The Minister did not attend because he launched Aged Care Awareness Week in the ACT.

**17 March 2000**, Sydney—The Minister was in Japan for the Healthy Cities Conference.

**(b)** Yes for both

**(c) 22 November 1999**, Canberra—Mr John Woollard—Departmental Rep

**17 March, 2000**, Sydney—Mr Malcolm Baalman, Ministers Staff and Mr David Butt, CE  
DHaCC

**Ministerial Council Meetings  
(Question No 303)**

**Mr Stanhope** asked the Minister for Education, upon notice, on 7 September 2000:

In relation to Ministerial Council meetings:

- (1) For the period 1 July 1999 to 30 June 2000, how many meetings of Commonwealth and State and Territory Ministers were held relating to your portfolio responsibilities;
- (2) When and where were each of these meetings held;
- (3) Which of these meetings did you attend
- (4) If you did not attend,
  - (a) Why not;
  - (b) Was the ACT represented; and
  - (c) If so, by whom.

**Mr Stefaniak:** The answer to Mr Stanhope's question is:

- (1) Four meetings.
- (2) The meetings were: Community Services Ministers Conference—Canberra—5 August 1999; ANTA Ministerial Council—Adelaide—11-12 November 1999; Ministerial Council for Education, Employment, Training and Youth Affairs—Sydney 30-31 March 2000; and ANTA Ministerial Council—Melbourne—30 June 2000.
- (3) Attended three meetings: Community Services Ministers Conference—Canberra—5 August 1999; ANTA Ministerial Council—Adelaide—11-12 November 1999; and Ministerial Council for Education, Employment, Training and Youth Affairs—Sydney 30-31 March 2000.
- (4) ANTA Ministerial Council on 30 June 2000.
  - (a) Unable to attend the ANTA meeting on 30 June 2000 because of a very late sitting of the Legislative Assembly on the night of 29 June 2000;
  - (b) Yes; and
  - (c) The ACT was represented by the Chief Executive and a Director of the Department of Education and Community Services.

18 October 2000

**Ministerial Council Meetings  
(Question No 304)**

**Mr Stanhope** asked the Minister for Urban Services, upon notice:

In relation to Ministerial Council Meetings:

(1) For the period 1 July 1999 to 30 June 2000, how many meetings of Commonwealth and State Territory Ministers were held relating to your portfolios responsibilities;

- (2) When and where were each of these meetings held;
- (3) Which of these meetings did you attend;
- (4) If you did not attend,
  - (a) why not;
  - (b) was the ACT represented; and
  - (c) If so, by whom.

**Mr Smyth:** The answer to the member's question is as follows:

(1)-(4)(c) Please see attached table.

**Department of Urban Services**  
**Ministerial Council Meetings, 1 July 1999 – 30 June 2000**

No.	Meeting	Date	Location	Did Minister Attend?	If no, why?	Was the ACT Represented?	If so, by whom
1.	Council of Capital City Lord Mayors Conference (CCCLM)	15 - 16 July 1999	Melbourne	Yes			
2.	Ministerial Council on Forestry Fisheries & Aquaculture	15-17 July 1999	Darwin	No	Conflicted with commitment to attend CCCLM Conference	Yes	Paul Taylor, Executive Director Operations & Dave Jamieson A/g Director ACT Forests
3.	Agriculture & Resource Management Council of Australia and New Zealand	5-6 August 1999	Sydney	Yes			
4.	Australian and New Zealand Minerals and Energy Council	19-20 August 1999	Kalgoorlie	No	The major focus of the meeting was Minerals matters such as ACT attendance could not be justified.	No	
5.	Environment and Heritage Ministers' Meeting	27 August 1999	Melbourne	Yes			
6.	National Environment Protection Council	28 September 1999	Teleconference	Yes			
7.	National Environment Protection Council	29 October 1999	Melbourne	No	Minister had other Commitment's	Yes	Peter Burnett, Director Environment Protection
8.	Australian Transport Council 12 <sup>th</sup> Meeting	12 November 1999	Perth	Yes			
9.	Australia & New Zealand Environment & Conservation Council/ and National; Environment Protection Council	9-10 December 1999	Melbourne	Yes			

No.	Meeting	Date	Location	Did Minister Attend?	If no, why?	Was the ACT Represented?	If so, by whom
10.	Australian Agriculture Ministers Meeting	22 December 1999	Sydney	Yes			
11.	Council of Capital City Lord Mayors	1 March 2000	Brisbane	No	Minister had other commitments in Canberra	Yes	Alan Thompson, Chief Executive
12.	Standing Committee on Agriculture Resource Management/ Agriculture and Resources Management Council of Australia and New Zealand	1-3 March 2000	Melbourne	Yes			
13.	Australian Resource Management Council of Australia and New Zealand	2 March 2000	Melbourne	Yes			
14.	Australian Resource Management Council of Australia and New Zealand	5 April 2000	Adelaide	No	Minister was not required to attend	Yes	Colin Adrian, Executive Director Environment ACT
15.	Australian Transport Council 13th Meeting	18-19 May 2000	Port Douglas	Yes			
16.	Planning Ministers Meeting	12 May 2000	Canberra	Yes			
17.	National Environmental Protection Council on Conservation	25 May 2000	Melbourne	No	Assembly Siting	Yes	Colin Adrian, Executive Director Environment ACT
18.	Australian and New Zealand Environment and Conservation Council/ National Environmental Protection Council	30 June - 2 July 2000	Hobart	Yes			

**Syringes—Persons Approved to Distribute  
(Question No 305)**

**Mr Stanhope** asked the Minister for Health and Community Care, upon notice, on 7 September 2000:

In relation to the *Drugs of Dependence Act 1989*:

- (1) How many persons
  - (a) Hold an approval to distribute syringes;
  - (b) Have been refused an approval to distribute syringes;
  - (c) Have had their approval to distribute syringes revoked; and
  - (d) Have their application for renewal of the approval refused.
- (2) In relation to those persons who have had their approvals revoked, what were the grounds for revocation.
- (3) What 'courses of instruction' are considered by the Chief Health Officer to be suitable for persons applying for approval to distribute syringes; and have any particular courses been approved.
- (4) How many persons, that have been given approval to distribute syringes, have undertaken such courses.
- (5) How many persons have not attended such courses where that attendance is a condition to which the person's approval is subject; and have their conditional approvals been revoked; and If not, why not.
- (6) What test does the Chief Health Officer apply to determine whether a person applying for an approval or renewal of an approval to distribute syringes is a 'fit and proper person'.
- (7) How many applicants for approval or renewal of an approval have been refused on the basis that they were not 'fit and proper persons'; and
- (8) On what basis were they found not to be 'fit and proper persons'.
- (9) How many persons have had their approval to distribute syringes cancelled on the basis that they ceased to be a 'fit and proper person'; and
- (10) On what basis were they found to have ceased to be 'fit and proper persons'.

**Mr Moore:** The answer to the member's question is:

1.
  - a) 81 people hold an approval to distribute syringes;
  - b) Nil people have been refused an approval to distribute syringes;
  - c) Nil people have had their approval to distribute syringes revoked; and
  - d) Nil people have had their application for renewal of the approval refused
2. As reflected in question 1 above, no persons have had their approvals revoked. Under the *Drugs of Dependence Act 1989*, an applicant's approval shall remain in force, unless sooner cancelled, for a period of 12 months.

3. The only current course of instruction considered suitable for people applying to supply syringes, at the moment, is the training conducted by Assisting Drug Dependents Incorporated (ADDInc). The Department of Health and Community Care has contracted with ADDInc to provide this training. The course provides training about appropriate health counselling and the hygienic distribution, use, collection and disposal of syringes. The training, also includes a cardio-pulmonary resuscitation component provided by an accredited provider. It should also be noted that the Commonwealth Government, through its *Tough on Drugs* campaign is developing nationally accredited training programs for all Needle and Syringe Programs and for Pharmacists. The ACT is working with the Commonwealth in the development of these programs.
4. All 81 persons, who have been given approval to distribute syringes, have undertaken such courses.
5. As outlined in question 4 above, all those currently approved and requiring training have attended training. Therefore, this question is not applicable.
6. To determine whether a person applying for an approval or renewal of an approval to distribute syringes is a 'fit and proper person', the Chief Health Officer determines that the applicant works, either in a paid or voluntary capacity, for a needle and syringe program outlet.
7. Nil applicants for approval or renewal of an approval have been refused on the basis that they were not 'fit and proper persons'. As previously stated, under the *Drugs of Dependence Act 1989*, an applicant's approval shall remain in force, unless sooner cancelled, for a period of 12 months.
8. Based on the answer to question 7 above, this question is not applicable.
9. Nil persons have had their approval to distribute syringes cancelled on the basis that they ceased to be a 'fit and proper person'.
10. Based on the answer to question 9 above, this question is not applicable.

**Artificial Reproductive Technology—Funding for Inquiry  
(Question No 306)**

**Mr Stanhope** asked the Attorney-General and the Chief Minister, upon notice:

(1) What funding or other resources have you arranged for the ACT Law Reform Commission so that it can complete its inquiry into the question of artificial reproductive technology referred to it in 1998.

(2) Have you or any other Minister reviewed the question of artificial reproductive technology referred to the ACT Law Reform Commission in 1998 to ensure that the issues surrounding surrogacy will be examined.

(3) Has the question of artificial reproductive technology referred to the ACT Law Reform Commission in 1998 been altered in any way; and

(4) If so, what changes have been made.

(5) When is the Law Reform Commission expected to report on this matter.

**Mr Humphries:** The answers to Mr Stanhope's questions are as follows:

(1) Senior Officers of my Department recently met with Justice Crispin to explore how the Commission might better meet its objectives. In particular, consideration was given to improved financial recognition of members and additional research support.

As a result, my Department has prepared a draft budget for the Commission and, subject to the determination of remuneration of members by the Remuneration Tribunal, I propose to fund the Commission during the remainder of this financial year from the Treasurers Advance. A copy of the draft budget is attached.

(2) The 1998 terms of reference are sufficiently broad to allow examination of the issues surrounding surrogacy. I am confident, following discussions with Justice Crispin, that the issues surrounding surrogacy will be examined.

(3) No.

(4) N/A.

(5) The Commission has not advised of a likely completion date.

18 October 2000

**ACT LAW REFORM COMMISSION  
DRAFT BUDGET**

**Salary Costs**

Commissioners	\$77,500
Provision for research support	\$40,000

**Administrative Costs**

Accommodation	Nil
Advertising	\$9000
Travel and conferences	\$15000
Postage	\$500
Printing	\$5000
Publications	\$500
Total:	\$147,500 pa

**Housing Development—McKellar  
(Question No 310)**

**Ms Tucker** asked the Minister for Urban Services, upon notice:

In relation to the McKellar shops:

- (1) When will the construction of the upgrade of the McKellar shops begin, that was promised as part of the Government's direct grant of land at Section 50, Block 16 and Section 52, Block 6 McKellar, to Tokich Homes.
- (2) What is the nature of the upgrade.
- (3) What is the total cost of the works.
- (4) Who will be the building contractor.
- (5) Who will be paying for the works.
- (6) Given this work was publicly announced in August 1999, why has there been a delay in the work commencing.

**Mr Smyth:** The answer to the member's question is as follows:

- (1) Construction is planned to begin in November 2000, following the calling of tenders over the next few weeks and appointment of a contractor by ACT Procurement and Projects.
- (2) The scope of the works includes tree planting and associated control root barriers to the public areas, new paving adjacent to the supermarket and preschool, landscaping within the south-east pedestrian laneway, the installation of public lighting to pedestrian paths, tree planting within the median of Bennetts Close, a new footpath along the Bennetts Close verge, and the installation of a traffic calming device at the entry to the carpark.
- (3) The total value of works is estimated at approximately \$130,000. This figure includes consultants design fees, application fees, and all administration and construction supervision costs.
- (4) The selection of a contractor will not be known until completion of the public tendering process scheduled for the end of October 2000.
  - (5) PALM will be managing the works from funds held in the trust account obtained by payment of monies by Tokich Homes to allow the Deeds of Unconditional Undertaking to be released. In order to complete the works nominated in the approved Masterplan, Urban Services is making a contribution of \$30,000 to the total costs of works to ensure the maximum level of works so obtained during the tender and contract process.
- (6) Works to the value of \$100,000 were to have been completed by Tokich Homes under the terms of the Prescribed Conditions for Associated Works relating to the two blocks of land. However, to expedite release of the unit plans and to ensure maximum scope and value of the works for public benefit, it was agreed that Urban Services would manage the tender and contract process. Whilst this enables Urban Services to achieve maximum benefit from the augmentation of the works to the value of \$30,000, some delays were incurred in confirming the additional desirable works and securing the additional departmental funds.