DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

9 December 1999

Thursday, 9 December 1999

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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.

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Stefaniak,** from 58 residents, requesting that the Assembly consider the issue of free syringes to diabetics.

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

Syringes for Diabetics

The petition read as follows:

> To the Speaker and Members of the ACT Legislative Assembly:
>
> This petition from students and staff at St Vincent's Primary School Aranda has been prepared to let the Members of the Assembly know of our concerns that while drug addicts can get syringes free, diabetics have to pay for their syringes, and diabetics don't choose to be diabetics.
>
> Your petitioners therefore request that the Assembly consider and debate this problem and arrange for diabetics to be given syringes free of charge.

LEAVE OF ABSENCE TO MEMBERS

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

> That leave of absence from 10 December 1999 to 15 February 2000 inclusive be given to all Members.

STADIUMS CORPORATION BILL 1999

MS CARNELL (Chief Minister) (10.33): I present the Stadiums Corporation Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: Mr Speaker, I move:

> That this Bill be agreed to in principle.

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

Leave granted.

The speech read as follows:

> Mr Speaker, this Bill provides for the establishment of a new statutory authority to be named Stadiums Corporation. Following its establishment the Government proposes that the corporation will take over the underlying business activities of Bruce Operations Pty Ltd and be responsible for future administration of Bruce Stadium. This will clarify the relationship of the administration of Bruce Stadium with the activities of the ACT Legislative Assembly. It will also increase public oversight and accountability of the business activities.
>
> The formation of the corporation will introduce a higher degree of accountability and public responsibility that will take the stadium into a new millennium.
>
> Mr Speaker, Stadium Corporation will ensure that the Canberra community will continue to enjoy a pre-eminent sporting and functions facility. It will also provide a sound foundation and mechanism through which the ACT community will be able to be kept informed of the stadium's performance.
>
> Stadiums Corporation will be managed by a board of directors with appropriate industry experience. In order to facilitate the transfer of the business activities of BOPL to the Stadiums Corporation, it is the Governments intention to seek the agreement of the Legislative Assembly's Standing Committee for the Chief Minister's Portfolio to the appointment of the existing Directors of Bruce Operations Pty Ltd to the Board of Stadiums Corporation.
>
> Mr Speaker, the Bill provides that where existing public servants become employed by Stadiums Corporation, they may transfer with their existing accumulated leave entitlements.

> I would like to point out that the Bill imposes no overall additional regulatory or financial burden on the ACT Government or Bruce Stadium itself.
>
> In conclusion, Mr Speaker, this Bill represents the next phase in the creation of a truly world class sporting and entertainment facility in the ACT. Creation of the Statutory Authority will be a clear signal that the Stadium is a public facility for all members of the ACT community to enjoy.

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

INDEPENDENT COMPETITION AND REGULATORY COMMISSION AMENDMENT BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.34): Mr Speaker, I present the Independent Competition and Regulatory Commission Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: 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, the legislation I am tabling today is to establish the Independent Competition and Regulatory Commission (ICRC).
>
> The ICRC is the latest development in the expansion of the role of the Independent Pricing and Regulatory Commission, that is, the agency responsible for independent pricing oversight of monopoly services in the ACT.
>
> The ICRC Bill will amend the *Independent Pricing and Regulatory Commission Act 1997* to rename the Independent Pricing and Regulatory Commission (IPARC) as the Independent Competition and Regulatory Commission (ICRC) and to enable the ICRC to have a broader role in examining regulatory issues.

Members of the Assembly should be well aware of the model for the ICRC. The model was first presented to the Assembly in July 1998 by the Chief Minister and was subsequently examined by the Chief Minister's Portfolio Committee.

In December 1998 the Chief Minister responded to the portfolio committee's report and, based on their recommendations, the government increased the number of commissioners from one to three with the flexibility of appointing specialist skilled associate commissioners for short term projects.

Although the committee sought five permanent commissioners representing community and industry sectors, the government has adapted its recommendation to provide a more flexible and expertise based model by requiring the appointment of commissioners based on their skills and knowledge and allowing the appointment of associate commissioners.

It should also be noted that the ICRC is the agency that is proposed to administer the new utilities regulatory regime that is due to be introduced into the Assembly in the near future. As part of the extensive public consultation process involved in developing the proposed utilities regulatory regime, the public and community groups such as ACTCOSS have been widely consulted on the role and structure of the ICRC.

The model that is proposed in the ICRC Bill for the independent pricing regulator is one which overcomes the criticisms by several members of the Assembly about the current IPARC and the way the government investigates competitive neutrality complaints. In the past the IPARC has been criticised for having too narrow an economic focus in its pricing determinations.

The new structure of more commissioners should enable a broader approach to its work. In addition, the ICIRC's ability to appoint associate commissioners will enable those issues that have a significant social welfare element or environmental element to be sufficiently addressed in inquiries. It is also intended that the ICIRC will have a significant role oversighting the government's regulatory framework and in examining all competitive neutrality complaints. For some time members have sought a greater separation from government of the investigation of competitive neutrality complaints and this will be achieved with this model.

Given the broader range of tasks that the ICIRC will be required to undertake, a permanent secretariat will be established. The 1999-2000 Budget allocates $400,000 this financial year to fund its establishment and running costs.

I commend the Bill to the Assembly.

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

DEFAMATION BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.35): Mr Speaker, I present the Defamation Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

That this Bill be agreed to in principle.

Mr Speaker, if ever there was an area of the law where the challenge of reform is real and insistent, it is defamation law. If we rank the rights we enjoy in civil society according to our capacity to enforce them, then our right to assert our good name versus our right, say, to claim misappropriated property, to be granted a divorce or to have access to personal information would rank so low as to be almost non-existent.

The essence of the problem with the present law of defamation, here and elsewhere in Australia, is that it is fundamentally elitist. In effect, only the wealthy and the prominent have any prospect of pursuing defamation proceedings in most cases. A symptom of this problem is the disincentives built into the law that work against early settlement or resolution of an alleged defamation. The barriers to an action in defamation are so great as to render it a privilege few in society can realistically expect to exercise.

Mr Speaker, proposals to reform the law of defamation on a uniform basis have been made in the ACT and other Australian jurisdictions for many decades. Controversy has surrounded this area of the law since the first Australian colonies gained self-governing status. Today, after many years of effort to secure a uniform law amongst the States and Territories, we have to face the fact that uniformity, however desirable, is but a distant possibility. Other Australian jurisdictions are now taking pause to improve their own local defamation laws. Similarly, we must look to our own defamation law. Our present law is based on an uncomfortable mix of the common law and a number of old New South Wales Acts. We are poorly served by archaic legislation riddled with inconsistency and error.

In the past there has been a view that the development of defamation law can be left to judges rather than parliament. After all, it is in the nature of the common law to change and evolve. However, with the occasional celebrated exception, defamation law has been resilient to judicial reform. Even the High Court now appears to favour the view that it is proper for the legislature, rather than judges, to make substantive changes to the law of defamation.

In view of the state of the ACT law and the inherent improbability of improvement through a uniform exercise or judicial intervention, I have undertaken a review of ACT defamation law. On 11 September last year I released a discussion paper suggesting a series of targeted reforms. The Bill I have presented today is based on that paper and the responses to it.

Mr Speaker, a number of important issues arise here and I will go through them in order. First of all, negligence. The most significant change proposed in the Bill is the introduction of a new defence based on negligence. The defence represents a significant departure from the present law in the Territory and other Australian jurisdictions. At present, save for a couple of minor exceptions, liability for defamation is imposed without fault. That means that you do not need to intend to harm someone to be sued successfully. You do not even need to be aware of what you are doing. You can defame someone accidentally or innocently. The person suing you need only to prove that the matter was published and that it was defamatory. The imposition of liability without fault sits uneasily with modern concepts of personal responsibility. It is inherently unfair.

In comments on the discussion paper, a new defence was proposed by Crispin Hull from the *Canberra Times*. He suggested that the primary defence for a defamatory statement should be the same as in negligence except where the defamation imputed criminal behaviour. Mr Hull's proposal is not novel. In 1843, Lord Campbell introduced amendments to legislation in the United Kingdom to achieve a not dissimilar result. Lord Esher, an English judge, in a number of judgments at the turn of this century similarly attempted to import the concept of negligence into the common law. Since 1974, negligence has been a defence to defamation actions in the United States as a result of a decision of the Supreme Court. However, in this country, similar attempts at judicial and legislative reform have been resisted at every opportunity and, to date, stymied.

The Government has studied the Hull proposal and believes that it has great merit. Accordingly, the Bill has been framed to permit a publisher a defence if they can prove that they did not act negligently. For the first time, innocence or the lack of fault will be a defence.

I have no doubt that this reform will generate some excitement. It may be criticised by some as being too great a concession to publishers. However, the introduction of such a defence will provide a new and powerful reason for journalists and publishers to get their stories right. This defence will introduce a new dynamic into defamation law - a dynamic which provides a significant incentive for journalists and publishers to act without negligence. This measure also rids defamation law of one of its most archaic and objectionable features - no fault liability. Together with other reforms referred to later, it is a measure worthy of considered debate and support.

I turn now, Mr Speaker, to truth. Another significant change to the law concerns the defence of truth. At common law, the most important defence for defamation is truth. That is the case in many common law countries and a number of Australian States, including Victoria. The common law defence was altered in New South Wales very early in its colonial history, based on recommendations of a select committee of the

House of Lords. Since that time in New South Wales and then in the ACT, a defendant has been required to show not only that the matter was true, but also that publishing the matter served a public benefit. It is now proposed that the defence of truth should revert to its original simple common law form.

There may be howls of protest at this proposal. Some may see it as a sign of the end of civilisation. Others may argue that they dare not take this step without first making new laws about privacy, spent convictions or some other aspect of the law. These arguments, Mr Speaker, lack credibility. First of all, the proposal brings ACT law into line with other common law jurisdictions. Demonstrably the law in those places has not led to the collapse of polite society.

As for the argument that we must make laws dealing with other matters first, those making the argument miss the point of this area of law. The function of defamation law is the protection of reputation. The public benefit test has had a distorting effect on the law of defamation by shifting the issue away from reputation to the protection of some other right, such as a right to privacy. The law of defamation is not the appropriate mechanism to protect other evolving rights. If there are gaps in the general law, they should be addressed on their own merit, not as a by-product of a law which, until now, has been the preserve of the rich and famous.

Mr Speaker, the Bill provides a new offer of amends scheme. As politicians, some of us are defamed almost daily, mostly under parliamentary privilege. We do not defend our reputations by scurrying off to the courts, but through robust debate, correction and, sometimes, apology. Immediacy is the great strength of the parliamentary process and its rules. In contrast, defamation litigation generally happens many years after an event. It sometimes happens so long after the event that any decision by a court can have little effect on restoring the reputation of a person. Media reports of proceedings, when the matter finally comes to court, often gain greater currency and do greater damage than the original defamatory publication. In such circumstances, perhaps we should not be surprised to find the courts place greater emphasis on awards of damages than prompt correction and legitimate costs as the goal of these proceedings.

There seems to be general agreement that this problem may be ameliorated by introducing a statutory offer of amends scheme into the defamation law. Again, we find ourselves walking in the footsteps of Lord Campbell and his statutory process for apologies. Today, the Lord Campbell scheme is little used as there are few structural incentives for potential litigants to seriously attempt to resolve a dispute short of going to trial. Indeed, there are significant tactical disincentives to using the old apology provisions.

Under the proposed scheme, litigants are encouraged to consider timely and reasonable corrections. A publisher may make a formal offer of amends that may consist of an apology, correction, offer of settlement or a combination of the three. The person defamed must seriously consider an offer. Under the proposed model, the making of an amends at the earliest sign of a problem is now very attractive. A reasonable offer of amends is a complete defence to a later action for defamation.

A number of other useful related suggestions were made concerning this area of the discussion paper. It was suggested that if parties fail to settle when a reasonable offer was made they should be exposed to a risk of greater costs. It was also suggested that plaintiffs should be required to swear the truth of any correction in an amends. Both suggestions have been incorporated into the Bill.

Mr Speaker, the new Bill provides guidance to the courts concerning awards of damages in defamation. In the past, damages served principally to vindicate a plaintiff's reputation. However, damages for defamation have been the subject of consistent criticism. There is a perception that some awards have bordered on the obscene when contrasted with awards for personal injury. I think we all recall the case of a footballer in New South Wales who was awarded several hundred thousand dollars over the publication of his penis in a magazine when a similar award for the loss of a penis in workers compensation proceedings or the like would have accrued for the injured person a much smaller sum of money. Courts should ensure that there is an appropriate and rational relationship between the harm and the amount of damages awarded. In doing so, a court should also take into account the ordinary level of general damages component in personal injury awards in the ACT.

Mr Speaker, in framing the proposed changes it has also been necessary to make changes to both the form and the content of the 1901 and 1909 defamation Acts. I have to confess that the older laws have died on the operating table. From the point of view of us considering the changes, it has proved preferable simply to repeal these older laws and present the amendments within the framework of a new law. However, members should be aware that the new law includes a number of older provisions salvaged from the existing laws. I trust that this approach will not get us sidetracked into detailed debate about the older provisions. They will be considered as part of a second round of reform to the law.

Mr Speaker, while proceeding with the above changes, the Government is also considering a series of other options to improve access to justice in this area. In some jurisdictions, the problems noted above have been partially dealt with by courts establishing an expedited list. While keen to explore this approach, it might not be possible to adopt this approach within the size and costing constraints of the ACT.

I am also considering a new fast-track procedure that will provide a prompt and inexpensive remedy in less serious defamation cases. If necessary, new powers will be given to the courts enabling them to dispose of a claim summarily and to grant damages at a modest level. I shall bring proposals concerning these and other matters to the Assembly as part of the second round of reforms to the law.

Mr Speaker, the question should be asked: Where to from here? The Australian Press Council has offered to sponsor a forum to debate the proposals in this Bill. I have agreed to that. Such a forum would allow stakeholders to come together and debate the substance of the reforms as a precursor to further consideration of the Bill in the Assembly. I hope that the members of this place who are interested in this issue will consider involvement in this forum.

Mr Speaker, this process of reforming the law of defamation in the ACT has not been a speedy one. In fact, I announced my intention - at the time as shadow Attorney-General - to reform the law of defamation more than 10 years ago. I would only say in that regard that, by the pace of reform elsewhere in Australia with respect to this area of the law, that is actually very speedy. Mr Speaker, I commend this Bill to the Assembly.

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

INTERPRETATION AMENDMENT BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, under standing order 128, I fix a later hour this day for the presentation of the Interpretation Amendment Bill 1999.

TOBACCO AMENDMENT BILL (NO. 2) 1999

MR MOORE (Minister for Health and Community Care) (10.49): I present the Tobacco Amendment Bill (No. 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: Mr Speaker, 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:

> Thank you Mr Speaker.
>
> Two months ago, this Assembly enacted a range of important measures to help limit the demand for, and the supply of, tobacco products to young people.
>
> These amendments to the Tobacco Act 1927 have generated enormous interest in other States and Territories and are already being talked about as the benchmark for strategies to control tobacco advertising, promotion and illegal sales.
>
> In October, I indicated that I would be coming back with the second part of the Government's proposed amendments to the Tobacco Act: it is these amendments that I am pleased to present today in the form of the Tobacco Amendment No. 2 Bill 1999.

Taken together, this two-part legislative package represents an extraordinarily important opportunity not only to update our tobacco control legislation, but to ensure that it continues to be the national benchmark.

The complexity of untangling and re-integrating two pieces of legislation - the Tobacco Act 1927, as recently amended, and the Tobacco Licensing Act 1984 - has meant that it has been necessary to consider the licencing legislation separately, rather than with the earlier Tobacco Act amendments, upon which some of the proposed amendments rely.

It is now possible to introduce these legislative changes which will give effect to the transfer of the tobacco licensing function from the Commissioner for Revenue in the Department of Treasury and Infrastructure to the Registrar of Tobacco in the Department of Health and Community Care.

There were compelling procedural reasons to incorporate the new licensing provisions into the Tobacco Act 1927, which also involves repealing the Tobacco Licensing Act 1984, as this latter Act is no longer necessary.

This approach also simplifies matters for businesses and the community, as all relevant requirements will be contained in one piece of legislation.

It is intended that new administrative arrangements will take effect from the 2000-2001 licensing cycle, which commences on 1 September next year.

Mr Speaker, the transfer of the tobacco licensing function to the Registrar of Tobacco in the Department of Health and Community Care is a timely and sensible move.

The High Court’s decision which invalidated State and Territory tobacco franchise fees had indirect implications for tobacco licensing: under the Business Franchise Act, and later the Tobacco Licensing Act, tobacco wholesalers and retailers were licensed primarily to facilitate cross-checking to ensure that the Territory received the appropriate amount of tobacco excise.

Just as the revenue function of licensing has diminished -- with the Commonwealth assuming responsibility for collecting tobacco tax - there has been a re-focusing of attention on the relationship between the demand for, and the availability of, tobacco products.

For example, recent research has shown that ease of supply - and perceived ease of supply - can influence children’s attitudes towards smoking, and can also undermine health messages.

If we are to tackle the enormous consequences of tobacco use - and to make serious efforts to reduce them through prevention measures - it would be ludicrous to turn our backs on tobacco retail outlets.

While tobacco retailers are involved in the sale of a legal product, this is a product which has been age-restricted for many years and which, according to medical authorities, will kill half of the people who use it.

Tobacco products are clearly unique: they are the only commonly available consumer product which kills when used exactly as intended.

The same can't be said about ballpoint pens, bread, bus tickets, magazines, oil filters, lottery tickets and other products that tobacco retailers might sell.

On average, the two-pack a day smoker will spend more than 3 hours a day inhaling 44 known or suspected carcinogens, will face an increased risk of lung cancer, heart disease and a host of other debilitating diseases and conditions, and will lose 17 years of life - about 5 minutes of life for every cigarette smoked.

Recent calculations from the Australian Institute of Health and Welfare have revealed that tobacco smoking is responsible for 12% of disease in men and 7% of disease in women, and the rates for women are rising dramatically.

There is no doubt that tobacco retailers are in the frontline - but it is tobacco companies who have put them there, through 'over-the-top' advertising and promotion and through incentives that encourage retailers to buy more, promote more, and sell more.

Most of the ACT's tobacco retailers are responsible and conscientious about staying within the law; however, the actions of an irresponsible few can completely undermine the efforts of the law-abiding, majority, and can result in cigarettes being provided to any child who fronts up with the money.

It would be a mistake to think that the Government's proposed licensing amendments are somehow just about tobacco retailing - tobacco retailers and wholesalers have no argument with licensing, and in fact strongly support a fair and effective licensing system.

These amendments are about ensuring that there is some balance in the system - that we are controlling supply as well as working to reduce demand.

Our experience with tobacco control, and the social and legal context of tobacco use, makes this approach necessary.

These amendments are also about retaining our existing licensing system and strengthening it so that it serves an important public health purpose: to ensure compliance with key provisions of the Tobacco Act 1927.

The Government's Bill complements the recent Tobacco **(**Amendment**)** Act 1999 in a number of ways.

For example, under the Act, it is an offence to sell tobacco products to persons under the age of 18; under the present Bill, it is an offence to sell tobacco products by retail without a licence.

This means that an unlicensed person selling cigarettes to children could be found guilty of two separate offences: selling tobacco products to under-age persons, and selling tobacco products without a licence -- both of these offences could result in prosecution and a fine.

The effect of the present amendments is to substantially reduce the risk of illegal sales occurring at all, by either licensed or unlicensed sellers.

With licensees being informed about their responsibilities under the Tobacco Act and being aware that the failure to comply could compromise their right to sell tobacco products, a licensing system serves as a powerful deterrent to illegal behaviour.

In the Government's view, there are at least 10 advantages to retaining our licensing system and linking it to public health:

First: the opportunity for targeted education and information for retailers and wholesalers through the licence application process and through the provision of a comprehensive record of all tobacco retailers and wholesalers doing business in the ACT;

Second: the formalisation of the message that selling tobacco – a dangerous product -- is similar to other activities which carry a potential health risk in that it is a conditional privilege rather than an unfettered right;

Third: the provision of a range of enforcement options including variations on a licence, temporary licence suspension, and licence revocation;

Fourth: the opportunity to achieve increased compliance in a way which is likely to be quicker, less costly and more effective than legal action through the courts;

Fifth: ensuring that people who sell tobacco products are aware of their legal responsibilities and, through the offence of selling tobacco products without a licence, preventing opportunistic and potentially unscrupulous sellers from selling tobacco products at markets, sporting events, around schools, etc.;

Sixth: contributing to the elimination of the illegal trade in bulk loose tobacco, which completely circumvents tobacco tax;

Seventh: it is a system with which retailers and wholesalers are familiar and supportive;

Eighth: it provides for an appeal system through the Administrative Appeals Tribunal rather than going directly to the courts;

Ninth: it provides funding for an education, monitoring and enforcement program while not requiring excessively high fees (which are currently $150 a year for tobacco retail outlets); and, quite importantly,

Tenth: it takes advantage of efficiencies resulting from licensing responsibilities being vested in the same agency as that with responsibility for other tobacco issues, with responsibility for issuing a range of other licences (such as food licences) and with public health officers who are trained and experienced in a range of public health compliance measures.

For these advantages to be realised, the legislation proposes a number of key provisions:

Anyone retailing or wholesaling tobacco products in the ACT must have a tobacco licence (as required by the current Tobacco Licensing Act);

The occupier of premises on which a cigarette vending machine is located must have a tobacco retail licence (existing legislation licenses only the wholesaler);

Each premises from which tobacco products are retailed must be separately licenced (existing legislation provides for group licences);

Requirements that tobacco retailers only buy tobacco products from licensed wholesalers and that licensed wholesalers only sell tobacco products to licensed retailers;

Powers assigned to the Registrar for: specifying conditions in relation to a specific licence; refusing to grant a licence; and cancelling a licence;

Provisions relating to offences by licensees and disciplinary action to be taken by the Registrar (basically, those already enacted in the Tobacco (Amendment) Act 1999 but moved to a new section); and

A requirement for the licensee to display on the premises his/her name, licence number and any conditions applying in respect of the licence (as required by the existing licensing legislation).

Mr Speaker, I am delighted to present the Tobacco Amendment Bill (No 2) 1999 which proposes important procedural amendments.

The Government is confident that these amendments will ensure that the ACT's excellent tobacco licensing system is preserved, that the system is strengthened in ways which meets business and community needs, and that responsibility for tobacco licensing is placed where it logically belongs – as a public health measure, with the Registrar for Tobacco in the Department of Health and Community Care.

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

EDUCATION, COMMUNITY SERVICES AND RECREATION - STANDING COMMITTEE
Reference - Canberra Institute Of Technology 1998 Report

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

That the Standing Committee on Education, Community Services and Recreation inquire into and report on, as part of its inquiry into departmental annual and financial reports, the Canberra Institute of Technology report and financial statements 1998.

WORKERS' COMPENSATION - SELECT COMMITTEE
Alteration to Reporting Date

MR BERRY (10.51): I move:

That the resolution of the Assembly of 1 July 1999 which appointed the Select Committee on Workers' Compensation, be amended by omitting from paragraph (3) "by the first sitting day of 2000" and substituting "by the last sitting day of May 2000".

Mr Speaker, this motion arises because of some unavoidable delays which have occurred in relation to the operations of - - -

Mr Humphries: Huh!

MR BERRY: Mr Humphries interjects. Mr Humphries, if you want to interject, you should remind yourself of the days when you were the chair of the justice committee or its predecessor and how many months it was that you sat doing nothing.

MR SPEAKER: Order! We have a lot to get on with.

Mr Moore: I rise to a point of order, Mr Speaker. I wonder whether "Huh!" is an interjection.

MR SPEAKER: There will not be any "Ho, ho, hos" if we do not get on with the work.

MR BERRY: Are we all finished? The committee published an advertisement in the local newspapers calling for submissions to be left with the committee office by Friday, 13 August 1999. The Government, of course, had to have an extension of time in relation to its submission to the committee, which was delayed. Mr Speaker, we also allowed others who had expressed some difficulty in meeting the August deadline to submit by 21 September. We received the Government's submission on 24 September. A crucial submission from the Insurance Council of Australia was not received until 19 November 1999. We felt, as you would agree, Mr Speaker, that is was necessary to have the Insurance Council's submission.

The committee had a briefing from ACT WorkCover on 12 November 1999. We have put some questions on notice in relation to that and they have not yet been answered. You will recall, Mr Speaker, that that briefing also involved some crucial information which the committee will need to have before it proceeds much further. There has also been the issue of the limited availability of members, officials and other stakeholders over the Christmas-New Year period and, of course, the busy schedule of other committees of this place in which members are involved from time to time. Mr Speaker, the committee has agreed that the time for the consideration of this matter should be extended and that the committee must report by the last sitting day of May 2000. That completes the picture, Mr Speaker.

MR SMYTH (Minister for Urban Services) (10.54): Mr Speaker, the Government opposed the setting up of this select committee - indeed, most of the select committees - simply because we have a structure in place for these inquiries through the standing committees. This year all the select committees seem to be coming back to ask for extensions of time. The housing committee has, as has the Government Contracting and Procurement Processes Committee. Now we have the Workers Compensation Committee doing exactly the same. These committees were set up because the subjects of the inquiries were said to be urgent and important, yet there does not seem to be a great sense of urgency or importance in the way that they are being treated. The Government accepts that they need more time. Mr Berry, in his comments, said, "We are busy. There are other committees of this place". The reality of the situation is that these things should be done through the standing committee set-up. What we are seeing

here is a delay on an important issue. I think it is sad that the select committees that have been set up are not actually doing what they were set up to do.

Question resolved in the affirmative.

STANDING COMMITTEES - ANNUAL REPORTS REFERENCE
Alteration to Reporting Date

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.55): I move:

> That the resolution of the Assembly of 2 September 1999 referring the 1998-99 Annual Reports to the Standing Committees, be amended by omitting from paragraph (1) "1 February 2000" and substituting "by the first sitting day of February 2000".

The motion is quite straightforward. It simply flows from the fact that those reports are presently required to be presented on 1 February 2000. It is not proposed, and I do not think a member would suggest, that we should actually meet on 1 February. The first sitting day of February 2000 is a more effective date.

Question resolved in the affirmative.

STANDING COMMITTEES - REFERENCE - DRAFT 2000-01 BUDGET

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.56): Mr Speaker, I move:

> That:
> (1) the draft 2000-01 Budget for each appropriation unit be referred to the relevant General Purpose Standing Committee, to consider the expenditure proposals, revenue estimates and the capital works program for each portfolio and make recommendations that maintain or improve the operating result;
> (2) the draft total Territory financial position be referred to the Standing Committee on Finance and Public Administration (incorporating the Public Accounts Committee);
> (3) the relevant draft budget documents be provided by the Treasurer to the President Member of each Standing Committee by 17 January 2000;
> (4) the Committees report by 28 March 2000;
> (5) if the Assembly is not sitting when the Committees complete their inquiries, the Committee may send their reports 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;

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

Mr Speaker, this motion picks up the recommendations of the Select Committee on the Report of the Review of Governance with respect to the operation of a draft budget for the financial year 2000-2001. This is the first time that this approach has been taken in the ACT and, as far as I am aware, the first time it has been taken by any government anywhere in Australia.

It is, necessarily, something of a leap of faith to take the approach that the Government should put on the table its budget in draft form and submit that to extensive discussion and consultation with Assembly committees and, through them, the broader community. No doubt, Mr Speaker, there will be a great many pressures on this process and a great many temptations for the process to come off the rails, but we have taken seriously the suggestion from the select committee that there should be a broader, more inclusive process in the ACT political structure with respect to that most crucial of political decisions, the ACT budget.

We propose, under the timetable outlined in this motion, to put on the table a draft ACT budget for the financial year 2000-2001 by about 17 January 2000; to have the general purpose standing committees consider those sections of the budget which relate to portfolios for which they have responsibility; to have the Standing Committee on Finance and Public Administration examine the total territory financial position in an overview sense; and to have the reports of those committees produced by 28 March 2000. That allows approximately 10 weeks for consideration of the draft budget, a proposal that was sought by a number of committees, including the Standing Committee on Finance and Public Administration. That will provide, I believe, sufficient time for consideration of those issues.

The Government then proposes to produce a final budget on 23 May 2000. Should the Assembly so desire - I cannot say that the Government desires this - there will be time between 25 May and 27 June for the Assembly to put in place estimates committees or some similar process to examine the final version of the budget if that is considered necessary. The Government would then expect to pass the budget in the sitting week of 27, 28, 29 June for the purpose of having the budget in place for the beginning of that new financial year, a few days later, on 1 July.

Mr Speaker, as I said, this is an exercise in trialling an entirely new process in the production of budgets in this country. I detect a measure of goodwill on the part of some members of this place towards that process; a desire to indicate that, if they are given the right to examine a budget in a draft form, they will take up that privilege in a way which allows constructive contribution to the process of making a budget for the Territory. That process is also vulnerable, Mr Speaker, to a process of disruption, and I hope and request that members do not take that approach. I commend the motion to the Assembly.

MR QUINLAN (11.01): I wish I could believe that this is a genuine exercise in the pursuit of open government. I realise that it was part of the Pettit report, but I do note that, when the Pettit report was reviewed by our select committee on governance, Mr Stanhope, a staunch advocate of the Westminster system, did not concur with this element, and rightly so.

We are talking here, I guess, about a committee trying to create a budget. We all know the jokes about committees. The camel is a horse designed by a committee. The Westminster system is a process whereby a government prepares a budget and non-government members or parties play, and play effectively within a Westminster system, the role of the devil's advocate. I think that process provides the best results. The budget debate allows the public to evaluate how well they are represented. The budget being the cornerstone of how the government will operate, each of the parties gets to become involved in the budget debate, in open forum, and put their views on how, generally, the Territory should be governed as opposed to having only the single issues that arise from time to time on which to make their evaluation.

I have no doubt that Professor Pettit was genuine in his hope for a more collegiate style of government but I think he was a little naive. The Westminster system is based on constructive tension, even if it might involve, from time to time, exposing what are seen as negative observations and possibly even political point-scoring.

This is the second attempt, the second year in a row, where the Government has set out to employ a mechanism which essentially will forestall ex-post debate on the annual budget. The Government will stand in this place and say, "The committee has had a chance to look at these things. Its members should have made their input in the first place. Therefore, its right to object to elements of the budget and to hold them up to criticism in this public forum will be inhibited". A year ago we had the put up or shut up debate. Now we have the second attempt, a draft budget which is to be brought down in the middle of the summer break.

I wonder why this Government is pushing for this without any other reforms. This Government has all the accoutrements of a government within the Westminster system. It has ministries and they have bigger offices. Far greater resources are provided to Ministers, whereas the committees that are supposedly going to evaluate this budget in a relatively short time are relatively resource strapped.

We heard the snide comment of Mr Smyth, snidely Smyth. Commenting on the work of the committees, he said it has been a consistent theme in this place that committees have asked for extensions of time. As far as I have observed, nearly all the members of this place are working very, very hard, and, if there is a succession of requests for extensions of time, that might indicate something other than they are not doing their work. It might indicate, considering the small numbers that we have here and the pressures that are on committees, that there is a hefty workload.

To ask committees to do the full job on the budget within this relatively short timeframe is, I think, just a rather cynical political exercise. The Government is seeking to set up an absurdly uneven match in respect of the political balance that should be created within the place, saying that committees should know all about the budget and virtually

be precluded from ex-post criticism of the budget because they had an opportunity. These committees are, in fact, diluted in terms of political philosophy or party representation anyway.

It seems to me that this proposal arises out of a desire by the Government to cramp the estimates process, which is, in fact, one of the pillars of the Westminster system that we operate here and provides for maximum scrutiny of what the Government is doing. I will refer to a couple of quotes that I used previously on this topic or a similar topic. The first quote, from Emy and Hughes, is this:

> Finance is the essential commodity of government. Being able to direct the flow of government money is the single difference between government and opposition. The budget is a major political document.

And so it ought be. The second quote I want to give says this:

> Because all the possible individually justifiable claims on government cannot reasonably be met in any given period, the government must be ready to establish budgetary priorities in the light of its policies.

The budget document is going to be the child of the Government. I think it is reasonable, given the imbalance in resources, that the Government be expected to prepare and to present its budget and then provide the Opposition, and other members of this Assembly who so wish, with the opportunity to examine it, to pick flaws in it and to be selective or negative in their comments if they find fault with it. That provides, I think, the best balance in the process, rather than this artifice which is quite clearly designed to forestall ex-post comment and to cramp the estimates process. We will not be supporting this motion, Mr Speaker.

MS TUCKER (11.10): I move the amendment circulated in my name which reads as follows:

> Paragraph (1), omit ", to consider the expenditure proposals, revenue estimates and the capital works program for each portfolio and make recommendations that maintain or improve the operating result", substitute "for inquiry and report".

The debate that we are having this morning is very important. Basically, my concern is that, as Mr Quinlan said, there is a real danger that these sorts of initiatives are about silencing criticism and accountability within the system, and that we can become coopted by being forced into a process like this. The Greens will not be supporting this motion.

I noticed in the media when this was announced - I think it was a media release from the Chief Minister - that the Chief Minister was expecting support from the Greens. I think she must have misunderstood the Greens' position, which has been consistent and clear. We do support the global budget being presented earlier to the community, and the Assembly should have the ability, by means of some form of standing committee, to look at issues relating to revenue and expenditure in the ACT. We are willing to look at

that sort of process and to trial that possibility for greater input from the community and other members of the Assembly. I remember that this was supported by ACTCOSS at the time, too. ACTCOSS was making a similar call. What the Greens were saying was quite different from what we have here.

Mr Humphries tells me that this motion came out of the committee. Perhaps for that reason the Government in this instance is going to support the committee, but that is not a consistent rationale from the Government. They do not support things just because they have members on committees. I am interested in how members of committees are backing away from recommendations they have signed onto in some instances in this place this week. I do not know how Mr Osborne is going to vote on this motion, but he may be using the argument that because he was on the committee he will support this. This was a recommendation of the committee, but I was not on that committee. If I had been on that committee I would not have supported this, for the reasons that I am giving now.

Paragraph (1) of Mr Humphries' motion says:

> ... the draft 2000-01 Budget for each appropriation unit be referred to the relevant General Purpose Standing Committee, to consider the expenditure proposals, revenue estimates and the capital works program for each portfolio and make recommendations that maintain or improve the operating result;

So, not only are we having this work imposed on the committee system, which I object to in principle for the reasons I have explained, but we also are being told what sorts of recommendations we can make as a committee. I have worked on committees in this place. They are independent bodies. They are creatures of the Assembly, but they are independent groupings who can work together cooperatively, and that often is the case in terms of how things work here. It is a good aspect of how we work in the Assembly. As a group we come up with recommendations that are the result of that work.

When you are looking at a budget proposal for a particular area, there are all sorts of things that you might choose to make comments on. You might choose to make a comment on presentation, or you might choose to make a comment on broader social environmental implications of expenditure, or something like that; but it appears that we are only going to be able to make recommendations that maintain or improve the operating result. In other words, the Government has given us their agenda for this portfolio area and they are telling us that we can spend a lot of time looking at their agenda, but we can only make recommendations that basically agree with it or improve it.

Mr Humphries: No, that is not true.

MS TUCKER: Okay, so Mr Humphries says that is not true. The motion says, "make recommendations that maintain or improve the operating result". I guess Mr Humphries is arguing that we cannot make recommendations that will say we need to change the operating result. That is the fundamental problem with not being allowed to look at the global budget. Say my committee works on this particular appropriation and we talk to

the community and it is absolutely clear that there is an area that needs more resourcing. Say we also can see absolutely clearly that there is nowhere else that we can fairly take money from. Then we cannot make a recommendation as a committee, on behalf of the community, that we can clearly see and are of the view that this Government is failing the ACT community by putting this amount of an appropriation into this particular area of activity. We will not be able to say that. Mr Humphries is saying, "But then everyone will just ask for more". That is why this process is flawed, because we have that opportunity when we look at the whole budget.

Mr Humphries knows that the Greens do come up with suggestions for increasing revenue. We have done. We always do. We look at where we can spend money differently. We do come up with suggestions about priorities. So that is where this whole system is flawed. Anyway, that is why we do not agree with it and with the way it has been broken up.

What my amendment is doing is just basically saying, "Okay, we are going to have to do this work". I have not done this work yet in this way, as the chair of a committee. I would like to know, having done the work, that I am not going to have limits imposed on what kinds of recommendations I make. There is obviously a political issue about whether we have freedom as a committee to make recommendations that we think are appropriate. For that reason, my amendment seeks to remove all words after "Committee" and to substitute the words "for inquiry and report". Basically it is just saying, "Yes, you have to do this work". We will do that work as a committee and we will do it as we always do it, diligently, but do not tell us what kinds of recommendations we can make, because I think that is an incursion on democratic processes and the committee system.

MR CORBELL (11.17): Mr Speaker, this is a proposal to put a muzzle over the bark of the Assembly. It is a muzzle on the voice of this Assembly, and this Assembly should not for a moment be prepared to accept such a proposition. I come to this debate having chaired the last Select Committee on Estimates for the budget that the Assembly agreed to earlier this year. I come to this debate as a member who sat on an Estimates Committee process prior to that.

I was not here to hear directly in the chamber Mr Humphries' comments when he introduced this debate this morning, but I do not think we heard a proposition that the Government would be prepared to support an Estimates Committee process if this process was put in place. Mr Humphries may want to reject that allegation and say we will have an Estimates Committee process, but there is a sinister agenda afoot here, and that is not understating it. Not only are we being asked to accept an agenda which puts us in the position of being complicit in the development of the Government's primary political tool, as Mr Quinlan quite rightly pointed out, the budget document; we are also being asked to effectively sign away our rights to properly scrutinise the budget through the Estimates Committee process when the budget is finally presented.

What other parliament in the Westminster system signs away those sorts of rights? The only type of parliament that signs away those sorts of rights is a parliament which is completely dominated by one grouping; a parliament dominated at the expense of the

minority; a parliament dominated at the expense of what, in this case, would be a significant minority, Mr Speaker, if this Assembly agrees to this proposition today.

Mr Speaker, I think most members would be aware from their discussions on the various standing committees of the Assembly which they sit on that there is a widespread concern that this is an unworkable and unreasonable proposal. It is unworkable because at the end of the day the standing committees of this Assembly do not have the resources to properly consider the type of detail that the Treasurer is asking us to consider in this motion today.

Is the Treasurer seriously putting forward the proposal that we can assess the appropriations in each individual output from each individual department for which the standing committees have responsibility? I give as an example, Mr Speaker, the committee that I sit on, the Standing Committee on Urban Services. The Standing Committee on Urban Services, if this proposal goes ahead, potentially will have to consider each individual appropriation in each output area for the Department of Urban Services. The Department of Urban Services is a very large department. Is the Treasurer seriously arguing that that standing committee will have the capacity to decide whether or not there is satisfactory revenue being put into services such as Canberra's urban parks, or waste collection, or litter picking, or any other number of the myriad services, and perhaps more significant services such as housing, public transport, the environment, planning and land management? If he is, then this proposal can only be described as a joke, because there is no way, and members here know it - if they will not admit it they know it in their hearts - that we will be able even to attempt to properly scrutinise those types of expenditure proposals. That is the first fundamental problem.

If we were going to be able to accept this type of proposal from the Treasurer today we should have seen an equivalent proposal from him to provide improved resourcing to the committee office to do the job properly; but we have not seen that. We get a proposition from the Treasurer which requires us to do a round the world journey, visiting every country in the world, in a Mini Minor. That is the type of analogy I would like to draw. We are trying to get around the world, including going across the oceans, in a Mini Minor, through our committee system. It is an absurd proposition from this Government.

Mr Speaker, the other and equally concerning issue that arises out of the Treasurer's proposition today is that he is asking the standing committees of the Assembly basically to sign away their rights to properly consider the Government's budget proposals. As Ms Tucker quite rightly points out, he is saying, "We not only will ask you to consider these particular issues, but also ask you to consider them in this particular type of way; only consider them in relation to maintaining or improving the operating result". Without being able to take a global approach, which is available through the Estimates Committee process, we are not going to be able to properly do our jobs.

We are not going to be able to do it because we are going to have to look at expenditure in Urban Services divorced from expenditure across the rest of government. If this motion is successful the Standing Committee on Finance and Public Administration will be looking at the global result, but not looking at expenditure in individual departments. The divorcing of the two areas is completely inappropriate.

What if this Assembly took the view that it wanted to consider the overall operating result in light of what the priorities are in each individual department? We could not do it under this system because they are deliberately detached from each other. It is not the way to scrutinise the budget.

Mr Quinlan made some points earlier which I think have some merit and are worth repeating. What we have from this Government is a request that we accept more responsibility for the preparation of the Government's budget, but we do not have a commensurate approach from the Government saying, "We will give up some of our responsibility and some of our lurks and perks as Ministers". Ministers will not walk away from the considerable salaries they receive through being Ministers in the ACT administration, even though it could be argued, if this proposal goes forward, based on the Government's logic, that they had given away an element of responsibility because they asked the Assembly to do it instead. We do not hear them saying, "Well, we will give up our departmental liaison officer in a particular portfolio because that work now is going to be done by Assembly committees".

Mr Speaker, the proposal being put to the Assembly today is a nonsense. At the end of the day, what this will mean is less scrutiny and less accountability, and we will not have an Estimates Committee process. I challenge the Treasurer to stand in this place and say there will be an Estimates Committee, and I challenge the Treasurer to give his view on whether or not there should be an Estimates Committee.

Mr Humphries: I have already done that. I did that while you were upstairs.

MR CORBELL: Give us your view on whether or not there should be an Estimates Committee. Mr Speaker, if he is not prepared to do that, we have to have serious doubts about this proposal. Even if he is able to clarify the issue in relation to the Estimates Committee, we still have to question the workability of these arrangements. Quite simply, they are not workable. They are impractical. They are an attempt to emasculate the Assembly; to put a muzzle over the mouth of the Assembly when it comes to its watchdog role in relation to the preparation of the Government's budget.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.26): Mr Speaker, I want to address Ms Tucker's amendment and to indicate why it is that the Government has taken the approach that it has. The part of the motion in paragraph (1) that refers to recommendations that maintain or improve the operating result is a discipline imposed on this process which, I think I would agree, is an unusual discipline in respect of the sorts of matters before Assembly committees. We do not usually impose that kind of restriction, but it reflects, first of all, what the committee of the Assembly already recommended to the Government. I can recall, earlier this week, being chastised by some in the Assembly for ignoring the recommendations of the committee. Now our adoptions of the recommendations are being described as a cynical political exercise. I think the answer is that you cannot win either way.

The question is: Why are we doing it this way? It is a simple mechanism to make sure that the process does not break down. We know what is going to happen. We know that each committee is going to engage in a public consultation process which is not normally undertaken in this way with a draft budget on the table and with the community being able to see what is there in front of them. This is a revolutionary process, do not forget, that will expose this Government's budget to a level of scrutiny which no other government in Australia has been prepared to adopt. These things are going to be on the table. The community is going to come forward and organisations, lobby groups and so on, and individuals, probably, are going to argue for increased expenditure in particular areas. Each committee is going to get a very large number of requests for additional funding.

The fact is that the Government gets those sorts of requests all the time. Those opposite who have been in government know what this is all about. You have to balance those considerations against other pressures within a particular area. All we are asking the Assembly's committees to do is engage in this process on the basis already put forward in the Government's committee recommendations - that is, with the one discipline that it is not open to every committee to recommend that the appropriation in their area be increased, because that would be the product of the exercise. Every committee would come forward and say, "We need to spend much more in this area to cover all the unmet need". We would probably all agree, but then no-one takes responsibility for the fact that that total territory budget is only of a certain size. We only address the problem - - -

Mr Quinlan: You do. That is your job.

MR HUMPHRIES: Indeed. That is right. That is why we, as a government, have to assign a certain size to each slice of the pie. We say, "This is how much we have got to spend on justice and community safety; this is how much we have got to spend on urban services for the Territory; this is how much we have got to spend on health and so on" We take that step, we impose discipline on ourselves, and we simply ask the committees to share that discipline. That is not to say that it is not possible for others in the Assembly to contribute to a debate about whether we should be either enlarging the pie or distributing matters between different areas, such as, say, spending less on justice and more on health, or less on urban services and more on education or whatever it might be.

The role, as I see it, of the Standing Committee on Finance and Public Administration is to provide an overview of the budget, and I see nothing in this process which should prevent committees, particularly committee chairs, from liaising with the Standing Committee on Finance and Public Administration and saying, in the overview of the matter, that there ought to be some enlargement of the Territory's revenue, or an increase in borrowings by the Territory, or a transfer between one area of the Territory and another.

Mr Quinlan: We know what you are doing. Get on with it.

MR HUMPHRIES: Mr Quinlan immediately reacts to that. He obviously realises it is a terrible bind to be in. You are left in the position of having to recommend more revenue or transfer appropriations between different areas.

Mr Corbell: Give up your job.

MR HUMPHRIES: Mr Speaker, could I have a little bit of order?

MR SPEAKER: Yes. Would members please stop interjecting and talking?

MR HUMPHRIES: It is a bind, isn't it? You have to decide whether to transfer between different areas or to raise more revenue and put up the taxes. The point is that that is a discipline that falls on the Government.

Mr Quinlan: Can I have half your department? Do half the job. Can I have half the department?

MR HUMPHRIES: I will come to that in a minute. We now ask the Assembly committees who want to see this budget in draft form, who have asked for that viewing of the budget in draft form, to take the same approach that falls on the Government. It is an accurate replication of the pressures that the Government faces in framing its own budget. We cannot just say, "Oh, there is unmet need in health. We will put up spending in health and forget about having to worry about where the money is coming from". We do not have that luxury and, with respect, I do not think the Assembly committees can have that luxury either.

Mr Quinlan has raised a question about resourcing for this and it is a reasonable question. I want to point out to members that the process we are going through here is very similar to the process in which Ministers find themselves in the same circumstance. Mr Kaine, Mr Berry and Mr Wood have been in that position and will know the truth of this. We are presented with a set of bids from the departments. We are told, "We need to spend money on this; we want to spend money on that; we have to do this and we have to do that". Ministers come together in a committee. The committee is called "Cabinet" and the Cabinet has to wade through these bids, these requests, these demands, these blandishments, if you like, from various agencies and decide what we can afford to spend and what we cannot. Agency heads come to Cabinet and they give Cabinet advice. These committees of the Assembly, Mr Speaker, will also have the benefit of advice from - - -

Mr Berry: It is a giant stunt, Gary.

MR HUMPHRIES: That is your view, Mr Berry. These committees will also have the benefit of advice from members of the Public Service. The Government proposes to make senior public servants available to brief the committees on the budget and to answer questions about the process. I see no reason why, for example, the Standing Committee on Health and Community Care should not have the head of the Department of Health and other officials of the department in front of it and ask exactly the same sorts of questions that the Cabinet would be asking of that department head when the matter of the health portfolio comes before Cabinet. It is exactly the same process, and the resources that you have in front of you are exactly the same as the resources we have in front of us. If you say, "We want more information about this", then, within reason, that is the request that the department has to take on board. They are the same kinds of

requests that the department takes on board if asked by Cabinet, again within reason. So the process is not much different.

In any case, Mr Speaker, I ask members opposite to consider what other way of proceeding along this path there is. Labor has said, "Give us many, many more resources. Give us half your department and we will be able to do the job". I think the fact of life is, Mr Speaker - - -

Mr Berry: Give back your salary if you are not going to do the job. Give your money back.

MR SPEAKER: Order, Mr Berry! Stop making funnies. We have a lot of work to do today.

MR HUMPHRIES: Mr Speaker, I do not think we are going to be able to get the Labor Party to take this process on board. They are opposed to the idea of the Government having to share its budget-making process with anybody else because they do not want to have to do this when they are next in government. That is a fact of life.

Mr Corbell: This is about ministerial responsibility.

MR HUMPHRIES: You do not want to do this at all, irrespective of what resources are made available, and you do not intend to continue this experiment next time you happen to be on the government benches.

Let me say to others on the crossbenches, Mr Speaker, that this is a new exercise in public accountability. It is a level of exposure of government processes which is unprecedented, and it simply requires a certain minimal amount of discipline to make it happen. There is no other way of doing it. What other way is there, realistically, of doing this except the way that the Government has proposed?

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77.

MR BERRY (11.35): Mr Speaker, I reluctantly move:

> That so much of the standing and temporary orders be suspended as would prevent consideration of Assembly business having precedence of Executive business until the Assembly has concluded its consideration of Assembly business, order of the day No. 1.

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

MR HUMPHRIES: I just want to finish my remarks, Mr Speaker. Do not forget that we are proposing that the overview committee, the Standing Committee on Finance and Public Administration, can make recommendations about things like increased revenue and even movement between agencies. I see no reason why that should not happen, but, again, each committee is going to have to be involved in that process in some way.

MR QUINLAN (11.36): Mr Speaker, speaking to the amendment, and very briefly, let me respond to Mr Humphries and say that when next in government we will not be engaging in this process. I think it is a great artifice. I would like to do it, but I think it is irresponsible. If the house does pass this with the support of the crossbenchers, I expect them to lead the push in the work that is to be done in this particular exercise. As I happen to be the chairman of the FPAC, and a fair load is heading towards me, I expect them to be at the forefront of the work that is being done. I invite any member of the crossbench to join the FPAC in its hearing and its deliberations, which apparently commence in the middle of January.

MR OSBORNE (11.37): As chair of the Justice Committee, I extend the same invitation to Mr Quinlan to come and join us at some stage. I think our deliberations will begin in February. I cannot remember. One of our members is overseas, Mr Quinlan. Having sat on the committee which looked at this matter, I am somewhat intrigued at the absence of the Labor Party member on that committee who supported this recommendation - - -

Mr Quinlan: He didn't, I think. Why don't you read the report again? Read the report.

MR OSBORNE: You read the report. I am pretty sure he did. It is well known, Mr Speaker, that my office has been considering possible reforms of the Assembly for about the past 2½ years. I acknowledge that it is a painstaking process as we examine what can reasonably be done to improve the system without damaging all that which is worthwhile. The review of governance committee had a look at various aspects of our parliamentary structure and operation and tabled its report in June this year. This report is yet to be debated by the Assembly, but one of the committee's recommendations was to trial, for a period, a draft budget system.

I believe that one of the key problems in this place is that in the battle between the Executive and the Assembly the Assembly is under-resourced and often intellectually unarmed. For this reason I proposed an overhaul of the committee system so that each standing committee mirrors a ministerial portfolio. After two years of operation, I believe that the standing committees are still growing into this role and would be more effective in their respective roles with more resources at our fingertips. Perhaps the Assembly ought adopt the New Zealand model where the Auditor-General is given a special allocation which allows his office to assist parliamentary committees. However, perhaps that is an issue for another debate altogether.

As things stand, the Assembly has very little say in the way that the budget is formulated. The Executive presents the budget as a fait accompli and expects the Assembly to pass all or none of it. While this is the traditional way of Westminster parliaments, I believe that a reform of this process would provide the Assembly and the Canberra community a greater opportunity to scrutinise and to have input into the process. To achieve this will involve a reform of the way the Estimates Committee works. The aim of the draft budget proposal is to claw back some of the power now vested in the Executive and to include the wider community in the budgetary process. I would like to emphasise though that the finished product will still be the Government's budget.

After considering possible structures for some time and discussing various options with members and different people, I am suggesting a model that has the Government provide the relevant standing committees with draft proposals of revenue and expenditure early in the new year, and I support that, Mr Speaker. The Government has said that it can do this by 17 January. Each committee would then have around 10 weeks to scrutinise these proposals, pass them on to various community groups for input, hold public hearings and prepare a report for tabling in the Assembly. Members can ensure that they gain an understanding of other sections of the draft budget as they attend hearings and briefings at other committees as provided for by the standing orders, and also in line with the offer by Mr Quinlan.

If the committee reports were tabled in the last sitting week in March and a measure of debate immediately entered into, the Government would then have eight weeks to consider their response to prepare the budget. If the budget is tabled on 23 May, as I believe it will be, an Estimates Committee will have four weeks to consider the budget, hold public hearings and write its report before the budget is debated in the last week of June. This proposal provides for 14 weeks of budget scrutiny instead of the usual six weeks. However, a great measure of cooperation would be required from all corners of the Assembly for this process to be effective.

I make no secret of the fact that the intent of the proposed changes is threefold: Firstly, to help break the major parties' stranglehold on the budgetary process; secondly, to force executive government to bring more of its day to day business into the open and make it answerable to more powerful committees; and thirdly, to include the people of Canberra in the governance of their community to a far greater degree.

While speaking about the Estimates Committee, Mr Speaker, I think some consideration needs to be given to providing them with more resources. I still believe that more could be done in the way of providing research assistance for each of the standing committees, but the Estimates Committee would surely work more effectively with specialist help.

Australia is a place where government can all too easily be widely suspicious of the people and genuine inclusion is not the order of the day. Government is not some mystical art which only party hacks are fit to perform. There are signs that the two-party system has outlived its usefulness nationally, and it is doubtful if it ever really had its place. When the ACT Legislative Assembly was first set up in 1989 it became, in essence, this country's first republic. However, problems started on the delivery table in Federal Parliament where the major parties set about establishing a system which suited them rather than trying to make one which actually suited all of us.

No matter how unique our circumstances, the major parties did not imagine a system that did not include the Government/Opposition divide and, most importantly, a spoils system of government. They dreamt of a place, like every other Australian parliament, where the winners got the jobs and the losers waited their turn. The only problem with this approach came when the minor parties in the Senate insisted on a proportional representation electoral system. This presented a problem because it meant that the major parties did not end up with the rubber stamp model of a lower house, which was their preferred parliamentary form.

Government in this country, Mr Speaker, is too much about winning the spoils of government. Good governance is only an occasional by-product. However, it is high time that much more of the business of running this town was conducted in the open. I appreciate that the major parties struggle with wanting real reform of government because they like a system which suits themselves. For the major parties, governing Canberra is about power for their party. The Assembly ought to work for people, not for the parties.

We do not need a parliament of adversaries where an Opposition opposes for no other reason than it wants to become the Government, and where the Government is secretive. We should have a system where a greater degree of commonsense prevails and real people have a real voice in it. If anyone wants an example of how the system should not work it need only look at the debate between the Government and the Opposition at any time over the last nine or ten years of this Assembly's life. I have to say the exhibition so far in this debate would probably do.

I believe that, with all its flaws, a draft budget could eventually be good for Canberra if there is the will here to make it so. The proposal I have outlined provides for greater scrutiny, openness, public input and cooperation. Unfortunately, Mr Speaker, the Labor Party does not want to play ball, but I do hope that those members, once the draft budget is sent off to different committees, will try to work within the framework so that we can move forward. This can be a positive process.

MR QUINLAN: I seek leave to speak again, very briefly.

Leave granted.

MR QUINLAN: Mr Speaker, with your indulgence, may I read for Mr Osborne's benefit a section from the report of the committee that he chaired which relates to this particular topic. Section 4.18 states:

> Mr Stanhope does not agree with the majority of the Committee. He believes that it is the role of Government to prepare and propose a budget. Further the proposal for the reference of a draft budget to the various standing committees would lead to a chaotic situation that would seriously inhibit the preparation of a coherent budget.

That was in your report, Mr Osborne.

MS TUCKER: I would like to respond to some of the comments of Mr Humphries.

Leave granted.

MS TUCKER: I did not hear Mr Osborne speak to my amendment, but he is telling me that he will not support it. I am disappointed about that. I think his intentions are good if he thinks that what he is achieving here is opening up the process in a way that will make it more accountable. I actually think it is achieving the opposite, as I have already explained.

What is interesting me now is that Mr Humphries, in talking to my amendment, said it is necessary to impose on the committee discipline of this kind because everyone will want more, and this is the problem that government has to deal with. Therefore, we should, in some way, understand that and not give the Government that difficulty. He said that the Government's role is to balance considerations against other areas. Well, of course, that is the issue. The budget is a major policy statement because it is the view of the government of the day about what the priorities are and how they will balance those considerations. We would like to have that same opportunity and we are not able to have that opportunity. Then Mr Humphries raised a new aspect of the process as far as I am concerned. Maybe everyone else knew this but, as I understood it, Mr Humphries said that the Standing Committee on Finance and Public Administration, which, in this motion, will get the draft total territory financial position, will have the ability to look at this issue of balancing.

I do not know whether I have misunderstood Mr Humphries but I am pretty sure that is what he said. In that case he seems to be saying that, as chair of a committee, I can put a submission to Mr Quinlan's committee, perhaps, and say, "I think your committee, in its deliberations, needs to take into account concerns that have come from my committee about total expenditure", but I am not allowed to make recommendations about total expenditure. I am not allowed to make recommendations about the need for more funding in my area because this motion stops me doing that. But I can then go and talk to Mr Quinlan's committee, apparently, and express concerns so that his committee can take it into account.

Mr Quinlan: No, I will not be able to do anything about it, though.

MS TUCKER: Well, it appears that you can make recommendations. If I have understood Mr Humphries correctly, he is saying that Mr Quinlan's committee can make recommendations about broad expenditure and the shifting of priorities. This process is getting even more confusing and bizarre if that is the case because, obviously, with this so-called discipline imposed on my committee, I am not going to be able to say anything about that.

I am also interested to know what I tell the community whom we are inviting to donate their time to the process. I guess I would have to say, as an opening statement to any community group, "We are interested in your opinion or your assessment of the particular portfolio area of the budget that you are concerned about, but you must know, if it is your view that this is inadequate expenditure, that we will not be able to communicate that in our recommendations". I just think this is a very unsatisfactory process.

MR KAINE (11.51): Mr Speaker, I must say, having spent a very large part of my life involved with bookkeeping and accounting, and having been a Treasurer of this Territory, that I find this exercise a Clayton's consultation process. What the Government is seeking to do is what the Chief Minister, time and time again, accuses the Opposition of wanting. The Government wants it both ways. Several times yesterday when she was addressing a matter she accused the Opposition of wanting it both ways.

For the reasons that Ms Tucker has just dealt with, no matter what any member of this place says in any committee, it will not change the bottom line of the budget one cent. The wording of Mr Humphries' motion is quite specific, and it has been written that way for a good reason. What we are supposed to do is make recommendations that maintain or improve the operating result. In other words, the Government is not sure that it can do that, so it is giving it to all the rest of us in the hope that we can do what the Government has been unable to do - produce an optimal budget. All we can do is venture an opinion, and we have to work with the figures that are given to us.

What the Government can do at the end of the day, and it will - the Treasurer and Deputy Chief Minister has made it clear in recent debates in this place - is attempt to make the Assembly responsible for this budget. It will not be their budget. When it goes wrong, it will not be their budget, and they will say that every member of this place had the opportunity to make an input to this budget. They will say, "It is, therefore, your budget, not our budget". If they come out with a good end of the year operating result, they will say, "See what a good budget we produced". If they come out at the end of the year with a bad operating result, they will say, "But it is your budget. It wasn't our budget, it was yours". Of course, that, clearly, is not so.

Unless the Government is going somehow to change the concept of ministerial and executive responsibility, this budget remains theirs no matter what they do. They can go through a pretence of consultation. They can introduce a system which is, in a sense, no different from what estimates committees have done every year in this place for the last 10 years.

Mr Humphries says that this is the most open process of any government anywhere in the world. I think that, more or less, paraphrases what he said. Well, it is not. It is no more open than any budget that has ever been presented in this place, and, of course, any input that we make will have no more impact than any input we have tried to make over the last 10 years.

It is simply a case, Mr Speaker, of the Government trying to have it both ways. They want to try to get themselves off the hook in terms of responsibility for the budget, while imposing such constraints on us that we cannot change the budget in any sensible or practical way. For that reason, I have real reservations.

I note also, with interest, that the Government is claiming that they are doing this because it was mentioned in the report on governance of the ACT. They are very good at picking out from the governance report the things that happen to suit them and setting the rest of it aside. I note that that report and the report of Mr Osborne's committee and the Government's response to it have not yet been debated in this place. So on what basis is the Government saying we are doing this because the governance committee recommended it? That was a recommendation, but the Assembly has not debated it yet. The Assembly certainly has not adopted any of the recommendations in that report yet, but we are having this sort of thing foisted on us as though it is somehow good, somehow sacrosanct, and we are obliged to accept it and obliged to do just what the Government wants us to do – rubber-stamp their budget and then at the end of the day be held accountable for not their budget but our budget.

I indicate quite strongly now, Mr Speaker, that in the interests of seeking to find a solution I will go along with the proposal by the Government insofar as the process is concerned, but at the end of the day I will not allow the Government to push its responsibility for budgets and budget outcomes onto me. I leave it to the rest of you to determine whether you are going to let them do it to you, but I will not sit quietly and allow them to do it to me. It is their budget. It will remain their budget. Until they change the process in such a way that we can effectively alter the budget and its outcomes, it remains their responsibility. End of story.

MR RUGENDYKE (11.56): Mr Speaker, I am on record as giving in-principle support to the idea of a trial budget and I am prepared to support Mr Humphries' motion to facilitate that trial budget for this budget period. I agree, though, that there should be constraints upon the discussion about the budget. I do not propose to support Ms Tucker's amendment for that reason. I think it is important for the operating result that the budget is not blown out, so we should work within what the Government's budget bottom line is deemed to be. I am prepared to go through this process as a trial. Later today we will be discussing another trial. I disagree with that one, but this one, Mr Speaker, I do agree with.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Question put:

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

The Assembly voted -

AYES, 10	*NOES, 7*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Quinlan
Mr Kaine	Mr Stanhope
Mr Moore	Ms Tucker
Mr Osborne	Mr Wood
Mr Rugendyke	
Mr Smyth	
Mr Stefaniak	

Question so resolved in the affirmative.

WORKERS COMPENSATION AMENDMENT BILL 1999

MR OSBORNE (12.03): I seek leave to present the Workers Compensation Amendment Bill 1999.

Leave granted.

MR OSBORNE: I present the Workers Compensation Amendment Bill 1999, together with an explanatory memorandum.

Title read by Clerk.

MR OSBORNE: I move:

> That this Bill be agreed to in principle.

I thank members for their indulgence. The legislation only came through last night. I intend to refer it to the Select Committee on the Workers Compensation System.

In 1995 Mr Berry chaired a committee inquiring into the performance of Comcare in regard to our workers compensation requirements, in particular the level of cost to employers. As a result of that inquiry, changes were made which, I understand, have produced a better workers compensation scheme. I believe that there are now fewer accidents on the job, rehabilitation times are shorter and the costs for all parties have been reduced. So, while the system we have now is still far from perfect, it has nonetheless improved.

Despite this improvement, two common points of criticism remain - firstly, the quality of rehabilitation has come under question; and, secondly, the cost of the scheme is still too high. This legislation addresses an aspect of the latter point - the cost of the scheme.

Some of the most vocal critics of the cost of the scheme demand changes based on their belief that fraudulent claims by employees inflate the cost to the scheme's contributors - the Government and employers.

While employee fraud is often suspected - and suspected very publicly - very few cases have been prosecuted. A comprehensive study was carried out by the Labor Research Association in the United States last year in order to try to nail down the extent of employee workers compensation fraud in that country. While it did find a small level of employee fraud, it identified that the true drain on workers compensation across the whole of the nation was in fact employer and provider fraud.

Some States found that the incidence of employer and provider fraud outnumbered employee fraud by about 3 : 1 and that the value of the fraud concerned was about 4 : 1. The favourite tactics used by employers to pay small premiums, thus increasing the cost to government and the taxpayer, included under-reporting wages, misclassifying workers as independent contractors even though they were in fact legal employees, and misrepresenting their claims history.

While I appreciate that there is a difference between the two jurisdictions and that the Assembly currently has a committee inquiry under way into certain aspects of workers compensation, I have nonetheless decided to table this legislation today, as I believe this Bill will assist the committee as it progresses through its inquiry.

This Bill establishes criminal offences and provides penalties for deliberate evasion of payment of premiums and/or the understating of wages in order to lessen the payment of premiums. The current divisions relating to insurance and premiums are contained in Part III of the Workers Compensation Act 1951. Section 17B requires an employer to maintain a prescribed insurance policy in force with a group insurer. Failure to comply makes the offender liable to a penalty. Subsection 17(5) allows the nominal insurer to recover as a debt twice the amount which would have been payable.

Section 18 requires that an employer give to an insurer a certificate from a registered auditor and a statutory declaration setting out the categories of workers and a total amount of wages paid in respect of those workers. Failure to comply also makes the offender liable to a penalty. If a person knowingly makes a false statutory declaration, that person has committed an offence under section 11 of the Statutory Declarations Act 1959 of the Commonwealth and is liable to imprisonment for four years. Subsection 4B(2) of the Crimes Act 1914 of the Commonwealth converts this to a possible pecuniary penalty of $24,000. If an auditor makes a false claim in a certificate for the purposes of this Act, they are liable to imprisonment for six months or a fine of $5,000, or both. Under section 345 of the Crimes Act 1990:

> A person who aids, abets, counsels or procures, or by act or omission is any way directly or indirectly knowingly concerned in, or party to, the commission of an offence under the law of the Territory shall be deemed to have committed that offence and shall be punishable, on conviction, accordingly.

A similar provision exists in section 5 of the Crimes Act 1914 of the Commonwealth. It would appear that many of the concerns about premium evasions are already dealt with under the current legislation. There is a requirement to maintain insurance and a requirement to provide correct information to the insurer. In addition, any person who aids or abets a breach of such requirements is liable to prosecution.

However, not all concerns are met by the current legislation. There needs to be further deterrence against employers failing to take out insurance and understating matters in order to reduce their premiums. These concerns can be met by increasing penalties for second and subsequent offences, making directors and officers liable and preventing repeat offenders from further employing workers. Abundant caution provisions have been added to catch those who assist in evasion by premium underdeclaration.

In addition, the penalty provision for the making of a false statement should be incorporated in this Act so that prosecutions can be mounted by the ACT Director of Public Prosecutions. Further, the amount which can be recouped by the nominal insurer should be increased. The civil penalty of three times the amount able to be recouped is in line with certain provisions of the Trade Practices Act 1974. If such a penalty is applicable in those instances, it would appear to be reasonable in this case.

I commend the Bill to the Assembly.

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

GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES - SELECT COMMITTEE
Commercial-in-Confidence Documents - Publication

Debate resumed from 25 November 1999.

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

FINANCE AND PUBLIC ADMINISTRATION - STANDING COMMITTEE
Report on the Implementation of Service Purchasing Arrangements in the ACT

MR QUINLAN (12.10): I present Portfolio Committee Report No. 3 of the Standing Committee on Finance and Public Administration (Incorporating the Public Accounts Committee), entitled "The Implementation of Service Purchasing Arrangements in the ACT", together with a copy of the extract of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, this report contains some criticisms of the way that the purchaser-provider process has been introduced and questions its appropriateness. In the interests of fairness, the report contains a section which looks at the original recommendations that were made in the Rogan Johnston implementation report, the one we were required to

look at, and it provides a precis of the Government's response. What the Government has submitted has been, I think, faithfully summarised and incorporated in the report, in the interests of balance.

I can also happily report to the Assembly that it seems that since this inquiry started the level of activity in abiding by the implementation recommendations and the assiduousness with which those recommendations are being implemented have heightened somewhat. I know that at least two more commissions were given to Mr Craig Johnston to introduce issues and a further report, and we have also had newsletters and the distribution of material.

In the overall context, I recommend that members interested in this topic read beyond the recommendations themselves. We tried to be relatively economical in the recommendations that were made - in fact, economical in the whole content of the report.

Recommendation 1, which reflects upon the way departments have gone about their role in introducing the purchaser-provider system, is that seminars be conducted to allow departmental officers to focus on the impact on the provider organisations. There is a considerable gap between the department and the provider organisations. In an inquiry such as this, it was disturbing to find that provider organisations wanted to be heard in camera in preference to being heard in a public hearing, because they feared retribution in terms of continuity of funding for the programs and support they provide to the community.

A couple of the recommendations ask for further explanation of some of the terms used by government in justifying the process of purchaser-provider. There are throwaway lines like "It enhances consumer sovereignty". We want to know what that means. It is not good enough just to use those terms. Having worked in this sector for some time, I cannot just off the top of my head see how "purchaser-provider" translates immediately into "have some impact upon consumer sovereignty". I am happy for the Government or the departments to explain that.

There are also claims that purchaser-provider will enhance efficiency and effectiveness and delivery of services. We rather thought that we might get a little bit more detail from government on the areas where they were seeking to find economies and efficiencies in a sector in which many people work very hard for not much intrinsic reward for what they do. I believe that they deserve the empathy that is implied in our first recommendation.

In talking to these organisations, there seemed to be a gap in their understanding of what government wanted. The Government and department made their submission. It included details of the various services that were delivered and details on whether they would be contestable or not. That was under the heading of the mapping exercise, but the mapping exercise is far from complete. For the majority, the jury was still out. We think priority should be given to that mapping exercise, which may result in a lot more of the programs remaining protected and the people who deliver them happily going about the good work that they do without the fear that is quite obvious now. If we are to

publish the results of the mapping exercise, then the rationale and the criteria used to make those decisions should also be published.

Another throwaway line was “value-for-money matrix”. I have not met one yet, but I am prepared to learn. I think that community service organisations who are going to be submitted to evaluation by a value-for-money matrix model might also benefit from some expansion upon what is meant by that term.

There were questions about the accountability of organisations in terms of “the one size fits all” mentality. The system is still embryonic - we understand that - but we need to be a bit more selective and, for small grants, reduce the accountability processes if we can. Quite obviously, it is not a case of one size fits all in terms of the accountability and the responses and the reports that go in. Equally, if organisations are required to submit reports and statistics, then some feedback should also flow. In the past I have submitted many reports and statistical reports that have just been filed. Someone always followed up on whether they were received or not, but no qualitative judgment seemed to be applied to them.

I close with a plea to read the recommendations and beyond them. In the genuine application of purchaser-provider, the Government and the departments have moved very slowly, and a couple of organisations seem to have suffered as a result of the tender process. They seem to have been singled out for reasons that do not necessarily fit within the framework of purchaser-provider. The contestability of programs in the community sector has been applied to very few. At the same time there is genuine fear and disquiet amongst the community sector. Whether the fear of contestability is logically based or is just imagination on the part of the community organisations is immaterial, because perceptions do become reality.

The odd organisation is coming in from outside with more of a private sector approach. We know of one that operates out of someone’s house but nevertheless runs a reasonably sized program on a quite different basis, with less management and only face-to-face service involved. Because of that there is a genuine concern that it is the responsibility of government and this Assembly to address and to analyse. If it is misplaced concern, then we need to rationalise it in the open and assure those organisations that there is not going to be rampant contestability; that there is not going to be the swapping of programs from one organisation to another.

The report refers to another element in passing, but I recommend that members look at that section. It relates to the government-provided disability services versus the non-government-provided utility services. Already, by sheer coincidence, there has been quite strident criticism of that process in the last couple of weeks. Certainly criticism has come out independently of this report, but it follows a pretty similar theme to what we heard in the inquiry. When I was doing my homework and reading through strategic plans, I was able to look at figures and say, “These figures look odd”. There are a few inconsistent figures in the disability services strategic plan which I think government should also address.

Again, there needs to be an explanation to the sector that is making a massive contribution to the fabric of our community and an assurance to them that they are receiving the same treatment as are government organisations. This is probably one of the most important things of the day.

Mr Humphries: I do not think it is.

MR QUINLAN: That is more a commentary on you than on the issue.

MR SPEAKER: Order, please! Let us get on with it. We have a lot to do.

MR QUINLAN: I was just closing anyway, Mr Speaker.

Mr Smyth: Thank God for that.

MR QUINLAN: Mr Smyth, you do not think it is serious?

MR SPEAKER: Order, please! We have a great deal to do. It is the intention to finish the committee reports before we go to lunch.

MR QUINLAN: I recommend that government look at those numbers and look at the disquiet that exists within the community sector in relation the relative resources and the unit cost within government and without. I commend the report to the Assembly.

Question resolved in the affirmative.

FINANCE AND PUBLIC ADMINISTRATION - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 2 of 1999

MR QUINLAN (12.25): I present Public Accounts Committee Report No. 23 of the Standing Committee on Finance and Public Administration, entitled "Review of Auditor-General's Report No. 2, 1999 - The Management of Year 2000 Risks - Final Report", together with a copy of the extracts of the minutes of proceedings. I move:

> That the report be noted.

The committee held a couple of hearings on this inquiry, one in about August or so. We received reasonably confident predictions. The committee thought that it was its responsibility to follow those up. We followed those up in very recent weeks. I guess we can say that we are reasonably assured by what we have been told - quite obviously, we cannot go and confirm it physically - that most systems and all important systems are Y2K compliant and that there are fail-safe contingency plans in place if there happens to be any failure. We feel reasonably assured - without being able to guarantee it, as nobody can - that pretty well everything that can be done has been done. I commend the report to the Assembly.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Report on Joint Emergency Services Centre Proposal

MR OSBORNE (12.26): I present report No. 7 of the Standing Committee on Justice and Community Safety, entitled "The Joint Emergency Services Centre (JESC) Proposal", together with a copy of the extracts of the minutes of proceedings. I move:

> That the report be noted.

Mr Speaker, the JESC proposal was a big issue in the first year of this Assembly, but I think I can say on behalf of the committee that we are pleased that the Government acted before we needed to finalise our report. One recommendation is about consultation with the community over location and size. As I said, the JESC proposal was a hot topic for a while. It was not supported by the committee, but the Government acted proactively and the matter went to the bottom of the list. I am pleased to say that the report is finalised. It is a very brief report, because the Government has acted. I commend the report to the Assembly.

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

HEALTH AND COMMUNITY CARE - STANDING COMMITTEE
Reference - Cannabis Use

MR WOOD: I ask for leave to make a statement concerning the Standing Committee on Health and Community Care's new inquiry into certain aspects of cannabis use.

Leave granted.

MR WOOD: On 8 December 1999 the Standing Committee on Health and Community Care resolved to inquire into and report on certain aspects of the use of cannabis. The terms of reference are:

> Noting the reported effects on health of cannabis use and the ACT policy of harm minimisation, the Committee will inquire into and report on:
>
> the role of legal sanctions in addressing uses of individual cannabis use;
>
> the impact of the use of Simple Cannabis Offence Notices in responding to individual cannabis use; and
>
> any other related matter.

I will report to the Assembly in due course.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Temporary Accommodation Allowance

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. The uncorrected proof *Hansard* for Tuesday of this week, at page 49, records the Chief Minister interjecting in response to part of a question I asked. I had said, in relation to the temporary accommodation allowance issue:

> ... in the Chief Minister's rebuttal in the *Canberra Times* on 2 December, she stated:
>
> Staff were entitled to the payments under Public Sector Guidelines put in place by the former Labor Government in 1994.

Ms Carnell: That is right.

MR STANHOPE: The Chief Minister has just pre-empted my next sentence. The *Hansard* has the Chief Minister interjecting, "That is right". And the Chief Minister has just interjected the same again. Yesterday, the Chief Minister tabled a minute from the Commissioner for Public Administration dated 13 August 1996 that clearly indicates the temporary accommodation allowance provisions currently enjoyed by seven executives in the ACT Public Service were introduced by her Government - not under the guidelines adopted by the Labor Government in 1994. Changes to the entitlement outlined in the minute and made during the first term of the Chief Minister's Government were:

> 1. The ruling out of the normal requirement for officer contributions towards temporary accommodation costs.
> 2. The extension of payments of TAA up to periods of five years, contrary to the standards and the independent advice from Ernst and Young.
> 3. The increase in the rates of payment by 60 per cent and 41 per cent for senior officers.

Mr Speaker, will the Chief Minister now acknowledge that the TAA provisions enjoyed by the seven executives come from the actions of her administration, as evidenced by the minute she tabled?

MS CARNELL: No, I will not, Mr Speaker. It is my advice that the guidelines brought down in 1994 allowed for three years or as specially decreed by the commissioner or a chief executive. Mr Speaker, the 1994 Public Service management guidelines allowed for the commissioner to make a special ruling. And that is what she did.

MR STANHOPE: Can the Chief Minister explain why she insists on blaming her Public Service and the 1994 guidelines? Will she put an immediate end to these inappropriate payments?

MS CARNELL: Mr Speaker, there is an MPI on the notice paper about inappropriate payments. I do not accept that these are inappropriate payments. The payments have been paid in line with the guidelines; in line with the Public Service Management Act and are, under those circumstances, appropriate payments. I am fascinated that those opposite would get stuck into the Public Service and the Public Service commissioner along these lines. Are they saying that the commissioner of the time acted inappropriately? I do not know if that is what they are saying; but if they are they should come out and say that, because the payments that were made were in line with the direction given by the Public Service commissioner, in line with the 1994 guidelines, as amended.

Mr Corbell: They changed them.

MS CARNELL: As amended in line with 1994 guidelines. Everything has been done - Mr Speaker?

MR SPEAKER: Will you be quiet, please, Mr Corbell?

MS CARNELL: Mr Speaker, all of the payments, as I am advised by the current Public Service commissioner, have been made appropriately. So there are no inappropriate payments. Members may believe that payments are too high. They may believe the guidelines put in place in 1994 and subsequently updated in 1996 are inappropriate. If that is the case, that should be the focus of what they are doing now.

We had a look at the guidelines in 1997. We got Ernst and Young to have a look at these guidelines, and decided that the appropriate approach was to send them to the Remuneration Tribunal with a government submission, suggesting that there should be a cap. That is the appropriate approach, not the attack on the Public Service commissioner and the Public Service that we have seen from those opposite. I do not believe that is acceptable.

If we in this house want to change the guidelines, then get those opposite to stand up and say they do not believe the guidelines are appropriate. There is every capacity for us to direct the Public Service commissioner to look at the guidelines; for us to put submissions to the Remuneration Tribunal. Of course, the Opposition can do that, just as the Government has, and get the guidelines changed. You can do that without attacking one public servant. It is my advice from the Public Service commissioner that the guidelines have been followed; that the payments are appropriate under those guidelines. For those opposite to suggest that people should not get their just entitlements is a very, very interesting approach from a supposed Labor Party.

Temporary Accommodation Allowance

MR CORBELL: Mr Speaker, my question is also to the Chief Minister. Yesterday, the Chief Minister tabled a minute from the Commissioner for Public Administration dated 13 August, as Mr Stanhope indicated previously, indicating that the commissioner had acted to extend the provision of temporary accommodation allowances to senior executives to five years; brought out the requirement for officer contributions; and increased by 41 and 60 per cent, respectively, the level of rent allowance paid. The

Chief Minister indicated that these changes were made by the commissioner exercising the powers conferred on her by section 20 of the Public Sector Management Act which allows the commissioner to exercise the powers conferred on the chief executive. Can the Chief Minister say what specific chief executive power was exercised by the commissioner in this case, and will she identify the specific legislative provision for this?

MS CARNELL: Mr Speaker, I have to take that on notice. I just do not have the Act with me at the moment.

Mr Hird: On a point of order, Mr Speaker: It relates to questions to the Chief Minister in respect of the matter of public importance. I would ask for a ruling on standing order 117 (f), which states:

> Questions may be asked to elicit information regarding business pending on the Notice Paper but discussion must not be anticipated.

From those questions asked earlier, Sir, I would say that they are anticipating what is going to happen later this night.

MR SPEAKER: No, I cannot uphold the point order, Mr Hird, because it states quite clearly at 117 (f) "business pending on the Notice Paper". The matter of public importance is on the daily program.

Mr Hird: Thank you, Sir.

MR SPEAKER: I know it is rather line ball, but that is the situation, I am afraid.

MR CORBELL: Mr Speaker, my supplementary is also to the Chief Minister. Chief Minister, why did you allow the Commissioner for Public Administration to set these new conditions for senior executives when section 251 of the Public Sector Management Act requires that such changes can only be made by the setting of a new standard, which must be approved, in writing, by you? Why was no standard approved to allow for these payments to be made? As a result, can the Chief Minister confirm that these payments have been made contrary to the Act?

MS CARNELL: Mr Speaker, I am advised they have not been made contrary to the Act and I did not know that Ms Webb had actually issued this direction, because it does not actually come to me.

V8 Supercar Race

MR QUINLAN: My question is to the Chief Minister. Given that the Government is relying heavily on the private sector to come to the party in relation to the V8 supercars, can we be assured that the Government will not hit up government agencies like ACTEW, Totalcare to take up the slack of corporate involvement, as we have done in other cases? And if the ACT Government does not provide corporate space for itself, what are we going to do about the ministerial staff and the bureaucrats who have become a regular feature at Bruce Stadium when the race is on?

MS CARNELL: Are we getting stuck into public servants again? I can guarantee that neither Mr Humphries nor I, as the shareholders of territory owned corporations, will give a direction to the boards suggesting that they take out corporate sponsorship. Equally, I will not give a direction saying they should not. It is a commercial decision for them.

MR QUINLAN: Mr Speaker, I was wondering if, to drum up sponsorship, we will see the two Woodies playing a game of tennis on the home straight, funded by ACT Forests. Perhaps a display of burnouts conducted by the ACT Police to drum up sponsorship from Urban Services. Or perhaps a celebrity race around the track, using cars seized under Mr Rugendyke's burnout laws.

MR SPEAKER: The perhaps could also be interpreted as hypothetical, of course.

Bruce Stadium

MR HARGREAVES: My question, through you, Mr Speaker, is to the Chief Minister. Recently the Government responded to a request of Mr Stanhope, under the freedom of information laws, for documents relating to seating arrangements at the redeveloped Bruce Stadium. The Government provided three documents, one of which was a press clipping. Another was version 8 - the current version - of the functional design brief for the stadium. Given that the Opposition already knew of at least seven other related documents, a member of Mr Stanhope's staff queried the response and the department provided another document, version 7 of the functional design brief dated 3 September 1997. My question relates to the differences between the two documents. The only difference I can discover in relation to the seating arrangements is that version 7 contained one additional sentence, and I quote:

> The seating installation will be television camera-friendly and will involve the use of multi-coloured (confetti) style seats randomly distributed to mimic the appearance of occupied seating even when the stadium is empty.

Why was that sentence removed?

MS CARNELL: Mr Speaker, I have to say FOI requests do not come through my office because they are not allowed to. Documents given out under FOI are not given to the respective Ministers, simply because they are not allowed to be given to the Ministers.

MR HARGREAVES: I have a supplementary question, Mr Speaker. In that case, the Chief Minister might find out and let us know. Does removal of the sentence signal that the Government is not concerned that the take-up of ticket sales for Olympic soccer is at about the same rate as for synchronised swimming, with only Greco-Roman and freestyle wrestling lagging behind?

MS CARNELL: Mr Speaker, sales of Olympic soccer tickets for the ACT in percentage terms were actually better than in most other States.

Employment

MR HIRD: I have heard a lot of questions over there, but nothing really as significant as the question I intend to ask. You fellows want to listen to it, you lads. You boys want to listen to it. And that goes for my old mate over there, the old silver fox.

Mr Rugendyke: Shush, I'd like to hear this. This will be important.

MR HIRD: Thank you, Mr Rugendyke. Mr Speaker, my question is directed to the Chief Minister. It is a straightforward question, boys. How many people have we employed in the last 12 months - has the Government employed - or have been employed in the Territory for the last 12 months? How many jobs have been created since we came to office in 1995 to straighten out the problems of this great Territory?

MS CARNELL: One of the fundamental promises made by this Government when we came to office in 1995 was to try to create the right environment for businesses, both large and small, to grow and to create jobs in this city. I am sure everyone on this side of the house will remember that the basic catchcry for us in that election was "jobs". That is what we set out to achieve. Mr Kaine should remember too, because he was part of the team. Mr Speaker, along the way with the advent of increased outsourcing by the Federal Government, we saw it as essential to try to keep as many - - -

Mr Stanhope: That was the Liberal Government, was it?

MS CARNELL: That is right, a Liberal government. We think they did the wrong thing. We are quite happy to say that, because we are here to represent the people of Canberra and are willing to say when the Federal Liberal Party does the wrong thing or the right thing for our people - unlike you guys. Mr Speaker, we believed that it was absolutely essential to keep as many of the outsourced jobs here in Canberra - - -

Mr Berry: What about the 500 more unemployed in the last 12 months?

MR SPEAKER: Be quiet.

MS CARNELL: It has been very difficult along the way. Firstly, as you know, the Commonwealth cut something in the order - - -

Mr Berry: Five hundred more unemployed in four months.

MR SPEAKER: The record is stuck, Mr Berry.

MS CARNELL: Of 7,500 jobs from its workforce, while the financial problems we inherited from the - - -

Mr Berry: With some people, it takes a little while to get it to sink in.

MR SPEAKER: Mr Berry, if you want to have a chance to ask a question today, the last question this year, indeed of this millennium, I suggest you stop interjecting.

MS CARNELL: Mr Speaker, because of the financial problems we inherited from those opposite, we too were in a position of having to cut the size of the ACT Public Service by about 2,000 positions since we came to office. That is 9,500 Public Service jobs. Secondly, Mr Speaker, those opposite have attempted to undermine every single effort we have made to try to solve the problems that existed in the ACT; to try to fix our budgetary position.

Shall we just have a bit of a look at some of those, Mr Speaker? Just think about when we attempted to raise the threshold for payroll tax for small businesses - opposed by Labor. Our business incentive scheme - opposed by Labor. Even youth 1,000, Mr Speaker - 1,000 jobs for young Canberrans - opposed by Labor. I could go on, but I will not because I think we have already clearly demonstrated the lack of support given by those opposite to create the right climate for business and jobs growth. Who could forget Mr Berry day after day in 1997 telling Canberrans that the Federal Government was going to destroy this city; that it was all over? People were leaving the city in droves, I remember him saying.

Despite all of these hurdles, while we still have a long way to go, the scoreboard under this Government is looking pretty healthy, particularly when you compare it with the performance of those opposite during the mid-1990s. Our unemployment rate has been under 6 per cent for most of the past year. Our participation rate of people wanting to work in Canberra now stands at 73.5 per cent, compared to just under 72 per cent when we came to office, when we took over from Labor. That is the highest participation rate of all States and Territories. The number of unemployed Canberrans is also much lower - in fact there are some 13 per cent fewer unemployed now than when Labor was in office. We have a higher participation rate; fewer people unemployed.

But it is in employment growth where our efforts stand out in starkest contrast with the negativity of those opposite. In the last year alone, 9,200 new jobs have been created in Canberra. That is right, 9,200. That represents growth of almost 6 per cent in just 12 months. Since we came to government in 1995, we have an extra 11,900 new jobs. That is after taking off all of the Public Service job losses, so there are nearly 12,000 new jobs. We have an all-time record number of jobs in this city. As I said earlier, of those 11,900 new jobs, 8,000, or just over two-thirds, are full time.

Before Mr Berry starts raving on and saying, "Oh, they are not real jobs", Mr Speaker, two-thirds are full-time jobs. Mr Speaker, you can always rely on Mr Berry and, more recently, Mr Stanhope as well, to find something wrong with our jobs growth.

Mr Stanhope: No, no, I just thank God for Paul Keating.

MR SPEAKER: Order! Mr Stanhope, do you make a habit of doing this in a court of law? When you are there, do you constantly interject?

Mr Berry: On a point of order, Mr Speaker.

MR SPEAKER: Do you constantly interject on the prosecutor?

Mr Berry: Where in the standing orders are you allowed to ask questions?

MR SPEAKER: I am asking Mr Stanhope if he makes a habit of doing that.

Mr Kaine: Is the Chief Minister the prosecutor? Is that the simile?

MR SPEAKER: I am sure it would not be acceptable there and it is not acceptable here, either.

Mr Berry: Neither is the editorial.

MR SPEAKER: Order, please!

Mr Stanhope: I do concede, Mr Speaker, I have not had as much experience in the witness box as the Chief Minister.

Mr Moore: Mr Speaker, I raise a point of order under standing order 39. Even as I try to raise it, the issue is emphasised. I have been keeping an eye on the time, Mr Speaker. There has not been even 10 seconds through the Chief Minister's answer to this question - - -

Mr Stanhope: I cannot believe that.

Mr Moore: And here it goes again - where there is not some interjection or some loud noise coming from, particularly, the Labor benches. I would ask you to keep a firmer eye on standing order 39.

MR SPEAKER: Thank you.

Mr Kaine: On that point of order, Mr Speaker: Can I ask you to revise your decision? The Chief Minister is not the prosecutor, she is the chief witness at the moment.

MR SPEAKER: I do not uphold that point of order, Mr Kaine.

MS CARNELL: Oh dear, we are all smart-arses today, aren't we?

Mr Berry: You speak for yourself.

MR SPEAKER: I certainly uphold Mr Moore's comments.

MS CARNELL: And I have to say from what I understand last night, Mr Hargreaves would know all about that.

MR SPEAKER: Come along, let us move on. We have a long, long agenda.

MS CARNELL: We do, Mr Speaker. Just recently, we heard Mr Berry making very uninformed comments about the unemployment rate of women in Canberra going up. Well, that actually is right. Last month, Mr Berry, it was 5.6 per cent -5.6 per cent. At

the same time, the unemployment rate for men went down to just 6 per cent. To put this into perspective, when Mr Berry was last in government, there were 5,100 unemployed women. Today, there are just 4,700 - a very real reduction, even when the population, of course, has increased. When Mr Berry was last in government, there were 6,700 unemployed men. Today, there are just 5,700. When Mr Berry was last in government, the unemployment rate was 7.1 per cent. Today, it is 5.8 per cent. I do not know about those opposite, but I think we should all be really proud of those figures.

Today, also, we have the release of the latest figures for the number of people receiving unemployment benefits through Centrelink. They showed that last month there was another drop of 175, or more than 2½ per cent in the number of people registered for those benefits. In fact, over the last year, the number of Canberrans registered for Jobseeker benefits has fallen by 1,070, or 15 per cent, to just 6,258. In other words, our policies have worked. There is no doubt about that. Our policies of business incentive, of creating the right climate for business growth, have produced very real dividends for Canberra.

We have produced a vibrant economy in which businesses are actually employing. All major surveys, from the ANZ job advertisement series through to the Yellow Pages index and Morgan and Banks surveys, are all showing that the majority of businesses are keen and planning to take on more staff. That is something that I am really proud to put on the record in our last question time this year. We set out to create jobs and over the time we have been in government,11,900 new jobs in net terms have been created. That is a serious win for this Government.

Acton Peninsula - Demolition of Buildings

MR BERRY: Mr Speaker, on 10 November 1997, the Chief Minister was interviewed by the Australian Federal Police in relation to the failed hospital implosion. In that interview, in response to the question, "How far does your involvement go in the tendering process?" the Chief Minister said:

> Remember, it's very important, I'm actually not the Minister responsible. I don't run Totalcare, Trevor Kaine is the responsible Minister. But I'm the leader and therefore I wear it - whatever happens. But the Minister responsible is the day to day person who would get that sort of information. It doesn't actually run through my office at all.

The counsel assisting the coroner said:

> ... the assertions by Mrs Carnell, Mr Wearing and Mr Walker, contrary to the objective evidence that the project was the responsibility of Mr Kaine, are consistent with attempts by those persons to distance the Chief Minister, her office and her department from the actions taken by them in directing the project, particularly the public events aspects.

The coroner said:

> There is no doubt that the absence of Mr Kaine from the project was an extraordinary occurrence. The truth of the matter is that he took no particular role in the management of the project. Mrs Carnell, Mr Wearing and Mr Walker asserted that the project in fact was the responsibility of Mr Kaine, but for the reasons previously stated these persons are mistaken on this issue. At all material times it was a CMD project.

Chief Minister, why did you lie to police?

Mr Humphries: Mr Speaker, Mr Berry knows that that is out of order.

MR SPEAKER: Indeed.

Mr Humphries: Mr Berry also knows that what matters is not what the counsel assisting has told the coroner, but what the coroner has told the community. I ask that it be withdrawn, Mr Speaker.

MR SPEAKER: Yes, withdraw it.

MR BERRY: Okay, it is withdrawn. How is it - - -

Mr Humphries: The question is totally out of order. He misses out on his question. Mr Speaker, on the point of order - - -

MR BERRY: Withdrawn.

Mr Humphries: Standing Order 117 (d) is very, very clear:

> Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion, and notice must be given of questions critical of the character or conduct of other persons.

MR BERRY: Well, I have not asked the question.

Mr Humphries: So having done that, Mr Speaker, the question is clearly out of order.

MR SPEAKER: And you have withdrawn.

MR BERRY: I have withdrawn.

Mr Humphries: Therefore, Mr Speaker, we should move on to the next question.

MR SPEAKER: Thank you. I do uphold that point of order.

MR BERRY: I beg your pardon?

MR SPEAKER: I said, "I uphold that point of order". Can't you understand 117 (d)? It has just been read to you. I will read it again.

MR BERRY: Why can't what you said be rationalised against the facts, Chief Minister?

Mr Humphries: Mr Berry has been in this place for more than 10 years. He knew that it was an outrageous breach of standing orders. It was also contempt for the process which has gone through the Coroners Court, and he should not have the privilege of asking a question on the basis of it.

Mr Corbell: On the point of order, Mr Speaker: The only issue that must be put by substantive motion is the suggestion that the Chief Minister lied or misled the chamber. Mr Speaker, the rest of the question still stands and Mr Berry has withdrawn the relevant piece which you have ruled as unparliamentary. But you have not ruled his question out of order. The rest of his question remains in order and he has rephrased the question, and you should ask the Chief Minister to answer it.

MR SPEAKER: No, I am afraid that, once having withdrawn his question about lying, there is no question. The rest was a preamble and therefore I am calling on the next person who wishes to ask a question.

Mr Berry: Mr Speaker, can I raise a point of order?

MR SPEAKER: You can try.

Mr Berry: Yes. Where in the standing orders, Mr Speaker, are questions blown out of the water because they are too hard?

MR SPEAKER: Mr Berry, sorry, there is no point of order. I do not uphold that point of order. Mr Rugendyke, please.

Theme Park

MR RUGENDYKE: My question is to the Minister for Education, Mr Stefaniak. Minister, I understand that students from Year 9 at Melba High School in our terrific electorate of Ginninderra have won second prize at an international competition relating to urban planning. I understand that their brief was to determine the best place in the ACT to construct a theme park, something we could all look forward to. Minister, could you please advise the Assembly of the process used and the location finally chosen for the theme park?

MR STEFANIAK: Mr Speaker, while Mr Rugendyke and I might be a little bit upset as to where the students found the most appropriate place - in fact it was at Hume - it was a wonderful process they followed. Might I congratulate these four fine students in Year 9 at Melba High School and their teacher, Nick, for a fantastic project, a very professional expose of where a theme park should be. They went through in great detail

a demographic study of all of Canberra, using graphs done by computer. The whole exercise was done in a bound copy, so it was a terribly professional job. Indeed the issue came up because they entered an international competition for high school students in Australia and New Zealand.

Most students who entered were in year 11, so it is particularly praiseworthy that these students were, in fact, only in Year 9. The students were asked to design a geographic information system. Our students used that to find the best place to site a theme park. They were awarded second prize internationally, which is a fantastic effort. Naturally they won the ACT section. I think all in the Assembly should join in congratulating them for their excellent effort. They concluded a theme park would best be built in the southern Canberra industrial area of Hume. The competition was one organised - - -

Mr Rugendyke: What about Belconnen?

MR STEFANIAK: I will come to that, Mr Rugendyke. Yes, you and I are a little bit disappointed about that, but they certainly went through it very thoroughly - - -

Mr Smyth: It is nice to see that down south is the place to be, Mr Stefaniak.

MR STEFANIAK: But not in Tuggeranong, Mr Smyth. The competition was actually authorised by AURISA, the Australasian Urban and Regional Information Systems Association. As part of their entry, the students were also asked to investigate the legislative landscape, the commercial and educational benefits, which they did. They also received, as a result of their efforts, a prize worth nearly $2,000, a digital camera, hand-held GPS navigation equipment and software from the sponsors' map info. The sponsor was there at the lunchtime presentation which both Mr Rugendyke and I attended. I thank them very much for their sponsorship and their assistance to our education system and these four fine young students from that excellent high school.

Turning to the conclusion - and I think you saw the publication: They did a demographic study. They looked at age groups, like 5 to 14, thinking that a lot of them would use the theme park; and then they went through from 15 to 24; 25 to 34, et cetera. They correlated that, for example, with the 25 to 34 or 35 to 44 age groups. It was interesting to see that they matched up the parents with the age group most likely to use a theme park. It was interesting to see that the same sorts of numbers of people in terms of those two older age groups, with the 5 to 14 year olds, lived in a large area of what could be described by the figures as north-eastern Tuggeranong, very close to the site chosen for the theme park. It was very interesting to see how they worked it all out.

To conclude, Mr Rugendyke, I will read their final conclusion. It is a four-paragraph one. It indicates three preferred areas they came up with and how they arrived at the main one. They stated:

> From all of the sub-conclusions drawn from the separate sections, there are only three sites that would be appropriate for building on. They are all on the eastern side of Canberra, mainly because of the water pollution factor. One is just north of Belconnen; another is off

> the east of central Canberra and the last is in south Canberra near Jerrabomberra.
>
> The Belconnen site has a potential market from household income and age distribution in the area. The area is also flat enough to build on (see topographic map). However, according to our exclusion areas, there is not enough space left to build on.
>
> The location to the east of central Canberra has suitable flat ground and is far enough from urban areas. It is a site that has a smaller target market than a position to the north or south, but it could be seen as a compromise solution. Unfortunately, the airport occupies much of the useable space, with the remaining areas being close to the flight path.
>
> The site in the inner south of Canberra near Jerrabomberra is our preferred option as it is close to the large target market in Tuggeranong and still within reasonable driving distance (approximately 20 minutes) of the northern parts of Belconnen. To the west of this site there is also a considerable ridge which would shield nearby urban areas from any excess noise. This area of Canberra is well serviced with road access from the Monaro Highway.

So that was their conclusion, Dave.

Mr Kaine: On a point of order, Mr Speaker: Can we assume that this was a pre-prepared answer to a dorothy dixer from a crossbencher?

MR SPEAKER: I think the Minister just has a very detailed knowledge of his portfolio, Mr Kaine.

MR RUGENDYKE: I even have a supplementary, Mr Speaker. Minister, given that these experts from Melba High School have chosen a site close to the proposed site for the ACT gaol, would you agree that they should have been the team employed by government to do the feasibility study for the location of the gaol?

MR STEFANIAK: I thank Dave for his supplementary, and I tell you what: I think it is a shame we just found out about this great showing by the students, because I think they would have been well and truly in the running, had we known about them earlier, to help locate the site for the gaol.

Disability Services

MR WOOD: My question follows some of the questions I raised last week on the annual reports. It concerns issues of claimed lack of care or neglect or even extending to abuse that may arise in the area of disability services, both government and non-government. Minister, what measures are in place to report any such incidents as there are for adverse incidents in hospitals? In particular, what is in place for training, counselling or other measures which may be necessary where an incident occurs?

MR MOORE: Thank you, Mr Wood, for the question. Let me say at the outset that this is an issue that Ministers with responsibility for disabilities are taking very seriously. There was a national agreement at a meeting of disability Ministers here just a matter of weeks ago which agreed that our offices would do more work in the area of abuse and neglect within disabilities to get some general guidelines as to how to deal with it. So, that is the first thing in the macro sense.

In the micro sense, I think it is worth taking you through some things that happen. It is routine that all incidents that occur in houses are recorded, no matter how big or how small they are. In the case of a minor incident, for example a slight bruise, a bump, something along those lines, the accommodation support manager is notified. Then the appropriate action is taken to try to avoid it happening in the future. Incident reports are kept in the client's file in a house. Follow-up action is recorded in the house communication book, as well as on the client's file. For more major incidents, the accommodation support manager is notified immediately. An accommodation support manager is on duty 24 hours a day. If necessary, the regional manager is notified. The director and regional managers are available after hours.

If it is suspected to be negligent behaviour by staff members, they are stood down immediately pending a detailed investigation. It is normal practice for the disability program through Community Care to inform me when a situation like that has occurred. There have been a number of such incidents. Mr Wood, I believe you were briefed on at least one of them relatively recently. Then, for a major incident, an external investigator is hired immediately to fully investigate the matter and provide a report which may be used later in disciplinary proceedings.

Depending on the nature of the incidents, of course, we look at the cause and change our processes in Community Care. Police are certainly notified where necessary. Staff is provided with stress debriefing when appropriate, certainly in the case of a death. Bereavement counselling is also provided. In the case of a death in a house, it is routine for police to be notified, irrespective of the cause.

The disability program over the last three years has had a major run of initiatives to try to improve this sort of area. They developed and implemented a comprehensive set of policies for the full participation of parents. They have reviewed and redrafted comprehensive policies, with full participation of parents. There has been extensive retraining of staff in those policies. Community Care has received accreditation by Australian Council of Health Care Standards, and that includes, importantly, constant review and implementation of quality improvement processes over a period. There are also traineeships in certificates for disability services. We have 23 of those per annum. Fifty per cent of staff are involved in them. There is a range of things that occur, but there is a proactive approach to avoid such incidents.

This is consistent with what is going on also in hospitals. I have spoken before about quality assurance in our hospitals, and there is financial assistance for us there through the health care agreement. We are also working as best we can for continued improvement in quality assurance within Disability Services. In spite of that, incidents

do occur, and no doubt will continue to occur. What we are trying to do is minimise the number of incidents but react appropriately when they do occur.

ACTEW

MS TUCKER: My question is directed to the Chief Minister, and relates to the announcement that the Chief Minister has given approval for ACTEW to progress proposals for the formation of a joint venture for its energy business with the AGL company. Chief Minister, you stated at the time that the ACT's water and sewerage assets would remain wholly owned by the ACT Government. You did not elaborate on who would be controlling these assets. Could you therefore tell the Assembly whether you intend this new joint venture to operate the water and sewerage side of ACTEW under a franchise agreement, as you have proposed in the previous bid which was to privatise ACTEW a year ago? If not, are you therefore proposing to establish a separate territory owned corporation to just provide water and sewerage services and allow the merged ACTEW-AGL to provide the energy services?

MS CARNELL: Mr Speaker, the proposal at this stage is for the entity that is a result of the strategic partnership between ACTEW and AGL to have a management contract to manage water and sewerage. The assets would be totally owned by the ACT Government.

MS TUCKER: On a related issue, I note that part of the proposal is to build a gas-fired power plant in the ACT. I understand that an earlier proposal for such a plant was dropped by ACTEW because it proved uneconomic. Can you explain to us how the economics have changed? Also will your Government do a comparative analysis of alternative electricity generation options that are even more greenhouse friendly than gas before committing millions of dollars to a gas-fired plant?

MS CARNELL: Mr Speaker, I do not think it is an "or" approach. We have got to look at all forms of energy. It is certainly true that a gas-fired power station, I understand, could address something like 50 per cent of our greenhouse gas targets all by itself, depending on how big it ends up being, of course. The proposal as it stands is for AGL to build the gas-fired power station. As we have said, this is only a first stage of working up a possible strategic partnership. It is early days. I do not think it would be appropriate to try to get into detail simply because, at this stage, they do not actually exist.

The other part of Ms Tucker's supplementary question was: What has changed? A similar question was asked earlier this week by a member of the Labor Party about the old proposal for a gas-fired power station and a new one. I suppose the old one ACTEW was going to build all by itself. The market for electricity has fundamentally changed over that period. It is our understanding that with the strategic partnership with AGL there is a good chance a gas-fired power station could stack up this time.

There are also, of course, some really good industry reasons for having a gas-fired power station in the ACT. First of all, it protects the ACT from situations such as what happened in South Australia just in the last couple of weeks. It means we are not at the mercy of generators at least 300 kilometres away from the ACT. There are some benefits, but they have all got to be weighed up. The work has got to be done. Due

diligence has got to be shown on both sides. We have to see if the whole proposal does stack up. We simply do not know at this stage. That is why we announced we were going to the next stage and working up a possible strategic partnership.

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

AUDITOR-GENERAL - REPORT NO. 4 OF 1999
Financial Audits With Years Ending To 30 June 1999 - Paper

MR SPEAKER: I present, for the information of members, Auditor-General's Report No. 4 of 1999, entitled "Financial Audits with Years Ending to 30 June 1999".

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

> That the Assembly authorises the publication of the Auditor-General's Report No. 4 of 1999.

CANBERRA TOURISM AND EVENTS CORPORATION
Paper

MS CARNELL (Chief Minister): Mr Speaker, for the information of members, I present the Canberra Tourism and Events Corporation's Quarterly Report for July to September 1999, pursuant to subsection 28(3) of the Canberra Tourism and Events Corporation Act 1997.

PAPERS

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): For the information of members, I present the following papers:

> **Subordinate legislation (including explanatory statements) and a commencement provision**
>
> Bookmakers Act – Revocation and determination of maximum number of sports betting licences that may be granted – Instrument No. 272 of 1999 (S66, dated 8 December 1999).
>
> Health Professions Board (Procedures) Act and Medical Practitioners Act – Appointment of member of the Medical Board of the ACT – Instrument No. 267 of 1999 (No. 48, dated 1 December 1999).
>
> Justices of the Peace Act – Appointment of Justices of the Peace – Instrument No. 266 of 1999 (No. 47, dated 24 November 1999).
>
> Land (Planning and Environment) Act –

Determination of fees – Instrument No. 265 of 1999 (No. 47, dated 24 November 1999).

Specification of criteria for granting certain classes of leases – Instrument No. 269 of 1999 (S66, dated 8 December 1999).

Determination of conditions – Instrument No. 270 of 1999 (S66, dated 8 December 1999).

Land (Planning and Environment) Regulations Amendment – Subordinate Law 1999 No 31 (No. 48, dated 1 December 1999).

Lands Acquisition Regulations 1999 – Subordinate Law 1999 No 30 (No. 47, dated 24 November 1999).

Liquor (Amendment) Act 1999 – Notice of commencement (30 November 1999) of provisions 37 (No. 47, dated 24 November 1999).

Medical Practitioners Act. *See* "Health Professions Boards (Procedures) Act".

Motor Traffic Act – Motor Vehicle (Third Party Insurance) Regulations Amendment – Subordinate Law 1999 No 32 (S64, dated 29 November 1999).

Miscellaneous paper

ACT Administration of Justice – Statistical profile for July to September 1999.

FINANCIAL MANAGEMENT ACT - CONSOLIDATED ANNUAL FINANCIAL STATEMENTS
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members, I present the Consolidated Annual Financial Statements for the 1998-99 financial year, together with the Audit opinion pursuant to section 25 of the Financial Management Act 1996. I ask for leave to make a statement, Mr Speaker, and to incorporate the statement in *Hansard*. It is nothing earth-shattering.

Leave granted.

The statement read as follows:

Mr Speaker, I am pleased to present to the Assembly the ACT Government Consolidated Financial Statements for the year ended 30 June 1999.

The statements have been audited by the Auditor General who has given an unqualified opinion. The statements are also in full compliance with the reporting and tabling deadlines set by the *Financial Management Act 1996.*

In accordance with generally accepted accounting principles, the Territory's consolidated operating result for 1998-99 includes all departments, statutory authorities and corporations owned by the ACT, as well as entities controlled by the ACT Government. To accurately reflect the financial performance of the Territory as a whole, internal transactions and balances between ACT agencies are eliminated so that only external trading of the Territory entity remains.

Excluding abnormal items, the Territory's operating loss was $131 million. This result is an improvement of $16 million from the 1997-98 operating result (before abnormals) of $147 million. It is also an improvement from the budgeted result of $149m.

This result reflects this Government's commitment to improving the Territory's financial position. It is the result of constrained expenditure growth combined with improved revenues in the form of Commonwealth Grants and a growth in the revenue base for taxes, fees and fines.

The Total Territory result after abnormal items was $175 million. This reflects the impact of abnormal items totalling $44 million. These are mainly the result of asset revaluations, which are mainly technical in nature and generally not subject to management control.

The operating result for each sector presents a similar picture. Excluding abnormal items, the General Government Sector recorded a loss of $127 million, remaining relatively steady from the 1997-98 loss of $126 million, and outperforming the budget estimate of $139 million. However, abnormal items had an impact of $35 million, resulting in a loss of $162 million.

The Public Trading Enterprise sector recorded an operating profit of $33m, $22m below last year's result, and $4m below the budgeted result after removing the effect of income tax which is not included in the actual operating results.

The Territory has maintained its net asset position above budget expectations. Total net assets held at the end of 1998-99 were $6.84 billion, which was $98 million stronger than the budgeted position, and represented only a $9 million decrease from 1997-98.

The strong balance sheet of the Territory means the Territory's credit risk rating remains at triple-A, the highest available in this country.

Mr Speaker this Government has an ongoing commitment to ensuring that the operating loss of the Territory is addressed and systematically reduced. We have continued to deliver on this commitment as the operating result before abnormal items in these financial statements show. The financial management plans and structures that have been put in place will deliver on this commitment and should deliver the Territory's first operating surplus since self-government within two years.

1998-99 CAPITAL WORKS PROGRAM - PROGRESS REPORT
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): Mr Speaker, for the information of members, I present the June quarter progress report on the 1998-99 capital works program. I ask for leave to make a statement and to have the statement incorporated in *Hansard*.

Leave granted.

The statement read as follows:

I present the June quarter report for the 1998-99 Capital Works Program.

Mr Speaker, this report details the expenditure of the Government's 1998-99 capital works budget for the June quarter and full year. The quarterly report represents one of a number of initiatives introduced by this Government as part of reforms to the capital works program.

The June report highlights the completion of a number of significant projects in the Government's 1998-99 capital works program across all agencies.

Mr Speaker, the largest and perhaps most significant project is the Tuggeranong Police Station, which was completed at a cost of about $5.7m. This provides the most modem facility for police in the Tuggeranong valley.

Refurbishment of the Phillip Health Centre had started in 1997-98. This project was completed in 1998-99 at a total cost of $5. 1 m, and will significantly improve the quality of community care services.

In The Canberra Hospital, a number of major projects were brought to completion during the year. These include:

• Provision of decentralised hot water; and
• Refurbishment of Building 3.

During the 1998-99, work on the refurbishment of the Psychiatry building started, and this is expected to be completed in the current year.

At Calvary Hospital, a major refurbishment program was started in 1998-99 with expenditure of about $2.2m. Those works continue in 1999-2000, with $7.8m planned in the current budget.

Mr Speaker, refurbishment and revitalisation of various shopping centres has been a strong focus for this Government. In 1998-99, about $1.8m. was spent on various shopping centres including, Charnwood, Dickson, Hawker, Manuka, Curtin, Hall, Watson, and Yarralumla. These works continue into 1999-2000 with about $2.4m budgeted to complete these works.

Mr Speaker, in addition, $2.1m is budgeted to be spent on new projects in 1999-2000, at Hall, Manuka, Kingston, Kippax, Weston, Dickson and Charnwood.

Mr Speaker, redevelopment of the city centre is a Key Result Area for this Government. In 1998-99, $0.850m was spent in the capital works program on projects in Civic. Specifically, improved signage for pedestrians was provided at a cost of $0.250m, and $0.5m was spent on the refurbishment work in Garema Place.

The Government's commitment in this area continues in 1999-2000 with $1.2m for works in progress and $1.4m for new projects in Civic.

The Government also continued its augmentation of the Territory's stormwater assets in 1998-99, expending some $3.5m for this purpose.

Projects relating to the extension works at Mugga Lane landfill, and Stage 6 of the environmental controls at both landfills were completed during the year.

The commitment to capital expenditure in schools was maintained in the year, with $9.7m used for various upgrades and improvements across the Territory.

Preliminary work on the planning and design of the prison was undertaken in 1998-99, with further work planned for 1999-2000 and the next year.

Mr Speaker, the minor new works in the capital works program provide a means for agencies to maintain their assets and undertake

minor improvements as necessary. This is spread across all agencies, with the Canberra Institute of Technology receiving $1.9m.

Mr Speaker, the Territory Departments incurred expenditure on capital works of $66m in 1998-99. This expenditure represents about 75% of the original annual budget for capital works. The unspent component of the budget relates to funding provided for projects that were delayed, many of these for reasons beyond the control of Government.

Mr Speaker, of the $20.9m underspend in the 1998-99 program, $9.4m relates to funding provided by way of grants. Of these, grants approved for ACT Rugby League and ACT Rugby Union were both withheld, due to ongoing negotiations between grant recipients regarding the extent of proposed works and use of facilities. Payment of these grants will be made once these organisations have finalised such arrangements.

In addition Mr Speaker, the underspend also included a $3.5m grant for the upgrade of Football Park and Manuka Oval. This funding was not utilised in 1998-99 due to discussions involving ACT Cricket and the ACTAFL. It has since been agreed by the Government and these parties, that works will proceed at Manuka Oval only, to bring it up to a standard fit for first class games in both sports. This particular project will be undertaken in the current financial year.

Mr Speaker, it is important to remember that unforseen delays, such as those I have just identified, do arise in the course of the capital works program. These in general could relate to market conditions, planning constraints, and complaints from the community during the forward design phase.

In fact, in certain circumstances, it would be prudent not to proceed with the project, and resolve some of the outstanding issues.

To reduce the impact of such delays, the Government is developing a framework to respond to such delays through a range of measures, which will assist in maintaining the overall program expenditure.

Mr Speaker, the framework focuses on:

• minimising the risks of delays in project delivery;

• identifying potential delays as they emerge during the year; and

• undertaking remedial action in either addressing the causes of delay, or accelerating other projects, or reprioritisation of the program.

Business Case guidelines have been strengthened in the recent years to identify risks of delays in project delivery. Government's capital works program every year includes a forward design program. Feasibility studies have been included in the program since 1996-97.

Mr Speaker, the Government intends to place greater emphasis on up front planning, in particular, the forward design phase of project development, and encouraging greater use of forward design as a planning mechanism on larger value projects.

Presently, not all projects go through a distinct forward design phase, and in most cases, forward design is undertaken in the year, and as part of the project delivery. The funding of forward design as a separate stage to construction, and conducted in a separate financial year, should ensure that construction could commence as early as possible in the year of approval.

This approach provides a 'supplementary program' on the shelf, which can be accessed during the year to bring a project forward or substitute delayed projects.

The Government has previously provided the forward year's indicative program to the Urban Services Committee. The supplementary program will be drawn from the forward intentions, of which the respective Portfolio Committees will be aware.

Mr Speaker, it important that these measures are not seen as maintaining expenditure for the sake of expenditure. It is also important to remember that the effectiveness of the Government's capital works expenditure as a means of generating general economic activity is limited.

Government's budget-funded capital works program in general comprises a small proportion of the total construction expenditure in the ACT.

Mr Speaker, the program is primarily aimed to deliver its key policy priorities, and to assist agencies in service provision to the community.

It is to create the right environment and economic opportunities for the future, and to maximise the benefits to the community.

Mr Speaker, any substitutions or additions to the program in the face of delays in projects should be in that context.

QUESTIONS WITHOUT NOTICE
Art Class for Disabled Persons

MS CARNELL: Mr Speaker, in question time on Tuesday I undertook to provide Mr Wood with some information about assistance being provided by the ACT Government to people with disabilities who take part in artistic activities. I table this information for Mr Wood's benefit.

PAPERS

MR MOORE (Minister for Health and Community Care): Mr Speaker, for the information of members, I present information bulletins relating to patient activity data for the Calvary Public Hospital and the Canberra Hospital for October 1999. I also present the Department of Health and Community Care Activity Report for the first quarter of the financial year 1999-2000.

REPUBLIC OF IRELAND - BUSINESS DELEGATION
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.22): Mr Speaker, for the information of members, I present the Report of the Business Delegation to the Republic of Ireland. I ask for leave to have my presentation remarks incorporated in *Hansard*.

Leave granted.

The presentation remarks read as follows:

> I intend to only speak briefly to this paper, and I suspect Mr Quinlan may want to add some remarks also.
>
> I would like to begin by saying this delegation provided a useful opportunity for us, and a number of Canberra businesspeople, to see first-hand the substantial changes which have been made to the Irish economy in recent years.
>
> Many of us will remember Ireland as a delightful country, producer of Guinness and Irish Whiskey, music and a charming accent. But its economy has never been a strong feature of its awareness.
>
> In reality, Ireland is one of the strongest growing economies in the world, and certainly leads the EU in its economic growth.
>
> In the period 1994 to 1998, its economy has grown by an average of 9% per annum in real terms.
>
> GDP has grown by 9.9% in the last year.

Growth in future years is expected to slow to a still enviable 6%, partly due to the expected cessation of major EU funding grants.

Inflation is low - around 2%. As a result, wages have been very stable in recent years.

The Budget is in surplus and so is the balance of trade. Ten years ago, the budget was in deficit to the tune of 12% and the balance of trade in deficit by 7%.

A 10% corporate tax rate was established (in lieu of the normal 32% rate) for companies seeking to establish in Ireland in 'eligible or qualifying industries'. These industries are particularly centred on IT, financial services and reinvestment. In 2002, this system changes to a corporate tax rate of 12.5% for all companies.

Manufacturing now generates 40% of Ireland's GDP, and over 80% of its export income, demonstrating that Ireland is now a popular base for export-based manufacturing, and this is predominantly in IT and high-technology products.

Unemployment has dropped from almost 20% in the late 1980s to under 6% at the current time. In reality, that is, according to the Irish Development agencies, as close to full employment as they will get, but unemployment remains an issue in outlying, regional and rural areas.

Infrastructure growth has not kept pace with economic growth. Roads are heavily congested, public transport is poor and the cost of housing in Dublin is astronomical. Commercial premises in Dublin are difficult to obtain.

Tax reform and labour relations are key areas of challenge to the Irish Government. Income tax rates are high and unions are beginning a campaign of industrial action aimed at sharing in the economic growth.

Even during the difficult times in the 1980s and early 1990s, Ireland continue to invest heavily in its education system and its telecommunications system. As a result, its workforce is generally high skilled and the environment in which companies can establish is very modern. During the late 1980s and early 1990s, the highly skilled workforce with few employment prospects led to a mass export of skilled labour, which is only now beginning to return to take up the significant opportunities at home.

The economic good times are there for the people of Ireland, Mr Speaker, but that's not to say the challenges are not still there. In fact, as Mr Quinlan and I noted, there is a growing view among elements of the workforce, such as nurses and police, that they want a greater share of the economic growth. The pressure this will create on the climate of industrial co-operation will be an interesting area to watch in the next months.

Even as recently as yesterday, I note that the Irish Government is having real difficulties getting its Budget through the Parliament, because it contains selective tax rises and does not meet demands for substantial increases in social security payments. Perhaps, when we were there, we could have explained to them the idea of a Draft Budget!

Mr Speaker, the final report has been compiled with the assistance of Mr Frank O'Rourke - a member of the Business delegation. It deals with the itinerary undertaken by the delegation, and the many things we all learnt from each of those visits and meetings.

The exposure this delegation gives to Canberra is also significant. Media coverage of the visit in Ireland gave us an opportunity to explain the benefits of doing business in Canberra and also explain the beauties of the national capital.

Of course, Mr Speaker, the people of Canberra have a close connection with Ireland. We have a higher rate of descent from the Irish than any other city in Australia, and the Irish community in Canberra is colourful, well-represented and active among our ethnic communities.

Mr Speaker, I would like to end with a series of thank yous to people who assisted in putting this delegation together.

Firstly, I'd like to thank the Irish Ambassador to Australia, Richard O'Brien, and the Australian Ambassador to Ireland, Bob Halverson, for their support in making the delegation happen and helping us achieve a significant itinerary of meetings with people who were able to give us a very good understanding of what we needed to know, as well as connect us with some important business contacts in Ireland.

I also want to acknowledge Bob Halverson's staff at the Australian Embassy in Dublin, in particular Tom Sinkovits and Barbara Waters, for their outstanding support to the entire delegation during the trip.

I'd like to thank my fellow delegates, in particular, Mr Quinlan, for their support during the trip. And I'd like to thank the Chairman of CanTrade, Jim Murphy, for his work in securing a number of events

on the itinerary and representing this city, and its business opportunities, with distinction.

Ellnor Grassby and Ingrid Murphy should also be acknowledged for their efforts to get us all there, with our luggage, despite some trying times on the way.

Trish Smith, from Capital Travel, who handled the entire itinerary for flights and accommodation for the entire group, should also be thanked for her efforts.

Bill Hennessy, who is based in Dublin, provided exceptional on-the-ground support to us while in Dublin. Little did we know that we were being shown around by a man who starred in *In the Name of* the *Father,* alongside Daniel Day Lewis, as well as numerous other movies. The support provided to Bill to assist us with the trip by the Europa Mazda Car Centre in Blackrock, Dublin, should also be acknowledged.

To all those who met with us and spent time explaining their roles to us, who are all listed in the report, I'd like to thank them publicly.

MR HUMPHRIES: Mr Speaker, both Mr Quinlan and I were involved in the delegation. I commend that report to members for some insights into what opportunities might arise for the ACT, and particularly ACT businesses, as a result of that delegation. I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

McKELLAR SHOPPING CENTRE - DIRECT GRANT OF LAND TO TOKICH HOMES PTY LTD - INDEPENDENT INVESTIGATION
Paper

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.23): Mr Speaker, for the information of members, I present the report of the independent investigation into various matters surrounding the direct grant of land at McKellar Shopping Centre to Tokich Homes Pty Ltd, dated October 1999. I move:

That the Assembly takes note of the paper.

Mr Speaker, in question time on 2 September, in answer to a question without notice by Ms Tucker about the Eco-Land development in McKellar, I undertook to initiate an investigation. Mr Corbell also asked me a question without notice in relation to this matter at the time and I undertook to include his matter in the investigation. Ms Tucker asked that I report back to the Assembly at its next sitting. I had hoped that the

investigation would be complete by that time but that was not possible. On 14 October I advised the Assembly that the investigation had not been finalised.

That investigation has now been completed and I take the opportunity to table a copy of the report. There are a few points I want to highlight about the report. I was concerned that Ms Tucker's question suggested that there had been a lack of propriety in the way this matter had been dealt with. The investigation concluded that there is no evidence of impropriety in the processing of the grant of land at McKellar shops. The investigator also concluded that the actions taken by those involved in dealing with this matter were reasonable in the circumstances. However, the investigation highlighted the need for clarity and accuracy when dealing with matters involving direct grants of land, and the report outlines ways in which these areas could have been improved in this case.

Members will recall that I have already asked that a review be carried out into the practice of associated works. The investigator's report makes recommendations about this matter, and I have asked that these be taken into account as part of that review. This review adds to the report by the Property Advisory Council titled "Appropriateness of Dealing with Developers Outside a Competitive Process" that was released in August this year. The report forms an important framework for government policy when dealing with the issues of commercial or residential development and land releases.

There are circumstances where exclusive dealing is appropriate, but only where the proposal has substantial public benefit. Since becoming Treasurer I have made it quite clear that any decision to deal directly with a developer must pass a public interest test and meet high probity, disclosure, confidentiality and due diligence standards. I realise that this is somewhat inconvenient to some developers, but I regard it as essential to ensure that the wider public interest is protected. I draw to members' attention that the investigation was into administrative procedures that have been superseded by the Property Advisory Council report.

Mr Speaker, the investigator has recommended that the issue of possible false declarations and breaches of the Business Names Act should be referred to the Director of Public Prosecutions for consideration, and I have asked the DPP to investigate this matter.

I would also like to advise members that the Auditor-General also wrote to me on this matter. That office was consulted about the terms of reference, was briefed by the investigator and was provided with access to the files used by the investigator. The office was provided with an opportunity to review the report.

An extensive amount of work has gone into this matter, Mr Speaker. The investigator's report recommends areas where improvements could be made. As I have indicated, these will be taken on board, and many have been implemented already as a result of the Property Advisory Council's report. It is my intention to keep the Assembly informed of progress in this area.

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

URBAN SERVICES - STANDING COMMITTEE
Report on Exhibition Park Car Parking - Government Response

MR SMYTH (Minister for Urban Services) (3.27): Mr Speaker, for the information of members, I present the Government's response to Report No. 30 of the Standing Committee on Urban Services, entitled "Carparking at Exhibition Park in Canberra". The report was presented to the Assembly on 2 September 1999. I move:

> That the Assembly takes note of the paper.

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

Leave granted.

The speech read as follows:

> Mr Speaker, I wish to present the Government's response to the report of the Urban Services Committee "Carparking at Exhibition Park in Canberra (EPIC)" to the Legislative Assembly.
>
> The Committee resolved to inquire into parking at EPIC following representations from the Royal National Capital Agricultural Society about potential car parking problems in the vicinity of Exhibition Park in Canberra (EPIC) with the establishment of the BRL Hardy winery tourism facility south of the junction of Flemington Road and the Federal Highway in Lyneham.
>
> Following meetings with key stakeholders and ACT Government agency representatives, the Committee reported on, and made recommendations on, a range of issues concerning traffic management, access and parking in the EPIC precinct (incorporating the areas occupied by the ACT Racing Club close to Flemington Road and the BRL Hardy winery tourism facility).
>
> The Committee examined a range of actions designed to improve parking and access to the EPIC site, including development of a strategy for management of traffic and parking in the EPIC precinct (incorporating the ACT Racing Club and the future BRL Hardy winery tourism facility). Among other things, the Committee's recommendations included:
>
> support for the greater use of public transport for access to
> major events within the EPIC precinct

upgrading of the informal carpark on the western side of Flemington Road and immediately north of the BRL Hardy winery tourism facility site

catering for more carparking within the EPIC site, and particularly to improve the access to EPIC's northern carpark along an eastward extension of Sandford Street, Mitchell, towards Wells Station Road, and

improving traffic arrangements for major events.

The Government broadly agrees with the directions proposed by the Committee, although there are differences in approach with some implementation issues.

The Government has re-allocated funding for a temporary extension of Sandford Street to the east to facilitate access to parking for major events at EPIC as well as improving the standard of, and increasing the capacity of, the informal carpark immediately north of the BRL Hardy winery tourism facility site.

EPIC is also undertaking works this year to improve access from Wells Station Road into its northern carparks and to upgrade those carparks. EPIC's master planning recognises that, over time, more carparking must be provided within its site as informal carparking areas surrounding EPIC are progressively leased for other uses. EPIC has identified a large area in the northern part of its site as suitable for carparking development.

Work is proceeding on development of integrated event ticketing systems to include both entry charges and bus fares to encourage greater use of ACTION buses, particularly for access to the Canberra Show.

The Government recognises the importance of development of a longer term strategy for access and parking at EPIC. To that end, Urban Services officers are working with EPIC and other stakeholders to develop a strategy for the EPIC precinct.

The Government agrees in principle with the thrust of the Committee's recommendations, and has announced its strong and continuing support for EPIC.

Question resolved in the affirmative.

TEMPORARY ACCOMMODATION ALLOWANCE
Discussion of Matter of Public Importance

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

> The Chief Minister's failure to accept responsibility for the inappropriate payments of Temporary Accommodation Allowance to Senior Executives in the ACT Public Service.

MR CORBELL (3.28): Mr Speaker, the payment of over $300,000 worth of temporary accommodation allowance to certain senior executives in the ACT Public Service for periods of over three years, in some instances, is nothing short of a scandal and a rort. Mr Speaker, it is scandal which is undermining the public's faith in the public administration of our city and it is a rort which takes ACT ratepayers' money away from the essential services which our city so desperately needs and puts it in the hands of already highly paid public servants.

Last week I revealed that the ACT Government has been paying certain ACT public servants temporary accommodation allowance, contrary to advice it received from the accounting firm Ernst and Young in an independent report in 1997. In that report the Government was warned that the payment should not be made where the employment contract exceeded two years. The Ernst and Young report further warned that, whilst the ATO has accepted these payments as a legitimate living away from home allowance for periods of two to three years, any payments beyond that period would probably attract clarification from the Australian Taxation Office as to whether the employees had actually changed their permanent addresses.

Mr Speaker, in answers to questions on notice from me, the Chief Minister has been forced to reveal that the cost of these payments has now reached over $300,000, even though they have been made contrary to the public sector management standards set out by the previous Labor Government in 1994 and even though they contradict the advice of the Ernst and Young report. Over the brief period that the Chief Minister has been answering questions on this issue, we have seen her stumble and stumble again, just as she did during the debate on Bruce Stadium. Clearly, she has not learnt any of the lessons from that experience and the censure of this Assembly. The Chief Minister's arrogance on this issue and her refusal to accept responsibility remain unparalleled in this place. When something goes wrong for Mrs Carnell, her theme song is: "Not, not, not responsible".

When the Chief Minister was forced to defend these payments, she attempted first to blame other people. And whom did she blame first of all? First of all, she blamed the Labor Party. What a surprise, Mr Speaker! Mrs Carnell attempted to defend these completely inappropriate payments by claiming that they were in accordance with the public sector management standards and guidelines set down by the previous Labor Government in 1994. Today, as my leader, Mr Stanhope, highlighted in question time, Labor can prove that this first defence by the Chief Minister is nothing less than an untruth. Mr Speaker, she should apologise to this place, the media and the ACT community for even attempting to use such a defence.

Mrs Carnell tabled yesterday in this place a minute from the Commissioner for Public Administration outlining that in August 1996, the first year of the Carnell Government, new senior executives were to have their rates of temporary accommodation allowance increased - I stress the word "increased", Mr Speaker - by 41 per cent and 60 per cent in the two categories concerned. The minute confirmed further that no longer would these senior executives be required to share the burden and make an officer contribution towards the costs of their accommodation, as was generally required in the guidelines established by the Labor Government. And the minute overruled - that is right, overruled - the general three-year limit for temporary accommodation allowance payments by determining that the senior executives concerned would be entitled to receive the payments for up to the full five years of their contracts; not just for one year, not for two years, not even for three years, Mr Speaker, but for five full years, the entire length of their contract.

All of these decisions overruled the provisions of the guidelines and standards which were in place under the previous Labor Government and all of these decisions were made in the term of the Carnell Government. Mrs Carnell is just plain wrong when she makes the claim that these payments were in accordance with the previous Labor Government's guidelines. They were not. They were made specifically for these executives by her Government. Perhaps that is why the Chief Minister is now resorting to the defence of saying, "Do not ask me as it has nothing to do with me. It was the Commissioner for Public Administration". That was the defence that we heard yesterday in question time. It was the defence that we heard again today in question time.

Mr Speaker, that is an arrogant and cowardly defence from a Chief Minister who is still unable to understand the most basic notions of ministerial responsibility and accountability. The Chief Minister cannot claim that she could not be questioned on this matter or was not able to answer such questions because it had nothing to do with her. She has ministerial responsibility for the Public Service and in the end matters of public interest, such as the remuneration entitlements of senior executives, are matters for her to answer, not to duck and hide on as we have seen her do over the past few days.

So desperate have been Mrs Carnell's attempts to distance herself from this issue that she has even gone as far as to get a letter from the chief executive of her department saying that there had been no ministerial correspondence - that is, advice from her department to her - until this issue became public last week. In fact, that letter reads in part:

> I cannot identify any decision where Ministerial or Government agreement has been sought.

Perhaps Mrs Carnell should have thought twice before getting that advice because it has shown up a major failing in the whole administration of this issue. Mr Speaker, what this advice from Mr Gilmour to the Chief Minister indicates - in fact, what it confirms - is that these payments have been made outside the provisions of the Public Sector Management Act and should not have been made. They are contrary to the Act.

Members are entitled to know why these payments are contrary to the Act. I draw members' attention to section 251 of the Public Sector Management Act, headed "Management Standards". It says that the commissioner may, with the approval in writing of the Chief Minister, make management standards not inconsistent with the Act in regard to, amongst other things, terms and conditions of employment of officers and employees.

That means that the Chief Minister had to approve any variation to the standards to provide for these payments to be extended beyond three years. This Chief Minister had to approve in writing any decision not to require payment of officer contributions. That means that this Chief Minister had to approve in writing any decision to increase the amount of payments made to these senior officers. The Chief Minister knows that to be the case and she has fundamentally failed to disclose that to the house. She has fundamentally failed to meet her responsibility as the Minister responsible for Public Service matters and make sure that these payments are made in accordance with the Act.

Mr Speaker, $300,000 has been provided to seven public servants - in one instance, over $50,000 to one officer - for temporary arrangements, but these arrangements are not temporary; they are ongoing. In fact, they are for the entire length of the contracts. They are there for the entire length of the chief executives' contracts. Mr Speaker, the public sector management standards require that where something is extended beyond three years it is extended in special circumstances. Where have we heard the Chief Minister's defence of this decision? There has not been one. What were the special circumstances, Chief Minister, that warranted an extension of the temporary accommodation allowance for the full length of these senior executives' contracts? We have not heard one.

Mr Berry: They needed to be kept happy.

MR CORBELL: Mr Berry says that they needed to be kept happy. Indeed, Mr Berry, that may have been the case. But the bottom line here is that the Chief Minister has not given us an answer as to why they were extended beyond the three years provided for in the guidelines. She has not given us that answer.

Mr Speaker, $300,000 would go a long way towards providing more teachers in our classrooms; $300,000 would go a long way towards providing more services in our hospitals; $300,000 would go a long way towards providing services for the people of Canberra. At a time when the Chief Minister says that every dollar is precious she has been prepared to outlay $300,000 to date for the purposes of a temporary accommodation allowance - a temporary allowance. Mr Speaker, it is a good deal if you can get it, but is it fair? The answer is that it is not fair. It is not fair for all of those public servants out there who work overtime without being paid. It is not fair for the nurses who do the same. It is not fair for any range of other junior and middle-ranking public servants in our Territory. The great scam that this Chief Minister pulls in this place day after day is that she stands up and says that Labor is attacking public servants, whereas the reality is that this Chief Minister does some cosy deals for some senior executives and the rest of the Public Service just has to buckle down, do as it is told and deal with the tough and unrelenting industrial relations regime that she has put in place in the ACT Public Service. That is the reality, Mr Speaker.

Chief Minister, you need to explain to this Assembly why you will not stop these payments. They should be stopped. Indeed, you are morally obliged to stop them if you want to have any credibility in relation to the proper administration of public finances. You cannot continue to ignore this issue. You cannot continue to ignore the fact that these standards cannot be varied except with approval, in writing, from you. That is the basic requirement, Mr Speaker. The Chief Minister has failed it. Perhaps we will need to look at whether this matter needs to be referred to the public accounts committee or, indeed, to the Auditor-General because, quite frankly, this is a scam, this is a rort, this is a scandal which the Government cannot walk away from and which the Chief Minister cannot walk away from.

Mr Speaker, at the end of the day, the Chief Minister has a simple responsibility. She cannot hide from it and she cannot walk away from it. These payments should not have been made. Section 251 of the Public Sector Management Act says that the commissioner may, with the approval in writing of the Chief Minister, make management standards not inconsistent with the Act. That includes, obviously, the varying of standards in relation to the terms and conditions of employment of officers and employees. Mr Speaker, the case is clear. The Chief Minister cannot walk away from it. Stop the payments, Chief Minister, in the interests of good public administration in this Territory.

MS CARNELL (Chief Minister) (3.43): It is unfortunate that Mr Corbell has just given a speech based upon absolutely wrong information. It is fascinating that Mr Stanhope, supposedly being a lawyer, would allow Mr Corbell to give such a wrong interpretation of a piece of legislation. I suppose that is typical of those opposite.

Mr Corbell's matter of public importance today is based upon a basic misunderstanding of two issues of some substance. The first is that these payments were, in his terms, inappropriate. How does he arrive at this conclusion? The entitlements were paid under existing rules within existing delegations by public servants appropriately authorised to make the decisions. It is not possible to say that they were unlawful. They were also appropriately made to people who met the eligibility requirements. Even taking all of that into account, Mr Corbell considers that these payments were inappropriate. He thought that the payments were so inappropriate that he was quoted in the *Canberra Times* as saying that they were a rort. Today, he said that it was a scam and a rort. Mr Corbell provided names, photos were included and the word "rort" stuck to each of those individuals. Regardless of personal views about remuneration and allowances, whether they be for politicians, public servants, private sector executives or, for that matter, those people who are getting a 500 per cent loading on New Year's Eve, those views do not make them improper, illegal or rorts.

Secondly, the Opposition argues that I, as Chief Minister, should not have permitted the payments, should now stop the payments and should be held responsible for administering those allowances. How does that sit with ongoing allegations of politicisation of the Public Service, Mr Speaker? Should a Minister reach in and make decisions on the administration of allowances of public servants without authorisation?

Mr Moore: Individual ones.

MS CARNELL: That is right, individual ones for individual people. Mr Stanhope said that I should stop the payments to those seven public servants; in fact, seven are still getting them, as we know. Mr Speaker, should I become involved in the administration of allowances of public servants without authorisation? No, the authority rested with the Public Service, specifically chief executives and the Commissioner for Public Administration. That is what the rule said in this instance and that is what happened. I took the appropriate action in changing the policy by referring the issue to the independent Remuneration Tribunal. I did not think that the existing rule, set in place by the Follett Government in 1994, should continue to apply. I thought that the arrangements should be formulated differently. The reference to the tribunal about changing the policy was appropriate. Becoming directly involved, hands on politicisation of the Public Service, was not appropriate and still is not, Mr Speaker.

To do what I did - that is, to refer it to the tribunal - was the role of a Minister and a government that were providing an independent source to set and determine remuneration. I argued through the Government's submission to the tribunal that the allowances should be simplified and capped at $30,000. That was my role - not reaching into public administration, where I had no role, and saying to one of our executives, "You should not be paid that entitlement". That, Mr Speaker, would have been inappropriate, unlawful and in breach of the basic tenets of public administration.

The Opposition is running the argument that Public Service processes have been undermined through my administration. They run that argument regularly, Mr Speaker. I think I can demonstrate quite the reverse. There is greater accountability and greater transparency. My support for reform continues. A decision taken in the recent restructuring of the Chief Minister's Department was to remove the Commissioner for Public Administration from the executive structure of the department. A part-time position has been advertised so that in the future the statutory office can sit apart from departmental organisational structures.

Let us take a step back at this point, Mr Speaker. We have been through these issues every day in question time, but I would like to remind Mr Corbell about the way that the temporary accommodation allowance works. The allowance comes under the public sector management standards introduced in 1994 under the Public Sector Management Act put together and passed in this place under the stewardship of the Labor Government. I have taken a number of questions on notice on these issues and I would like to provide a full explanation of these issues, including the background to the decisions.

My department has asked that it have the opportunity to fully research the issues. We have new staff in place now and they want to provide accurate information, but that cannot be done overnight. An enormous amount of time and lots of people are involved. I took the questions on notice, happy to provide the information within the timeframes allowed for in this Assembly, but that simply has not been good enough for Mr Corbell. Possibly, he wants a quick answer that has not been properly researched. I certainly hope not.

In brief, standard 14 of chapter 6 deals with relocation expenses and calls up SES entitlements contained in Commonwealth determination No. 46 of 1984. The rates set in the standard were adopted from rates set by the Commonwealth. These standards, read in conjunction with the Commonwealth determination, provided a range of benefits for relocating public servants. They were for removal costs, the removal of pets, travel to Canberra, assistance with accommodation, payments for connection to utilities, the reimbursement of bonds, payments for the transfer of registrations, disturbance allowances covering a range of ad hoc allowances, assistance with school fees where children were left behind to finish secondary schooling, solicitors' fees, reunion costs where family members were left behind and assistance in returning to the former locality at the end of the contract.

All of those things were picked up from the Commonwealth entitlements and put into Public Service management standards by those opposite. Under those standards, both the chief executive and the commissioner, through powers under the Public Sector Management Act, had authority to make decisions about relocation costs and to vary and review some of the rates set in the standards. The standards said in relation to all of these allowances that there was discretion to recognise different circumstances and to review the rates. The commissioner is responsible for setting rent ceilings. What do the standards say? Standard 14, chapter 8, paragraph 4.5 says that the commissioner shall set rent ceilings - not the Minister, not the Chief Minister, but the commissioner.

In August 1996 the Commissioner for Public Administration made such a decision - as I have said, Mr Speaker, under standard 14, chapter 6, paragraph 4.5 - to set rent ceilings, to vary officer contributions and to extend the period of benefits. Mr Speaker, I tabled that document in the Assembly yesterday. Mr Corbell ran much of his argument on the fact that a part of the Act somehow precluded that from happening. That is simply not the case, Mr Speaker. For the information of members, I shall read from a note written to me today by the Acting Commissioner for Public Administration, Ms Davoren. With regard the temporary accommodation allowance, she said:

> I have examined the legislative basis of the 13 August 1996 decision of the Commissioner for Public Administration.

That is the one that Mr Corbell has just said was illegal and meant that the payments were not made appropriately.

Mr Corbell: I did not say "illegal".

MS CARNELL: If Mr Corbell listens, he will find that it shows that he was absolutely wrong. The note continues:

> This decision was based on:
>
> > Clause 3 of Executive Contracts, which applied to Executives the terms and conditions contained in, among other things, the Public Sector Management Standards;

> Public Sector Management Standard 14, Chapter 6, which dealt with relocation expenses generally and called up certain entitlements applicable to SES officers as contained in the Commonwealth Public Service Board Determination 1984/46; and
>
> the powers of Chief Executives and the Commissioner to make certain decisions in relation to relocation costs. Specifically, the Commissioner could set rent ceilings, vary officer contributions, and extend the period of application of any benefits.
>
> In these circumstances, it would not be necessary to make a new Public Sector Management Standard under section 251 to amend these rates. The Standard permitted the exercise of discretions by Chief Executives and the Commissioner to vary those rates.
>
> I have attached the relevant parts of the Standard that the Commissioner relied on in making her decision.

Mr Speaker, I ask for leave to table this information, which totally undermines Mr Corbell's speech. Alternatively, Mr Corbell perceives that his interpretation of the Act is better than the Commissioner for Public Administration's interpretation.

Why were these arrangements varied? The reason for varying them is the same as the reason for having the relocation costs in the first place - to ensure the Territory could attract high-calibre staff. This decision sets clear limits on the allowances, to remove negotiation on these issues while maintaining the Territory's recruitment power during a period of reform. It took into account the altered employment arrangements for executives employed on fixed-term contracts, which would normally be for up to five years. My understanding is that the three-year term related to the normal Commonwealth arrangement when SES fixed-term contracts were for three years. In these circumstances, the change in duration reflected the usual term of contracts - again, an existing entitlement amended to reflect standard employment arrangements. Further, it was amended within the authority of the existing rules by a person authorised to make that change. It was legal, appropriate and proper.

Under this authority the Commissioner for Public Administration considered the circumstances of newly recruited executives relocating to the ACT as well as streamlining the administration of the existing entitlements. The standards say that the commissioner is responsible for setting rent ceilings. Chief executives can also approve higher rent ceilings. The amount set by the commissioner reflected the existing officer contribution, the reviewed rental ceilings based upon a rental survey at the time and the extended duration, consistent with the new employment arrangements. Those were the circumstances behind the commissioner's decision. They were matters within the commissioner's discretion.

Will I stop the payments, Mr Speaker? Mr Corbell has asked whether I will stop the payments. I have made my views clear. I asked the Remuneration Tribunal to review these entitlements in 1998. The entitlements previously provided in the standards were capped at $30,000. Executives appointed from this time are covered by that

determination. There was no role for the Chief Minister in the standards. There is no role for the Chief Minister in the new determination, except to make submissions to the tribunal, which is something that those opposite can do as well.

Those chief executives and executives employed before April 1998 have contractual entitlements not just to temporary accommodation allowance, but to a range of other entitlements provided for in the standard. I believe that the Territory should honour those entitlements negotiated within the rules as they existed at the time. Breaching those agreements would be not only a breach of contract but also a breach of trust between an employer and an employee. We do reward our executives well. We do not reward them well in comparison with the private sector, but we do reward them well and we do ask a lot of them. We do expect them to work seven days a week regularly and often long into the night. We compete with other governments for them. Good CEOs are simply people that are worth their weight in gold. We simply must be able to maintain these people in the ACT Public Service. That is the approach that we will continue to take. I will continue to comply with the law as it stands and not with what those opposite are asking me to do, that is, break the law.

Mr Berry: I rise to a point of order, Mr Speaker. On at least two separate occasions, Mrs Carnell has been ordered to withdraw the word "smart-arse". Would you call on her to withdraw it as a result of her comment today?

MS CARNELL: I am happy to withdraw it, Mr Speaker.

MS TUCKER (3.59): I wish to make a very brief contribution to this debate, which has been an interesting debate. Mrs Carnell has been focusing in her arguments on the legality of the payments and the process issues. As someone who is chairing a select committee on public housing in the ACT, I must say that there is an irony in the debate that I would not want to leave unmentioned. As I understand it, the salaries that these people are receiving are between $120,000 and $210,000 or thereabouts. We have heard Mrs Carnell say that their salaries are not as much as they could be earning in the private sector. It has been said in debate in this place before that you have to pay very high salaries to get good people. Obviously, that is arguable as the concept of public service is a very strong motivation for some people in society in terms of the work that they do.

It is of interest to me to compare the amounts of money that are being discussed here with what we have at the same time from Minister Smyth of the same Government, who has set a limit on people wishing to obtain secure, safe public housing and has done so on people who often are in need of this form of housing because it is housing of last resort. It is not housing for people who have many choices in what they do because of the income they receive. It is proposed that a person who receives less than $482 a week - $482 a week is actually the amount of the subsidy for a CEO who has a dependant somewhere else - will get public housing. But anyone who earns $48 a week more than that - 10 per cent more than that - over 18 months will lose the right to that secure housing, which is a fundamental human right. The sum is $766 for two persons. They are going to lose that entitlement if they earn 10 per cent more than that over 18 months.

I am not really interested in the process here. It may be legal and proper, but it is not ethical or moral to support people on that level of income to that degree when you will not support the people in the community who are the most disadvantaged and who need public housing because it is housing of last resort. The cut-off point for it is still below the poverty line.

MR STANHOPE (Leader of the Opposition) (4.01): Mr Speaker, I rise to support the position put solidly and well by my colleague Mr Corbell. The position that we are debating here today really goes to the question of responsibility and the need for the Chief Minister to accept responsibility for the management of her department and for public administration generally in the ACT. In fact, the basic proposition being debated here is the simple refusal by the Chief Minister to accept responsibility and her attempts from the very outset simply to deflect, as she always does, all responsibility onto others. I go back to the day on which the issue arose - on 1 December or thereabouts - when the Chief Minister just instinctively and automatically said that the payments were made pursuant to public sector guidelines put in place by the Labor Government. In a television comment that the Chief Minister made on or about that time, exactly the same was said – "In fact, all we did was abide by arrangements put in place by the former Labor Government". The issue was run extensively by the electronic media and in the *Canberra Times.* The report in the *Canberra Times* indicated that the staff were entitled to payments under guidelines put in place by the former Labor Government.

The Chief Minister put the line, "It has nothing to do with me. It has nothing to do with decisions made while I was Chief Minister. It has nothing to do with decisions made by officials in a department that I oversight and accept responsibility for. It is all to do with the Labor Party. It is all to do with the previous Government. It has nothing to do with me". We have had the instinctive and automatic deflection of the Chief Minister saying, "Oh, no, it has nothing to do with me. It is all to do with somebody else. It is somebody else's fault". If it is not the Labor Party's fault, if she cannot pin it on the Labor Party, then, by innuendo, it is the fault of an official, it is the fault of a public servant. That is the way it works. The first line of defence is to blame the Labor Party. The second line of defence is to blame a public servant: Do not name them, pretend that you support them, pretend that you will die in a ditch for them, but ensure that the buck stops with them, ensure that the buck does not get past the public servant. We have seen it in relation to Bruce Stadium. We have seen it in relation to the implosion. We are now seeing it in relation to this accommodation allowance issue. In fact, the buck stops, once again, with Linda Webb. I think that the buck has stopped with Linda Webb a couple of times, but she has shuffled off the stage now.

Mr Quinlan: Shoved off the stage.

MR STANHOPE: Perhaps "shuffled" was the wrong word. That is the essence of what we are debating here - that instinctive response of blaming somebody else; never accept responsibility, never take responsibility seriously. Looking at what the Chief Minister said on 2 December, just a week ago, how the worm has turned, how we have come full circle. A week ago, absolutely, the issue was just about the guidelines in 1994. Then we discovered bit by bit, dragging blood out of a stone, that the 1994 guidelines were amended and it was not about the 1994 guidelines; it was about the 1994 guidelines as amended under her administration. That is what we are talking about now. It is like

talking about the Constitution as it was in 1900, although it has been amended and we have a different Constitution now. Things change and any discussion about them should be about them as amended.

How much have they been amended in this case? We discovered the amendments yesterday only after these details had been extracted line by line from the documents now being reeled out. It is intriguing that the minute that was tabled yesterday was not in the Chief Minister's question time brief. It was trailed in from the anteroom by one of her advisers when she got into strife on the answer. She was getting into deep water. Her adviser said, "We had better bail her out of this. We had better reveal the existence of this 1996 determination", and another little chapter unravelled and another layer of skin came off the onion and we could see what was underneath, we could see the attempt to cover up.

Then we had the amazing spectacle that we witnessed in question time yesterday, which probably prompted the raising of this matter of public importance today, of the Chief Minister saying that she could not answer questions that went to the function or role of the Commissioner for Public Administration, that she could only take them on notice. There is no sense in asking questions of the Chief Minister, the Minister responsible for the administration of the Chief Minister's Department, the Minister administratively responsible for the Commissioner for Public Administration, as there is a different system now. She is now saying, "If you want to ask me a question, give me a couple of hours' notice, but the bottom line is that you should never ask me a question about the administration of a vital aspect of my department because I do not have the capacity to answer it". She is saying, "The new rule is that I will never again answer a question going to the role or responsibilities of the Commissioner for Public Administration".

Perhaps we will give some notice in future. Whenever we want to ask a question of the Commissioner for Public Administration, perhaps we will rely on standing order 255 and ask the commissioner to appear in this place and question her as a witness. If the Chief Minister now absolves herself of responsibility for the administration of the Public Service commissioner, perhaps we need to approach within this place the prospect of inviting the Public Service commissioner to appear in the Assembly, pursuant to standing order 255, and ask our questions of the commissioner herself. If that is what the Government is proposing, perhaps that is what we need to do and perhaps we need to pursue it in relation to every other statutory officer. As my colleague Mr Corbell pointed out yesterday, we could pursue it with the DPP or anybody else who has a statutory responsibility. Perhaps in future we need to invite them to appear in the Assembly and ask them questions. Perhaps we will not bother about asking the Government because individual Ministers are relying on this ruse of saying, "I cannot be expected to answer questions on what a statutory official in my department is doing or may have done".

We are also talking about a more fundamental issue, a much deeper issue, which goes to the question I asked yesterday about the throwaway comments that the Chief Minister makes on her half-hour show on the ABC, where the Chief Minister basically attributed to the Assembly all responsibility for her failure to secure private sector financing for the Bruce Stadium. It is the same device of not accepting responsibility. It is the arrogance of her saying on her weekly ABC radio show, "Yes, I did expend the moneys

unlawfully. I did not actually appropriate them according to the law. I went ahead and spent tens of millions of dollars of taxpayers' money and I was censured for it. But the Assembly made me do it. The Assembly made me withdraw the private sector funding". Of course, we all know that that is simply not true, but it is a continuation of this failure to accept responsibility. It is like the statement made on 2 December in relation to this matter.

Ms Carnell: I take a point of order, Mr Speaker. I thought that this MPI was very definitely on a particular issue that the Chief Minister failed to accept responsibility for, but that has nothing to do with it.

MR SPEAKER: I was distracted. Is it to do with relevance?

MR STANHOPE: I was speaking on a matter of relevance. It was in the context of the extent to which the Chief Minister goes to avoid all responsibility for administration. The case I was making was, quite clearly, in context and very relevant. It was on the question I asked yesterday about the Chief Minister's attempts to deflect attention from the fact that only a few months ago she was censured by the Assembly for actually expending moneys without due appropriation - in other words, unlawfully - in relation to Bruce Stadium by going on the ABC in her weekly radio slot and suggesting that the Assembly forced her to withdraw the private sector funding.

It is the same issue. It is the same as the statement that was made last week in relation to the temporary accommodation allowance. She has made no attempt at all to accept responsibility for the fundamental issue that we have senior public servants, earning up to over $200,000, being provided the wonderful luxury of five full years of temporary accommodation allowance. In other words, people moving from, say, Sydney to Canberra to take up senior appointments with the ACT Public Service, appointments attracting salaries of between $170,000 and $250,000, are for the full five years of the term picking up potentially $400 a week.

Let us get to the fundamentals of the matter we are talking about. When the appropriateness of this payment was raised the Chief Minister's instinctive reaction was to say, "Do not look to me to accept any responsibility for this. It was done by the Labor Party. The Labor Party's public sector guidelines are the cause of this". We discovered a week later, after some serious questioning, that the guidelines were amended totally and absolutely to extend the maximum period of three years to five years. We had an additional two years at $400 a week potentially added just like that.

There was no mention of that by the Chief Minister in her statements to the *Canberra Times*. There was no mention of that in her statements to, particularly, Ten Capital, which simply ran them unquestioningly and actually put out the misleading impression that it was all about the Labor Party and nothing to do with her administration, a completely wrong view. It was all to do with her administration and her period of stewardship of the Chief Minister's Department. The rules were changed in 1996 while she was Minister. She will not accept it. She will not accept responsibility. She deliberately sought to create this other impression that it had nothing to do with her. It is just a continuation of the theme that we have seen for the last two years of "not, not, not responsible".

MR MOORE (Minister for Health and Community Care) (4.12): I will be very brief. Firstly, it is a shame that Mr Stanhope responded without taking the opportunity to read the opinion of the Acting Commissioner for Public Administration that the Chief Minister tabled. It is also interesting that Mr Stanhope should accuse the Chief Minister of adopting an instinctive approach. We have had the instinctive approach of Labor, the instinctive approach that we always get, of throwing mud in alleging that there has been a rort, a scam or a breaking of the law. That is simply untrue. That is the language that Mr Stanhope uses because he loves to build up a straw man and then knock it down and to create the impression that somehow all our public servants are interested in rorts, scams and so forth. That is the mud that the Labor Party instinctively throws. Mr Speaker, some of it sticks because that is what happens when you throw mud.

Mr Hargreaves: Great! Terrific!

MR MOORE: We have the interjection from Mr Hargreaves, "Great! Terrific!". The mud does not stick just to elected members of the Government. It does stick there, clearly. But you do not care who else it hits. In this case it hits a whole series of public servants who have contracts or are working to those contracts. The validity of those contracts has been verified by a document tabled by the Chief Minister, but you do not take that into account. You have a single focus on where you are going.

The matter of public importance today alleges that the Chief Minister has failed to accept responsibility for the making of inappropriate payments. That is wrong. It is wrong for the simple reason that in 1997 the Chief Minister referred this issue to the Remuneration Tribunal. In other words, she looked at it and said that this issue needs to be examined. She took that responsibility and, correctly, had it examined at arms length by the Remuneration Tribunal. That was the correct approach. That is taking responsibility, but interfering with individual contracts is not. That would be inappropriate. She was paying attention to process and following process correctly. What we get from the Labor Party when it suits them to muck up the process is constant suggestions about interfering with tenders, as Mr Stanhope suggested with the hospice, and interfering with contracts, as is being suggested here. Instead, this Government follows proper process, as it has done here.

MR BERRY (4.15): Mr Speaker, I want to talk first of all about responsibility and the failure of the Chief Minister to accept responsibility in many respects, especially her failure to accept responsibility in respect of this matter. Her theme song, as has been said by my colleagues, is, quite appropriately: "Not, not, not responsible". That is the common cry. The first thing that we heard from the Chief Minister, as has been said before, is that it was the fault of the Labor Party, not of the Chief Minister.

I seem to have heard her say that before. After the fatal hospital implosion, I think the first words she said were: "It is Totalcare's fault; it has nothing to do with me". She said to the police investigators, "It was not me; it was Trevor Kaine". That was untrue. At every turn this Chief Minister tries to blame somebody else. First of all it was the Labor Party, then it was the Commissioner for Public Administration. She will do anything else but accept responsibility for what must be seen out there in public as unacceptable levels of payment to very highly paid and senior officials.

Why could the Chief Minister not examine the issue in principle and make a comment about that? Is it appropriate for public servants to receive $50,000 over a period of time for rent assistance? Why do you not stand up and say something about that matter? Is it a good idea for senior public servants, earning from $170,000 to $250,000 a year, to receive $50,000 in rent assistance?

Mr Speaker, if you were to ask the ordinary punter in the street, somebody who had just lost his job in the south-east region of New South Wales and had come to Canberra to find another or was recruited to a job in Canberra in the hospitality industry, driving a truck or in the Public Service at, say, an ASO2 level, whether they would be getting rent assistance for five years you would find that they would not. Not a zack would they get.

How is it that the Government is making these sorts of payments when older people and others with illnesses are waiting for places in our hospital system? How is it that we can afford to pay out these sorts of amounts when there are people out there who are waiting for places in public housing? How can you convince the community that there is something good about this? How is it that the Chief Minister always avoids the responsibility of facing the issues for which she is responsible? She is responsible for these payments being made to senior public servants.

Why is it that she takes the coward's approach every time and tries to blame somebody else? It is a common theme throughout her administration whenever she has to face the music in respect of the activities of her Government. After trying to blame the Labor Party, the Chief Minister then tried to blame the Commissioner for Public Administration. As has been pointed out in relation to the Public Service management standards, the commissioner may, with the approval in writing of the Chief Minister, make management standards not inconsistent with the legislation prescribing matters relating to the terms and conditions of employment of officers and employees.

Surely something as significant as extending fairly generous payments to senior public servants - particularly, say, the Under Treasurer - would have come to the notice of the Chief Minister. Let us accept for a moment that it did not. We then go back to whether these sorts of payments are appropriate. From my point of view, I would have been brave enough to come out and say, "They seem to be accepting them in accordance with the law", if that was the commissioner's advice. But the Chief Minister should explain what were the special circumstances. It may be that a person has come here to work for only five years.

Mr Stanhope: He is getting only $200,000.

MR BERRY: He is getting only $200,000 a year. How can they be described as special circumstances so that this payment is extended to that person for five years? We end up with an enormous figure for rent assistance. I would be the first in the world to defend reasonable industrial rights when it comes to somebody's terms and conditions of employment, but $50,000 in rent assistance, especially over a period of five years, strikes me as being extraordinary.

Mr Stanhope: Perhaps the Government can table the special circumstances, Mr Berry.

MR BERRY: Mr Stanhope reminds me of a question to ask. Will the Government table a document containing details of the special circumstances which gave rise to this extension of the payments to five years? What were those special circumstances? *(Quorum formed)* I am pleased that the Chief Minister is back because I want to ask her about the special circumstances which applied to the extension of this generous allowance to these public servants. It is impossible to rationalise the payment of $50,000 in rent allowance to senior public servants with the mean-spirited move of this spineless Government of ripping $50,000 off bursars over minor industrial action. Bill the bursar basher and the Chief Minister's Department ripped $50,000 off bursars over minor industrial action.

MR SPEAKER: Relevance, please.

MR BERRY: These lowly paid, isolated workers who were unable to defend themselves were bashed by this Government while it was generously paying out money to highly paid public servants.

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

MR CORBELL: Mr Speaker, I seek to make an explanation under standing order 47.

MR SPEAKER: Proceed.

MR CORBELL: Mr Speaker, during the debate, the Chief Minister indicated that I had used the word "illegal". I indicate that at no time during the debate did I use such a word.

MR QUINLAN (4.25): Very quickly, Mr Speaker - - -

MR SPEAKER: Yes, you will have to be.

MR QUINLAN: I know. All I want to do is point out that a lot of this debate swings on the words "special circumstances". It is just inconceivable that there would be special circumstances in every case. It would seem to me that this is something that, given the various arguments that have been thrown in, does need some sort of objective assessment. In order to assist the house, I commit myself to bringing this matter before the public accounts committee, with the suggestion that we should refer it to the Auditor-General so that we can sort out the fact from the fiction. If everybody in our world is special, we can actually verify that via the objective assessment.

MR SPEAKER: The discussion is concluded.

INTERPRETATION AMENDMENT BILL 1999

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.26): Mr Speaker, I present the Interpretation Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I seek leave to incorporate my presentation speech in *Hansard*. I will only add to the printed speech by saying that this is a Bill which necessarily needs to be dealt with urgently by the Assembly because of the potential exposure of the Territory to claims for refunds of moneys which may have been invalidly collected pursuant to a determination or determinations not properly gazetted in the Territory *Gazette*.

Leave granted.

The presentation speech read as follows:

> This Bill proposes technical amendments to deal with the publication of short-form notices of the making of an instrument under a law.
>
> Those members of the Assembly in 1994 will recall that the former Government brought forward two amendments to the *Subordinate Laws Act 1989* to permit short-form notices of the making of instruments to be published in the Gazette. However, this appears to be one of those areas where it is sometimes easier to describe the result you want than to actually achieve it.
>
> Prior to 1994 instruments were required to be printed in full in the ACT Gazette. To bring this process into line with practice in relation to Acts and Regulations (which were purchased on demand rather than churned out through an automatic gazette process to people who had no use for them), the Subordinate Laws Act 1989 was amended. The amendments, sensibly, gave notice of the making of the instrument and where they could be purchased.
>
> It was clearly the intention of the Assembly in 1994 that amendments to the *Subordinate Laws Act 1989* were to permit short-form notice in the Gazette of instruments made under ACT law.
>
> The problem that has arisen is simply this. The 1994 amendments were designed to operate on a broad class of instruments. However, it might be argued the amendments presuppose that an instrument will have some form of legal status before the time it is gazetted. This may not be the case.
>
> Accordingly, this bill remedies the problem by describing the process of making instruments and publishing a notice about them in plain

> language. It avoids the possibility of a barren argument about whether an instrument may or may not have some form of legal status before it is published in the Gazette.
>
> To the extent that the efflux of time has eroded the certainty of the Assembly in 1994, these amendments are intended to unambiguously restore it. The amendments operate retrospectively to achieve the outcome clearly intended by the Assembly in 1994. In doing so, this Bill confirms the practice adopted in relation to the publication of notice in Gazettes since the earlier amendments were passed in 1994.
>
> I commend the Bill to the Assembly.

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

> That so much of the standing and temporary orders be suspended as would prevent the Bill from being considered at all stages forthwith.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.28): I move:

> That this Bill be agreed to in principle.

Mr Speaker, I think I have said all I want to say about this Bill.

MR STANHOPE (Leader of the Opposition) (4.29): I will speak briefly to the matter, Mr Speaker. The Labor Party is prepared to support this Bill. We are supporting it on the basis of assurances received by me from the Attorney-General and officers from the Office of Financial Management and the Department of Justice who briefed me this morning about the need for the Bill and about the need for it to be dealt with as a matter of urgency. I am grateful that officers from the Attorney's department and the Office of Financial Management were able to brief me at very short notice this morning.

Because of the fact that the Bill has been dealt with in this way - I was first advised just in this week's sitting by the Attorney - we have not been able to consider it in detail. The Attorney did give me a copy of the Bill last night but we have had extremely little time to consider it, having regard to the weight of other matters that we are dealing with this week. There is therefore, and I express this to the Attorney, an element of faith and trust in our agreement today to the passage of this Bill as a matter of urgency.

As I said, I was briefed by officers from departments. I understand from those officers that, as explained in the Attorney's presentation speech, there is a perceived difficulty that the Bill seeks to overcome. It may transpire that there is not a problem.

There is an element of disagreement between the present and previous Parliamentary Counsel in relation to the exact impact of amendments that were made to the Subordinate Laws Act in 1994, and the Bill that we are now discussing to some extent is to put beyond doubt the adequacy of processes that have been in place and will continue in place in relation to the gazetting of instruments and determinations. That is the basis

of the Bill. It is to put beyond doubt that the way in which determinations and instruments have been gazetted is in accordance with the Subordinate Laws Act.

There would be significant consequences if it were found that the way that matters have been processed is not appropriate. So, in the short timeframe that we have had on this matter, we have accepted the assurances that we have received that this Bill will put beyond doubt what had been regarded as appropriate practice.

I will conclude by saying that the Labor Party, in agreeing to the Government's request for urgent consideration of the Bill, is not to be taken to be necessarily agreeing with the substance of the matters potentially affected by this Bill or for our agreement to be regarded as a precedent in any way or an endorsement in any way of any action or matter associated with this.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DAYS OF MEETING - 2000

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.32): I move:

> That unless the Speaker fixes an alternate day or hour of meeting on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, the Assembly shall meet as follows for 2000:

February	15	16	17
February/March	29	1	2
	7	8	9
	28	29	30
May	9	10	11
May	23	24	25
June	27	28	29
August	29	30	31
September	5	6	7
October	10	11	12
	17	18	19

November	28	29	30
December	5	6	7

Mr Speaker, this is fairly straightforward. The pattern has been discussed with other members and it reflects the decision that the Assembly took earlier today to have a sitting in May in order to be able to present the budget, one in June to be able to pass the budget, and for the period intervening to be left free of sittings so that if members wish - this goes back to the question Mr Corbell asked me earlier today - there is opportunity for an Estimates Committee.

Question resolved in the affirmative.

CANDELIVER LTD

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety)(4.33): I move:

> That this Assembly, pursuant to subsection 16 (4) of the Territory Owned Corporations Act 1990 and noting that the voting shareholders of CanDeliver Limited support the disposal, approves the disposal of the main undertakings of CanDeliver Limited.

Mr Speaker, the Territory Owned Corporations Act requires that the voting shareholders of any territory owned corporation come back to the Assembly to obtain the approval of the Assembly before main undertakings, at least, of a statutory owned or a territory owned corporation be disposed of. The Government proposes, pursuant to this motion, to permit the disposal of the main undertakings of CanDeliver Ltd.

Mr Speaker, the reasons for that proposal are outlined in a review of the future of CanDeliver which I have circulated to members for their examination, and the recommendations of the board of CanDeliver. Both of those prompts are matters that I believe the Assembly needs to act upon.

CanDeliver was set up initially to provide a vehicle to ensure that the agencies and enterprises in the ACT which might be in a position to bid for components of work being outsourced by the Commonwealth should not be disadvantaged by virtue of their small size relative to larger enterprises outside the ACT which might, by virtue of that size, be able to succeed to work which local enterprises might not be able to obtain. It was the view of the Government, in light of what was then a considerable degree, apparently, of Commonwealth outsourcing to be undertaken, that there ought to be a vehicle to permit local businesses to be able to successfully obtain that work.

In the life of CanDeliver, for about the last two or three years, we have seen a range of business opportunities bid for by CanDeliver, some of them outsourced work from the Commonwealth and some of them from other quarters, including the ACT Government.

CanDeliver has been reasonably successful in obtaining that work. As I indicated to the Assembly, I think on Tuesday, I believe that of 22 contracts bid for by CanDeliver they were successful in 12. However, Mr Speaker, the relatively small margins available on even 12 contracts have not been enough to see CanDeliver operate in the black. The level of subsidy to be provided by the ACT taxpayer to the operations of CanDeliver continues, and I believe it ought to be drawn to a close.

In this financial year CanDeliver was expected to receive an injection of equity in the order of $1m. I hope that the decision that we make today, and I hope we make it today, to be able to dispose of the main undertakings of CanDeliver will allow that subvention, if you like, not to have to proceed, and for there to be, nonetheless, a continuation of the existing contracts of CanDeliver delivered by other players. The other players I refer to specifically are subcontractors who presently enjoy the work, in effect, that CanDeliver has won from those 12 contracts.

Mr Speaker, I suppose the question will arise as to whether, in divesting CanDeliver of its main undertakings and in due course winding it up, there is some legitimate criticism that CanDeliver was a bad idea in the first place or was a good idea that was poorly executed. On both those scores, I want to put my view and the Government's view on the record.

I think that the concept behind CanDeliver was a sound one. It was a concept which relied on the premise that we could successfully compete with larger players, large interstate players, larger corporate entities in the financial market, that were very likely to be able to succeed to that work were it not for a vehicle to provide local businesses with some avenue to obtain that work. I believe that what CanDeliver has provided to the ACT business sector is a stronger understanding of what they can achieve, and a capacity to work together to be able to develop consortia and other cooperative ventures to successfully obtain Commonwealth work. I do not believe that CanDeliver is necessary in the future for that kind of successful bidding to occur on the part of local businesses.

On the question of whether CanDeliver has been a concept poorly executed, the Government appointed a board which it felt was appropriately qualified and experienced to be able to take on the task of running an enterprise like CanDeliver. I have heard criticism from the business sector that it was inappropriate to have a former - - -

Mr Quinlan: He meant well.

MR HUMPHRIES: He meant well. Well, that seems to be the message that we got from the individual concerned. He indicated that the presence of a former member of the Assembly on the board and a former senior public servant in the form of the chief executive were inappropriate kinds of key personnel to have on a body which was basically operating in the private sector.

Mr Quinlan: That was his back-off position. He started off bagging the lot.

MR HUMPHRIES: Indeed. I take Mr Quinlan's point. He did bag the whole lot, and I think that is similarly unsustainable. The fact is, Mr Speaker, that these were contracts that were coming, for the most part, from the public sector. They were contracts for work that had been done for decades, in cases, inside government and was now moving outside government into the private sector. There was clearly a case for having people at the helm who understood the workings of government and the public sector as well as having business people who understood the exigencies and the pressures that exist in the private sector and would be able to work out how to receive the work once it had been delivered to CanDeliver.

Mr Speaker, the structure of CanDeliver was expensive. There is no doubt about that. It was expensive to obtain on-going top-quality advice in the form of the CanDeliver board, and there was some criticism of that in one of the committees that examined the annual reports this year. I think it was Mr Quinlan's committee. So be it, Mr Speaker. It was expensive, but I consider, as I said, that the role that CanDeliver was playing was an appropriate role - a role of winning business directly to the subcontractors to CanDeliver, and also creating an environment where outside corporate players would not be able to clean up in the ACT market because there was a lack of similarly sized players already in that market.

The other comment which has to be made and which I made, I think, on Tuesday anyway is that the volume of outsourcing expected from the Commonwealth was nothing like what was originally anticipated. I think most observers expected that there would be a flood of work in all sorts of fields, such as human resource management, payroll, IT services and so on, that would come floating into the private sector for operators to pick up. That has not materialised, and I have my doubts about whether it will materialise at any time soon. Perhaps that has underscored to the Commonwealth that it is not necessarily the simple matter they might have originally imagined; that they would simply now do in the private sector the same job being done in the public sector. There were obviously going to be some problems with that, particularly over a short space of time, and those have probably materialised.

I think, in the circumstances, those factors are themselves a matter we can point to to explain the reasons for CanDeliver's lack of being able to achieve a surplus position in the time it was in existence, but I do not think that in any way, as I have said, detracts from the purpose of having CanDeliver there in the first place or from the need to similarly work with the private sector in the future, if not through CanDeliver then through some other similar vehicle, to make sure that we keep that kind of work in Canberra.

I commend the motion to the house and ask members to provide for the necessary work to go on over the next couple of months, ideally for the subcontractors of CanDeliver to be able to pick up the work that CanDeliver is presently doing and result in there being no break or breach of the contracts that CanDeliver has entered into. I think it is very important for the good name of the Territory and its territory owned corporations that we not leave in the lurch as a result of CanDeliver's untimely demise those Commonwealth agencies and others who have got contracted work with CanDeliver.

MR QUINLAN (4.43): Mr Speaker, the Opposition will be supporting this motion. I have to say, though, in passing, that CanDeliver fits under the heading "It seemed like a good idea at the time". That might be part of this Government's epitaph – "It seemed like a good idea at the time". The implosion seemed like a good idea at the time, the futsal slab seemed like a good idea at the time, Feel the Power seemed like a good idea at the time, Kinlyside seemed like a good idea at the time, Bruce Stadium seemed like a good idea at the time. Just add CanDeliver.

One of the things that need to be observed is the philosophy. While CanDeliver was set up, under the philosophy explained by the Treasurer, in order that local firms would not be blown out of the water by the large corporate players, we were providing business incentive to the corporate players so that, in fact, CanDeliver was set up and then set to compete against such firms as Fujitsu which was also receiving support from the Government.

I have had a look at the review and I have had a relook at the annual statements of CanDeliver. Under the modern presentation of statements, details of expenditure and details of profit and loss statements quite often are not included. I would ask the Treasurer, when closing this debate, whether he could explain how an organisation like CanDeliver, with only a couple of people effectively, and which is really an agent, can somehow lose $700,000 and $800,000 in a year. How do you do that in that time when you are just paying a couple of people? Were we again farming out work to consultants or what? This is just not clear by the statements, and I looked.

I agree with the Treasurer that we need to be careful about how we back out of the contracts that CanDeliver is in now so as to minimise further expense on the part of the Territory and at the same time be satisfied that it will not harm any of those smaller firms that have been drawn into contracts that are there.

I noticed in the review that there was an intention, or at least a recommendation, that we might assign business support services, or whatever the term is, to Relcorp Management Services who seem to be doing it now. I do not know who they are. They are not in the phone book. You might at least assure the Assembly that we are getting the best value for that, that that is a reliable process, and that the harm will be minimised. Otherwise, Mr Temporary Deputy Speaker, we will support the Government's motion.

MR KAINE (4.47): I feel obliged to some degree to echo the comments made by Mr Quinlan. We do not have much option but to agree with the Government's proposal. CanDeliver is going nowhere. I do not think it ever was going anywhere, and it has come to the end of the line. The Minister has to come in and justify his position, so he comes in and he says, "Well, was it a good idea?". "Yes, it was a good idea". "Was it a good idea badly executed?". "No, of course not. It was a good idea but we will execute it". "Was it a success?". "Yes, it was a success". So the Minister poses his own questions and provides his own answers.

I think the Minister is probably the only person in the whole of Canberra who thinks that his answers to those questions are the right ones. When you look at the outcomes, it is another couple of million dollars worth of public money; but we know that that is irrelevant these days - a couple of million dollars of public money, no worries.

I think the benefits that were likely to come from this proposal were always illusory. It was always a chimera. If there was so much money to be made, how come there was not a lot of competition? How come there were not a lot of other people in the field trying to get at this bonanza that the ACT Government could see - the pot of gold at the end of the rainbow? There was no competition. The Minister suggests that we had to prevent all of this business going to big corporations out of Canberra. Well, where was the business? We did not get it. The only conclusion you can draw is that there was not a lot of business or it all went out of town anyway, despite the fact that we have spent $2m worth of public moneys in an attempt to keep it here.

I think the bottom-line question is: "What market survey was done by the Government to establish the fact that the market was there and that this was going to be a good idea?", or was this just another one of those Friday night, bottle of red, great ideas and a case of the Government saying, "We will do this on Monday."? I suspect that the latter was the case. Of course, the bottom line, as I have said, is: "Well, it is only a couple of million dollars worth of public money; 800 grand a year on average; not much to worry about". I think this is characteristic of the Government.

The same argument has been mounted about things like Bruce Stadium, the international airport, the very fast train, some of the smaller ones that Mr Quinlan referred to, and Kinlyside. It just goes on and on. The bottom line is that it is only public money. "It does not matter if it costs us a few million at the end of the day; we will give it a go", they say. When it does not work, they say, firstly, "Well, yes, it was a good idea"; secondly, "No, it was not a good idea that was badly managed"; and thirdly, "It was a success. By whatever definition you use, it was a success".

All of these projects, in one way or another, have been seen by this Government and grasped as the means of saving Canberra. I am not too sure what they are supposed to save Canberra from or how, at the end of the day, they are supposed to save Canberra, but they have always been grasped by the Government as a means of saving Canberra in some fashion or another. When you think about it and you look at the totality of these ventures that the Government has jumped into over the last five years, I think you have to ask the question, "What has been the net effect or the outcome of all of these projects taken together for the ACT?". Every one of them has either cost the taxpayer money or has the potential to do so, even things like the very fast train.

I have been asking the Chief Minister questions about the very fast train lately. This project was going to be at no net cost to government. I am sure that most people when they heard that thought that it meant no money coming out of their pocket; the money is all coming from the proponent. Now we hear there is a suggestion that perhaps up to $1 billion of concessions from three governments might be necessary to make this thing a goer. How much does that translate into as our share and how much does that translate into money out of the pocket of every individual Canberran? It makes me shudder even to think of it. Yet our Chief Minister does not seem prepared to pull the plug on it. It is the Bruce Stadium again, only it is 100-fold greater. We just let it run until the bill lands on the desk and then we just hand it over to the taxpayer and say, "Sorry. This was all a good idea. It was not a good idea badly executed and it has been successful. It is only going to cost you a couple of million apiece to solve it all".

Mr Speaker, as I have said, we do not have much option but to wind up CanDeliver because, if we do not, it is going to continue to cost us $1m a year. I would ask the Minister to give us an undertaking that he will eventually put on the table a statement of the total cost. All we know so far is that in each of the last two years there has been a so-called capital injection which has been written off. By the Government's own admission, they do not know yet what the total bill is going to be because they have not got all the bills in yet. So, in supporting the motion that CanDeliver be wound up, I would like an undertaking. I would like to know at the end of the day what the total cost to the taxpayer is going to be, not just what the figure is today or yesterday but the total cost when it is all wound up.

MS TUCKER (4.53): The Greens will not be opposing this motion either, because obviously - - -

Mr Berry: There is only one of you. Where is the other one?

Mr Osborne: Trevor, have you joined the Greens? Where is the other Green?

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! The Green member, Ms Tucker, has the call.

MS TUCKER: I do not usually mind interjections, but this was so loud I could not talk over it.

Mr Osborne: I take a point of order, Mr Temporary Deputy Speaker. I think Mr Kaine has something to tell us. I seek leave to give Mr Kaine as much time as he wants to tell us about his future plans for the United Canberra Party.

Mr Kaine: Let me say, Mr Temporary Deputy Speaker, that there is nothing between me and Ms Tucker.

MR TEMPORARY DEPUTY SPEAKER: Mr Osborne, resume your seat. Mr Kaine, resume your seat.

MS TUCKER: As I said, we will not be opposing this motion because there is obviously not much point in trying to keep afloat a business that is failing. The Government has invested $1.85m in CanDeliver, and this comprises a loan of $850,000 given to CanDeliver when it was established, which was subsequently written off, and a $1m government contribution in the last budget. CanDeliver's 1998-99 annual report stated that as at 30 June this year the company had accumulated losses of over $900,000. However, it has to be pointed out that this failure is also a failure of Liberal Party ideology.

Let us go back and look at why CanDeliver was established. It was established as a reaction to the Federal Liberal Government's agenda to outsource government functions. The application of this market mechanism to government operations was initiated in the belief that the Government would achieve efficiency gains, that is, cut costs, while maintaining or even increasing service levels. It is therefore quite

interesting to hear that the Federal Government has dramatically slowed its outsourcing activities. You would have to wonder whether it has achieved the benefits that were claimed for it. In fact, if you look at the annual report, you do get a clue to this. On page 10 it says:

> When CanDeliver was set up, expectations were that outsourcing would progress rapidly in the public sector, there would be extensive contracting out of corporate services functions and that high returns might be possible for suppliers. Time has shown that government outsourcing processes sometimes are taking more than 12 months to complete. While there is an overall policy to outsource, there is no central government body oversighting the corporate and support services outsourcing process and agency heads are left to decide when and if projects will proceed.
>
> In the latter part of the financial year, Commonwealth Government experiences caused many agencies to reconsider their own policies on outsourcing. A fraud at DoFA, poor performances by some subcontractors and risk transfer and sharing methodologies have all created sensitivities and, as a result, there was a slowdown in contracting out by agencies.

It is also interesting to note the confusion within the Liberal ideology between supporting free market competition and supporting local business. On the one hand it wants to open everything up to the market and let individual companies fight it out in the survival of the fittest. On the other hand it wanted to protect local businesses against interstate and even international large businesses who were competing for the outsourcing contracts. It is interesting to compare this with what has actually been happening with the World Trade Organisation discussion. If you have liberalisation of trade to the degree that the WTO is discussing, if free trade is allowed to rule supreme, then what the ACT Government did with CanDeliver would be seen to be totally against the rules. They would not have been allowed even to attempt to do that. That is a really interesting point to make at this time because I am sure we are going to have to be having this discussion much more well into the future.

I am also interested in the tone of this annual report in light of this motion today. You just have to wonder about the accuracy of information that is provided in annual reports of organisations like CanDeliver. The latest CanDeliver report basically presents a glowing picture of the potential of its operations which has very quickly been overturned. I will quote from page 4 of the report from the chairman where he says this:

> During 1998-99, CanDeliver has been able to show considerable strength in an emerging market, winning about 50 per cent of its bids; contracts in the Commonwealth Government sector, and indeed, one of the primary agency contracts - for the portfolio of Prime Minister and Cabinet. Some work has also been undertaken for the ACT Government.

> The Company clearly understands the market and the political environment in which it operates. It has used every opportunity to enhance opportunities for local businesses to win contracts that normally would be beyond their capacity because of their limited range of services compared with those offered in the larger tendering processes.

I will not read it all, but here is another extract:

> Nevertheless, CanDeliver has developed successful partnerships with local businesses and it is prime contracting in Commonwealth Government agencies with great success.
>
> CanDeliver is well placed to build on these successes.

Et cetera, et cetera. So that does make it a little bit curious when we are all supporting this motion today to wind it down.

MR OSBORNE (4.59): I, too, will be supporting the motion. I could echo much of what most members have said today. I suppose we can give the Government some credit for coming up with a business idea such as CanDeliver, but I must admit that its claims this week that it has been a success have been just a bit hard to swallow.

Mr Berry: Ossie, they're yours, mate. Be careful.

MR TEMPORARY DEPUTY SPEAKER: Mr Berry! Mr Osborne has the call.

MR OSBORNE: I would like Mr Berry to count how many times I have supported his legislation compared to the Government's in the last week. The business neither paid tax nor dividends. It has accumulated cash losses of nearly a million dollars from the first two full years of operation. It is not viable now and this review has stated that, in all likelihood, it will continue to be unviable. That does not sound too much like a success story to me, unless you weigh it up with some of the other things that have happened in the past few years in this Assembly.

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

MR OSBORNE: As I was saying, Mr Temporary Deputy Speaker, those figures certainly do not sound like a success story to me. From one point of view, CanDeliver may have done okay, having bid for 22 contracts and won 12 of them. However, if the blinkers are taken off, the wider view reveals that, despite the best intentions, the claims of success ring more than a bit hollow. It sounds a bit like the football side that loses the match but said that they won first half, or the surgeon who announces that the operation was a success but, unfortunately, the patient died.

My only point in making this statement is to briefly emphasise a couple of points. I believe the Government is to be commended in recognising that, after a fair period of time to settle into the business, it has not taken off. It then held a review, decided to wind things up, and is now prepared to act on the decision before things become much worse.

However, it is a great pity that the same attitude is not being shown towards a government business that makes the financial losses of CanDeliver pale in comparison, the business that neither of the major parties want to talk about because they set it up with no real scrutiny, the business that the Auditor-General said would never repay its debts nor be likely to have revenue cover costs for many years yet to come, the business that, since its establishment in 1994 has cost the taxpayer over $40m and will cost them another two or three million again this year. Of course, I am talking about the great subsidiser of overseas students, the Australian International Hotel School.

I am sure that this government business was a good idea at the time as well, and if enough spin was placed on a couple of carefully selected criteria it could possibly be declared a success; but someone over there on the government benches needs to take the blinkers off and recognise that it is just a dud. Something drastic needs to be done about it and done quickly. In many ways, the Bruce Stadium redevelopment, the failed hospital implosion, the hotel school and CanDeliver have a lot in common. Someone had a bright idea; there was a lack of expert advice provided; a Minister who said the project was a real goer; no real scrutiny and derogatory labelling of those who called the project into question as "wreckers". Little wonder that each has been a disaster.

This type of outcome is not just confined to this Government because, going on experiences, the Labor Party is capable of similar feats of greatness. I believe it was packing up its offices just a few months after the ribbon cutting ceremony for the hotel school. I will not even mention the name of a certain offshore betting arrangement or, as Mr Rugendyke mentioned, the Harcourt Hill exercise which will be subsidising some developers for a number of years.

In a lot of ways, if you scratch under the surface, both of the major parties are the same, and this understanding makes me all the more determined to push towards several goals over the next couple of years. First, to instigate change at the foundations of our Public Service; secondly, to provide for greater scrutiny of the Executive by the Assembly; and, thirdly, to allow for more input into the parliamentary process by the Canberra community. After saying all that, Mr Temporary Deputy Speaker, I look forward to supporting this motion.

MR BERRY (5.05): These things have to be brought into context. Whenever you look at these tragic losses you have to think about those people who are waiting for a hospital bed to get some surgery. About 500 of them could have been serviced by the total losses which have come from this failure. This enterprise was a dead cat bounce for the ACT taxpayer from its beginning.

Mr Humphries: You did not say that.

MR BERRY: I said at the time that this was underwriting ACT business welfare, Mr Humphries. It was always business welfare and it has failed from the beginning. It was one of those things where the Government was under a great deal of pressure because of their Liberal colleagues on the hill getting stuck into public servants. They themselves had been stuck into ACT public servants at the same time. I think Mr Kaine probably hit the nail on the head. Over a bottle of red wine, someone said, "We need a good idea", and came up with this one on Monday morning, with all the bells and whistles about how it was going to prevent all the big fellows from overseas and out of town taking business away and we were going to score it all for local businesses. Well, in the end it has been a monumental failure. It was never going to succeed because it was always intended to underwrite business.

Mr Temporary Deputy Speaker, who ended up with the money out of this? Where did $1.5m go? Who got it? Somebody has done pretty well.

Mr Osborne: It will come back in sponsorship at the next election.

MR BERRY: Ah, it will come back in sponsorship at the next election.

Mr Osborne: Donations for the next election.

MR BERRY: That could be right. Friendly little sponsorships. Well, somebody did all right out of this, and there is not much evidence around to say that the ACT taxpayer did too well. It troubles me that the list is growing longer by the day. Today we were talking about inappropriate payments for temporary accommodation to senior executives of the Public Service. That was a small amount compared to this $1.5m. I see now that there is a little bit of nervousness around this chamber about the V8 car race and what we might get out of that, absent any private sector sponsorship. The funny thing about it is that there is - - -

Mr Osborne: Another bill.

MR BERRY: Yes, another bill. We will get another bill, and not only that. I can almost picture the speech.

Mr Humphries: You supported the legislation.

Mr Osborne: Just change the name. Take out Bruce Stadium, put in - - -

MR TEMPORARY DEPUTY SPEAKER: Mr Osborne, do not encourage him.

MR BERRY: We supported it with lots of qualifications, Gary. We are very nervous about this. We are very nervous.

Mr Humphries: So when it succeeds you will say, "Yes, we were behind it", and when it fails you will say, "Yeah, we told you so".

MR BERRY: When we get the bill the Government will say, "Oh, look, we got television coverage in 50 countries around the world. What are you moaning about?". That will be what the Government will say. It will say, "It's cheap". When it adds up the television seconds that will be the coverage - - -

Mr Osborne: There will be pictures of Bruce Stadium with those empty seats going all around the world.

MR BERRY: Yes, but you cannot tell they are empty because they are - - -

Mr Rugendyke: Confetti coloured.

MR BERRY: They are all confetti coloured. Mr Temporary Deputy Speaker, CanDeliver joins the litany of mistakes which have flowed from the mismanagement of this can-do Government. This Government is about coming up with a media response when the need demands it. It is not about adequate consideration of what debt might face the territory taxpayers in the future. After all, this is not the Government's money, it is the territory taxpayers' money. The attitude of this Government is: "Who cares? We just want to make a splash and make it look as though we are doing something".

In 1997 this Government decided to set up CanDeliver. It was going to be the best thing since button-up boots and it was going to be the solution to all our problems. Ask Liberals who are ripping off Public Service jobs. They were going to fix it for the private sector. They were going to get all of that business arising from Johnny Howard's work on the hill, give it to local businesses, and everybody would prosper. Well, the ACT taxpayer did not prosper, but somebody has got hold of $1.5m and they are doing all right.

Mr Temporary Deputy Speaker, this is just another tragic piece of management which has come from this Government over its period of office. It is a sign of why its stocks are plummeting out there pretty much along the same lines as the distribution rates of its fellow traveller, the *Canberra Times*.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.10), in reply: Mr Temporary Deputy Speaker, I want to close the debate and to thank members for their support. However expressed, it was still support, and I am grateful for that. You take your votes whichever way they come. All crumpled up and smeared with excrement, they are still a vote for the thing, so I do not care.

MR TEMPORARY DEPUTY SPEAKER: You are very generous, Mr Humphries.

MR HUMPHRIES: Yes. I want to make a couple of comments about this. Mr Kaine asked what the total cost would be. I point out that we are not actually winding up CanDeliver today; we are only allowing it to divest itself of its main assets. There will still be an annual report to be presented by CanDeliver which will explain what the financial position has been.

Mr Quinlan asked about the costs of CanDeliver's operations, and why it incurred losses of $600,000 to $800,000 a year in its first few years of operation. I am advised of a number of factors embedded in that cost. The establishment costs, of course, were in the first couple of years. There were the costs of the board, staff costs and tendering costs. It is worth pointing out that CanDeliver's approach was to absorb the tendering costs itself and not pass them on to the subcontractors. The idea was that returns that would come in over time would defray the costs of the tenders. Well, that was not always the case. There were a number of factors to be built into a decent tender and I am advised that those costs were up front in this process rather than distributed back to the subcontractors.

There was also the process of pre-qualifying something like 200 local firms for inclusion in the CanDeliver program, so that itself involved some significant costs. The approach of CanDeliver to bearing the costs of establishing the bidding consortia and wearing the initial tender costs certainly contributed to those high up-front costs. Some of the losses will be recouped from the disposal of the contracts, so the figures you have seen there cannot entirely be attributed as the losses of CanDeliver.

If the Assembly agrees to the motion, an independent valuation will be obtained to ensure that the Territory's interests are protected. If the existing subcontractors are not willing to pay a fair value, other firms will be given the opportunity to acquire the contractual rights from CanDeliver. That does not mean that the subcontractors will be the only people who will be in the market for these contracts. If that were the case it may depress the price. We do not wish to do that. We wish to minimise the losses that the Assembly has been speaking about this afternoon.

Mr Berry asked where did the money go. The answer is that it went into jobs in the ACT and economic activity in the ACT, not in places like Vanuatu. Indeed, if Mr Berry speaks about the losses in CanDeliver paying for about 500 occasions of service in our hospitals, I have to say we could have paid for about 1,000 had we not squandered the $5m or $6m we lost on the VITAB contract.

I think it is unfair to describe CanDeliver as a monumental failure. It certainly is not the view of the chairman of CanDeliver, whose contribution to the report members have seen indicates, I think, a measure of agreement with the approach that has been taken in that report. The bottom line in terms of dollars and cents at this stage is not positive, but there are other benefits that CanDeliver obtained which cannot be measured in terms purely of the profit and loss statement of CanDeliver, and that, I think, has to be borne in mind in deciding whether to view this as having been a bad move.

I thank members for their support and look forward to reporting back to them next year on progress on the divesting of assets.

Question resolved in the affirmative.

WATER RESOURCES AMENDMENT BILL 1999

Debate resumed from 25 November 1999, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

MR CORBELL (5.15): Mr Temporary Deputy Speaker, the Labor Party will be supporting the Water Resources Amendment Bill. This Bill is essentially technical in nature and makes provisions for the collection of fees and charges under the Water Resources Act, such as abstraction charges, to be collected differently from the way provided for under the Act. Currently under the Act these fees can only be collected within 28 days after the end of the previous financial year to which the charge relates. The point of this amendment is simply the way the Government collects the fee during the year when the charge is to be applied. As such, it is simply an administrative arrangement which the Labor Party is quite happy to support.

MR SMYTH (Minister for Urban Services) (5.16), in reply: Mr Temporary Deputy Speaker, I thank the Assembly for their support on this. It is simply an administrative matter that allows the collection of the fees in a more timely manner.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

KINGSTON FORESHORE DEVELOPMENT AUTHORITY BILL 1999

Detail Stage

Clause 1

Debate resumed from 7 December 1999.

Clause agreed to

Clauses 2 to 10, by leave, taken together and agreed to.

Clause 11

MS TUCKER (5.17): I move:

> Page 8, line 32, after subclause (1), insert the following subclause:
> "**(1A)** For paragraph (1) (a), of the 6 persons appointed by the Minister—
> (a) 1 of those persons must be a resident of south Canberra who is familiar with the diversity of interests of the residents of Kingston and surrounding suburbs; and

(b) 1 of those persons must have tertiary qualifications, and expertise, in urban planning and design; and

(c) 1 of those persons must have tertiary qualifications, and expertise, in environment protection.".

I am concerned that this Bill does not specify who should be on the board of the authority. It just says that the board comprises eight members, six persons appointed by the Minister, the chief executive officer and a public servant. By contrast, the Gungahlin Development Authority has a board of 12 members. Two are Gungahlin residents, one of whom is nominated by the Gungahlin Community Council. There are also persons with expertise in the property development industry, the retail trade industry, the finance industry, urban planning and environment protection, provision of community facilities and management. There are also two executive public servants and a CEO. There is quite a difference between two authorities which have very similar functions.

I can understand that the Government may want more flexibility in whom it appoints to the board. But it worries me that the Government, in line with its economic rationalist mentality, will just appoint business people and accountants because it believes that only these types of people can effectively run organisations. To balance this business focus there does need to be a requirement for people representing other interests to be on the board, ensuring a balanced and socially-minded focus.

As an aside, I would like to comment on the Government's process of establishing this authority. On Tuesday we had Mr Humphries talking in the Assembly about how difficult it is for the Government to release its proposed regulations for a Bill - in this case, the Emergency Management Bill - before the Bill is debated in the Assembly, because they do not know if the Bill or any amendments will get up.

Yet here, with the Kingston Foreshore Development Authority, we have the Chief Minister announcing in a media release on 22 November - four days before the Bill was even tabled in the Assembly - that the Government had chosen the authority members. So much for waiting for the Assembly to pass the legislation. I am not familiar with all the names on the list, but by the look of it we have at least one accountant, an auditor and a tourism person already appointed. That does not look balanced yet. I have therefore put up this amendment which specifies that the board should include a resident of south Canberra, to represent the interests of residents in the Kingston area, an expert in urban planning and design, and an expert in environment protection.

I would regard this appointment as a minimum requirement in terms of getting a good balance of interest and expertise on the authority as I have not gone to the extent of specifying every position in the Gungahlin Development Authority legislation. The functions of the authority as listed in the Bill include to consult with the residents of Kingston and the Territory, to exhibit a sense of social responsibility and to comply with the principles of ecologically sustainable development.

Unless people with key roles within the authority have a commitment to the broad functions of the authority and not just its commercial objectives, these broader functions will be overlooked. It is pointless having all the right objectives for the authority if its managers do not understand what they mean or have the expertise to know how to

implement them. If the Government wants to appoint business people to all the other positions on the board, that is their choice. But at least three positions should be specified in the Bill. I hope to get support for this because I recall from the debates on the Gungahlin Development Authority that we did get support from government and Labor. There was no dissenting voice, except Mr Moore, who at that time opposed the whole development of an authority. He saw it as an anomalous process of planning at the time.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.21): I have to indicate our opposition to Ms Tucker's amendment. First of all, Ms Tucker made the point: "Well, if we cannot make regulations before the Bill has been through the Assembly, how can we make appointments or proposed appointments?". The answer is very simple, Mr Speaker. Generally speaking, it is the case that the Assembly will consider the establishment of such matters. If we have the legislation passed at all, then we have appointments as indicated in the Government's proposal. But if the Assembly chooses to change the characteristics required for the board, then the Government has to go back and simply choose new people. There is not a great deal of work is involved in that, although there is some embarrassment, perhaps, to those who have been chosen, where they have been selected by the Government on a provisional basis and then it appears their position or qualifications are not to be acceptable.

With respect to regulations, it is quite common that there will be extensive amendments on the floor of the Assembly for legislation that comes before it which could necessitate extensive redrafting. A lot of time, effort and bureaucratic resources go into that exercise. It does not make sense to engage in an extensive process of drafting regulations, in most cases before the legislation itself is passed. The difference between these two cases is one of how many resources go into the two sorts of exercises.

The Government is opposed to the idea of limiting who may sit on the board in the way that Ms Tucker has suggested, simply because to do so overlooks the most fundamentally important task that lies before the Development Authority board; that is, to examine the best way to be able to provide for a commercially sustainable development in that sensitive part of the ACT. I realise Ms Tucker would regard environmental sustainability as of paramount consideration. The Government has already built into its legislation a requirement that environmental sustainability be a feature of the process of any kind of development in the ACT, and this is no exception.

Still, Mr Speaker, we have got a fundamental over-arching requirement that this be financially and commercially sustainable. There is no point having, for example, the board say, "Yes, we think that this sort of housing and these sorts of shops and this kind of development would be environmental extremely nice to have. From a town planning point of view it would make a really nice appearance and setting. Yes, the people of south Canberra would be very comfortable with this kind of development", if at the end of the day the community does not get a proposal which is going to stack up in commercial terms.

The Government is not proposing to pump millions of dollars into the Kingston Foreshore Development Authority for the purpose of simply constructing buildings that are properly the responsibility of the private sector to build. We are not going to build government hotels and government houses, although we might buy some housing at the end of the day. We are not going to do that, Mr Speaker. The private sector is going to do that.

We have to make sure this stacks up from a private sector point of view and all the factors, including town planning and environmental concerns, are integrated into it. I think it is quite wrong to try to weave all these sorts of elements in, as Ms Tucker has suggested. The result would be a board with much less capacity to capture the necessary skills and expertise we simply must have to make this work successfully. I ask members not to support these sorts of restrictions and limitations on the operation of the appointments to the foreshore board.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

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

MR QUINLAN (5.30): I ask for leave to move together the amendments circulated in my name. I understand that Mr Humphries had a marginal change he would like to make to one of them and that is quite acceptable.

Leave granted.

MR QUINLAN: I move:

> Clause 20, page 11, line 28, add the following new subclauses:
> "**(6)** The chairperson must, from time to time, give to the Minister a statement of all disclosures of interest made under subsections (1) and (2), and the Minister must cause a copy of the statement to be laid before the relevant committee of the Legislative Assembly within 14 days after receiving it.
> **(7)** In subsection (6)—
> ***relevant committee*** means—
> (a) a standing committee of the Legislative Assembly nominated by the Speaker of the Legislative Assembly for the purposes of subsection (6); or
> (b) where no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.".
> Clause 32, page 17, line 3, subclause (1), omit "Any consideration", substitute "Subject to generally accepted accounting principles, any consideration".
> Schedule, page 23, line 7, subclause 1 (2), omit the subclause, substitute the following new subclauses:
> "**(2)** Before appointing a person, the Minister must—
> (a) consider the suitability of the person for appointment having regard to the person's expertise and knowledge; and
> (b) consult with the relevant committee of the Legislative Assembly; and
> (c) consider any recommendation made by the committee, being a recommendation made within 30 days after the consultation.
> **(2A)** In subsection (2)—
> ***relevant committee*** means—
> (a) a standing committee of the Legislative Assembly nominated by the Speaker of the Legislative Assembly for the purposes of subsection (2); or
> (b) where no nomination in paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.".

Very briefly, Mr Speaker: The amendments are really consistent with other legislation that has passed through this place in recent times. Given that this particular authority will be dealing with land development, with exchanges of assets, possibly with joint ventures, it will have a reasonably substantially sized board. We believe absolute objectivity should exist. We are asking that notices of conflicts of interest of board members be referred, effectively, to the public accounts committee of this place.

I have read clause 32 and have some difficulty in differentiating whether the disposal or transfer of leases will be the transfer of assets or the letting out on a year-to-year basis of a lease. So we have just added a qualifier to ensure that the authority will account according to accounting standards. Further, in the schedule, we are asking that before appointing a person these fairly standard clauses will apply. I commend the amendments to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.32): The Government does not have a significant objection to the amendments. We can live with them. I propose an amendment which has not yet arrived, Mr Speaker, to the clause 20 amendment, which will require committees to treat information on a confidential basis. There should be no release of information.

The first question I would ask is why a disclosure of interest of this kind is being made to Assembly committees. I appreciate that the Kingston foreshore development is a major exercise in financial management. Clearly, all on the board need to have a very clear sense of what conflict of interests might arise. If the Assembly's relevant committee has been apprised in advance of a particular interest of a board member, it will be able to alert the Government or the Kingston Foreshore Authority, or whatever, of a potential conflict of interest.

The point is that one would expect the board would already be aware of that fact, since the information would be before the board. The board would be aware of what the interests of other members of the board would be. It would be a matter dealt with by the board. We are only assuming that this is going to be of any benefit if the board collectively decides to ignore a conflict of interest by one or more members.

So I cannot quite see what Mr Quinlan's disclosure requirement is all about. I ask why this requirement is appearing here, when it does not appear in any other development related statutory authority or board in the ACT. For example, the Gungahlin Development Authority legislation has a very similar brief - - -

Mr Quinlan: Do you want me to foreshadow?

MR HUMPHRIES: Well, you can if you like. I just wonder why it is happening. We dealt with that authority only a few years ago - - -

Mr Quinlan: Can I have a complete list?

MR HUMPHRIES: Mr Quinlan has asked for a complete list of the statutory authorities and territory owned corporations that only deal in large amounts of money. Well, they practically all do. Even if it were only a relatively small amount of money, why is the disclosure of interest required by some and not others? Perhaps Mr Quinlan can explain when he stands up again why this disclosure is required. Is it something he now wants to build into all statutory authorities and all territory owned corporations or, indeed, all bodies to which the Government appoints members from time to time?

Mr Speaker, I note what he is doing. I do not have a particular objection to it. But one would expect that when these people who are appointed to a board like the Kingston Foreshore Development Authority go on to other boards in other places, when they are on companies and so on, they would disclose their interest. It would not necessarily be to a semi-public body such as a committee of the ACT Legislative Assembly; nonetheless, they would be used to disclosing these sorts of interest. I express - - -

Mr Quinlan: Are you talking while you wait for your amendment to turn up or something?

MR HUMPHRIES: No, I am not. I am just making a point about that, I assure you. The purpose is to ask the question of why we are doing this. I hope, Mr Quinlan, you will explain why we are doing this when we get to the next stage. The next amendment is to make the provisions of proposed section 32 of the Act subject to generally accepted accounting principles. That is quite a reasonable matter that Mr Quinlan raises. I would hope that the matters referred to in clause 32 are matters that will be subject to generally accepted accounting principles.

When I asked about it, I was assured that in fact they would be. The authority, in any case, is subject to the provisions of the Financial Management Act 1996, and in particular to Part VIII of that Act. Section 54(3)(e) of that Act requires, and I quote:

> that proper accounts and records are kept of the transactions and affairs of the authority in accordance with generally accepted accounting practice.

Mr Quinlan says, "Generally accepted accounting principles". I am not sure there is any difference between the two. But this is rather a matter of belt and braces, I suspect. I think it is already covered by the legislation. I do not have an objection to it going in a second time.

The third matter is the amendment that requires a Minister to take into account certain things, including reference to and consultation with the relevant committee of the Legislative Assembly. Mr Speaker, I do not object to this going in the legislation, but Mr Quinlan and other members should be aware that this authority and appointments to this authority's board are already subject to the provisions of the Statutory Appointments Act. So we will need to consult with the relevant Assembly committee anyway under that Act. We will also be required under the Kingston Foreshore Act itself to make the same consultation. I am not sure what the reason for having it in two different places might be. Whatever the reason, it does not pose a particularly serious problem. I do not want to be difficult and oppose it for the sake of simply stopping that belt and braces approach. I hope Mr Quinlan will explain to us why we need to have this disclosure, and perhaps indicate if he intends to broaden this principle to other statutory authorities or territory owned corporations; which sorts of authorities it might be; and what the circumstances of its imposition might be.

MR MOORE (Minister for Health and Community Care) (5.40): I echo what my colleague Mr Humphries is saying about concerns raised by the committee. Nobody can have any objection to the notion that a committee would look at these things. But at the same time we seek to ensure the best possible people on the board of the Kingston Foreshore Development Authority. That is fundamental. Just a few minutes ago we looked at a situation where we did not get the outcomes we had hoped for from CanDeliver. This is no reflection on the people who were there, but it does emphasise how important it is to get the right people. When we are talking about the level of financial commitment and the level of commitment involved in CanDeliver, then there is a very big difference between that and the Kingston Foreshore Development Authority.

I can understand that members of a committee are keen to see this and ought to be able to. Members of the Assembly should always be able to see these things. What we have to find, though, is an appropriate way to ensure that members can see them, but that the people who are going to be prepared to go on this sort of authority to do the work do not feel exposed. That is a fundamental. Anybody going to work for the ACT Government would look with trepidation, considering what has happened in many ways over the last year or so with a fairly relaxed attitude to words like "scam" and "corruption" being thrown around. That will make people feel some trepidation. What we need to do in the legislation - what Mr Humphries' foreshadowed amendment is doing - is say, "Okay, it is fine that members of the Assembly are aware of it, and so it should be, but we need to ensure that privacy and normal business rights are protected".

This is not unusual. We must remember that shareholders demand of the major companies, of their board members, that they disclose possible conflicts of interest. The sort of judgment that needs to be made by the Assembly here is the same sort of judgment made regularly by shareholders.

I would also like to comment on statutory appointments. The reference to the committee that Mr Quinlan put in here is fairly standard. I am surprised it is not just done in the normal processes, because these are statutory appointments and would be covered in the normal way by statutory appointments legislation. No government in Australia is more open than this Government with statutory appointments, even with appointments we are not required to present to members of the Assembly. It is something we should proceed with. On the one hand I understand Mr Quinlan's amendments; on the other hand, I think the appropriate privacy protection will be put in place with the correcting amendment by Mr Humphries.

MR QUINLAN (5.44): I am not talking for all that long, Mr Speaker. I had initially spoken very briefly because I had had discussions with the Treasurer on this and I thought we had pretty well agreed with what was going through. I am a bit surprised that we have now turned it into some form of debate and challenge. I think Mr Moore brought up the question of the appointment of the best possible people. It was me who moved for reference of appointments to TOCs to come before the committee. I had a spontaneous and, I am sure, purely coincidental series of phone calls from the usual suspects, I guess you would call them - those who tend to populate more than one or two boards in the ACT - that this would be the end of the whole process as we know it.

Of course, it has not been. The committee has respected the confidences of the resumes that have been brought to it. In fact, the committee has shown more respect at times than has the Government, which has announced appointments before they have actually referred them to the committee. The Government can do that. The problem with that is the risk of embarrassment to the person, not to the committee and not to the Government. These conflicts of interest, particularly this declaration, are consistent with the way that I have moved in this place before. And, yes, if there is legislation that does need to be updated with current thinking verified by a majority in this place, then we will certainly look at that in the near future.

In reference to discussion on the second amendment that I moved, we have a clause that says:

> Any consideration received by the authority for the grant of a lease of land is to be taken, for the purposes of this Act, income of the authority.

To me, as an accountant, that is a little bit of a disturbing statement. Sometimes consideration received can be a large lump of money for the control of an asset such as a lease over a considerable time and could not be declared income for accounting purposes. Instead of trying to turn the Act on its head, I therefore put that caveat in front of it so that we can say, "Okay, we are happy. We are covered". The belt and braces term Mr Humphries used was a term I mentioned to him in our discussions.

In relation to the third amendment, there is consistency again with the approach. When we have discussed this with other people and with Parliamentary Counsel, all of a sudden we were not given unequivocal advice that the Statutory Appointments Act would actually apply. I commend my amendments to the house once more.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.48): The amendment to Mr Quinlan's amendment to clause 20, which has been circulated in my name, simply inserts a provision that a statement under subsection (1) or (2) about disclosure of interest is confidential to the relevant committee and must not be published in any way. I have had some debate with the Clerk about the best way of doing this, and there may be some better way. I think to dispose of this legislation and get these appointments out of the way, it would be best to take this approach at this point and perhaps look at the issue in the future. Mr Quinlan intends to insert these provisions throughout legislation in the future. We will have to come back and insert those sorts of provisions there in any case. I move:

> Clause 20, after proposed new subclause (6), insert the following new subclause:
> "**(6A)** A statement under subsection (1) or (2) is confidential to the relevant committee and must not be published in any way.".

Amendment agreed to.

Amendments (**Mr Quinlan's**), as amended, agreed to.

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

Bill, as amended, agreed to.

ASSEMBLY BUSINESS - PRECEDENCE
Suspension of Standing and Temporary Orders

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.49): Mr Speaker, I move:

> That so much of the standing and temporary orders be suspended as would prevent order of the day No. 1, Assembly business, being called on forthwith.

Mr Berry: How about giving us a case for it? What is the case?

MR HUMPHRIES: We did not get to this order of the day this morning. I am happy to leave the motion not dealt with at all. I will withdraw, if you do not want me to do it. I understand that members opposite want to have this motion dealt with, and we simply want to deal with it. I understand that people are ready to deal with it now, so I am suggesting that we deal with it in the short time before we go to dinner.

MR BERRY (5.50): This is the first I have heard of this and - - -

MR SPEAKER: The first you have heard of it? It was postponed this morning, Mr Berry.

MR BERRY: Spare me the editorial, Mr Speaker, but it was not raised with me that we were about to suspend standing orders. That is the point I am making.

Mr Humphries: It was not raised with me until a couple of minutes ago either.

Ms Carnell: It is just something we can fit in in the 10 minutes before dinner.

MR BERRY: You might have let us know what was going on. I place on record our concern about the attitude of this manager of government business.

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

GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES - SELECT COMMITTEE
Commercial-in-Confidence Documents - Publication

Debate resumed from 25 November 1999.

MR OSBORNE: I ask for leave to speak without closing the debate.

Leave granted.

MR OSBORNE: I ask for leave to move an amendment.

Leave granted.

MR OSBORNE: I move:

> Omit all words after "That", substitute the following words:
>
> "to assist the Select Committee on Contracting and Procurement Processes in its inquiry, this Assembly requires the Chief Minister to present to the Chair of the Committee by 12 noon, Friday 10 December 1999, the following documents relating to Bruce Stadium:
>
> (1) hirer's agreement between Bruce Operations Pty Ltd and the Canberra Raiders;
>
> (2) hirer's agreement between Bruce Operations Pty Ltd and the ACT Brumbies;
>
> (3) hirer's agreement between Bruce Operations Pty Ltd and the Canberra Cosmos; and
>
> (4) agreement between the ACT Government and the Sydney Olympic Organising Committee (SOCOG) for the staging of the Olympic football in Canberra.".

I am pleased to move this amendment. It puts the decision on contracts back to the rightful place, which is the select committee. Since this debate was adjourned last week, I have spent some time discussing the concepts of commercial-in-confidence with members and others who handle this type of information on a regular basis. Obviously there needs to be some protection to companies when they do business with the Government. I think it would be wrong for us to expose genuine trade secrets and some categories of commercially sensitive information. However, I believe that these instances must be rare and very genuine.

I did receive some advice from the Clerk in relation to the Government providing contracts. I will not harp on that, because it has become clear to me that the contracts will be provided to the committee. I have spoken to both the Raiders' and the Brumbies' hierarchy within the last week. I indicated to them that the fight they had been dragged into was pointless from their perspective, and they have agreed to trust the committee, when we look at this information, not to divulge anything commercially sensitive to them. I think they understand the role that the committee will play in the information on taxpayers' money, which is what we have all been waiting to see. I am confident that the committee will handle it professionally.

I believe that when it comes to taxpayers' money all the information must be on the table. There can be no commercial-in-confidence arguments when we are talking about that issue. Those organisations, plus the Cosmos and SOCOG, are receiving taxpayers'

money. I can assure all those organisations that, in deliberations on which material to release, the committee - made up of yourself, Mr Speaker, Mr Stanhope and me - will act professionally. I think the right thing is that we be able to make that decision.

I believe the Government will be supporting this amended motion. I fully expect the Labor Party to support it. I think this matter has gone on for far too long. We could have gone down the path of the New South Wales upper house and suspended the Chief Minister from the chamber until she provided the documents. I can see a wry smile from Mr Kaine. I am pleased that the information will be forthcoming, and I can assure everybody that we will handle it professionally.

MS CARNELL (Chief Minister) (5.55): Mr Speaker, as I have said before in this place, the Government is very happy for these contracts to be released. The problem in the past, as members would be aware, has been that the other parties to these contracts have not been happy for their contracts to be released, and some of the contracts have confidentiality clauses in them. I am more than happy for these contracts to be provided to the committee. Again, I have said that before. But I would appreciate the committee treating the contracts professionally, understanding that there is commercial-in-confidence information in them.

Mr Osborne has given me an undertaking that the position of the ACT Government will be respected and that the committee will do everything in its power to stop the Government from being sued for releasing information that could place the Government at risk of action against it and potentially undermine its professionalism. I take on board Mr Osborne's undertaking that the committee will behave professionally and will respect the commercial-in-confidence nature of some parts of these contracts. On that basis, although the Government is concerned about this approach, it understands the approach that the Assembly is likely to take here.

MR STANHOPE (Leader of the Opposition) (5.58): Mr Speaker, I am pleased that the Government has finally relented. This motion is a repeat of the motion that the Assembly passed last May calling on the Government to table a whole range of documents. The Assembly has previously passed this motion. I am not entirely sure it is in order that we pass a motion with the same effect as a motion previously passed in the calendar year. It is virtually the same motion that was passed by the Assembly in May requiring the Government to table a whole range of documents. The Government perversely refused to allow these documents to be released consistent with the Assembly's previous order.

Mr Moore: It is just dishonest, Jon. You are twisting it.

MR STANHOPE: When were the agreements tabled, Mr Moore?

Mr Moore: It was not a motion to provide them to a committee. I am not talking about that part.

MR STANHOPE: So they have been provided, have they, Mr Moore? A committee is no more and no less than an emanation of the Assembly. We all know that. You are giving the committee a status over and above the Assembly, which is simply wrong.

Committees are emanations and part of the Assembly. They have a lesser status than the Assembly itself. They are creatures of the Assembly to that extent.

I guess Mr Moore does not know this, but as chairman of the committee I have also sought these documents, and they were refused to me.

Ms Carnell: No. I have said you could have them as long as you respected the commercial-in-confidence nature of them.

MR STANHOPE: That was not your decision to make. I am pleased to see that the Government has finally relented, that it will now respond to a legitimate order of the Assembly and that these agreements will be made available to the committee. As Mr Osborne has said, the committee will deal with the agreements consistent with the standing orders. It will make the decisions that it believes are relevant and appropriate in relation to these agreements. The committee will decide what is commercial-in-confidence and the committee will decide what will be made public.

I am pleased that the Government has finally relented. I am pleased that the agreements will be made available. I am pleased that the people of Canberra will have some access to information about how their moneys are being expended by this Government and on what basis they are being expended. As Mr Osborne says, it is a pity it has taken six months for us to get to this stage and for the Government to finally realise that it has an obligation to meet the requirements of this parliament. When this parliament requests something of the Government, the Government, the Executive, has an obligation to respond to the parliament.

I heard Mr Osborne before giving us his new year's resolutions, one of which was that he would ensure that the Executive was responsive to the parliament. That is what this is about. Persistently for the last six months, the Government has refused to accept its responsibility to this parliament. I am more than happy to work with Mr Osborne in making this executive responsive to this parliament. This is the first step.

MR MOORE (Minister for Health and Community Care) (6.01): Mr Speaker, I would like to distinguish between what happens with an Assembly committee and what happens with the Assembly. Unfortunately, Mr Stanhope is twisting what has happened. The Government is still refusing to table these documents in the Assembly, for this reason, Mr Stanhope - - -

Mr Stanhope: A committee is the Assembly.

MR MOORE: No, a committee is not the Assembly. Each and every member of the Assembly has not given the same assurance that we have had from Mr Osborne about the committee. Had that assurance been given in the first place, then you would have had these documents six months ago. It is not the Government that has been holding things up.

Mr Stanhope: Crap!

MR SPEAKER: Order! Withdraw that.

Mr Stanhope: I withdraw "crap", but it was simply untrue.

MR MOORE: It is not the Government that has withheld these documents. Mr Stanhope's notion that that it is untrue is not the case. He can easily accuse the Government. The Government has said, "We will make these available to members if you guarantee their commercial-in-confidence, if you guarantee their confidentiality". We have had that assurance from Mr Osborne. That is what has changed, Mr Stanhope. That is the difference.

MR RUGENDYKE (6.03): Mr Speaker, unfortunately I was away last sitting period when this debate commenced. I am aware that the committee was seeking the documents named in the motion. I am aware that the general understanding was that if the motion succeeded committee members - Mr Stanhope, Mr Cornwell and Mr Osborne - would only be able to whisper behind their hands behind closed doors within the committee about the matter. I wondered what there was to hide.

I thought there might have been some agreement that the contracts could be discussed in general terms, but the Government was fighting tooth and nail to keep them hidden behind closed doors. I read the *Hansard*, and I noticed that the Government fought particularly hard to keep them secret. The Chief Minister fought hard to keep them hidden, to keep them within the committee, to keep them away from the public, to keep them away from the community, who deserve to know what is happening to territory money. I wondered what the Chief Minister was trying to hide, what the Chief Minister suspected might be in the contracts that would cause such embarrassment to the Government that the contracts should not be released. These documents will be released by the Auditor-General early next year anyway, so what is the fuss?

Mr Osborne has amended the motion so that the documents will be released to the committee by midday tomorrow and without the constraint of the original motion that they be kept secret within the committee. That is probably due to Mr Osborne's negotiating skills with the football teams and SOCOG. It is pleasing to see that the motion is one that I will be able to support. I look forward to seeing the content of the contracts.

MR BERRY (6.06): Mr Speaker, I will be brief. I would just like to congratulate Mr Stanhope on his persistence on this issue. If he had not been persistent with freedom of information applications and applications to the AAT in relation to the matter, the pressure would not have gone on the parties to agree to this exposure of documents previously held to be commercial-in-confidence. This is a government that thinks it is very handy to hide behind commercial-in-confidence for everything that it does. This might be the start of the end of that, the small hole in the dyke, and we will see pressure continually go on the Government to ensure that it provides documents which involve the expenditure of public moneys, given their appalling performance in the handling of public money in the Territory.

It will come to pass, I predict, that people who are dealing with government will be told, "You have to understand that every part of our dealings with you will be exposed. Have that in mind when you are dealing with us". That is the way it ought to be.

Ms Carnell: Like it was with the VITAB contract?

MR BERRY: That is the transition from a predominantly public arrangement as governments move to push information out into the private sector. The Chief Minister intervenes and says, "Like the VITAB agreement?". The Chief Minister did not even have the guts to put a motion on the table to require me to table the papers, because she never had the numbers. If she had had the numbers, I would have tabled them. It is as simple as that. Do not start that nonsense with me. You never even tried. You did not have the wit to do it. So you were half right.

I reiterate my congratulations of Mr Stanhope for his persistence on this issue. I think it will lead to something better in the administration of the Territory.

MR OSBORNE (6.09), in reply: I am pleased that Mr Berry thinks that Mr Stanhope should take credit. I do not particularly care. I think this matter has dragged on for far too long. There is still a lot of chest beating going on when the Chief Minister and Mr Stanhope stand up. They are both trying to prove who is tougher. From the research we have done and the advice from the Clerk, it has become very clear to me and my office, especially in the last couple of weeks, that I really did not have to give any commitment; that when the Assembly calls for documents the Executive has a requirement to table them.

I would be happy for any member who would like a copy of the Clerk's advice to come around to my office and read it. It is a very revealing advice that all of us should be aware of. I see the Clerk sitting there nervously. The principle is very sound. When this Assembly calls for documents to be tabled, the Executive has a requirement to table them. It is unfortunate that Mr Stanhope has had to go to court and fight the Raiders, the Brumbies and everyone else. As I said, it is very clear to me that this Assembly has the power to issue directions to the Executive to table documents. I am happy to circulate the Clerk's advice to members. I think it is a good read.

I am pleased that this part of the saga is over. I intend to act professionally, as Mr Stanhope intends to act professionally and as Mr Cornwell will act professionally. The principle of the Assembly being able to request documents is an important one, but the principle about taxpayers' money is also vitally important. I look forward to seeing the documents in the committee next Wednesday.

Amendment agreed to.

Motion, as amended, agreed to.

Sitting suspended from 6.11 to 7.40 pm

COMMENTS BY MEMBER ON RADIO

MR OSBORNE: Mr Speaker, I seek leave to say a few words on an issue.

MR SPEAKER: You seek leave to speak to the Assembly?

MR OSBORNE: I do, Mr Speaker.

MR SPEAKER: There might be many people in the place who would like to seek leave to say a few words. Would you like to make a statement?

MR OSBORNE: I seek leave to make a statement, Mr Speaker.

Leave granted.

MR OSBORNE: Mr Speaker, I do not particularly want to make a big issue out of it, but I think it needs to be addressed and we need to give Mr Hargreaves the opportunity to apologise on this issue. I will be careful not to speak about the debate that ensued yesterday, but in relation to a Bill that was passed, the burnout legislation, Mr Hargreaves, on the ABC this morning, said:

> The Osborne Rugendyke copper team -

I have no problems with that -

> have decided that they want laws introduced before the Summernats come in so they can have their big bover boys out there fixing up these young people.

That clearly was a reference to the police. *The Oxford English Dictionary* says that a bovver boy is a hooligan. I want to give Mr Hargreaves the opportunity to apologise.

Mr Berry: Apologise to whom?

MR OSBORNE: To the police. I understand he was disappointed with the legislation, but to slander the police in that way is unacceptable. I seek leave to table a copy of the cover page of the dictionary, an extract from the dictionary in relation to bovver boys and a transcript of what Mr Hargreaves had to say this morning.

Leave granted.

MR HARGREAVES: Mr Speaker, I seek leave to make an explanation about the matter Mr Osborne has raised.

Leave granted.

MR HARGREAVES: Mr Speaker, I would not like the police to be offended by anything that I may have said. If they have felt some embarrassment, some pain, some discomfort over what I have said, then I am happy to have that redressed. I shall be making my comments known to the AFPA tomorrow when I see them on another matter.

When we see something outrageous, as we did yesterday, people react as I have reacted. I do not resile from that reaction. I do resile from intemperate language. My feelings regarding Mr Osborne and Mr Rugendyke's approach remain unchanged.

If the AFP or any of their members are offended by something that I may have said, then I withdraw it quite happily.

POSTPONEMENT OF ORDER OF THE DAY

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety)(7.45): Mr Speaker, I move:

> That order of the day No. 3, Executive business, relating to the Victims of Crime (Financial Assistance) (Amendment) Bill 1998, be postponed until a later hour this day.

Mr Berry: Would you like to tell us why?

MR HUMPHRIES: I understand Ms Tucker has asked for it. I understand there has been some discussion among members about dealing with the supervised injection place legislation before we deal with the victims of crime legislation. I am suggesting we now do that.

MS TUCKER (7.46): I do not know whether this was discussed, but I am supporting it. Mr Rugendyke gave us an amendment quite recently which we are trying to respond to. The drafters are not ready. I support this motion, although I do not know that there has been discussion that we reverse the order of business.

Question resolved in the affirmative.

DISCHARGE OF ORDER OF THE DAY

MR MOORE (Minister for Health and Community Care) (7.46): Mr Speaker, in accordance with standing order 152, I move:

> That order of the day No. 4, Executive business, relating to the Drugs of Dependence (Amendment) Bill (No. 2) 1998, be discharged from the notice paper.

This motion refers to the original legislation that I had put up for a supervised injecting room. My legislation would have amended the Drugs of Dependence Act. It has now been superseded by the legislation I tabled at the last sitting, so it is redundant.

Question resolved in the affirmative.

SUPERVISED INJECTING PLACE TRIAL BILL 1999

Debate resumed from 29 November 1999, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (7.47): Mr Speaker, this Bill is about harm minimisation. It is about saving lives. It is about protecting the public. It is only one of the many strategies to counter the devastation caused by the abuse of drugs of dependence in the lives of so many in our community. Of itself, it cannot rid us of the scourge of drug abuse. More action and more resources will have to be applied to supplement this initiative, but it is an important initiative in an overall strategy.

The proposed medically supervised drug injecting place will be on a scientific trial basis only. We will not support its continuation if the evaluation is negative or equivocal. The objective of this legislation is to allow for a controlled study, rigorously evaluated over a fixed two-year period, of the effects of providing such a facility. Periodic reports will be produced on such matters as the incidence of drug-related deaths and ambulance call-outs; on the success or otherwise of referrals for treatment, detoxification, counselling, rehabilitation and help with problems; and on the wider Canberra community's attitudes to, and perceptions of, the facility in operation.

That is why it is important to establish the detail of how the facility will operate and the responsibilities and constraints of all persons involved before the trial commences. That is why we have sought to amend the legislation before its passage, rather than leave the detail to subsequent regulations. We make one thing abundantly clear. Let me say unequivocally, in terms that not even the most rabid anti-drugs reform commentators can distort, that Labor's support for the establishment of a medically supervised drug injecting room is not to condone or to encourage drug taking. The Pontius Pilates in this debate and the rabid commentators may as well argue that the provisions of hospitals encourage and promote ill-health. We can say of one at least of those commentators, a supposedly prominent one around town, the poor man's Stan Zemanik, that cash for comment is not an issue. No-one would pay for the misinformation, the bile and the rubbish that utter from him.

It is important to be clear about what this Bill is not. It is not about a heroin trial; it is not about providing drugs to users. Users will not be able to buy drugs at the drug injecting place. It is not the first step on the road to legalised heroin use. Those that distort the argument serve no useful purpose in the community debate about how to counter this scourge. Such distortions mean they cannot play a positive part in that debate.

This Bill, as amended by Labor, does not authorise anyone to possess, use or deal in drugs of dependence or prohibited substances. In its terms it specifically prohibits any operator, manager and staff of the supervised injecting place from using, selling or possessing within that place, and it prohibits users from selling or supplying within that place and from possessing any more than a set quantity of drugs within the place.

In developing its amendments to this Bill, Labor has consulted widely with community groups. It has done the work that should have been publicly done by the Health Minister and the Government. Labor has sought and considered comments from the police, lawyers, families and friends of drug users, health professionals, the churches and voluntary workers.

Although there are diverse and strongly held views on the subject, overall the comments were supportive of the establishment of a supervised injecting place. One comment from the Criminal Law Committee of the ACT Law Society, not exactly your rabid reactionaries in the community, was that the benefits were likely to be a reduction in the number of intravenous drug overdose deaths; a reduction in the number and cost of ambulance calls to intravenous drug overdoses; a decrease in the transmission of blood-borne viruses; an increase in the contact between intravenous drug users and counselling, treatment and rehabilitation services; a reduction in the dangers arising from discarded used syringes in public places; and a reduction in the nuisance of intravenous drug users injecting and overdosing in public. In fact, these community consultations have resulted in many valuable suggestions concerning safeguards and the drafting of amendments.

Meanwhile, regrettably, the Government is in disarray again over this issue and has done virtually nothing to ascertain what the community wants. A bipartisan approach on this important health and safety issue would have been constructive, but most of the Liberals will vote against their Government's Bill. Two-thirds of the Liberals intend to vote against their own Government's Bill. Do they think the drug problem will go away if they cravenly avoid their responsibilities as community representatives?

The question has to be asked: How many Liberal Party views are there on this critical issue? There is the view of one section of the Cabinet and the view of a second. There is, of course, a third Cabinet view, that of the supposedly Independent Minister. There is the view of the Liberal party room, which is different to the view of the Liberal Cabinet. There is the view of the Liberal Party, which opposes the trial as well as opposing the Liberal Cabinet and the Liberal party room. And there is the view of the rabid commentators, led by Graham Gilbert, a failed Liberal Party candidate. Graham Gilbert, I understand, ran third out of three candidates behind Labor's Harry Quick in the seat of Franklin in 1993.

Mr Hargreaves: Was that last?

MR STANHOPE: Someone else entered a donkey, I understand, just as a joke, and the donkey ran second.

MR SPEAKER: Relevance, I suggest, Mr Stanhope.

MR STANHOPE: Who speaks formally for the Liberals on this issue?

Mr Hird: I know one person who does not, and that is you.

MR STANHOPE: Mr Hird is going to speak later for the Liberals on this issue. Of course, it is one of the great ironies of politics that it is the supposedly Independent Minister, Michael Moore, the cement that holds this right-wing coalition together, that speaks for the Liberal Party on drugs.

To ensure that the supervised injecting room trial remains in touch and responsive to the community throughout, our amendments establish an advisory committee to consist of representatives of the bureaucracy, police, the legal profession, ambulance services, the medical profession, criminologists, business, residents closest to the location of the facility, researchers and organisations delivering services to drug users. A detailed list is contained in the legislation. Clearly, in practice, the committee may prove to be too large or other relevant groups may need to be represented, so we propose that the membership of the advisory committee may be reduced or extended by regulations.

Labor does not support unconditionally the implementation of the supervised injecting place trial. We have imposed and discussed previously a number of conditions. The legal issues must be adequately addressed before the trial begins. A protocol covering the legal issues involved must be in place. A range of rehabilitation facilities, including youth rehabilitation services, must be established concurrently with the trial and referrals must be available from within the facility. It is not overstating the case to say that as a direct result of Labor's position on this we now have the Ted Noffs Youth Rehabilitation Centre, and I am pleased to say that WIREDD have an additional counsellor.

We also require that the Government announce a range of new and innovative education and disincentive programs in its campaign against drug use; that the location of the place of the trial be negotiated by the advisory committee and the Minister with businesses located nearby; and that the costs of the trial - and we await with interest the Government's response to this - not be borne by the health budget. We await with interest the Government's announcement of the sources of revenue for the trial. Even though the Bill will not require the Government to meet all of these conditions before opening the facility, I would expect as a result of negotiations with the Minister that he would ensure that they are met or reasons given as to why they are not.

As both the Labor Party and Ms Tucker of the Greens have stressed, the supervised injecting place must form one part only of a broader drug strategy. This strategy must encompass treatment, harm reduction and education. And it may be that this trial will point the way to the development of more effective approaches. Evaluation methods and conduct for this trial also need to be carefully planned in advance, given the relatively short timeframe of two years in which to conduct the trial, evaluate the results and decide whether the facility should continue or close.

Hard information on drug use in the ACT is largely not available, apart from data on court convictions of small-time users and dealers. During the public debate there has, I note, even been serious confusion among members of this place on such basic

questions as what is a trafficable quantity of heroin. This medically supervised trial, with associated counselling and referral, will hopefully provide some of the empirical evidence we need on which we can base future policies.

There has been debate about whether Australia's international treaty obligations would prevent the establishment of a medically supervised drug injecting facility. I have listened to the debate and noted the comments of the scrutiny of Bills committee on this point. I have also looked very seriously at the various opinions that have been prepared on the subject. There are two relevant treaties - the 1961 Single Convention on Narcotic Drugs and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The treaties permit member states enough freedom to take account of local conditions and to establish medical or clinical trials involving illicit drugs. The establishment of a rigorously controlled and evaluated medically supervised drug injection facility in the ACT clearly, in my opinion, fits within this criterion.

In the United States the zero tolerance policies have proved to be a disaster, as have the earlier do-nothing approaches within Australia. This ACT trial, together with similar strictly monitored trials in New South Wales and Victoria, will build the database we need for policy development. Like New South Wales, we propose that addicts be allowed to take only a minimum amount of drug into the supervised injecting place. Immunity would apply only to half a gram of heroin, for example. Unlike in New South Wales, the amount is definite and it is far smaller than amounts permitted in the Victorian scheme.

The Australian Federal Police to date have shown good sense and restraint in the handling of the drug problem. Our world-leading needle exchange program, which has cut AIDS deaths significantly, could not have been achieved without the cooperation of the AFP. The AFP has also adopted a similar approach in not attending drug overdose cases. This legislation simply requires the AFP to continue their present policies in respect of the handling of drug users. There is no doubt that we have one of the best and most professional police forces in the world, and I have absolutely no doubt that the AFP will respond to the leadership shown by this Assembly in relation to the drug injecting place. I have no doubt at all that members of the Australian Federal Police will respond to this legislation and to the leadership shown by their elected representatives of their parliament in the implementation of this trial.

Mr Speaker, the problems that illicit drug use causes cannot be fixed by this initiative. They cannot be fixed by any single initiative that we take here in the ACT or that any other jurisdiction takes. There must be a comprehensive policy on Australia's problems with illicit drugs, but unfortunately the signals from the Federal Government are not good on that front. It would be far better if we could have coordination and cooperation between State and Territory and the Commonwealth Government.

And we need harm reduction programs, such as a medically supervised injecting place to tackle the immediate health and social problems caused by drug use, to keep users alive, to improve safety in the community by reducing the level of drug-related crime, and to reduce the spread of disease through needle-stick injuries and needle-sharing practices. In addition, and possibly most importantly, we must tackle the education, unemployment, health and social problems facing our young people. For these strategies

to work, they need to be funded and supported by governments. There are no quick fixes or easy solutions here. Each strategy must be properly researched and evaluated.

What do young people want? Too often we neglect to consult with those about whose lives we legislate. Youth organisations have called for wide-ranging changes, including national uniform laws relating to drugs; law reform; supply, demand and harm reduction all being given equal focus; rehabilitation and support service provision; drug courts or the option of attending drug rehabilitation centres where job skills, education, social and domestic skilling, stress management techniques and counselling will be available; specialised training for police; education from Years 3 to 12 in life skills, stress management and the long-term effects of drugs so that individuals can make informed decisions; funding of youth services; provision of youth facilities to reduce the use of drugs stemming from boredom; and counsellors and community service provision.

How can we as community leaders and community legislators passively sit by allowing more deaths of the ACT's sons and daughters, allowing more children to be endangered by discarded needles in gardens, streets and playgrounds, and forcing our police and volunteers to try vainly to cope with an ever-growing and unresourced problem. Labor believes that only a rigorous, systematic, comprehensive and coordinated response based on sound scientific research will help Australia to overcome the problem of illicit drugs.

This Bill presents the ACT with a chance to begin to turn around our drug policies and to be in the vanguard of a more enlightened approach, and I commend it to the house. But we cannot stop with this initiative. We have to recognise that there is much more to be done, and we have to determine to take that next step. I have already reflected on how useful and constructive it would have been to have had a truly bipartisan approach to this issue. I think it is very sad that this was not to be.

Nevertheless, I want to announce now that the Labor Party is committed to working constructively with others in this place and with the broad-based community groups that have demonstrated they have a genuine commitment to tackling this menace. I am proposing the establishment of a high-level and permanent task force that would include representatives of the Government, the Greens, the Labor Party and those community groups that have agreed to be part of the drug injecting place advisory committee, together with officers of appropriate government departments and agencies like the Department of Health, the Department of Education and the Department of Justice and Community Safety, to work constructively and in a bipartisan manner to develop, advocate and implement policies aimed at combating the scourge of drug abuse.

Mr Speaker, this Assembly has to lead the fight, not react to the problem. That is why we have to establish the injecting room trial and why I trust there will be a genuine, positive and bipartisan response to my suggestion for a permanent task force in the ACT on heroin and illicit drugs.

MR HIRD (8.05): Mr Speaker, while this is a government Bill and I am a member of the Government, I want to make it clear to this parliament that I am totally opposed to this Bill and I will be voting against it.

MR SPEAKER: Excuse me, Mr Hird. This is a very important piece of legislation. I expect it will be treated as such by all members. I do not want a lot of cheap interjections. Is that understood? Frankly, my friends, if you do that you denigrate the very comments that you make.

MR HIRD: I do not propose to debate alternative measures to a self-injecting place. That is a separate issue. Suffice it to say at this time, Mr Speaker, that I do not believe that so-called safe injecting places will provide any satisfactory solution to this city's drug problems, even if such places are supervised. In fact, it is quite likely that they will have the opposite effect. There are already serious concerns in the community about the threat the drug element pose to the safety of people visiting Civic. This problem will be exacerbated if we adopt this Bill and agree to the establishment of injecting rooms in the city centre as has been indicated in discussions with the Minister.

I submit that the city precinct will become an even greater haven for drug pushers, the very people we should be trying to eliminate from our streets. The message will quickly spread to dealers interstate that Canberra is the place where authorities sanction drug administration. If we let ourselves believe that these will be safe injecting rooms, we are living in a land of fairies. Mr Speaker, there will be nothing safe about them. They will remain but safe. We might as well kid ourselves that there are such things as safe aeroplane crashes. It will be a miracle, good luck, not good management, if the establishment of these rooms does not lead to a fatality, the very thing that they are supposed to avoid.

I would like someone to explain to me how the people running these proposed safe injecting rooms will be able to determine whether any of the users have not already had a shot before they enter the rooms. I believe, Mr Speaker, that no matter how careful we might be we would be exposing the ratepayers of this great Territory to the risk of serious and no doubt costly litigation in the event that someone dies on these premises as a result of an overdose or other complications associated with drug injection. No matter how well this Bill is prepared legally to exempt staff or the injecting place from criminal or civil proceedings, there is always a legal brain out there that will detect a flaw in the legislation and will open the door for a loophole action in the courts or for a legal precedent.

I note with interest, Mr Speaker, that the wording in the title of the Bill has been changed from "Safe" to "Supervised", but that does not ease my concerns about this Bill. The fact that this injecting place would be supervised as the Bill proposes is irrelevant. The important question is just what is going to be supervised - the injecting place itself or the activity that will go on in the place?

It is also interesting that the Bill refers to a trial. I have heard it indicated that the trial will be for 12 months and I have heard that it will be for two years. I have heard that a committee, a task force, will be set up that would go on and on ad infinitum. How long is the trial for? I have heard of the trial for safe needles. On all those sorts of things I wait to hear from the proponent of this Bill. Among the meanings I have found for the word "trial" on my Assembly office computer are "affliction", "curse", "calamity", "evil", "plague", "misery" and "grief". Need I say any more, Mr Speaker?

There is no hard evidence to suggest that the establishment of injecting rooms - or shooting galleries, as they have been more aptly referred to - will reduce drug-related deaths and trauma or crime associated with drugs within the Territory. But there is any amount of evidence that drug taking increases the crime rate. No amount of supervision in self-injecting places will change that, unfortunately. On the contrary, my belief is that what is proposed here will compromise police trying to perform their duties in the prevention of crime within our community. This Bill, if it is passed, will have the effect of tying the hands of the police behind their back. We will be telling them to turn a blind eye to one of the worst criminal scourges on our society, not only within the Territory but within Australia.

In so doing, we would be sending a totally wrong message to the people who are most vulnerable to, and influenced by, anti-social behaviour - our children. The message that they will get from the implementation of this Bill is that illegal drug use is acceptable in our community. We would be sanctioning an illegal operation. Consumption and sale of a prohibited substance are illegal. Up to 80 per cent of crime in Australia is drug related. This Bill will not reduce crime; it will provide the means by which the criminal element in Civic will be expanded. I submit, Mr Speaker, that we would be encouraging more crime by inviting people to come into our injecting rooms, safe or otherwise, to shoot up an illegal substance. We would be clearing the way for drug pushers to target the very area of this city that we are spending millions of dollars on to make it more attractive to genuine visitors and members of our own community.

Another concern I have about this Bill is that no substantive assessment has been made of the advisability or otherwise of setting up an injecting room in Canberra - in the city or wherever. But my research has unveiled that a joint select committee of the New South Wales parliament held an inquiry last year. The report brought down by that committee substantiates my misgivings on all the issues I have raised here this day.

The committee recommended that the establishment or trial of injection rooms not proceed. That recommendation was made on the very same grounds that I have spoken about this evening. The committee received 103 submissions and took formal evidence from 89 witnesses from various parts of Sydney and Newcastle and Wollongong, including parents whose sons and daughters had died because of drug abuse.

I will take a little of the parliament’s time to refer to some of the expert opinions on which the New South Wales committee recommendation not to proceed was based. Injecting rooms can never be safe when users are injecting heroin, which is an illegal substance. Injecting rooms can lead to an increase in drug dealing in the nearby vicinity and confirm a local community as a drug ghetto. These places will become a mecca for dealers and pushers. They will not only be supplying the existing demand, they will be stimulating and expanding their markets. Injecting drug users travelling to an injecting room are likely to perpetuate property crime in that community. The establishment or trial of injecting rooms could be interpreted as condoning illicit drug use. The provision of formal support for illegal activities and hard drug addiction sends the message to our youth that hard drugs are condoned by community leaders, as we are in this place. It is very obvious from that report compiled by the upper house and lower house in the parliament of New South Wales last year that the type of activity being proposed by this parliament should not be supported.

A lot has been said in recent times about trying to get people back into Civic. Section 56 redevelopment, upgrading of the Canberra Centre, beautification of Ainslie Avenue and the imaginative Our City program are all projects designed with that in mind - assisting the CBD of our great city. What are we doing to the small business operators in the area? Have we talked to them? What do we as the local parliament propose to do? We propose the establishment of a centre designed to increase illegal drug taking and drug trafficking in the heart of this city, which we are trying to beautify.

But that is only one of the side issues in this debate. While Civic is certainly not the appropriate place for an injecting room, I am opposed to the whole implication of this Bill. I would still be opposed if the room was established on the Mugga Lane garbage tip or Parkwood garbage tip or anywhere else in the Territory. I have discussed this matter very deeply with a lot of people within the Territory. The police do not want it. The medical profession do not want it. Social service agencies do not want it. The retailers in Civic or any other area of Canberra do not want it. Most of all, the general community does not want it. If there is any doubt about that, then I would ask legislators in this place to test my word. Put it to a referendum, and we will see what the answer is.

Why are we going down this path before a formal assessment of the implications of this Bill? I was interested the other day to listen to the Leader of the Opposition talking about the report of the scrutiny of Bills committee and foreshadowing amendments to this Bill. If he has nothing to hide, then refer this Bill, with the amendments, to the scrutiny of Bills committee so that they can look at the substance of the amendments. The technical application of the Bill could not be assessed by the committee on which I serve. Some questions were raised by an independent arbitrator, the legal adviser to the scrutiny of Bills committee. *(Extension of time granted)* He has not been privy to numerous Opposition amendments. The appropriate course is for us to refer this matter to the scrutiny of Bills committee so that they can assess it and make certain that we are not making the wrong decision. Do not be a do-gooder unless you have firm grounds. Why are we going down this path before a formal assessment of the implications? In the interests of the great majority of people of this great Territory, I urge members of this parliament to think seriously about the ramifications of adopting this Bill.

MR WOOD (8.22): Mr Speaker, in this debate tonight, which follows a prolonged debate in the community, we have a very narrow focus. We are looking at just one measure that may, or may not, work. It is a trial, but we need to find out. As we discuss this narrower focus, we should not forget the broad context of the whole anti-heroin debate. It is a wide, complex and difficult issue, which has, so far, defied defeat of the problems brought about by heroin use. A safe injecting room, a supervised injecting room - a much better term - is not the answer. There is no single answer. But it may be one useful approach - one measure that we examine tonight, one aspect of a comprehensive program encompassing prevention, treatment and support.

We know here, we hear it so often, that each person is different. We have been brought up knowing that. We know that each addict is different. Where abstinence may work for one, it will not work for others. So we need a wide variety of measures as we attempt to deal with this problem. There has been one negative outcome of the dominance of the public debate on the injecting room. And that is much less focus than we should have

had on other necessary and important measures. The heroin trial has tended to detract from a further, wider debate that is needed on other specific measures. Those measures are what Mr Stanhope mentioned earlier: Broad areas of education, the varieties of treatment, law enforcement, legal measures.

I would hope that after today we are able to see the same intensity of debate given to those further necessary measures. Heroin has relatively low use in the community, but it imposes a damage out of all proportion to its use. So it demands attention. There is so much to be done. We have to look to detox facilities. We have been doing that. We have to look at substitution programs - there is some of that - abstinence programs and support to keep people recovering from addiction from returning to it. We do too little of that. So many of those people slip back if the social support is not there or the social circumstances in which they live have not changed. We have to look to that. Most of all, we have to look to social circumstances, so that where we are successful in getting someone off an addiction we have a higher success rate in keeping them off it.

We have to be sure we have employment for people and support so that there is a meaning to their lives. Many who take up addiction have not found meaning to their lives. Many others have a clear meaning, yet still experiment. Mr Speaker, the strident debate we have had is to be expected because of the public view that all citizens have of the drug problem. That public view is on television every night. I expect it has to be there; it should be there. The public view is of crazed druggies engaging in hold-ups; street deals in the public; house-breaking; crime. That is the public view, and it is all true. There is no doubt about that. So, naturally, we get a very strong response from a community that cannot abide it.

But in this Assembly, we have a responsibility to look a little further - to look a good deal further. The problem is much broader than that. The people involved are much more than that. The crazed druggie the public might claim to see is actually a very small part of the heroin-using population. Heroin use is much broader than scenes you may see or the reports you may hear on television. Heroin use is widespread in the community. There is an extensive recreational use. There are people living in your street whom you do not know, nor would expect, taking heroin. We have to focus on that. There is the first-time user who can get caught out by an overdose. There are many controlled users, employed, with children and families who can still get caught out.

Many who lose control are perhaps slipping into more difficult times. That is the broad context. When we start talking a little more widely, we find how extensive the problem is; how ordinary are so many of the people involved in drug taking. It is our job as representatives to take extra steps to encompass the problem. I understand why debate is so strident. It impacts on us. It is what we see and hear about all the time. But, I say again, it is much more than that. These are all people. They have families and loved ones. Many lead productive lives. Many others could, or should, lead productive lives. Mr Speaker, I support a compassionate approach and will continue to do so. But I also support a realistic approach that gets down to solutions we hope will do something. I believe the supervised injecting room is both compassionate and realistic.

Zero tolerance, which I might have held to once, is simply not realistic. We should not pursue it. The injecting room is one practical measure that may prove useful. If it does not prove that way, it stops. It may keep people alive and it may turn lives around. Those captured by heroin who go into this injecting place may be captured by the programs it can lead to. I am optimistic; I believe that will happen. It is the key part of the program. I think we have acknowledged that the "safe injecting place" is the wrong name.

"Safer" or "supervised", there is still that very strong element of danger. I dispute strongly any claim that it sends the wrong message. It sends the right message. It sends the message that heroin is dangerous. If you dare to use it, you have to exercise extraordinary care. A supervised injecting room sends another message: "If you come here we will try to keep you alive and try even harder to get you off heroin". There is an even more important message that says, "We care". The really important message is: "We want to keep you alive; we want to help you; we want to restore you". That is the message we must push.

Some addicts, many of whom have lived in caring families and caring communities, might not have found that caring message in their lives. Such is the complexity of their problem. That is how complex is the issue. But let us give a lead in caring. I am delighted to hear Mr Stanhope's call for a task force. I hope that is taken up by all people. It is so important that we do not think that this is one step and some sort of solution. I have not heard the proponents say that. But there is so much to do. If we do not act at the very early stages of the heroin problem, it can go a lot further as it has come a long way in a short time. So we try absolutely every avenue to encourage people not to get on it - all the prevention measures we can find. And if you do get on it, we will then encourage and support you to get off it. It is a very difficult and complex problem and we must attend to it most seriously. This is one serious measure tonight. There have got to be a lot more in the future.

MR KAINE (8.35): I do not intend to speak at great length. My view on this matter is already well known. I have always had very real reservations about a so-called trial of the kind that is proposed. My reservations have been based on the kinds of things outlined so eloquently by Mr Hird. There are many reasons, and Mr Hird traversed many reasons, why we should not be contemplating this step. I think the proponents have relied too much on what I consider spurious claims of success of such trials overseas. They tend too readily to set aside the different view that says those trials have not been successful.

There has been plenty of literature to suggest that blind acceptance of the results of those trials as being successful is not warranted. So we see people picking up on that and saying, "Because that was so successful overseas, we have got to do it here". I do not accept that logic. In fact, I do not believe there is any logic to it at all. I believe the proponents of this kind of trial have too readily picked up on that as some sort of quick fix, perhaps just as a demonstration that we are "doing something". Unless we know what we are going to do before we start, I am not too sure that "doing something" is necessarily better than doing nothing.

However, despite my strong views, I have always been aware of the fact that the numbers were not with me in this place on this issue. I think Mr Hird is right. If you go outside this place and ask others what they think, the numbers might not be so clear-cut. But in this place there is a determination on the part of a majority to go ahead with a trial of this kind. I have had to say to myself, "Okay, the trial is to go ahead regardless of what I think". I rely on the good sense of my colleagues in this place to make sure that the trial, if it is to go ahead, is to be soundly based, soundly conducted and soundly evaluated.

I find that my faith in these people has been misplaced, because we have got a piece of legislation before us that does nothing except set up a trial. That is all it does. It is set up on the spurious basis that we are conducting a scientific trial. I know they picked those words up to try to get around our responsibilities under international treaties. The only way you can do such a trial is to claim that it is scientific. We have a trial with no science about it at all, yet claimed by its proponents to be scientific. If it is scientific, where in this piece of legislation does it set down the evaluation criteria to determine whether it was a success or not? The answer is nowhere.

Where is there the requirement in this legislation to actually record what goes on in this place, so that you have got some data to look at after the event? Nowhere. The legislation is silent. Where is there in this legislation any indication of who is going to conduct an independent evaluation of this trial after it is over, so that we can determine whether it was successful or not? Nowhere. The legislation is silent on it. And this is supposed to be a scientific trial! People speak eloquently in favour of this wonderful trial they are going to conduct. It is not wonderful to me. The legislation has significant flaws. It lacks any reference to operating procedures or guidelines, or anything else that will determine how this place is to be conducted and under what conditions.

I raised a couple of questions about some of these issues last Tuesday when we tabled a report of the scrutiny of Bills committee. I am sad to say that the Leader of the Opposition let me down. "No problem, have a look at my proposed amendments", he said. "It is all in there". I would just like to quote from the *Hansard*. I raised the question, "What happens if a 12-year-old child turns up at this facility? Who does what and under what authority?". Mr Stanhope said, "It is all fixed. Read my amendments, which you have had for months".

I have not only read his amendments but have them in front of me. What is his solution for juveniles - just sticking to that one point alone - who turn up at this facility and expect to be welcomed with open arms? His solution is that a committee will be established. And, at some future, undefined time, the Minister will consult with that committee to determine the terms and conditions on which persons under 18 may attend the facility. It ought to be in the law, Mr Speaker. We are being asked tonight to enact legislation. Technically, this place could be set up next week.

Mr Moore has already promised that it will be in effect before this year is out. So, no doubt, he would be moving very quickly to do it. We have got to wait for the Minister to set up a committee and then consult with it before we can know what the terms and conditions are under which persons under 18 may attend the facility or, indeed, the terms and conditions of access by any person to the facility. Mr Stanhope says, "She'll

be right. We will fix it at some time in the future". How many times has the Opposition sat there and criticised the Government for saying, in terms of a law that was being considered, "You're asking us to trust you. Let us just pass this law today, and we have to trust you to get the detail into place at some future time".

Mr Stanhope has now reversed the roles. He is sitting there and he is saying to me, "Trust us. Just pass this law tonight and we will fix the detail later". Are we as legislators supposed to be happy with that on an issue like this - an issue where this place is divided; the Liberal Party is divided, although they have got a policy that says that they will reject this sort of a thing until there is a referendum? We know the community is divided. We do not even know yet who the members are going to be. We are expected to take on faith that these people, whoever they are, will introduce a supervisory regime under no guidelines issued by this place or the Minister or anybody else; that they are going to invent a regime that will satisfy all of us, let alone the community out there.

Mr Speaker, this is a travesty. The whole proposal is based on a sham. The legislation does nothing but allow the Minister to go out there tomorrow and set up a so-called supervised injecting place. He used to call it a "safe injecting place", but I notice he stopped doing that because some of us pointed out that it was in no way safe.

On this question of a scientific study, how on earth can you conduct a scientific study when you do not even know what these people are injecting into themselves. They could come in there and inject pure Lysol into their veins. And at the end of the two years, somebody says, "It was a great success. You know, only 10 people died, it could have been 500; so it was a great success", without even knowing what it is that these people are injecting. And they have got the effrontery to call this a scientific trial. I repeat, Mr Speaker, there is nothing scientific about it. It is a sham.

The legislation is not enough to satisfy even a 10-year-old child that this Government knows what it is doing, and knows how it is going to do it. Okay, a 15-year-old child could. The whole process, Mr Speaker, is so badly flawed. As I say, I had reached the point of saying to myself, "I do not agree with this". But I believed that my colleagues who are going to push this through the Assembly are reasonable enough people to make sure that this is a properly conducted trial. My faith is misplaced, because they cannot even make up their minds before they enact the legislation how the place is going to work. On what basis then are they going to make it work properly?

Much has been said about the role of the police. We are told, "No worries". Mr Moore and the Attorney-General tell us, "No worries, the police will act responsibly". Well, the police will do their best if they understand what the requirement is. When we try to find out what directions the DPP is going to give to the police we are again told, "No worries, it is all in the Act". Well, it is not. I do not know what directions the DPP are going to give the police. Yet I am supposed to take it on faith that his directions will be acceptable to me and to Ms Tucker and to Mr Stanhope. I do not think that is good enough.

People talk about the slippery slope. It was quoted in the debate the other day that the police would act responsibly. "After all", we were told, "they acted responsibly in terms of the needle exchange program". What was meant by that was that they ignored the activity taking place in the so-called needle exchange program. We then used that as justification for going this next step. We have an injecting room and "police will act reasonably". They will ignore the activity in the injecting place. What is next?

I would almost bet that before the year 2000 is over somebody will come into this place with yet another Act, another Bill, that says, "We will decriminalise the whole question of illegal use of heroin within a precinct around this so-called safe injecting house". Take it from me, that will be the next step and then we will be told again, "We know the police will act reasonably because they ignored the needle exchange program". And then, "They ignored the injecting place"; and, of course they will act reasonably and "ignore the illegality of taking that next step". If that is not the slippery slide, I do not know what is.

Mr Wood said, "This is not the answer". He is dead right; it is not the answer. I am not even sure it is part of the answer. The law we are asked to pass tonight makes no reference to any of the other elements of a strategy that might satisfy Mr Wood, because it is more comprehensive than just this one thing. Where is it? Where is the provision in here for detox? Where is the provision for things he mentioned?

Mr Moore: Tabled in the Assembly.

MR KAINE: That is not the law. That is just your smart trick to convince people that you are doing the right thing.

Mr Moore: Everything has to be the law.

MR KAINE: There is nothing legal about it and there is no legislative backing behind it.

Mr Smyth: It has the full weight of government policy.

MR KAINE: I have to say that my faith in people in this place has been somewhat shattered. I do not say that the words in there mean anything. So where is the requirement for detox? Where are the requirements for the support system? Where is the requirement for rehabilitation programs? Why are not those requirements in this law we are being asked to pass tonight?

Mr Moore: Because they are administrative - - -

MR KAINE: Because people have not got the backbone to stand up and say, "We are not only going to put in this phoney trial, but we are actually going to really try to deal with the problem of drugs and we are going to set in place the whole strategy". That piece of paper is the second of so-called strategies, the first one of which dates back two years. And what have we actually achieved, Mr Moore? We have just written another strategy. I did not see too many results from the first one. I do not see too many results from this one.

Mr Moore: No waiting for methadone.

MR KAINE: Do not wave that yellow and blue piece of paper at me. I am talking about the law that you, Mr Moore, are asking me to pass tonight. Well, Mr Moore, I will vote against it.

Mr Moore: Surely not.

MR KAINE: And I am even more adamant about voting against it now than I was even two hours ago. I think the whole thing is a sham. I do not think there is any real sincerity in what is being proposed here at all. It is so that, in a year's time certain people can stand up and say, "We are doing something". Well, I would much prefer that they were doing something that was going to have some practical outcome rather than just some sort of a publicity exercise, Mr Speaker.

MS TUCKER (8.48): The legislation before the Assembly tonight is for a two-year trial of a supervised injecting place. It is written in the objects of the Bill that there will be an independent evaluation of the trial, weighing up the impact of the place on public health - both the costs and benefits. The debate tonight is not about the existence of drugs and drug problems in our society, or about the scale of the social, legal and health problems that are attached. This debate is about what this Government chooses to do or not to do to address these problems. In the context of growing health crime and social problems that reflect the use of drugs of dependence, the Greens believe the onus is on this place to be brave.

There are a lot of things we can do if we have the will and are prepared to address the issues. If we take no action, fail to explore possible strategies to help us deal with the problems and the issues, I believe we are failing in our responsibilities as leaders in our community. We must proceed with diligence. We must test strategies and make informed choices about what, as the body responsible for governing this society, we can realistically achieve. This is what we are debating now. By trialling this course of action, we are taking one step forward. A supervised injecting place addresses one aspect of the problems we face.

Too much time has been spent talking about what constitutes a scientific trial, in the shadow of the 1961 Convention on Narcotic Drugs. So I will be brief on this particular issue. Context is obviously everything. Until the mid-1950s, heroin was available legally through prescription in the UK and Australia. Addiction to drugs was seen as a medical rather than a legal problem and was, by all accounts, of no real social significance at the time. However, a whole number of drugs, including heroin and cocaine, have been prohibited in the United States since 1914. Drug-related social problems had become endemic in the United States by the 1930s. The 1961 Single Convention on Narcotic Drugs, then, was the product of half a century of pressure from the United States. Since that time, as we know, drug-related health and crime problems have grown exponentially around the world, Australia included.

Social science has come a long way since 1961 when this treaty was signed. On the basis of the trial proposed in this legislation, comparative studies of fatalities, incidence of blood-borne diseases and other medical and public health outcomes will be evaluated. Most important to the effectiveness of this trial is that the evaluation will be conducted independently and that the indicators will be determined and publicly known prior to opening the place. Forty years of research and analysis around the world has continually demonstrated the failure of a strategy which simply says no to drugs, condemns all drug addicts, and locks up all perpetrators of drug-related crime. This is a failure in terms of public health, a failure in terms of controlling drug use, a failure in terms of limiting drug-related crime.

Perhaps another scientific and independent evaluation of the evidence of the past 40 years may finally shift a few of the anti-drug crusaders from their zealous and morally panicked approach towards looking at how we can address the issues. On ABC Radio on Friday, November 19, I heard Mr Osborne suggest this supervised injecting place might save one life but attract 50 to 100 young people to start injecting drugs. I was very concerned to hear Mr Osborne say that, because unless he has some kind of evidence to support that I believe it provocative to say the least.

Mr Kaine: Have you got evidence that it won't?

MS TUCKER: We need to see we do take this step at this point, which will allow us to address what we do know. Mr Kaine just interjected, "Do I know that it will not?". What we know is that there is an increase in blood-borne disease and overdose from drugs. That is what this is about.

There is also, of course, the question of the police and the position of the police. A police association spokesman, I understand, with the support it seems of Mr Rugendyke and Mr Osborne, has said the police will fearlessly uphold the law as they should, enter any supervised injecting place and charge everyone in it. Well, I guess this is a possible course of action. If no charges were pursued through the courts, it is unlikely that such drug-busting officers would be doing their professional standing much good. I would expect the force to behave professionally, as usual, in response to the will of this Assembly and their superior, the Executive.

But I raise this issue for another reason. Police officers are always called on to exercise discretion. Anyone who has spent time in Garema Place, and has seen the number of users and the number of small deals going on in the open, day after day, can see that police do exercise discretion. I can see no reason why they could not continue that discretion.

Much has also been made of the cost of this trial. Perhaps we also should talk about the cost of not pursuing a trial. The seventh annual symposium on hepatitis B and C in Melbourne on 19 and 20 October this year warned us that Australia was facing a massive hepatitis C epidemic. Dr Wodak, director of the Alcohol and Drug Service at Sydney's St Vincents Hospital, pointed out that hepatitis C is costing Australia more than $150m a year already. He also pointed out that since The Netherlands introduced injecting rooms the number of injecting drug users had halved and the rate of new users had declined.

Furthermore, the *New Scientist* in November alerted us to a new deadly blood-borne virus epidemic in injecting drug users in Europe, Asia and the Americas. These are profound public health issues. They cannot be avoided and we have to address them. The control of what threatened to be an AIDS epidemic through the needle exchange programs in Australia gives us a good indication of the improved effectiveness of a public health motivated drug strategy rather than one built upon prohibition, as has been the case in the United States with ever increasing rates of contraction of diseases. To this end, this trial of a supervised injecting place may put us in a better position to protect our population from debilitating and deadly blood-borne diseases. This trial can assist us in developing a comprehensive public health policy that can save lives.

A lot is also said about sending signals. The most important signal we can send is that everyone in our society be treated with dignity and respect. After all, everyone wants to improve the quality of life and hopes to stay healthy and positive, drug dependent persons included. For most addicts, as research and drug users and addicts will tell you, it is a matter of time before they die of an overdose, or their health fails, or they learn to live with and manage their addiction, or before they become clean and deal with their addiction.

I know for a fact - we all do - that sometimes time runs out. We know people who have died, or who are permanently damaged in our community. They have injected in unsafe places. When they have overdosed alone, or when their use of drugs is compounded by mental health problems; when they see no options to get out of the cycle in which they are trapped, they are put into an untenable situation. Such a death or illnesses is horrific for the victim and, as we know, for their families and friends. It is horrific for the members of the community who look after them and come across them. It is also expensive and demoralising for the wider community.

What are the signals we want to send to people who are addicted to drugs? The trial of a supervised injecting place sends a signal: “We want you to stay alive and be as healthy as possible. We want you to find a way out of drugs. We are not going to damn you as worthless or a criminal in the interim. We will explore a range of strategies to those ends”. It also sends a signal that injecting drugs is dangerous. That is why it needs to be supervised. It sends a signal to families and friends of injecting drug users that we want their loved ones to survive, to remain healthy; to take advantage of opportunities to become free of addiction and destructive lifestyles.

Those who oppose this initiative say the signal that is being sent out is that it is okay to use and inject drugs. Obviously, that is a concern that must be taken into account. It is taken into account by most people who support a supervised injecting place. People know well that I have raised in this place the need to place this initiative well in the centre of a broad strategy which includes education and public information that is clear about the purpose of a supervised injecting place. That it is not about saying it is okay; it is about saying it is incredibly dangerous; that you may die as a result of injecting drugs. At least the community is saying, “This is a dangerous activity. We would like you to stop doing it. But we will help to keep you alive”. Obviously that message has to come out and this initiative has to be supported and accompanied by that kind of message.

Mr Kaine seems to be really concerned that we are not taking these sorts of concerns into account. I reject that notion. I think it is on the record quite clearly. Mr Moore has acknowledged it and supported, as other supporters have in this place, that it has to be accompanied by those messages and those other mechanisms for support.

This is about health and wellbeing. Studies of addiction regularly make the point that it usually takes several attempts to become free of heroin or other addictive drugs. We have to send a signal that if you are drug dependent we will support your attempts to get clean; that the use of these prohibited substances is dangerous and unhealthy. The supervised injecting place will not provide the solution to all health and social problems that are part and parcel of drug consumption in our society - neither for the community at large, nor for drug injecting individuals. We need to move faster and further if we want to address these wider issues.

Research identifies links between poverty, poor and unfinished education, homelessness and other indicators of disadvantage and drugs of dependence, and substance abuse more generally. In addition to the trial of the supervised injecting place, we need strategies: Enhanced parenting programs; harm minimisation in terms of public policy and awareness; enhanced child-to-adult and school-to-work transition programs; peer support programs and networks, to name a few. Also, we need educational and community development programs that improve social connectedness; the trial of prescribed supply of heroin to registered addicts; targeted employment and employment related training; and supply of clean syringes to prisoners.

Mr Kaine once again seemed to be suggesting that none of these things have been dealt with. I am not usually a great defender of the Government here, but I have to say that we are seeing particular initiatives in this place on these matters. We have seen the announcement of a rehabilitation program for young people addicted to drugs. We have seen a project of dual diagnosis from Mr Moore. We are seeing a trial right now in a primary school of a program called FAST, Family and Schools Together, about identifying children at risk in our school system. These are the sorts of essential preventative programs that are necessary if we are to have a broad approach to social health.

I will continue to try to keep the Government honest on this. I have continually done that. I will probably continue to be a critic. But I will also say they are taking on initiatives in this area. It is our responsibility as an Assembly to encourage the Government to keep doing that and improving it, because, after all, that is clearly the necessary approach. The response to these issues is about possibilities. It is possible to trial a number of strategies and to stringently evaluate the trials. It is possible to test a range of approaches and then pursue strategies that have proven most effective. It is not possible to sit on the sidelines saying no to drugs if we care about the wellbeing of the whole community and if we accept our responsibility to do something about it. We have to say more than no to drugs.

Global advertising programs that emphasise the harm of drugs and a prohibitionary approach simply do not work on their own. A supervised injecting place in the context of a wider harm minimisation policy may be one effective strategy to limit the harm drugs of dependence inflict on drug users and the wider community. That is all. The trial

has been a long time coming. *(Extension of time granted)* It has been developed with extensive consultation with community stakeholders and upon wide-ranging expert advice. It is the product of a partnership between the ACT's health and justice portfolios, business and community groups, drug users, local and national organisations with expertise in health, crime and drug dependency.

This Bill lays down the length of the trial for the supervised injecting place, operating procedures and management protocols. It provides direction on protocols for the police and the courts; guarantees guidance, support and referrals to injecting drug users; ensures a safe and hygienic environment; and specifies a scientifically conducted independent evaluation of the public health benefits and risks. I am pleased to support this Bill. People in this place who reject this, in my view, are well meaning. They are concerned, as are we all, about the incredible social problems that drug use has created. I appeal to their sense of compassion. If we do not support injecting drug users, we are failing to demonstrate the compassion so fundamental to finding ways of healing social problems in our society.

MR STEFANIAK (Minister for Education) (9.05): Might I state at the outset that, as most people realise, I am against the idea of having a safe injecting place, shooting gallery or whatever you want to call it. Might I also state at the outset that I respect what I regard as the very pure motives of those who are proposing this facility to do the best for those sections of our society who are affected by drugs. Mr Moore has held a particular view for probably as long as I have known him and he holds it for all the right reasons. I think that, in many ways, he is wrong, but I would never query his strongly held belief and his motives. Similarly, the Chief Minister has held certain views for as long as I have known her in politics and holds them most sincerely. I respect her motives, but I do not necessarily agree with them. My colleague Mr Smyth holds similar views as well. Indeed, I think that the other members of this house who support this proposal are also putting their point of view for the very best of reasons. However, I think that they are misguided.

Mr Stanhope mentioned deaths. The sad fact is that if you are a heroin addict, and I have known many, there is a very good chance that you will die from using heroin. You may well be partially rehabilitated, you may well be off the drug for many years, but there is a very good chance that you will get back onto the drug. I have known many people who have died of heroin. I had a very good friend who died of heroin at about the age of 31 years. I went through primary school and high school with that person. I have known a number of people - relatives, friends and people I have met through the court system - who have made a valiant effort to kick the habit and who, apparently, have been rehabilitated and gone back to their families and back into jobs before suffering a relapse for some reason. Heroin is a terrible drug and there are no easy answers for it.

Mr Stanhope mentioned that the approaches we have tried have not worked, that prohibition has not worked and that the problem is getting worse and worse. I have had considerable experience in this matter, having prosecuted lots of heroin-addicted people in the courts for serious offences. Indeed, the current Director of Public Prosecutions, Mr Refshauge, used to defend many of them and we appeared against each other many times, often in front of Mr Justice Gallop, whose views on this subject also changed over the years. Whilst a number of measures have not worked, it can be said that we

seem to have become more and more tolerant and are trying to find more and more ways of dealing with the problem; but the problem has continued to grow unabated. I think the converse of what Mr Stanhope said could apply as well. We have tried more and more things. We have tried to tolerate it more. We have tried more liberal approaches and they, clearly, have not worked.

I am not going to comment on what happens in the United States, Mr Speaker. I went to a session at Kaleen High School organised by Dave Rugendyke and a gentleman came up to me with some literature indicating that, if anything, the American situation was improving. I saw that literature. I merely mention that. I am not going to comment any further on it. I have, however, had a look more recently at what the Swedes are doing. It is interesting and there may be some guidance for us there.

There are many problems with the Bill that is before us. The police have raised many varied and real problems with it - problems of enforcement, problems with heroin still being an illegal substance and people can be charged for possession and supply of heroin. There are difficulties there in relation to this safe injecting place, shooting gallery, call it what you will.

The fundamental difference between this proposal and having a heroin trial - I have real problems with that, too - is that at least the Government would be supplying the drug for the trial and I think that there would be more science to that, whereas with this shooting gallery the heroin would be an illegal substance. One of the big problems is the legal minefield that is being created, as indicated by the fact that we have amendments tonight and no-one seems to have got it quite right. There are varying views there. The police have real and understandable concerns about how on earth they are meant to enforce the law. Another real problem is that the heroin that will be used there will be, in most instances, the proceeds of crime. Maybe 85 or 90 per cent of it will be the proceeds of crime. That is something that really concerns a lot of the citizens in our community.

The courts are being sent mixed messages. It is a difficult enough area for the courts at present and I do not think that it assists the law to send mixed messages on it. Young people also will be sent the wrong message. Whilst I hear what others opposite say, I do not think that you can get away from that. A little later I will cite a survey of young people which was conducted in relation to this issue of drugs. I think that there are some very interesting messages for us in that. But we cannot get away from the fact that if this proposal is condoned by the Assembly, and it looks very much like it will be, there is a chance that it will send a wrong message to young people in our society. I think that we need to send the message to them quite clearly, and they are getting mixed messages at present, that taking drugs is incredibly dangerous, that it is something that they should avoid at all costs, and that in the case of serious drugs there is a very real risk that they will die.

In the past we have sent some very good messages to young people. We did so in relation to the campaign against AIDS. The anti-smoking campaign has seen a real reduction in the number of young people taking up smoking, especially males. The ACT public do not like this proposal. The overwhelming impression I have got from the people I have spoken to is that most of them are very much against it. I think that there

is real strength in the position that my party has adopted at the grassroots level of calling for a referendum at least, something Mr Hird mentioned earlier, before we go down this path. I would be quite happy if 51 per cent of the Canberra population said, "Yes, give it a go. Let us trial it. Yes, have a go at a heroin trial as well". I would be quite happy with that. But this is such a serious issue that we do need some sort of endorsement because to act unilaterally as an Assembly would be to go against what I perceive to be a lot of public opposition on this issue.

There are some real problems, too, with being overly liberal with drugs. We have some great historical precedents in terms of what has happened in countries where drug use has been rampant. The British fought and won a war in China between 1839 and 1842 over the importation of opium, amongst other things. For over 100 years that country suffered greatly from millions of its population being affected by opium abuse. The Japanese who took over Manchuria between 1931 and 1945 had the philosophy of deliberately handing out opium freely, to the extent that 25 per cent of the population was so doped up that they became useless and docile and easy for the invaders to handle. I am not quite sure what the communists did when they took over, but they seemed to overcome the very serious problems China had with opium addiction. I do not think that we in this country want to go down that track. We have some real precedents there to look at.

Going down the path of having a heroin trial is the wrong end of the so-called harm-minimisation approach. Harm minimisation is fine in terms of ensuring that people who are affected by drugs are assisted. Initially, you minimise any harm drugs do to them and then you try to get them off drugs. Prevention is also absolutely essential. We owe it to our young especially to do all we can to stop them taking up the use of illicit and dangerous drugs of any kind. The most dangerous of all for our society is heroin and we need to do all we can there.

Mr Speaker, I come now to the survey of young people to which I referred earlier. It is a particularly interesting document. It has a few things, interestingly enough, on working for the dole, which most of them do not seem to mind. The survey was conducted this year by the Ministerial Youth Advisory Council of 161 people in the ACT aged between 11 and 25. They were asked why they thought some young people take up drugs, and the results are interesting. The largest age group surveyed was the 14- to 16-year-olds and the top two answers there were 27 for "peer pressure/to fit in" and 24 for "fun". The next ones were 15 each for "to be cool" and "to escape problems". For 17- to 19-year-olds the majority, 27, voted again for "peer pressure/to fit in" and 24 voted for "fun". Availability and social acceptability, which Angela Woods mentioned at the talk at Kaleen High School, came out very strongly there. Of the 20- to 25-year-olds, 22 voted for "peer pressure/to fit in" and 15 voted for "escape problems". The number of people in that category was smaller.

Another question was: "In what circumstances do you think you would take up drugs?". A lot of them said, "Under no circumstances", but "peer pressure" featured fairly significantly. They were also asked questions in relation to whether drug education at school was working. Some said that it was doing something, whereas others said that it was not. One of the interesting comments there for the 17- to 19-year age group was that

it works for cigarettes but not for anything else. I think that is an interesting point in terms of drug education.

Among the suggestions made on how to improve drug education were comments that there should be more scare tactics and that it should be aimed at young people by young people. We are doing a bit of that. Also, it was said that it should start at Year 6 and go through to Year 12. I certainly hope that we will be doing that with our most recent education strategy. It was also suggested that drug education should be about how to avoid drugs being a part of our society and that more emphasis should be placed on the consequences. They were also asked whether they knew any ex-addicts and whether they knew what made them stop taking drugs. The main answers there were that they had had a bad health scare, that they gave up for their children or family, or that they realised that there was more to life. Significantly, their peers helped them to stop. Mr Speaker, I am quite happy to table that document, which is a pretty useful document. It was compiled this year and it shows what young people think.

There are measures which would be far more effective than having this trial. We have seen some significant advances with the use of naltrexone. The methadone program, if done properly, is something that at least enables addicts to operate normally in the course of daily life.

I had a look at what happens in Sweden and I will comment briefly on that, Mr Speaker. It has been estimated that there are between 14,000 and 20,000 heavy drug users in Sweden. They are classified as anyone who takes any illicit drug on, basically, a daily basis. The majority of the heavy drug users there are cannabis users. That is probably not very different from the number of regular drug users in Canberra, given some of the surveys we have had. Heroin users are a minority there. It is interesting that in the 1970s Sweden had a policy very much like ours in that penalties for the possession of cannabis could be waived if the quantity was limited. Basically, that meant a person's supply for one week.

Then Sweden clamped down. At present, approximately 6 per cent of the people they surveyed at about the Year 9 level have tried drugs and 9 per cent of the people in what they call their conscription age, which is, I think, 18 to 20 years, have tried drugs. In fact, only 10 per cent of their severe drug users are under 25 years of age. Sweden has adopted the approach of arresting people in the street over drug deals and putting them before the courts and of making sure that the schools, youth groups and community groups have appropriate information. It is really quite interesting to see what Sweden has done.

I am interested in the optimism expressed in the booklet I have here from the Swedish Embassy. I think it is an approach that we should seek to adopt in Australia. I would think most people in Australia, certainly all parents, would agree with it. I refer to the statement:

> A drug free society is a vision expressing optimism and a positive view of humanity. The onslaught of drugs can be restrained and drug abusers can be rehabilitated.

The booklet goes on to say that Sweden's drug policy is distinguished by its breadth and depth. Their municipalities and county councils and virtually all of their national authorities are, within their various fields, actively involved in drug control measures. Drug prevention measures have high priority within the police, customs, the public prosecution service, the prison and probation service, social services, schools and various leisure activities. To this can be added all the voluntary organisations and mass movements which, through their information activities and mobilisation of public opinion, help to prevent the spread of drugs in Sweden. Why on earth can we not do that here? Sweden has a population of nine million, but it seems that the number of addicts there probably is not very different from what we have in the ACT.

I will not go through the Swedish policy in any detail. Someone who goes into a remand centre is automatically subject to detoxification treatment. There is probably a lot more that we can do as a nation in terms of rehabilitating drug offenders than we are doing now. I will, however, quote the conclusion arrived at in the booklet. It makes a very pertinent point which applies not only to their society but also to ours. *(Extension of time granted)* The conclusion appears on page 32 of the booklet provided by the embassy, and reads:

> Drug abuse is dependent on supply and demand. If drugs are readily available and society takes a permissive attitude, the number of persons trying drugs will increase. In other words, even people in a favourable social and psychological situation will come to use drugs. If, on the other hand, drugs are very difficult to come by and there is a danger of being arrested, the number of people trying drugs will be reduced to those who, for psychological and social reasons, occupy a more definite risk zone. If, moreover, society can bring measures of support and treatment to this group in a vulnerable situation, it is very likely that drug abuse can be kept down.
>
> Thus the basic principle of drug policy is the duty of society to intervene - against drug trafficking in public places, by supporting young persons who are experimenting with drugs, and by offering treatment to those whose drug abuse is destroying them.

People might have real difficulty disputing any of that because not only is it about attacking the source of supply, but also it is about the means of supporting people who need that actual support, and that is of crucial importance. We have some very good measures here. I was glad to hear what Ms Tucker said about some of the steps that we are taking. But I think that there is a lot more that we as a nation could be doing to overcome this very real problem. In terms of the approaches we take to stop the use of drugs in our society and to assist addicts, there is a lot we need to do at the state level and, especially, the Commonwealth level.

Internationally there is a real problem, too. There has been an increase in production. A concerted international approach is needed as well. Quite clearly, there are a number of drug-producing areas in the world. They are doing so because of the profit. There may well be steps that the United Nations could take, perhaps led by the United States, which is one of the greatest sufferers in terms of illicit drug use because of its

population. If Colombia, for example, gets a $10 billion profit from drugs, perhaps the United Nations or the United States could pay Colombia $11 billion to develop another crop and offer assistance through the United Nations if the drug lords there are so strong that they could prevent the Colombian Government from doing so. That might amount to military assistance.

I should think that there would be a number of drug-producing countries throughout the world - often they are poor countries - where a concerted international approach would be of great assistance in drying up the drug trade. In fact, I think that the only place where that may not work would be Afghanistan because of the very nature of that place. If that were combined with a greater push in Australia for assisting people to get off drugs in a more concerted way than we have at present, both nationally and in coordination with the States, I think that would be of great assistance, too. We seem to be making inroads in terms of large customs seizures lately and the good work of various police forces. A lot more can be done there and a lot more can be done, too, on rehabilitating people who are defined as addicts. I do not think we are necessarily doing enough there. That is a very real problem for this country.

I do not think that having a safe injecting place or shooting gallery, call it what you will, is the right answer. There are too many legal problems with it, given the fact that the drugs are largely the proceeds of crime. It would appear from the fact that there is a large number of amendments that there are huge problems with how it will run. I think that there are real problems with the message it will send, despite the very best intentions of the members of this house who want it to occur.

We are taking steps towards having better education. There is a lot more that we can do there. I have tabled the results of the survey of young people because of the suggestions therein of young people themselves. It is up to us to act on those suggestions as there is a lot more that we can do there. It is of crucial importance, Mr Speaker, that we take a positive attitude to this matter. I fear that by going down the track proposed we are just reinforcing the fact that it is all too hard, that we cannot really avoid it, that it is something that we will just have to tolerate.

It is hard. It is going to take a long time to beat this problem, Mr Speaker. We will probably never get to the stage where our society will be free of illegal drugs. But it is only a fairly recent phenomena and I would hope that, with a concerted effort in terms of better rehabilitation, perhaps more effective law enforcement, assisting addicts more than we do and trying naltrexone and alternative forms of treatment, we will be able to get rid of this scourge of society.

Unfortunately, I do not think that having a safe injecting place is the way to go. I think it sends all the wrong messages. My colleague Mr Smyth says that if it saves one life it will be worth it. I suspect that, because of the wrong messages and the problems that it will cause, we might well see more people die because of it than would die if we went down the track of trying our very best to prevent people taking up drugs and to help cure those who are addicted at present.

MR HIRD: I seek leave to table the document I referred to earlier this day of the Parliament of New South Wales, namely, the report of the Joint Select Committee into Safe Injecting Rooms on the establishment and trial of safe injecting rooms.

Leave granted.

MR CORNWELL (9.27): In following the tradition I have followed in the past of speaking on matters of conscience issues, I will begin with a quote:

> Whom God would destroy He first sends mad.

That was said by James Duport, and I think it is very appropriate in respect of the latest so-called progressive stupidity. Item:

> We will not allow smoking in the proposed shooting gallery because it would not be in line with smoking legislation for public venues in the ACT.

That appears on page 15, under "Operation Considerations", of the report on the SIP research trial. An SIP used to be known as a safe injecting place; but now, of course, it is known as a supervised injecting place, as Mr Hird very perceptively picked up. Item:

> At registration, clients of a SIP will be asked to abide by an agreement...including a prohibition on buying and selling of drugs in the SIP or its immediate vicinity.

That appears on page 18 of the same report. Item:

> ... the cost of extended SIP opening hours would be prohibitive and that therefore consideration could be given to the SIP being open late for two nights.

That appears on page 22.

I ask you, Mr Deputy Speaker, whether I need to present more evidence of the madness of the proposal than these three examples. One: It is okay to use illicit drugs but not to smoke them, because smoking in government public places is against the law. We will crack down on cigarettes, which are a legal substance, but we will not crack down on an illegal substance within a government facility. Two: It is okay to expect these addicts to sign an agreement and stick by it, including a prohibition on buying or selling in the shooting gallery or in the vicinity of it. I can accept the first part, but I would suggest to members that the second part is an absurdity. Three: In spite of the breast beating about saving lives, the shooting gallery will keep little better than library hours because of the cost.

I believe that those examples of naive, bleeding heart zealotry - leavened by a dose of bureaucracy, such as the laws relating to anti-smoking - typify the absurdities that the proponents of the shooting gallery expect us to accept. They are not, however, the main reason for my opposition to the proposal. My objections are more fundamental. Like the

unlamented yes campaign at the recent referendum, there are too many unanswered questions, such as whether we will be dealing - no pun intended - only with heroin or whether other illegal drugs will be permitted and thus, I believe unintentionally, encouraged in the shooting gallery. Another is the ambiguous role of the police. There is also the problem other members have referred to of whether we will be sending the wrong message about illegal drugs to the population.

There are other reasons for my objections and why I think we should be deeply concerned about this proposal. Prime among them is the obfuscation we have seen on this issue. There are the statistics, for example, which can be used to support either side's argument. Frankly, I would not bother talking about success or otherwise based on statistics. There has been the citing of successful European models, such as the Frankfurt one, when the European approach, by its very rigid nature, would never be accepted by the wussy, politically correct proponents of this trial in the ACT.

Mr Berry: All those pinkoes; that is the trouble.

MR CORNWELL: Perhaps so, Mr Berry. There is the small but vocal group of shooting gallery supporters who, through emotion or ambition, have captured the media high ground. There is the health bureaucracy which, despite repeated public and private challenges, has yet to produce figures on the local success rates for existing treatments. Heaven knows that they have been publicly challenged to produce these figures, but they have never produced these figures, never mind figures on initiatives such as a shooting gallery. There are the local courts which too often hand down lenient sentences for drug-induced crimes, ignoring the terror suffered by the victims and the loss of community confidence in the rule of law. There are some in the local media who perpetuate the idea that we should feel sorry for the law breakers and the drug thugs in our midst. I believe that all of those reasons raise valid concerns against having a shooting gallery. Yet we push ahead; we ignore the obvious.

The use of insidious calming phrases, such as "a supervised injecting room" or "harm minimisation", is, I suggest, directed to giving people a sense that there is control, that these drug matters are in hand and we are working our way through the problems - "Trust me, I am a politician", or a bureaucrat or an academic. Despite these calming phrases, people will still get mugged, they will still have their houses burgled, they will still be held up in shops by addicts with syringes. Despite the calming words and despite the existence of a shooting gallery, nothing the words or the facility itself represent will stop one person becoming another addict or prevent one drug thug committing another crime.

We push ahead in the face of the proven lies about needle exchanges, which we know are simply needle distribution systems, with 162,300 needles being handed out willy-nilly in 1998-99. Having done that, we seek to cover up this misguided approach with "sharps hotlines", another calming phrase for needle collecting, to protect the general public from the behaviour that our own policy has created among irresponsible and selfish addicts. Of course, all these needle problems could be avoided if we had a proper needle exchange program, that is, as the phrase suggests, the exchanging of one for one. That does not seem to be being proposed for the shooting gallery; so, presumably, the so-called exchange lie will continue to be bandied about. Whilst the

misleading title given to the needle exchange program might not worry its supporters, it does cause any sensible person to ask, "If its promoters can mislead in the naming and operation of a needle exchange program, why should we trust them in the naming and operation of a supervised injecting place?".

And what about community consultation? I am sorry that Ms Tucker is not here because, frankly, a twig cannot be moved in the bush without the Greens or someone equally as politically correct calling for consultation, but there is total silence on having an illegal drug injecting room.

Mr Moore: Oh, Greg, we have consulted to death.

MR CORNWELL: The reason for the silence is twofold, I would suggest, Mr Minister. The obvious reason is that it would not be supported in the broader community. Secondly, apparently too many members here are prepared to condone a "whatever it takes" approach to having a shooting gallery, including allowing for the DPP and the Attorney-General to have a protocol that would prevent the prosecution of shooting gallery users, thus rendering police action pointless and, effectively, decriminalising heroin use inside the gallery and probably discriminating against other users outside the gallery. To agree to this "whatever it takes" protocol is to create a dangerous precedent that could see protocols used indiscriminately to circumvent prosecution of the law - again, I would suggest, damaging to community confidence in the justice system.

I was interested in a comment made on Tuesday night by Mr Moore in speaking about, I think, transport legislation. I rather think it makes a mockery of this matter. According to the uncorrected proof copy of *Hansard*, Mr Moore said:

> It is our job here in this chamber to set the rules and I have no problem with that. It is the court's role to apply those rules and that is the distinction we are making tonight because we are also saying not only are we setting the rules but we are also going to apply the rules in this set of cases.

So much for the separation of powers, because the courts will not have a chance to act in terms of this shooting gallery. I look forward to your response in due course, Mr Moore.

If the legal and social problems of the establishment of a shooting gallery are self-evident, what is not so clear is the position out on the street for those who do not or will not use the place. I have to say that I think that we should be a little concerned about those people. I ask again: Why should the addicts outside not have the benefit of protection from the law like their colleagues inside Fort Fix? The anomaly between these haves and have-nots is so glaring that I suspect it is, as mentioned earlier by one of my colleagues, part of a longer-term plan to legalise heroin and other illegal drugs.

For the same reason, I believe that Mr Stanhope's sunset clause on this trial really is unnecessary, because I can tell members now that the trial will be claimed by its proponents to be a success. It cannot afford to be anything else because, to put it bluntly, too many reputations are riding on it. That concerns me because it signifies a surrender

in the drug war - a war we have not begun to fight, in my opinion, and of which we know so little, save that of their own wilful choice tragically people become its casualties. If we are to fight to victory this pestilence, agonising soul-searching will be required on behalf of parents and families of the dead and the addicted and of society in general to try to find real explanations for these human tragedies.

Earlier, Mr Stefaniak gave some information about peer pressure, fun, et cetera, which are no doubt part of the answer. But I think that we will all have to look a lot deeper before we can come to any real conclusion. Might I argue that in our quest for these answers we must not compromise. For example, I do not think that we should move to institutionalise illicit drugs, as we are doing with the shooting gallery, nor do I think that we should go soft upon punishment in the courts for any traffickers or fail to call in debts from both locally born and multicultural new Australians to dob in some of these traffickers.

Neither should the small group of people elected to the Assembly, the majority of whom appear to be soft on the behaviour of people breaking this law, presume to inflict upon the ACT community the unknown consequences of having a shooting gallery, at least not without asking for the opinion of those who will suffer or be threatened criminally by these consequences, namely, the people of Canberra. Of course, the easiest and fairest way of doing that is by having a referendum, as has been stated before. If we are not prepared to do that, if we are not prepared to carry out the ultimate consultation process upon a crucial matter that affects every person living in the ACT, those who oppose such a democratic approach should and will answer for it at the next election.

I would suggest to those who oppose this proposal that we must keep up on it and we must be vigilant. We must keep asking questions. How many are living? How many are dead? What is the success? What is the failure? We must continue to ask these questions every three months or every six months. *(Extension of time granted)* I believe that this proposal is ill thought out. The proposal owes more to the heart than the head. I am convinced that it does not have the support of the majority of the people living in the ACT. I think that it has been born of deep sorrow, of misguided compassion, in some anger and in a false sense in some cases of being progressive. But it also demonstrates that, among the wrong-headed, an apparently clever, caring community can sometimes be too clever by half.

I do not believe that we should inflict the unknown perils of a shooting gallery upon Canberra for any of the reasons I have just listed as justification by its supporters and certainly not without asking our citizens first because a shooting gallery could not be swallowed up in Canberra like it could in a city such as Sydney or Melbourne. Here, all our constituents will be exposed to its dangerous crime-based fallout. The drugs are still illegal. The people who use them still have to get money to buy the illegal drugs. I do not think that the banks are going to lend them that money. They are going to commit crime and I do not believe that anybody who is supporting this suggestion for a shooting gallery should inflict that upon the people of the ACT.

I would like to conclude with another quote. I would like to quote again Mr Moore of last Tuesday night. According to page 133 of the uncorrected proof copy of *Hansard*, he said:

> ... often the very worst decisions are made with very high motives.

This legislation is just a tragic quality of life altering example of how true that quote is, and it will affect the law-abiding people of the ACT. I would urge those members who are going to support this proposal to think again on behalf of their constituents.

MR RUGENDYKE (9.45): This week a new standard has been set in this chamber as far as process goes. Here we have an Assembly that is intent on rushing this Bill through tonight when there are unanswered issues. The standard was set on Tuesday after Mr Osborne presented the report of the scrutiny of Bills committee on the legislation. It highlighted five major issues, along with a series of concerns related to civil liberties and treaty obligations. Supporters of this Bill want to rush it through without the scrutiny of Bills committee meeting at least to discuss the Government's response to the report.

The first problem is: How can there be a government response when the Bill is basically the agenda of a ring-in Liberal, Michael Moore, while the majority of the Liberal Party does not support the Bill? As far as I am aware, a response has not been formally tabled. That debate was had on Tuesday, but its legacy lives on. Mr Osborne made the point that members were ignoring process. Any member who supports the debating of this Bill tonight is totally ignoring process, and that includes Ms Tucker and Mr Stanhope. Any member who supports having this Bill go through tonight can forget about bringing up process as an excuse for delaying a Bill in the future.

They have set the standard; they have laid the ground rules. I will not listen to lack of process being a valid argument for putting off debates from here on in. To put this matter in context, my burnouts Bill, which received support yesterday, was referred to a committee 12 months ago. The scrutiny of Bills committee's report on it raised three drafting points, less than half the concerns raised in the shooting gallery comments. Yet my Bill was tied up in a committee for a year. The scrutiny of Bills committee's report on a shooting gallery will not even get to a committee before it is passed. As I said, the standard has now been set.

I have fundamental problems with this strategy. It is all about maintaining the level of harm and not getting people off their habits. The shooting gallery proposal does not place sufficient emphasis on getting users clean; it maintains the habit. Supporters of it say that regular contact with health workers in the shooting gallery will give users the opportunity to listen to counselling and advice that may persuade them to change their ways. Surely they get that sort of assistance now. Counselling and support are provided by organisations such as the Drug Referral Information Centre right now. Why do we have to duplicate that service? Mr Stanhope and Mr Moore have failed to convince the community that there is anything new in this proposal.

I have said before and I say again that the taxpayers will be the ones hurt most after this sad day. They are the ones who will be footing the bill for this proposal - not once, but twice. They are the ones who will fund this proposal. They are the ones who are being asked to pay for a shooting gallery that will maintain the habit and they are the ones whose houses will be broken into and whose possessions will be stolen by the users to

pay for their heroin habit. I lay the blame for this proposal going ahead squarely at the feet of Mr Stanhope. He spruiks in the media that he is being courageous by taking it on. Mr Stanhope, the community will not look upon you as a hero for doing so.

Without the Labor Party, the shooting gallery would be a non-issue. The Labor Party, supposedly the party representing the workers, was not even prepared to meet the police union, let alone listen to their concerns. The members of the police union are going to be the ones at the centre of the practical application of the shooting gallery Bill, but their union could not even get a start with the leader of the Labor Party when it contacted his office to set up a meeting in the lead-up to this debate. The same Mr Stanhope said that he wanted to take the community with him on this issue. I am sorry, Mr Stanhope, but you have rushed ahead. You broke before the starter fired his gun and left everyone else behind. I have lost count of the number of times that Mr Stanhope has pointed the finger at the Government for being arrogant. The same man has turned his back on the police union and the community.

The Canberra community does not trust the drugs agenda being driven by this Assembly. It started with the decriminalisation of cannabis - the lazy decriminalisation of cannabis that has never been reviewed. All that it has achieved is an increase in the level of tolerance to drugs. The Bill that we are debating tonight will take this tolerance to a higher level.

In short, the proposal contains a myriad of holes and practical problems. It would be dangerous for the Assembly to support this proposal, especially as Jon Stanhope and Michael Moore are trying to plug those holes on the run. They are involved in a reckless rush to implement the shooting gallery. This type of project should not be imposed on the community in such a slap-dash manner.

The fundamental legal concerns are alarming. There are grey areas for police and citizens that should be clearly outlined in the Bill before it is debated, let alone passed. For example, there are no clear guidelines on entry requirements for those people under 18 years of age. There is no clear direction on what will constitute the so-called safe zone for carrying drugs. That leaves the door wide open for dealers to get away with their illegal trade.

Then there is the charade of it being a scientific trial. How can it possibly be a scientific trial when there is to be no control over the type of substance that is brought into the premises? There are too many variances. Calling it a scientific trial is merely a feeble attempt to pose as complying with our United Nations treaty obligations.

Last week I had a conversation with the father of a heroin addict. He has watched heroin destroy his daughter’s life and he said that having a shooting gallery would not help his daughter. A shooting gallery feeds the habit. It does not encourage abstinence and that, in my view, is the basic failing.

The other point I would like to mention is the probability of addicts using such a facility. I have had quite a deal of experience with drug users. I know that when they are craving for their next fix the place it occurs in is not an issue. More than half the overdoses happen at home. They just want a hit and they want it now. Setting up

a shooting gallery would not change that mindset. Do you honestly believe that addicts living in Gordon or Holt would go to the trouble of catching two or three buses or whatever else it takes to get to the facility in Civic before injecting themselves? I spoke with a heroin addict who lives in Kingston. I asked her, hypothetically, "If you were a heavy drug user and you scored in Kingston, would you go to Civic to shoot up?". The answer was no, she could not be bothered. She just wanted the hit.

I believe that the present services must be addressed before we make this quantum leap. The Government cannot even get the methadone program right. Addicts have to go on a waiting list for methadone and, in many cases I am aware of, addicts lose the desire to stop and are back in the addiction cycle again before they are admitted. If there is going to be in the vicinity of $2m spent on having a shooting gallery, the community deserves at least a rock-solid proposal that satisfies the sensible questions being raised. That has not occurred. I will be opposing this Bill.

MR CORBELL (9.56): Mr Speaker, along with my colleagues in the Labor Opposition, we will be supporting this very important Bill this evening. We do so from a position of detailed and considered decision-making. We do so because, at the end of the day, as other members have said in this place, this is fundamentally an issue of compassion.

Mr Speaker, when I was first elected to this place this was an issue which I knew very little about, but in my time here I have had the opportunity to speak with many people who have experienced directly the consequences of heroin use, the often tragic consequences, and I am disappointed and alarmed at the tenor of some of the language we have heard from members here this evening. I just want to read out what I have noted down during the debate that I have heard. The words we have heard are "plague", "evil", "selfish", "element", "ghetto", "drug thugs", "criminal element", "criminal scourges". Mr Speaker, this is the language of us and them. It is a language which is divisive and a language that attempts to portray good and bad. Mr Speaker, it is an inappropriate language for what is such an important issue.

The reality, Mr Speaker, is that so many of those who are involved and caught up in the cycle of drug abuse are there not through any direct fault of their own, but simply through circumstances which they have been unable to control, or which they thought they could control and suddenly found they could not. Many of the people involved in drug abuse come from stable, solid family backgrounds, with caring and loving parents, and a fulfilling social life. Many people involved in drug abuse also have jobs. Many people addicted to heroin are involved in high-paying, creative, talented positions in our society. But they all battle against an illness, an addiction which they find so very difficult to control. It is not a case, Mr Speaker, of us and them. It is not a case of evil and good. It is not a case of black and white. I think that really draws the line between those who say we have to paint these people involved in drug abuse as people who are on the dark side of society and we, in the corner of light, know what is best. That is not the way to proceed with this debate.

The provision of a supervised injecting place, as some of my colleagues have said, is simply one part of the solution. It is not the solution. Indeed, Mr Speaker, I believe that many people involved in drug abuse, many people addicted to illicit drugs, will not see

much use for this facility; but there will be some who will use this facility because they believe it to be a valuable place for them to inject safely.

Mr Speaker, it has been said from the other side of this place, I think by Mr Smyth, that if the supervised injecting place saves only one life it is a positive step. I agree wholeheartedly with that comment. I agree with that comment because that sort of presentation of the issue puts it in its context. It says, "This is not the be-all and end-all. This is not it as far as the debate goes". Once we have made the decision it is not all over. We cannot walk away and feel assured that we have fixed the problem because that will not be the case. This will be an issue that we as a society must continue to tackle. This is not a debate or an issue that will go away easily, but providing another option which is as safe as it can be, an option which is compassionate and which demonstrates that we do care as a society, is something that should be pursued.

Mr Speaker, the Labor Opposition has worked constructively in this debate. I want to commend my leader, Mr Stanhope, for the real leadership he has shown on this issue. I do so not in any partisan way. I say this because it is refreshing to see a leader of any major political party prepared to come out and say, "We know that this issue is difficult. We know that this issue presents problems and we know that it polarises many people in our community, but we are going to support this Bill because we believe it is the right thing to do". That is a refreshing approach. It is a refreshing approach for me to see coming from my party. I have given Mr Stanhope my full support for the approach he has taken.

Mr Speaker, another comment I would like to make relates to the us and them philosophy we have heard expounded in the chamber tonight. In many respects I think it is the philosophy similar to that in 18th century England, where people were gaoled, indeed transported, for the most minimal of offences, not against people but against property, when they themselves were caught up in a broader social question of poverty and unemployment and an inability to participate fully in society. In 18th century England those people were punished by society, labelled as criminals and given draconian punishments.

In modern day Australia there are those who would argue that we should take a similar, uncompromising line with those who are caught up in a social malaise. That is, to my mind, Mr Speaker, a simplistic, uncaring and uncompassionate view, and we should not attempt to emulate it. We should not be prepared to agree that it is the way to proceed. Mr Speaker, instead of using the word "selfish", I would like to use the word "compassionate". Instead of "plague", I would suggest we use the word "illness" or "addiction". Instead of the word "criminal", I would suggest that we need to use a word such as "victim".

Mr Speaker, people are caught up in this most dreadful of malaises in our community and we will not progress the issue by simply saying, "It's us and them", "It's black and white", and "It's a case of just saying no". Tonight we have the opportunity to demonstrate an approach which is caring, compassionate, sensible and worth while. I urge members to take such a positive step.

MR QUINLAN (10.07): Mr Speaker, I had not intended to speak in this debate. In fact, I do not really intend to speak directly on the topic. I just want to respond, particularly, to Mr Rugendyke because of the selective way that he mentioned some of the people who will support this particular initiative, but not all. I think it is of grave concern that he spoke of Ms Tucker and Mr Stanhope and then repeatedly addressed his remarks at Mr Stanhope, including squarely laying blame at the feet of Mr Stanhope.

Quite obviously, if this initiative gets up, it is going to get up with the support of the majority of members of this house. I am afraid, Mr Rugendyke, that you are showing an inordinate bias in your approach, just as you have in your public pronouncements. Remember that this particular initiative is the brainchild of Mr Moore. Remember that this initiative, as far as I know, has the support of Ms Carnell and Mr Smyth, and I know that you are much closer to the Liberal side of politics than most of the people in the Liberal Party. However, I think you must take a wider view and look at the matter in a very balanced manner rather than the way you have now.

Mr Rugendyke: I do. You have hijacked it.

MR QUINLAN: Remember, Mr Rugendyke, it is Mr Stanhope who has ensured that before this trial there will be caveats placed on the rest of the drug program. This is not the only expenditure that the Government is involved in in relation to drugs. Remember, it is Mr Stanhope who has insisted that it have the framework of a trial. Now, open your mind for once.

MS CARNELL (Chief Minister) (10.09): Mr Speaker, the issue of drug abuse is very complex and almost everyone has accepted that there are no easy answers. If there were any easy answers, of course, somebody would have come up with them somewhere in the world and would have had good outcomes. The fact is that that has not happened.

The other thing that is interesting about drug abuse, and sometimes I think we forget about it, is that it is not just in Western societies and it is not just recent. In fact, drug abuse of varying types has happened for as long as we have had written history. It has happened in all cultures. In countries such as Ecuador, beetle nut and other mind-altering substances are used. Heavens, we had opium wars on at least three occasions, I think. The fact is that human beings, for whatever reason, seem to have a need to use mind-altering substances to some level at some stages. Mr Speaker, you could easily say that it is only when we get to the illegality of some of these substances that we really see some very real problems in society, but I am not going to get into that debate tonight, although I am always very willing to have it with anybody.

Mr Speaker, I think I am probably the only one in this Assembly who has worked over a lot of years with people who are drug dependent, and probably the only one who came into the Assembly, even including Mr Moore, I think, with a very definite view on this issue, and one that has continued to develop over the years. That does not mean that my view is worth any more than yours, Mr Speaker, or Mr Rugendyke's, or, for that matter, Mr Kaine's. I respect every single view in this place because there is no right answer. There is no right answer for everybody, but I have to say, Mr Speaker, that there is a right answer for me. That right answer for me is to support a heroin trial, a safe injecting place, or any initiative that has any chance whatsoever of saving the lives of

some of the extremely unfortunate young and not so young people who get tied up in the drug scene.

Mr Speaker, the thing that fascinates me about this debate tonight is that you could take out SIP and plug in needle exchange, heroin trial or any of the other more innovative approaches that we have ever looked at for drug treatment over the years. I remember quite a long time ago, and a long time before politics for me, being involved in a very similar debate with regard to needle exchange. I remember spending a lot of time out on the hustings, one could say, in pharmacies around Australia trying to convince pharmacists to be part of a needle exchange program, and exactly the same arguments were put - that it would encourage use, that it was the beginning of the end for young people and that it was a disaster.

What has happened as a result of the needle exchange program? What has happened is that we now have one of the most successful public health programs in the world; one that is seen worldwide, not just in Australia, as a very real success. I suppose it has saved countless millions of dollars and a huge number of lives. Those are not just top-of-the-head comments. If we remember back to when we first started to realise that the AIDs epidemic was happening in America, the projections for loss of life in Australia were scary. At that stage we were thinking that hundreds of thousands of people were likely to die, and they did not. Why didn't they? They did not because we moved in very quickly with needle exchange and it meant that the number of people who became HIV positive from multiple use of needles was cut dramatically and very quickly. It certainly meant that we still had to do a lot of work in the homosexual community with regard to safe sex, but it did mean that one significant method of spreading HIV had been significantly reduced. In other words, it worked. The statistics are there.

Mr Quinlan: Do you think Dave would have voted for it?

MS CARNELL: I do not know.

MR SPEAKER: I think he can speak for himself, Mr Quinlan, and interjections are out of order.

MS CARNELL: I think we need to respect each others views on this. I think Mr Stanhope made some very uncalled for comments about the fact that members on this side of the house will vote differently on this issue, as we have on these sorts of issues on almost every occasion since I have been in this place. The reason for that, Mr Speaker, as you well know, is that I know you feel very strongly about this issue. I know that you believe absolutely in the position you are taking, and you know that I believe, absolutely, definitely, in my heart of hearts, that I am taking the right approach. I would no more ask you to vote against your conscience than I know you would ask me. Similarly, that is the case right across the party. That is one of the reasons why I am a Liberal. We do respect each other's views on important matters like this. We would not require people to vote against their conscience, and that is certainly what will happen here tonight.

The issues surrounding the supervised injecting place are very interesting, Mr Speaker. I think it is important for me to mention one point that nobody else has raised tonight. I do not want to speak on things that have already been spoken about. I think what a number of people in this place do not realise is why a supervised injecting place potentially will work. People have commented that the substance that people put into their arms will still be of unknown strength and unknown quality. That is true, but narcotic overdose is very easy to treat. You can treat it very quickly. One dose of Narcan, an injection, will immediately reverse the effects of the narcotic. Toxic effects related to other substances that may be mixed with the heroin are very rarely fatal. In fact, I have never heard of them being fatal. They can certainly cause veins to collapse and all sorts of other things, but it is the narcotic that causes the death because heroin and other narcotics that are being injected cause respiratory depression, particularly when used with alcohol and other drugs, and people simply die. The fact is that we can save them if we are there on the spot to do it. Quite regularly people wake up not being very happy about the whole situation because they tend to be in narcotic withdrawal, but for all of that we have saved their lives. So it does not matter to a large extent what is in that heroin, or how strong it is or how weak it is. If we have somebody on the spot, in 99 per cent of cases they will not die - in fact, probably in 100 per cent of cases.

The other thing about a supervised injecting place is that we will have an opportunity to get to people who may not be ready or willing to access our methadone programs or our other programs, but they still do not want to die, Mr Speaker. Now, it is hard to believe. You would think that somebody who is putting a needle into their arms a couple of times a day not knowing what is in it must want to die, but they do not, Mr Speaker. They want to live. That is why they will use the SIP. When they use the SIP we will be able to start making sure that information is available to them with regard to services, support, counselling and other ways in which we may get them into methadone treatment or other forms of treatment when they are ready. So we will be able to save their lives, stop the heroin killing them. We will be able to access them and hopefully move them into programs, and by doing that we will be able to save some lives. I believe it will be a success.

You just have to have a look at what has happened overseas. I accept that they were not very scientific trials. Consider the situation in Frankfurt in Germany, a city that has had safe injecting places for nearly 10 years now. In 1991, 147 people overdosed and died in Frankfurt. In 1997 that number was down to 22. In 1992 the ambulance services were dealing with 15 drug-related emergencies every day. They now deal with two a week. In 1992, 70 to 80 per cent of heroin addicts had HIV. That is down to 18 per cent now. The number of people who are homeless in Frankfurt has reduced, and there has been a decrease in crime over the last decade. Break-ins into cars and so on are down by 30 per cent and robberies are down by 20 per cent. This is at a time when in Australia robberies are up and car break-ins are up. We are going in exactly the opposite direction. In a Western world city, where the standard of living and standard of education is not dissimilar to what you see here, and where they have tried it - I fully accept that it was not a very scientific trial - the statistics look very good. On that basis I believe we have to give it a go.

This is not about just giving this a go because somehow this will be a panacea, because it will not be. This is one of the broad range of treatments that we need to try. One treatment will not suit everybody, as we know, which is the reason why we have a whole-of-government drug strategy on the table to integrate all of our service delivery. A heroin trial is part of it. A heroin treatment program is part of it, as are abstinence programs, as is methadone, as is counselling and as are support mechanisms.

Mr Speaker, I have worked with people with drug problems for most of my professional life. They are our kids, Mr Speaker. They are kids who, in many circumstances, went to good schools and who came from good homes. They are bright and capable and they have a huge amount to offer. As parents, if we have not had a drug problem in our family, we should really thank God that we have been that lucky, because I would have to say that it is not, on the whole, due to good management. In fact, there, by the grace of God, go I. It could happen to any of us as parents. From that perspective, if it ever happens to any of my kids or any of their friends, I would like to think that we have done everything we can to keep them alive until they are ready to handle whatever it might be that is causing them not to be able to deal with their drug problems at the moment.

Earlier somebody made the comment that if people use or inject heroin or narcotics it is just a matter of time until they die; but it is also a matter of time until they grow out of it. We should make sure that the matter of time that happens to our drug addicted kids is the matter of time until they grow out of it, until the treatment program works for them. That is why I am going to support this. I think it is worth a shot. Two years is worth some time. The fairly small amounts of money that this will cost are worth it. We will see once and for all whether it does work, scientifically, with proper evaluation. At the end of that time, if it has not worked, if we have not actually achieved anything, I will be the first one to say, "Look, we were wrong on that one. Let us try something else". If we are right, I hope the people who are opposing this tonight will be equally capable of standing up and saying, "Well, it did work, so let us extend it". Most importantly, Mr Speaker, what we all have to do tonight is respect each other's opinions, and accept that every person who speaks tonight has thought about this issue, has researched this issue, and is speaking from the heart.

MR HARGREAVES (10.23): Unlike some of the other speakers, I do not have a prepared speech on this Bill. I have been listening to the debate down here and while upstairs. I want to put on the record that I was dead against any thought of a safe injecting room because I did not see anything safe about it at the beginning. I have to say that, after talking to a lot of people around the traps about what exactly this is about, I started thinking a little bit more deeply and looked into my own experiences with regard to this. I want to pay tribute to Brian McConnell and his family for coming here tonight because it is people like that family who jolt us into thinking about it and give us a reality check.

Mr Speaker, we can attack the drug problem with effective police and customs action, and I think we ought to resource those areas as extensively as necessary. That is one of the things that we really ought to do. We also have to make sure that we resource the support services for the police too, because they are the people who turn up to handle the bad part of this problem. Mr Speaker, I was really swayed when the Youth

Rehabilitation Service was mooted because that is attacking the problem from the other end. We are actually attacking the issue from both ends.

It is absolutely imperative that we give kids an alternative. If they are sprung having a bit of an experimentation with drugs and are just hooked, the current system brings the weight of the penal system upon them. It turns them against a society which would try to give them succour and drives them into that vortex of drug addiction from which, sadly, some of them never emerge. This Youth Rehabilitation Service is a ray of light. Since it has been established it has already saved the one life that Mr Moore referred to. He said that if we do this we will save a life. I reckon he has already done it. I congratulate Jon Stanhope for pushing it and for Mr Moore for establishing it and the Government for funding it. I also congratulate all of those people with the vision to run it.

I am supporting this Bill because it deals with a trial. The supervised injecting place is not to be an ongoing thing for evermore without justification. We are going to try something which reportedly has had some measure of success overseas. Not to try something like this is to give up; it is just to leave them to it. How many people here have walked around City Hill on a Monday morning as I have, twice a month since I have been here? I have not visited the area once without finding a discarded needle. Where are those people? Some of them go home. Some of them do not. Some of them have not got a home to go to. What are we doing for them? If we do not try something, what are we doing for them?

The location of an injecting place is immaterial to me. I would hope that people have enough compassion in their hearts that they would be putting their hand up to locate it. What in fact is happening is that a number of self-interested people are saying, "Not in my backyard". I say shame to that.

I am supporting this Bill for another reason. The Chief Minister said that she is probably the only person here who has dealt with people with drug problems for a significant length of time. How many of us have sat at a bedside in the critical care unit of the hospital while a daughter came out of a drug overdose? I did, and I have to say, Mr Speaker, that it was, without a doubt, the most shattering experience that I have ever had. I went through the usual feelings of guilt, blame and all that sort of stuff, and wondered why and what on earth was going on. She nearly died. Fortunately, she did not, but she will bear the scars for the rest of her life. If it had not been for those wonderful people in critical care she would have died.

Mr Speaker, when she was silly enough to do this - it was silly; it was nothing much deeper than that - if there had been somebody around at the time she would not have spent a week in critical care. She would have spent a few hours in a pseudo casualty ward, but she did not; she spent a week in critical care. I spent a week on a camp bed next to her. To those people who are not clamouring to have such an opportunity next to them, I say, "Just think about it". I do not want any parent to go through what I did. I do not want any parent to go through what the McConnell family went through. If we stand idly by and adopt a self-centred, nimby attitude to this sort of thing, we can all stand up ashamed of ourselves.

This is an attempt. I will join with the Chief Minister in saying that it will not continue if it is not successful. If it is successful, I for one will be overjoyed. I will tell you something else for free, Mr Speaker - so will my daughter. She has said to me on a number of occasions - I must admit that I have not taken up the offer - that if there is any way that she can help somebody not to go down this track, all I have to do is give them her phone number. What we are saying here is that our society is giving people that phone number.

I urge people to think long and hard about whether or not we should take a risk. Take a risk in what? The Government has already established the Youth Rehabilitation Centre. Was that a bit of a risk? Lives have already been saved. As Mr Smyth has said a number of times in the chamber about different Bills - I must admit that I have given him a bit of stick over it because I have sometimes doubted his sincerity, but I do not on this Bill - if it saves just one life then it is worth it. He is right. In this instance we do not have any choice, Mr Speaker. We have absolutely no choice whatever but to support this trial.

MR SMYTH (Minister for Urban Services) (10.31): Mr Speaker, I have said in this place on many issues, as Mr Hargreaves has just indicated, that if something saves one life then it is worth it. We all travel down paths that lead us to different places at different times. For me, an issue like abortion is quite clear. If I can save a life, I will. It is the same with euthanasia and the same with capital punishment. The opportunity on Tuesday to apply mandatory sentencing in a way that sends to those who drive their cars in a dangerous way or under the influence of alcohol the message that it is unacceptable to do so was great as well. The opportunity to stand up and support the establishment of a medically-supervised injecting place is yet a further occasion for me to say that I believe that we need to do everything that we can as a society to save human life. But it is not a path that is easy to get to sometimes.

I would have to say that I have changed my opinion over the years. Perhaps 10 years ago I would have said that such people were guilty, that they were scum, that they were losers, that they were bludgers, that they were crims and that they deserved to die. But I have to say now that I was wrong. The path to that position was through the death of a friend who did not choose to become an addict. She became an addict after a series of very serious operations that left her addicted to morphine. Once you are discharged from the medical system you cannot acquire morphine very easily, but you can get heroin. She died alone with a needle in her arm and the world lost a really great person. But she did not have a chance. She did not follow the paths that many other drug users follow. For me, she is the exception to the rule that would make us all say that they are guilty, scum, losers, bludgers, crims and users because she was never any of those and we should not say that about those who use now.

The second thing for me was a briefing from Dr Gabriele Bammer about the heroin trial. I have to say that the information that that lady presented was just compelling. The third incident for me happened after I became a member of this place. It happened when Bill Stefaniak and I went to DRIC, because I still had more to learn. As Maureen was showing us around DRIC and talking to us about what she did, a young couple came in.

Obviously, the girl had cajoled the bloke into coming up there and he collapsed into unconsciousness on the couch. There it was happening right in front of us. He had shot up whatever the concoction was that he had had. That his friend had the wherewithal to take him there is more than likely what saved that young man's life.

I have seen people close to death and I have been with people when they have died. One of the young ladies at DRIC kept this man alive by breathing for him. His brain was that addled by whatever cocktail he had consumed that she actually had to tell him to breathe. She stood next to this guy and said, "In, in, in", and he would breathe in. If she did not say, "Out", he would not breathe out. She would go, "Out, out, out, in, in, in, out, out, out". For the couple of minutes that I sat and watched, this girl had this boy's life in the palm of her hand. It was as simple as that; she kept him alive. It is because DRIC was there and his friend had the sense to take him there that the young man is, I assume, still alive. I left and the ambulance drivers arrived. They spoke to him and gave him an injection that revived him. It was because he had someone to take him somewhere that he could get the help that he needed that, I assume, he is still alive today.

The point of all of that is that you do not have to like it and you do not have to be comfortable with it; but, if you are not comfortable with it, then I think you really need to reassess your position. I have fears about this matter, but I am willing to confront my fears and my fears about having a medically-supervised injecting place in my city should not stand between somebody and their life. If you do not get emotional about this matter and if you do not get afraid about it, then I believe that you really need to reassess your own life. But we should not let our fears stand in the way of their opportunity for rehabilitation. We should not let what I will call our prejudices - I say that in a nice way; I cannot think of another word for it - or where we are in life stand between them and their opportunity in life. We should not let it stand between an opportunity to try something new.

If you go back through the history of drug taking and the abuse of drugs you will find that it is a long one. It is as long as recorded history itself. I am told that you can go back to the ancient Egyptians and the supervised use of cannabis, for instance, in childbirth. While the women were using it to relieve the pain of childbirth, some of the men were probably out in the waiting room using it to relieve the agony of childbirth for blokes. As you go down through history, witchdoctors, shamen, medicine men and those sorts of people clearly were using hallucinogenic drugs. The word "assassin" comes from "hashshashkin", a Middle East cult that used hashish to indoctrinate its workers and its members for 1,000 years. The British Empire at the height of its power fought to control the drug trade in China. Three drug wars were fought, opium wars. What we need to do is look at this matter in a way that says, "We will not cloud what it is we do with our own prejudices, because we have no right to stand between somebody and an opportunity of life".

The Chief Minister spoke about being ready physically to give up addiction. It is a combination of being ready physically and mentally. I understand that we have profiles now that say that, if drug addicts can survive until their early-30s or mid-30s, the mind and the body come into sync and say to each other, "Guys, you have to give this up or we will all be stuffed". Ms Tucker spoke earlier about how many times it took to get off

drugs. Michael Moore tells me that he thought it was 13. I remember reading somewhere that, on average, successfully escaping drug addiction takes 17 attempts. That is the average. For some people it might be one or two, which means that for some poor sods it is probably 100 opportunities. We have to make sure that we give those people the opportunity to realise their potential.

A friend has given me a Vatican document on this subject. We know that the Catholic Church has had a say on it recently. But the Pontifical Council for Pastoral Assistance to Health Care Workers, Vatican City, put the document out in 1995. It is called "Charter for Health Care Workers" and is relevant. I might seek to have the whole document incorporated in *Hansard* when I am finished. As this document was published in 1995, perhaps some of the understanding is a bit dated, but the points in it are really quite poignant when it comes to this debate. The document says:

> Undoubtedly, the evils caused by dependency and the care it requires are not a matter for medicine alone. But medicine does have a preventive and therapeutic role.

It is not just about medicine or a medical problem. The church is saying here that it is wider than that. The document goes on to say:

> To say that drugs are illicit is not to condemn the drug-user ... The way to recovery cannot be that of ethical culpability or repressive law, but it must be by way of rehabilitation, which, without condoning the possible fault of persons on drugs, promotes liberation from their condition and reintegration.

All of you would know - I make no bones about it - that I am Catholic by inclination and practice. What the church is saying there is that there are many things that we must do for people who are addicted, but it is about bringing them back into the real world. The document goes on:

> The detoxification of the person addicted to drugs is more than medical treatment. Moreover, medicines are of little or no use.

I think we have made advances there. It goes on to say:

> Detoxification is an integrally human process meant to "give a complete and definitive meaning to life", and thus to restore to those addicted that "self-confidence and salutary self-esteem" which help them to recover the joy of living.

That is what we are proposing here. What we get fixated on with the term "medically-supervised injecting place" is that it is somewhere that people go to use illicit drugs. But that is not all it is. It is a gateway. Michael Moore has talked many times about it being a gateway. To what is it a gateway? It is a gateway back to the world. It is a gateway back because there will be advice on nutrition, there will be referrals to detoxification and there will be an ear to listen to you. When you are alone, low, down and injecting, perhaps the first thing you need is to have somebody who will

listen. What we offer here today through this legislation is actually an ear. It is a helping hand, but it is an ear. It is somebody who will listen. Certainly, they will be medically-trained staff in case of physical complications from the overdose or whatever it is, but there will be more than that. It will be a path back and it will be entirely consistent with the direction of the Vatican, for instance, in their "Charter for health care workers". I thank the friend who gave me this document. It goes on to say:

> In the rehabilitation of persons addicted to drugs it is important "that there be an attempt to get to know individuals and to understand their inner world; to bring them to the discovery or rediscovery of their dignity as persons, to help them to reawaken and develop, as active subjects, those personal resources, which the use of drugs has suppressed, through a confident reactivation of the mechanisms of the will, directed to secure and noble ideas."

I think that that is pretty much what a medically-supervised injecting place will do in the ACT. It is an important document and I am pleased that the church has put it out.

Mr Kaine finds fault with what we do here today because there is no detail. That is curious as Mr Kaine knows as well as any of us, because he is a good legislator, that the detail is never contained in the legislation. An example is the legislation we passed on Tuesday that will allow the national road rules to be available in the ACT. But we did not pass the national road rules. They are contained in the regulations under the legislation.

Mr Kaine said that there is not enough detail in the Bill that demands that people have rehabilitation and asked how it will work. On Tuesday, yet again, when we were discussing the reform of the motor transport Acts we talked about penalties for those who drive under the influence and about driving under the influence not being acceptable; but there is no reference in there, and I noticed that Mr Kaine did not move for such a reference, to people caught driving under the influence being referred to AA or for detoxification. Why? It is because we never put that sort of detail into legislation. It is curious that the reason anyone would seek to stand in the way of this reform is that there is not enough detail in the legislation as clause 10 of the Bill allows the Minister to make regulations and set up the guidelines that are important. I look forward to Mr Kaine bringing forward amendments in the future to every piece of legislation that the ACT Government has in place requiring us to give the details on how all those things will be carried out.

Mr Kaine, I believe, said that an all-up strategy is needed. Ms Tucker made mention of a strategy. The strategy is there. In fact, the ACT Government is probably the only government in Australia, certainly one of the few governments in the world, that has a cross-portfolio, coordinated approach to drugs and their use and abuse. It talks about creating the right kind of environment to reduce the use. It talks about supply reduction, it talks about demand reduction, it talks about harm reduction and so on. It brings together an enormous number of strategies, again not contained in any legislation. It is important that it be on the record that the following documents are listed as being complementary to the implementation of the ACT drug strategy for 1999:

Australian Federal Police ACT Region Drug Strategy ACT Community Crime Prevention Strategy
ACT Youth Health Policy
ACT Health Promotion Policy and Strategic Plan
Aboriginal and Torres Strait Islander Health Plan
ACT Sexual Health and Blood Borne Diseases Strategic Plan
ACT Whole of Territory Mental Health Strategic Plan
ACT Drugs in Sports Policy
Department of Education and Community Services Draft Education Policy Framework for ACT Government Schools
ACT Youth Suicide Prevention Strategy
Draft ACT Sexual Assault Services Strategic Plan
Department of Health and Community Care Dual Diagnosis Project
Department of Health and Community Care Policy on the Use and Misuse of Benzodiazepines
Memorandum of Understanding between Department of Education and Community Services and Department of Health and Community Care on Health Promoting Schools
ACT Road Safety Strategy
Australian Capital Cities Resolution on Drugs

It is important that everybody knows that across-the-board, in all portfolios, this Government is committed to drug reduction. We are committed to reducing the incidence of drug use in our society because we believe that it is important to reduce it.

Mr Hird said that the police do not want it to happen. The defence is that policemen do not want it to happen; therefore, it should not happen. I am very lucky to be the ACT Government's representative on the Capital City Lord Mayors Committee. At our recent meeting in Melbourne, Neil Comrie, the Commissioner of the Victoria Police, a third generation Victorian walloper, got up and said, "I was wrong. I used to think that we should lock them all up because that was the answer. It is not the answer". That day the Melbourne City Council announced that it would institute recovery rooms, which I think are in some way similar to what we are doing here. But there we had a man with eminent qualifications as a police officer saying that he cannot stop it happening. *(Extension of time granted)*

It is important that we put aside personal feelings and fears and it is important that we get a little bit emotional about this subject, because it is an emotional subject. When we get through that emotion and the harsh light of reality comes up with a response that we are uncomfortable with, we should not necessarily reject it. We know that it is the right response, but we can still feel uncomfortable with things. That should not stop us. I am not comfortable with the alternatives if we do not go ahead with this proposal.

What are the alternatives? The alternatives are that more Canberrans will die. The alternatives are that Canberrans will continue to take heroin on the streets, without any need to be exposed to the range of services and counselling that we can provide to help them. If it means that we will stop more Canberrans from being infected with HIV and hepatitis A and C, we as legislators must take advantage of that opportunity. We need to put aside personal discomfort and any fears that we have about this matter. Sometimes it

is simply a matter of acting courageously. The opposite of courage is fear and there is a thin line between them. I would urge that courage be shown here tonight, because it really is important.

I want to touch on the positive impacts. I think it is important to do so. The Chief Minister mentioned them, but I will mention them again. Lots of ordinary citizens who have no part in the drug scene and do not want to be affected by the drug scene are so affected. We all are, particularly with the rise in the burglary rate in the ACT. You have only to look at the statistics coming out of Frankfurt. Frankfurt is a city of about 700,000 people in Germany. It is a fairly well off city. Between 1991 and 1997, death from heroin overdoses dropped from 147 to 22 a year. That was attributed to the use of a safe injecting place in the city of Frankfurt. It was having something like 15 overdose callouts a day in the early 1990s and has managed to drop that to two a week.

Mr Moore: For ambulances.

MR SMYTH: For ambulance callouts. Every time an ambulance is called out to a drug overdose, it could be going somewhere else. Every time an ambulance is called out it is called out at great expense. The other thing was that the rate of HIV infection amongst addicts fell from between 70 and 80 per cent to 18 per cent of those presenting themselves for the methadone program. The results have been amazingly positive. If you want to put drug users away, put them aside somewhere that still has positive effects for you. For those with fears of crime, house break-ins dropped by about 20 per cent in Frankfurt over the time and car break-ins and street robberies dropped by something like 30 per cent. It is not just for the users; there are positives in it for all of us.

Mr Speaker, after a history of several thousand years of drug abuse and use, we are at a position where I suspect many other societies have found themselves over time. What we have here is a proposal that will for once, and I think for all time, allow us to trial something that may save a single human life. I put such value on that human life that I will overcome my fears and vote for this Bill tonight because I believe that it is the right thing to do. Mr Speaker, this is an opportunity for this city, yet again, to show leadership to the nation, show compassion to those who deserve it and show hope to those in great need. It is for those reasons that I will vote for this legislation this evening.

Debate interrupted.

SUSPENSION OF STANDING ORDER 76

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

> That standing order 76 be suspended for the remainder of the sitting.

SUPERVISED INJECTING PLACE TRIAL BILL 1999

Debate resumed.

MR BERRY (10.51): Mr Speaker, at the root of the need for this legislation to pass through this Assembly is the basis of a humane society, a socially just society and a wealthy society. Wealthy societies which consider themselves to be socially just have an obligation to care for those people who are in strife in any form. We do that in most respects in Australian society. We are wealthy enough to look after those of us who are in deep trouble. The people addicted to these sorts of substances are, in many instances, in deep trouble. A primary obligation which falls on our shoulders is to ensure that we do our best, in the first place, to prevent them from becoming involved in these practices. We do, of course, protect the rest of the community, but we rehabilitate people who are injured.

We do so for all sorts of people with all sorts of injuries. We leave no stone unturned in rehabilitating to full and active participation in the community the drunken driver who smashes himself to pieces in a motor car. That is just one example. There are thousands more. There is no reason why we should not take that approach in relation to people who are using heroin. I have been a critic of the Carnell Government over the years because of the way that they have dealt with this issue. I still remain sceptical about their approach. My assessment of their performance in the past is that they have been more interested in the headline grabbing issues than they have been in a lot of the hard graft. I think that that position is starting to change. I think that much of it has come about because they know that they have to have a package of services available to deal with this social problem if they are going to gain the support of the Labor Party in this matter.

The Labor Party is a party which attracts people who are interested in social justice issues. I am happy to say that we have had quite an in-depth debate about this issue. At our last conference we endorsed a fairly comprehensive motion dealing with the issue of having a drug injecting room in the ACT. I should say at this point that I do not know of too many people who are terribly comfortable with the issue. Most people would wish the problem away. But most of us are intelligent enough to know that we just cannot wish it away; we have to address the issue. I do not like to hear people say that we cannot do anything. I know that that is completely untrue because there are lots of people out there doing lots of work in this field. What it boils down to is that we have just got to do more.

I do not believe and I do not think that many other people believe that having a drug injecting room is going to be the panacea, nor do I think that it is going to have a massive impact overall on the heroin problem. But it will deal with one aspect of the problem which is important. I know that strong emphasis has been put on the lives that will be saved as a result of the introduction of this drug injecting room, but I think expectations have been built up a little too highly in the community about what might come from it. In the end there will still be people who will inject heroin away from the drug injecting room and those people will still be subject to the current risks.

Regrettably, we will still see deaths at home and deaths in other places. Hopefully, this injecting room will prevent many of those, but we need to be prepared for the argument that this proposal has not worked because deaths are still occurring at home and so on. The first time that somebody dies at home, those who are absolutely opposed to this approach will be screeching that this injecting room has not worked and we should stop it now. We need to be prepared for that argument. I do not think that we should build up expectations in the community about how many lives it will save. It will save many, but it will not save them all.

Mr Speaker, as I said, the Labor Party passed a motion. We saw it as an opportunity to put pressure on the Government to provide other services which we felt were wanting. We argued for a range of rehabilitation services, including youth rehabilitation services. I had a brief discussion on that with Mr Moore a little while ago. I understand that it has been delivered, more or less, with the Government announcing a range of innovative education and disincentive programs, coming in the form of the drug education framework. I will have more to say on that in a minute.

We argued for the location of the heroin injecting place to be negotiated with local businesses. I note that local businesses have been included in the panel which will be dealing with this issue. We wanted the Government to negotiate with the state and territory Ministers. In some respects, that has become redundant because New South Wales and Victoria are moving down this path anyway, but I am sure that Mr Moore is negotiating with Ministers round the country as the opportunity presents itself. We asked that the cost not be borne by the health budget. I am told that it will come from the Treasurer's advance, as it should. We also asked that the new ACT drug strategy for dealing with heroin and other drugs be released as a priority. That has been done.

The Labor Party has for many years supported the establishment of a heroin trial as a national project with the support of the majority of the States. I think that has gone out the window for some time, regrettably. We hope that one day we will return to a debate about heroin treatment programs in this country which incorporate some sort of pilot or trial program as that will assist us in taking this debate forward. Who knows how long it will be before we find solutions to this problem that we do not know about now? But this is still a matter that many people think will be very helpful in the scheme of things. I tend to agree.

I have always thought that having a heroin treatment program was a natural way to deal with this problem. I have done so ever since I became associated with this issue in 1989 when I was the first Minister for Health in the ACT. In fact, one of the very early questions I asked of my officials, in a naive sort of way, was: "Why on earth are we not giving this stuff to these people?", but I soon learnt the difficulties with that approach. We have an obligation, too, to preserve public safety as much as we can. Putting desperate people into desperate circumstances does not do much for public safety, but that is a situation in which many drug users find themselves. I trust that the contact that will be made in this drug injecting room with people with an interest in rehabilitation will help them on the path to normality of some sort, whether it involves some sort of program where they take alternative drugs or whether it is the sort of program that the Salvation Army provides, which is based on total abstinence. That suits some people,

but it does not suit others. It will work for some, but it will be absolutely useless to others. Some people will remain on some sort of alternative drug for most of their lives.

At the end of the day, I go back to the original point I made that we as a wealthy, socially just society will be falling down on the job if we do not do something innovative to deal with the issue. Drug injecting rooms are not new and they create a lot of controversy out there in the community. Regrettably, there is amongst us a tendency to look at the politics of this issue and see what opportunities present themselves in these arguments. The Labor Party happily takes the view that, if you endorse an issue, you do it on the basis of its social value and then you sell it. We are committed to selling this drug injecting room and we will continue to do so.

Mr Speaker, I turn back to the Government's activities as outlined in *From Harm to Hope* and the drug education framework. They are pleasant looking pieces of paper, but nothing arises just from having pieces of paper. What we must have, of course, is constant action, commitment and money. The question that will be raised inevitably is that we are spending $700,000 or $800,000, or whatever it is, on establishing the injecting place, but how much are we spending on our schools? Not much, if you are honest with yourselves. Some will say, "Everybody in our education system puts some of their time into drug education in our schools, and that is a lot". I think that we have some difficulties in that area and I will be pursuing the Minister for Education on this issue from here until the next election, unless I am satisfied that the level of attention that has been given to this problem in our schools is strong enough.

I will draw just one thing to attention. Page 21 of the drug education framework talks about resource agencies and support services, and lists a whole host of them. The ACT community care alcohol and drug program is at the top of the list. It says that the alcohol and drug program works with the Canberra community to promote health and minimise the harm associated with alcohol and other drug use, that the program has an extensive range of resources on alcohol and other drugs, that pamphlets, fax sheets and posters are available in small quantities free of charge, and that the health promotion team provides professional training and education on a consultancy basis to all ACT school communities, so it is going to cost money. If we do not provide the resources to deal with this issue, then it is not going to happen and it will not be satisfactory.

There is no point in us saying to the community - the people we will have to convince on this issue - that we are prepared to spend hundreds of thousands of dollars on an important resource like the drug injecting room if we are not doing something at the preventive stages. The tom-toms tell me that alcohol and drugs used to have two educators, but now they have none as the health promotion service has been dismantled. That is what the tom-toms tell me. This evening the Government can confirm or deny that or tell me whatever it is that has replaced it, otherwise I am sure that it will tell me some time later.

Mr Speaker, this issue is one on which there can be controversial commentary. One radio station in the ACT has an appalling approach to it. Today I heard it advertising the telephone numbers of various politicians, applauding Mr Rugendyke's approach to the issue and dumping on Mr Moore and Mr Stanhope over their support for the proposal.

I was a bit upset about that because they did not mention me. I would have liked to have had a few phone calls, too, because I would like to speak to some of those people. I am a bit upset with Dave Rugendyke, too, because he has only ever mentioned Jon Stanhope in his press releases and I want my name in there, thank you very much. I do not mind being associated with this issue. We have taken a decision to support it and we have taken a decision to support other aspects of services for people who are involved with drug use and I intend to sell them and work hard to achieve them. Dave, if you are listening, and Paul, if you are listening: When you put out the next press release and you want to nail Mr Moore or Mr Stanhope, do not leave me out because I will be even more upset with you.

Mr Speaker, I have just about concluded all I have to say. All that I think needs to be said in relation to this matter is that, once it is established, it will have to be defended. It is not going to be a particularly pleasant edifice and there are going to be some sad stories associated with it. They will probably be very public ones. There will be sad stories outside of this drug injecting place as well. But it can only ever give us the information that we need to pursue a better outcome for those in trouble because of drug use if, once this decision is made, those amongst us who might oppose it at this stage at least try to understand how we are dealing with the problem and try to understand the efforts that others are putting into the rehabilitation of people who are caught in what is for many of them an inescapable problem. *(Extension of time granted)*

Mr Speaker, I urge members to support this Bill. I will be supporting it wholeheartedly and I will be out there arguing the case for it at every opportunity. I think that is the job in front of us from now on. I do not think that the job finishes here; it really starts here. I finish by saying to the Government that it must not rely just on this proposal. It must get busy in all of the other areas. It must get busy in rehabilitation and it must get busy in education. The Government has to be seen to be out there.

MR OSBORNE (11.08): I do not intend to add to very much to the debate tonight. I think my views are well documented. I enjoyed watching a video tonight and had the pleasure of not having to listen to any of the debate, other than the end of Mr Smyth's speech, which I found appalling. There are a couple of points I want to make.

In the last couple of weeks I have had a think about whom we should hold responsible for this legislation. It is not Mr Moore. I blame Jon Stanhope solely for this legislation. The weakness of Jon Stanhope will allow this legislation to go through, and the weakness of Brendan Smyth will allow it to go through. The thing that concerns me is that they are the potential candidates who will be fighting for the Chief Minister's job next week. I think this is Jon Stanhope's shooting gallery, and I intend to remind everybody about whose fault it is.

I will not be supporting the legislation. I will not be putting my hand up to go on that stacked committee. I know Mr Berry wants to be involved in our press releases. I think a good press release tomorrow would be one that said we want to bury Stanhope's shooting gallery. We may have to change the spelling.

The people of Canberra need to know that this legislation would have finished where it deserved to go but for the weakness of Jon Stanhope.

MR MOORE (Minister for Health and Community Care) (11.10), in reply: Mr Speaker, it is important to put this debate into context. Those who rose in opposition to this legislation talked about the problems that will be created. The problems were created when heroin was prohibited in the mid-1950s and have increased exponentially since. Unfortunately, we are past the stage where we can just wind the clock back to where we were. Too much water has passed under the bridge. We need to work step by step towards making sure that we have a more compassionate process.

I was singularly impressed this evening when Mr Stefaniak said he recognised the sincerity of everybody's position. Recognition of each other's point of view by the vast majority of members here has enhanced the calibre of this debate.

I would like to make a number of points. The first and most important is that it is a scientific trial. Mr Kaine, Mr Rugendyke and others questioned whether it was a scientific trial. Science is more than just physics and chemistry. Epidemiology is a science. It is a science-medical discipline. This will be conducted as a scientific trial.

There was a disappointment for me in Mr Stanhope's speech when he suggested that Labor had done extensive consultation - and I do not disagree with that - but implied that the Government had done none, or very minimal consultation. We have done extensive consultation for 18 months. Mr Smyth read from a list of groups we have consulted. I had just been made Minister when the Sexual Health and Blood Borne Diseases Advisory Committee first put to me the recommendation, which I tabled in the Assembly, that we establish a supervised injecting room. We have been proceeding with that.

The disappointment for me is that it has taken so long to do it. I feel that with the original piece of legislation I tabled it would have been possible to do the task, and to do it well. Contrary to what Mr Kaine suggested, the legislation before us is adequate to do the job. Mr Stanhope and the Labor Party have amendments, which are quite acceptable to me, to ensure that administrative actions are taken properly in accordance with their wishes. I understand why they are doing that. But it was always possible to carry out these things appropriately by administrative action, other than for the bits of the legislation that are there to protect the community, protect the workers and ensure that the operation has the support of the Government, in particular the support of the Assembly. It is very important to understand - and Mr Kaine does know, of course - that we do not do everything by legislation. We do a great deal by administrative action, as he did on many issues when he was a Minister.

A number of members raised how we are going to handle young people. That is a major difficulty, but I think members ought to be aware that we are talking about young people who are already using. The question is not whether they will be using. We all wish that was the question. The question is whether they will be using in public toilets and alleys or whether they will be using in a supervised injecting place where there will be people not only to help them but to offer them a gateway to other treatment, to rehabilitation, to methadone, and so on.

Ms Tucker put it very well when she said that our position was public health motivated. Public health is the thing driving many people. It is not unfounded compassion, or naivety, as I think you suggested, Mr Speaker. Rather it is something rational – public health.

Mr Speaker, you suggested that the notion of needle exchange was a lie. I would like to draw your attention to a number of shops around Canberra that call themselves book exchanges. They do not expect you to come in and exchange one for one. A needle exchange is not necessarily one for one. I understand the concept you were dealing with but, no matter what we call it, it is important to send a public health message about what happens not just to drug users but to the broad community.

Australia has been forward thinking on this issue, following the great leadership of a member of the Labor Party, Neal Blewett, who as Health Minister drove the needle exchange program. We can draw a comparison between New South Wales and New York. They have roughly the same populations. New York has been able to get a couple of needle exchanges up and running at different times for short periods. As members will be aware, needle exchanges are used extensively in New South Wales. New York now have 40,000 paediatric cases of HIV - 40,000 children who have HIV. Why do they deserve that? How many are there in New South Wales? There are a couple of hundred, almost all associated with haemophilia.

That is moving for all of us. It was made possible in Australia because of foresight, particularly from one politician who sought and got a bipartisan approach. If I remember correctly, his opposite number in the Liberal Party was then Senator Peter Baume, now Chancellor of the Australian National University and professor of community medicine at the University of New South Wales. The leadership those two men provided has resulted in a very low rate of HIV compared to other Western nations. We must not miss the importance of a harm minimisation approach based on public health.

Mr Speaker, you quoted my words - and I appreciate it - that it is the role of the courts to implement the rules. Exactly the same will happen here. The Assembly will be setting the rules - that is happening here with this legislation - and they will be implemented by the police and the Director of Public Prosecutions at arms length from us or by the courts in the individual case. On Tuesday night I went on to say that the application is in the individual case.

I was disappointed, Mr Speaker - although I understand because I have heard this language regularly - by your reference to fighting a war on drugs. It is not a war on drugs. Drugs are a chemical, something inanimate. If you are fighting a war, it is people against people. We would be fighting a war against our own people, for whom we should be showing compassion. We should be trying to work through their health issues. Addiction is primarily a health issue. I understand that that is the point on which we differ, but that is where our approach starts from. I have another quote for you, Mr Speaker. The way to hell is paved with good intentions. No doubt we will both apply that to each other.

It seems to me that most of the people who argued against the supervised injecting room have missed one fundamental point. People will be using, whether there is an injecting room or not. The only question is: Where will they be using and under what conditions? Will they be sanitary? Will they be safe? The Chief Minister talked about the saving of life. Just as important is stopping the spread of HIV and hepatitis C, particularly hepatitis C, which we know is much more vigorous and spreads more easily than HIV. Stopping the spread of hepatitis C requires not just clean needles but clean surfaces and a vigorous approach to ensuring antiseptic conditions.

Mr Rugendyke suggested to us that we were rushing in. Nothing could be further from the truth. The great frustration for me over the last 18 months has been how long it has taken us to get to this point. In the ACT over the last two or three years, we have had in the order of one death a month on average. I understood where people were coming from when they said, "You must have other things in place". It is critical that we do those things. However, from my point of view, we could have been getting those other things in place and doing this at the same time. To suggest, Mr Rugendyke, that we are rushing is complete nonsense. We are talking about a raft of legal opinions, for heaven's sake. We are talking about a huge number of public consultations. We are talking about different forms of legislation being discussed between members at length.

Mr Rugendyke also asked why people have to wait for methadone. The good news is that people have not had to wait for methadone for some months now. We have been able to meet the demand, and we will continue to meet that challenge as best we can in a range of different ways that I do not wish to go into at the moment.

Mr Rugendyke also said that the scrutiny of Bills committee raised five major issues. Those issues were relatively easy to answer because we had been through so much discussion. That is why when the report was tabled on Tuesday morning I was able to circulate the completed government response by Tuesday. That response was about six or seven times longer than the report of the scrutiny in Bills committee. We were able to deal with each of the issues the committee raised because we already had the information. We had considered each of those issues previously.

Mr Berry raised a very important issue. He said that we must not rely on just the supervised injecting room. It could not have been said in a more effective way. The supervised injecting room is a only a very small part of a very broad strategy. The reason that it is so difficult is that it is so controversial. We have to continue to get every part of our program going - education, rehabilitation and all the other things that Mr Berry mentioned. I accept that.

I would like to thank Jon Stanhope and his office, who have worked with us to ensure that we can get as bipartisan an approach as possible. He has been working very effectively with the Government, especially when we were having difficult arguments about other issues. We still stayed on track with this matter.

Mr Hird had some doubts about how long the scientific trial will go on. It is a two-year trial. Clause 11 of the legislation before you is a sunset clause that makes it very clear.

There are many issues we could deal with. I am absolutely delighted with those members who made the effort to listen to and respect the point of view of others. But it was a great disappointment to me to hear Mr Osborne say that he did not listen to anybody else because he had been watching a film. I have a huge amount of time for Mr Osborne. We disagree on a number of issues, but we have always discussed them frankly. He has always recognised my right to have a different opinion, and likewise I have understood where he was coming from. At the same time, I think it is reasonable that people listen to each other's opinion, particularly here, because it is fundamental to the way this place operates.

A supervised injecting room is about saving lives. It is about stopping the spread of disease. I look forward to the hard work in implementing the legislation when this Assembly passes it.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 10	*NOES, 7*
Mr Berry	Mr Cornwell
Ms Carnell	Mr Hird
Mr Corbell	Mr Humphries
Mr Hargreaves	Mr Kaine
Mr Moore	Mr Osborne
Mr Quinlan	Mr Rugendyke
Mr Smyth	Mr Stefaniak
Mr Stanhope	
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 and 2, by leave, taken together and agreed to.

Clause 3

MR STANHOPE (Leader of the Opposition) (11.29): Mr Speaker, I ask for leave to move amendments Nos 1, 2 and 5 circulated in my name together.

Leave granted.

MR STANHOPE: I move:

Page 1, line 10, insert the following definitions:
"***advisory committee*** means the advisory committee established by section 9A.
chairperson means the chairperson of the advisory committee.
deputy chairperson means the deputy chairperson of the advisory committee.".
Page 2, line 7, insert the following definitions:
internal management protocol means a protocol approved under section 5C.
law enforcement protocol means a protocol approved under section 5B.
newspaper means a daily newspaper published and circulating in the Territory.
Page 2, line 23, definition of ***supervised injecting place***, paragraph (a), omit "drugs of dependence", substitute "substances".

MR SPEAKER: Do you wish to speak to your amendments, Mr Stanhope?

MR STANHOPE: No. They are just definitional.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 4 agreed to.

Clause 5

Amendment (by **Mr Stanhope**) proposed:

Page 3, line 2, omit the clause, substitute the following clauses:
"**5 Declaration of facility**
(1) The Minister may, by notice in the Gazette, declare a place to be the facility for this Act.
(2) The Minister may declare a place to be the facility only if—

(a) the Minister is satisfied the place is a hygienic environment suitable for use—

(i) to give drug dependent persons access to clean equipment to allow such a person to administer a substance to himself or herself at the place; and

(ii) to provide for the safe disposal of the equipment; and

(b) a law enforcement protocol has been approved under section 5A and published as required by section 5B; and

(c) an internal management protocol has been approved under section 5C; and

(d) approved criteria for the scientific trial have been presented to the Assembly as required by section 5D; and

(e) the place to be declared as the facility is one that has been recommended by the advisory committee.

(3) A declaration takes effect—

(a) on the day on which it is published in the Gazette; or

(b) if a later day is stated in the declaration—on that day.

(4) The Minister must publish a copy of the declaration in a newspaper.".

Amendment (by **Mr Moore**) to Mr Stanhope's amendment agreed to:

New clause -
After proposed clause 5, insert the following new clause:
"**5AADeclaration of operators**
(1) The Minister may, after consultation with the advisory committee, by notice in the Gazette, declare a person to be the operator of the facility.
(2) The Minister shall not declare a non-government organisation to be the operator other than in accordance with a recommendation of the advisory committee.".

Amendment (**Mr Stanhope's**), as amended, agreed to.

Clause, as amended, agreed to.

Proposed new clauses

Amendment (by **Mr Stanhope**) proposed:

That the following new clauses be inserted in the Bill: Page 3, line 10:
"**5A Law enforcement protocol**
(1) The Minister may, after consultation with the advisory committee, by instrument approve a protocol that deals with—

(a) the detection, investigation and prosecution of offences by a person who self-administers a substance at the facility; and

(b) anything else necessary or convenient to be dealt with to give effect to the object of this Act;

as the law enforcement protocol for this Act.
(2) The Minister must ensure that a protocol is approved under this section that will allow the facility to function in accordance with the object of this Act.

(3) The Minister must not approve a protocol that has the effect of exempting a member of the staff of the facility from the operation of a law in relation to the possession, use or dealing in substances.

5B Publication of law enforcement protocol

(1) As soon as practicable after making an instrument under section 5A, the Minister must publish in a newspaper notice of the effect of the instrument.

(2) The notice must state the places where a copy of the law enforcement protocol may be bought or, at any reasonable time, inspected.

(3) The Minister must ensure that—

(a) copies of the law enforcement protocol may be bought at each place stated for that purpose in the notice; and

(b) a copy of the law enforcement protocol is, at any reasonable time, available for inspection at each place stated for that purpose in the notice.

5C Approval of internal management protocol

(1) The Minister may, by instrument, approve a protocol relating to the facility as the internal management protocol for this Act.

(2) Before making an instrument under subsection (1), the Minister must be satisfied that the following requirements will be met:

(a) the facility must be under the supervision of a supervisor;

(b) the supervisor must have general oversight of the clinical operations of the facility and responsibility for ensuring that adequate clinical procedures are used in the facility;

(c) each member of staff of the facility who directly supervises injection of substances at the facility must be a doctor or a nurse;

(d) each member of staff of the facility who issues equipment at the facility for use in injection of substances at the facility must hold an approval under Part 7 of the Drugs of Dependence Act;

(e) the facility must contain, or provide satisfactory access to—

(i) primary health care services (including medical consultation and medical assessment services); and

(ii) drug and alcohol counselling services; and

(iii) health education services; and

(iv) drug and alcohol detoxification and rehabilitation services; and

(v) services for testing for blood borne diseases;

(f) the health and safety of staff and users of the facility must be protected, having regard to the design of, and services provided by, the facility;

(g) any recommendations of the advisory committee concerning the operation of the facility must be given effect;

(h) any regulations concerning the operation of the facility must be complied with.

5D Criteria for assessing the facility

(1) The Minister must consult the advisory committee on the appropriate criteria, and must attempt to agree with the committee on a set of criteria.

(2) If a set of criteria is agreed, the Minister must approve them.

(3) If agreement is not possible—

(a) the advisory committee must set out its preferred criteria (***alternative criteria***); and

(b) the Minister must approve a set of criteria and a statement of the reasons why they are approved instead of the alternative criteria (***Minister's reasons***).

(4) The Minister must present a copy of the approved criteria, together with any alternative criteria and Minister's reasons, to the Legislative Assembly within 3 sitting days after the approval.

(5) In this section—

criteria means criteria by which the scientific trial of the effects of giving drug dependent persons a place to self-administer a substance is to be assessed.

Amendment (by **Mr Moore**) to Mr Stanhope's amendment proposed:

After proposed subclause 5C (1), insert the following:

"**(1A)** An operator shall manage the facility in accordance with the internal management protocol.".

MR STANHOPE (Leader of the Opposition) (11.32): Mr Speaker, my amendment goes to the need, before the drug injecting place is established, for the preparation of a law enforcement protocol, for the publication of the law enforcement protocol, for the preparation and approval of an internal management protocol and for the development of criteria for assessing the facility. I know we have had a long and involved debate and many of the issues have been canvassed, but I think it is appropriate to respond to some of the points that have been made.

Contrary to some of the claims that have been made, this amendment puts in place the most stringent requirements in relation to the operation and management of the drug injecting place. Some of those requirements are set out in proposed new clauses 5A to 5D. They require the most stringent rules and protocols in relation to law enforcement in the drug injecting place and for their publication so that the people of Canberra have every opportunity of obtaining information on how this place will operate.

I am conscious that there is significant disquiet within the community. Many members of the community view this proposal with some suspicion, and quite rightly so. It is a brave thing that we are doing here. We are going into some uncharted territory, and I think the people of Canberra have a right to know the basis on which we are doing that. This legislation meets the expectation the people have that they will be as fully informed as they wish to be about this proposal, and they can be confident that in its management the Government, through Mr Moore's department, will put in place stringent rules. There will be stringent rules in relation to the management of this place.

Proposed new clause 5D relates to the criteria for assessing the facility. I did hear some discussion about this previously. Proposed new clause 5D states:

> The Minister must consult the advisory committee ...

I will talk about the advisory committee later. This is before the drug injecting place can open. It says:

> The Minister must consult the advisory committee on the appropriate criteria, and must attempt to agree with the committee on a set of criteria.

The advisory committee has to set out the criteria. If the Minister does not agree with that set of criteria, he has to publish the reasons why he does not agree. It is a broadly based advisory committee we are talking about. It will have representatives from 16 or 17 organisations, including the police, the DPP, the Institute of Criminology and the Ambulance Service. All of those organisations will be part of this advisory committee. They will advise on the criteria that should be used for assessing whether or not this trial is something which we and the community should persist with.

The advisory committee will deal with that whole range of issues that you would expect it to - impact on health status; ambulance call-outs; impact on the propensity of addicts to congregate and what we might do about all those sorts of things; and the extent to which this sort of control does ensure the lives of drug addicts in this town. All of those sorts of things will be and can be evaluated. Such evaluation will provide useful information about how we can continue to address the problems of drug abuse and drug addiction as well as the ill-health and death they cause.

MR OSBORNE (11.37): Mr Speaker, quite clearly Mr Stanhope has lost the plot on this aspect of the Bill.

Mr Stanhope: The cartoons have finished, have they, mate?

MR OSBORNE: They finished at five.

Mr Stanhope: I thought you were upstairs watching them.

MR OSBORNE: No, I was watching a video. I have some cartoon videos.

Mr Stanhope: Are they videos you cannot watch at home, mate?

MR SPEAKER: Order, please, Mr Stanhope! You were heard in silence. I expect the same courtesy to be extended to your opponents.

MR OSBORNE: Mr Speaker, I think Mr Stanhope is making some allegations about videos that I am watching. I would like them withdrawn.

Mr Stanhope: I do not know what that was about, other than the dummy spit that we saw on Tuesday that has not been resolved yet.

MR SPEAKER: Withdraw and sit down, please.

MR OSBORNE: Mr Speaker, I recall a debate earlier this year in this Assembly in which Mr Stanhope stood up and wanted us to support a no-confidence motion because, as he said, the Chief Minister had broken the law. He said, "You have broken the law, Chief Minister". Yet in this debate he is saying to people, "Yes, you can go and break the law. We do not mind. You will not be charged". I find the hypocrisy of this man absolutely stunning.

As I said earlier, I think Mr Stanhope has lost the plot. Obviously he is embarrassed about where he stands on this piece of legislation. He wants to support something he we will not make legal. He is setting up a situation that is virtually impossible for the police.

Mr Stanhope: I trust the police, mate. Don't you trust them?

MR OSBORNE: I trust the police. Mr Stanhope is a former president of the Civil Liberties Council, hardly an organisation that walks arm in arm with the police union.

MR QUINLAN (11.39): In response to Mr Osborne, I think it is important that we do not lose our perspective in relation to associations with police. You have some association with the police. If we do not agree with you entirely, are you saying that we hate all police? Some of my best friends are policemen. They are very enlightened people and I enjoy their company.

Amendment (**Mr Moore's**) to Mr Stanhope's amendment agreed to.

Proposed new clauses, as amended, agreed to.

Clause 6 agreed to.

Clauses 7 and 8, by leave, taken together and agreed to.

Proposed new clauses

MR STANHOPE (Leader of the Opposition) (11.41): I move:

That the following new clauses were inserted in the Bill: Page 4, line 13:

"**8A Things not permitted by this Act**

This Act does not permit—

(a) the members of the staff of the facility to sell or possess or use a substance in the facility; or

(b) a drug dependent person to sell or supply a substance in the facility; or

(c) a drug dependent person to possess in the facility more than 0.5 grams of a substance; or

(d) a drug dependent person to possess a substance outside the facility.

8B Provision of injecting equipment at facility

Despite any other provision of this Act or of another law of the Territory, it is lawful for a member of the staff of the facility to provide, at the facility, sterile equipment to another person for use by the other person, at the facility, to self-administer a substance, if the other person—

(a) agrees to return the equipment after use for safe disposal; and

(b) unless the member of the staff knows, or reasonably believes, that the other person has previously administered a substance to himself or herself—the other person has been offered counselling or rehabilitation or medical services at the facility.

8C Provision of information about the facility

Despite any other provision of this Act or of another law of the Territory, it is lawful for a person to give, for the purposes of this Act, information about the operation of the facility to—

(a) the Legislative Assembly or a committee of the Assembly; or

(b) the Minister or a public employee acting in the course of his or her duties on behalf of a Minister; or

(c) the advisory committee; or

(d) a person appointed in writing by the Minister to review the effectiveness of the facility in meeting the relevant objectives of this Act.".

Proposed new clause 8A details things that are not permitted to be done by this legislation. It sets out explicitly that the legislation does not permit the members of the staff of the facility to sell or possess or use a substance in the facility. It does not permit a drug dependent person to sell or supply a substance in the facility. It sets out the

maximum amount of a substance that a person may take into the facility. It stipulates that a drug dependent person is not permitted by the legislation to possess a substance outside the facility.

Proposed new clause 8B says that drug injecting equipment will be provided at the facility. Proposed new clause 8C is a mechanical technical provision which provides that this Assembly and the community have available to it whatever information should reasonably be supplied in relation to the way the facility is operating. This information is not to be regarded as confidential. It can be revealed without breaching the privacy of individuals. It is important that all possible information be made available to the Assembly and, through the Assembly, to the community. This provision seeks to achieve that purpose.

Proposed new clauses agreed to.

Clause 9 agreed to.

Proposed new Parts

Amendment (by **Mr Stanhope**) proposed:

That the following new Parts be inserted in the Bill: Page 4, line 27:

"**PART 2A—ADVISORY COMMITTEE**

9A Advisory committee

An advisory committee, to be called the Supervised Drug Injection Trial Advisory Committee, is established.

9B Functions and powers of committee

(1) The functions of the advisory committee are—

(a) to make written recommendations to the Minister about the matters mentioned in subsection 9L (1); and

(b) to perform such other functions as are conferred on the advisory committee by this Act, the regulations or another law of the Territory.

(2) The advisory committee has the power necessary or convenient for the performance of its functions.

9C Constitution

(1) Subject to subsection (2), the advisory committee consists of 16 members made up as follows:

(a) the chief executive;

(b) 1 person nominated by, and representing, each of the following persons or bodies:

(i) the Australian Federal Police;

(ii) the Director of Public Prosecutions;

(iii) the ACT Legal Aid Office;

(iv) the ACT Ambulance Service;

(v) the Australian Institute of Criminology;

(vi) the Australian Medical Association;

(vii) the Canberra City Heart Business Association;

(viii) the Women's Information Resources and Education on Drugs and Dependency (WIREDD);

(ix) an association representing residents of an area where the facility is, or is to be, located;

(x) Assisting Drug Dependents Inc;

(xi) National Centre for Epidemiology and Health;

(xii) Canberra Injectors Network;

(xiii) Australian Intravenous League;

(xiv) Alcohol and other Drugs Council of Australia;

(xv) the Winnunga Nimmityjah Aboriginal Health Service.

(2) The regulations may reduce or extend the membership of the advisory committee.

(3) Each member of the advisory committee is appointed by the Minister, by instrument, for a term not exceeding 3 years, and may be reappointed.

(4) A member holds office—

(a) for the term stated in the instrument of appointment; and

(b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are stated in the instrument of appointment.

(5) The committee is duly constituted, and may (subject to any relevant provision of this Act) perform its functions, despite any vacancy in its membership.

9D Chairperson and deputy chairperson

The Minister must appoint in writing—

(a) a member of the advisory committee to be chairperson of the advisory committee; and

(b) a member of the advisory committee to be deputy chairperson of the advisory committee.

9E Cancellation of appointment

(1) The Minister may cancel the appointment of a member because of the misbehaviour or physical or mental incapacity of the member.

(2) The Minister must cancel the appointment of a member if the member—

(a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

(b) is absent for 3 consecutive meetings; or

(c) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer.

(3) For paragraph (2)(b), an absence on leave is to be disregarded.

9F Resignation

A member may resign his or her office by signed notice of resignation given to the Minister.

9G Convening meetings

(1) The chairperson, or if the chairperson cannot do so, the deputy chairperson, must call such meetings of the advisory committee—

(a) as the chairperson or the deputy chairperson considers necessary for the efficient performance of its functions; or

(b) as the Minister directs, by written notice given to the chairperson or the deputy chairperson.

(2) The chairperson must call a meeting of the advisory committee if asked by 3 members.

9H Leave of absence

The advisory committee may grant leave of absence (either before, or at the earliest practicable time after, the absence occurs) to a member.

9I Procedure

(1) The chairperson presides at a meeting of the advisory committee when he or she is present.

(2) If the chairperson is not present, the deputy chairperson presides.

(3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect a member present to preside.

(4) The member presiding at a meeting may give directions in relation to the procedure to be followed for the meeting.

(5) The member presiding at a meeting has a deliberative vote and, if there is an equality of votes, a casting vote.

(6) The advisory committee must keep minutes of its proceedings.

(7) A meeting of the advisory committee may be called by telephone, television or any other device which permits instantaneous audio communication, with or without instantaneous visual communication.

9J Quorum

At a meeting of the advisory committee, a majority of the members for the time being of the advisory committee is a quorum.

9K Administration

The advisory committee may make arrangements with the chief executive for the provision of administrative or secretarial services to the advisory committee.

PART 2B—CONSULTATION WITH COMMITTEE

9L Minister must consult committee

(1) The Minister must consult the advisory committee about—

(a) any place to be declared to be the facility; and

(b) the operation of the facility (including the hours of operation); and

(c) the conditions of access to the facility; and

(d) the terms and conditions on which persons under 18 may attend the facility; and

(e) the way in which, and the criteria by which, the effectiveness of the operation of the facility may be evaluated.

(2) If the Minister decides not to give effect to a recommendation of the advisory committee about a matter mentioned in subsection (1), the Minister must—

(a) give a written statement of the reasons to the chairperson within 14 days after making the decision; and

(b) present a copy of the statement to the Legislative Assembly, within 3 sitting days after making the decision.

9M Criteria for deciding place for facility

In deciding whether to recommend a place to the Minister as the facility, the advisory committee must have regard to—

(a) the cost of setting up and maintaining the facility at the place; and

(b) the capacity to maintain the place in a hygienic condition; and

(c) the capacity of the place to meet the objective of giving drug dependent persons using the place access to counselling, medical treatment, detoxification and other health promotion services; and

(d) the means of safe disposal of injecting equipment after use.

9N Review of the operation of scientific trial

(1) The advisory committee must, as soon as practicable after the end of each 6 months following the date of effect of the declaration of the facility, give the Minister a report on—

(a) the operation of the facility during the 6 months; and

(b) the views of the advisory committee about the scientific trial during the 6 months.

(2) The advisory committee must, before the expiry of this Act—

(a) arrange an assessment of the scientific trial against the criteria approved under section 5D; and

(b) give to the Minister a report containing the assessment together with a recommendation either that the scientific trial continue for a stated time, or that it cease.

(3) The Minister must present a copy of each report to the Legislative Assembly within 6 sitting days after receiving the report.

MR MOORE (Minister for Health and Community Care) (11.43): Mr Speaker, I move the following amendment to Mr Stanhope's proposed new Parts:

Proposed new paragraph 9C(1)(b), after the proposed subparagraph (xv), insert the following:

"(xvi) the Youth Coalition of the ACT.".

This amendment adds to the list of people on the advisory committee the Youth Coalition of the ACT, who requested that they be added. The power will be there to add or delete people by regulation. However, as I was considering the Youth Coalition, it is more open to include them in the amendments today.

MR STEFANIAK (Minister for Education) (11.44): I have only just seen Mr Stanhope's list of people, to which Mr Moore is adding the Youth Coalition of the ACT. I had a talk to someone whose views on drugs are well known, who has suffered a tragic loss in the family and who has been quite vocal about, and interested in, the issue - Mr Warwick Gower. He is interested in going on this committee. He is in the gallery here tonight. He is a shopkeeper in the middle of Civic.

Someone with his interest would probably be an ideal person on a committee such as this. The only possibility for someone like Mr Gower to go on the committee would be as the representative of an association representing residents of the area where the facility is to be located. But residents might have different views to those of shopkeepers.

Whilst there are some worthy bodies on the list, there are some very useful citizens who would be able to serve this committee well now that it looks like we have to have this trial. I think the list is somewhat restrictive.

MR MOORE (Minister for Health and Community Care) (11.45): Perhaps I can answer that question. Mr Stefaniak, you would know that Mr Gower is a very active member of the Canberra City Heart Business Association. That body is on the list. He can be their representative if they choose to nominate him, or he can have an influence on their nominee. That is how the positions work. I am sure there are many people across Canberra who would be interested in being part of the body but, as with all these things, you are trying to find a balance. I think most of us would recognise that it is already a very extensive list.

MR STEFANIAK (Minister for Education) (11.46): I hear what Mr Moore says. I would suggest that maybe consideration should be given to a more general category for two or three people who do not fit those rather specific groups, if you want this thing to work.

I think it is rather sad that there is the possibility of persons under 18 attending the facility. My understanding of similar facilities overseas is that they deal with only adults.

Ms Tucker: Children can use the toilets, Bill. It is a good idea.

MR STANHOPE (Leader of the Opposition) (11.47): I will not be so crass as to suggest which names we will hang on the public toilets around Canberra to designate whose shooting galleries they are after this particular drug injecting place is established. I wish to address the amendment very briefly, Mr Speaker.

MR SPEAKER: You might have addressed the chair.

MR STANHOPE: Through you, Mr Speaker, I was - - -

MR SPEAKER: At the moment you are addressing the back of the Assembly. Just turn around a little bit, thank you.

MR STANHOPE: I am comfortable this way, Mr Speaker, thank you.

MR SPEAKER: Well, I am not.

MR STANHOPE: These new Parts create an advisory committee. This is a very important and significant part of the suite of amendments I have proposed. It is a very important committee. As has just been indicated by Mr Moore and Mr Stefaniak, it is broad ranging. There might even be concern that perhaps it is too big, but I believe it is important that the community have some ownership of this proposal. This is a way of ensuring a significant community connection with the proposal.

It is a broad range of organisations, including the Australian Federal Police, the Director of Public Prosecutions, the Legal Aid Office, the Ambulance Service, the Institute of Criminology, the Australian Medical Association and the Canberra City Heart Business Association. I am pleased that a significant representative of the last organisation, Emmanuel Notaras, has been a firm supporter of this proposal. I acknowledge the point that Mr Stefaniak made in relation to Mr Gower, who I know is also particularly interested in all drug issues. A number of other organisations are also included.

The function of the advisory committee is to advise the Minister on almost everything to do with the drug injecting place. The legislation requires that if the Minister does not accept a recommendation of this broad-ranging committee the Minister must give reasons. That is an important protection. The reasons must be tabled in this place within a very short period. In that context the Assembly will know precisely what is going on. The broadly based community committee will have a real opportunity of having some influence on the operation of the facility.

There is a requirement in proposed section 9L that the Minister must consult with the advisory committee on a range of things, including the place to be declared the facility. The Minister cannot declare a place to be a drug injecting place until he has consulted

with the committee. The Minister must consult with the committee about the operation of the facility. He must consult with the committee about the conditions of access to the facility, and the advisory committee must make recommendations on the rules relating to access.

That goes to the next question. The committee must consider, come to some agreement and advise the Minister, who will no doubt take advice from his department, on the terms and conditions on which persons under 18 may attend the facility. This has been raised today. I specifically included that provision in this amendment as a signal that there are difficult and complex issues associated with drug use and drug abuse, and we cannot run away from them. There is no sense in sticking our heads in the sand. There is no sense in any of us pretending that we do not have walking our streets significant numbers of children, people under the age of 18 years, injecting heroin. I am not afraid to debate the issue. I am not afraid to stand here and say that this is a difficult and complex issue.

My personal thoughts are that drug addicts under the age of 18 must have access to the safest possible facility whilst they are engaging in this life-threatening activity. But there certainly must be a range of conditions around how that access is to be conducted and controlled. There is a range of very difficult and complex issues about which this community has to make decisions and for which the Minister, Michael Moore, ultimately has to accept responsibility.

I think this is a most appropriate way of dealing with this very difficult and complex issue. A broadly based community advisory committee comprising 16 respected members of this community, across the whole spectrum, will advise the Minister for Health on how to deal with this complex issue. I hope and trust the Minister will refer that advice to his department. The Department of Health can then advise him on whether or not those proposals should be accepted.

This is a difficult issue. I do not know of a better way in which we as a community can deal with that incredibly hard and complex decision. If somebody can tell me a better way of dealing with the fact that we have on our streets legions of children under the age of 18 injecting heroin and risking their lives, other than by providing a safe environment in which they can inject - they are going to inject anyway, because they are addicted to heroin - I would like to hear it. If somebody can persuade me that there is a better way, perhaps we can amend this proposal in some other way. I do not know of any other way. I think this is a sensible proposal. I have racked my brain but I cannot think of a better way of dealing with this most difficult, complex and awful issue.

Another vital requirement of the advisory committee is that they must advise the Minister, and the Minister must take note, of the criteria by which the effectiveness of the facility will be evaluated. This is something people have been very concerned about and very cynical about. I can understand their concern. I do not ignore the concern. I accept it. They own it. I see it; I hear it. I hear it in the insults that have been hurled at me in this debate and on public radio. I hear it constantly. I know of the level of concern. But we are not going to duck and weave. This provision is designed to allay some of that concern.

The provisions in proposed new clauses 9L to 9M are very significant. They go to the way in which the trial will be evaluated, the criteria for deciding where to place the facility, the responsibilities of the Minister vis-a-vis the committee, how the scientific trial is going to be operated and the timing of the trial.

MR OSBORNE (11.55): This reminds me very much of the heroin trial pilot task force and the committee that was set up to review its report. This poor attempt on the part of Mr No-hope reminds me very much - - -

MR SPEAKER: Mr Osborne, please refer to the member by his correct name.

MR OSBORNE: Sorry, Mr Stanhope. You can hardly claim that the Alcohol and Other Drugs Council, Canberra Injectors Network and Assisting Drug Dependents are balanced or are going to go into this debate with an open mind. It is very much like the heroin pilot task force. The Director of Public Prosecutions is the former president of ADD Inc., something I do not think the Leader of the Opposition was aware of when he put this committee together. I have no faith that the committee will come out with anything other than something that is very much in favour of drug law reform.

Amendment (**Mr Moore's**) to Mr Stanhope's amendment agreed to.

MR MOORE (Minister for Health and Community Care) (11.57): Mr Speaker, I seek leave to move a new amendment that has been circulated in my name.

Leave granted.

MR MOORE: I move:

> Proposed new paragraph 9C(1), omit "16".

This amendment removes reference to the number of members on the committee. I have just added one member by my amendment. Also the Minister has power to add people or remove people. Removing the number 16 and just referring to "members" will avoid any problems.

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

Amendment (**Mr Stanhope's**), as amended, agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

Question put:

> That this Bill, as amended, be agreed to.

The Assembly voted -

AYES, 10	*NOES, 7*
Mr Berry	Mr Cornwell
Ms Carnell	Mr Hird
Mr Corbell	Mr Humphries
Mr Hargreaves	Mr Kaine
Mr Moore	Mr Osborne
Mr Quinlan	Mr Rugendyke
Mr Smyth	Mr Stefaniak
Mr Stanhope	
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

PAPERS

MR SMYTH (Minister for Urban Services): During my speech on the Supervised Injecting Place Trial Bill I said that I would table papers on all the complementary documents or processes the Government has in place and also the "Charter for health care workers" issued by Vatican City in 1995. I now table those documents and seek leave to have the relevant sections of the charter incorporated in *Hansard*.

Leave granted.

The document read as follows:

> Undoubtedly, the evils caused by dependency and the care it requires are not a matter for medicine alone. But medicine does have a preventive and therapeutic role.
>
> ***Drugs***
>
> 93. *Drugs and drug addiction* are almost always the result of an avoidable evasion of responsibility, an aprioristic contesting of the social structure, which is rejected without positive proposals for its reasonable reform, an expression of masochism motivated by the absence of values.
>
> One who takes drugs does not understand or has lost the meaning and value of life, thus putting it at risk until it is lost: many deaths from overdose are voluntary suicides. The drug-user acquires a nihilistic mental state, superficially preferring the *void* of death to the *all* of life.

94. From the moral viewpoint "using drugs is always illict, because it implies an unjustified and irrational refusal to think, will, and act as free persons."

To say that drugs are illicit is not to condemn the drug-user. These persons experience their condition as a "heavy slavery" from which they need to be freed. The way to recovery cannot be that of ethical culpability or repressive law, but it must be by way of rehabilitation, which, without condoning the possible fault of persons on drugs, promotes liberation from their condition and reintegration.

95. The detoxification of the person addicted to drugs is more than medical treatment. Moreover, medicines are of little or no use. Detoxification is an integrally human process meant to "give a complete and definitive meaning to life," and thus to restore to those addicted that "self-confidence and salutary self-esteem" which help them to recover the joy of living.

In the rehabilitation of persons addicted to drugs it is important "that there be an attempt to get to know individuals and to understand their inner world; to bring them to the discovery or rediscovery of their dignity as persons, to help them to reawaken and develop, as active subjects, those personal resources, which the use of drugs has suppressed, through a confident reactivation of the mechanisms of the will, directed to secure and noble deeds.

96. Using drugs is anti-life. "One cannot speak of 'the freedom to take drugs' or of 'the right to drugs,' because human beings do not have the right to harm themselves and they cannot and must not ever abdicate their personal dignity, which is given to them by God," and even less do they have the right to make others pay for their choice.

Friday, 10 December 1999

VICTIMS OF CRIME (FINANCIAL ASSISTANCE) (AMENDMENT) BILL 1998

Debate resumed from 26 November 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (12.03 am): Mr Speaker, I fear that this Bill can satisfy no-one. I think even the Attorney will be unhappy with it, should it succeed, when he is the focus of the widespread criticism that will follow. But the Attorney, of course, is wearing his Treasurer's hat on top of his wig. That must be the reason he is so arrogantly determined to push on to rein in the cost of the criminal injuries compensation scheme and ignore the legitimate criticisms of the legal profession and the support groups that are most closely linked to the issue.

Last week the Attorney told the annual report committee hearings that victims assistance bodies supported this Bill. He said the key interest group, the Victims of Crime Assistance League, or VOCAL, supported the Bill. Mr Speaker, that assertion was wrong. The Attorney simply misrepresented the views of VOCAL. VOCAL has subsequently said publicly that it was outraged to learn that the Attorney-General, Mr Humphries, had informed the committee that VOCAL supported this Bill. To the contrary, VOCAL is seriously concerned about the proposal in the Bill. How can the Government, says VOCAL, spend $30m more on the redevelopment of Bruce Stadium than originally proposed while running to an agenda in relation to victims of crime that is simply designed to save money?

There have been a number of reports on the criminal injuries compensation scheme and this Bill, principally report No. 2 of the Standing Committee on Justice and Community Safety chaired by Mr Osborne. Each of these reports made recommendations about how the scheme could be changed to achieve the aim of making the scheme efficient, economical and equitable. The Attorney and the Government have moved simply to make the scheme economical. There is no commitment to equity in this "caring" Government. We saw that two nights ago when the Government moved to allow its departments and agencies to discriminate against disabled people. There is no sense of caring here.

The Government has moved to meet its financial imperative by shutting out a large number of potential beneficiaries from financial payments under the scheme, eliminating payments for pain and suffering, making reporting of crimes to the police compulsory, and making participation in the victims services scheme compulsory. It is ridiculous to suggest that only those persons suffering from an extremely serious injury that is likely to remain so permanently need special assistance. The special assistance replaces the compensatory payment for pain and suffering. The lacerations received by the victim who has a glass smashed in his or her face will leave permanent scars, but they will not fall within the definition of "extremely serious and likely to remain so permanently". Should this person be shut out of the scheme of special assistance or pain and suffering compensation?

Many victims of crime do not report the crimes to the police, for a variety of reasons. Domestic violence and sexual assault victims are classic examples. These people do seek, and need, assistance that the criminal justice system is often not able to deliver, often from their families or friends. Why should they be shut out of the scheme simply because they do not wish to report the matter to the police and have to relive the trauma of the assault every time they tell their story?

The Government is rushing this legislation through. I assume their determination to proceed with it tonight indicates that they have support from the crossbench. Requests to have the debate of this legislation deferred have been refused by the Government, and Mr Osborne and Mr Rugendyke have supported that refusal. Only this morning Mr Osborne announced on radio he was engaged in confidential and sensitive negotiations with the Attorney-General to salvage the Bill. What was the basis of these negotiations? What concessions did Mr Osborne extract from the Government in return for his support?

It is only a little more than two weeks since the Government tabled its response to the report of the Standing Committee on Justice and Community Safety inquiry into the Bill. There was a widespread community expectation, one which I admit the Labor Party shared, that the Government would support many of the recommendations and introduce amendments to its Bill. That is not happening.

The Government supported six recommendations, supported in principle eight, supported with modification one, and refused to support the rest. However, even with those recommendations which received some form of support from the Government, the support was heavily qualified and the recommendations are unlikely to find their way into amendments to the Bill. This is because the Government believes - and I quote from the Government's response -"further implementation to be unnecessary" or "this recommendation can be implemented administratively" "drafting of the regulations has been deferred" or some other version of these weasel words. Many stakeholders who made submissions to the standing committee were not even aware that the response had been lodged and that the Government was going to force the Bill on so quickly. Thus the criticisms levelled by community organisations and the standing committee will, in effect, be ignored by the Government.

Criminal injuries compensation legislation is benevolent legislation, and without it many victims of crime are unable to obtain compensation. Perpetrators of crime can sometimes not be identified, and even if they can be identified the Attorney advised last week's annual report committee that claims against them are a waste of time as more often than not the perpetrator cannot afford to pay. I might add that there is some anecdotal evidence about at the moment - and I might pursue this with questions of the Attorney - that the total amount recovered this year from perpetrators under the scheme is the grand and princely sum of $500. Under the scheme in this Bill there is a shift in emphasis from a compensation scheme to one of assistance, and very little assistance at that.

Very few victims will be entitled to special assistance. Extremely serious injuries would obviously include serious brain damage, paraplegia, blindness and the like. In such cases the suffering would be immense and obviously permanent. However, the victim of a brutal assault who was hospitalised for months would not qualify for a special assistance payment if he or she recovered to any reasonable degree. Clearly, victims with broken limbs that heal or post-traumatic stress that resolves over some years will not qualify for a special assistance payment. The treatment costs and wage loss for these victims would more than likely take up the entirety of the maximum available sum of $50,000, so that the question of special assistance benefit would not even arise.

Further, under the old scheme family members of a victim could each obtain a payment of up to $50,000. Under the revised scheme family members - or, as they are called in the Bill, related victims - will share a maximum payment of $50,000, and that payment will be on a first in, best dressed basis; that is, if the court makes a final award to one related victim, no other related victim can make a claim.

The major objections to the Bill lie in the definition of "extremely serious injury", the compulsory nature of participation in the victims services scheme and the establishment of the victims services scheme by regulation. Clause 11 defines an extremely serious injury as a criminal injury that results in permanent impairment, that is extremely serious and will remain so permanently. The references to permanency will exclude victims of such crimes as sexual assault and domestic violence from the special assistance awards of amounts up to $30,000.

Victims must report the crime to the police and participate in the victims services scheme before being eligible for any financial assistance, including the special assistance awards. As I have said, many victims do not wish to report the crime and would prefer the support of family and friends to a government-sponsored scheme but, if that is what they choose, then there will be no assistance.

The establishment of such an important element as the victims services scheme by regulation is an entirely inappropriate delegation of this Assembly's legislative power. The Minister's wish to retain as much flexibility as possible in establishing the scheme is, I guess, understandable. Leaving it to regulation gives the Government the flexibility to establish anything from a Rolls Royce service to no service - although, given its record on disability services, it is clear which end of the spectrum will be chosen. This legislature must take a role in deciding such significant matters as the establishment of a Victims Assistance Board to ensure that it will give independent advice to the Government and give victims a voice.

I will be proposing amendments to these three elements of the Bill, but I believe quite strongly that the debate should be adjourned until the first sitting next year so that the community organisations have time to react to the Government's response to the standing committee's report and members of this place have some opportunity to investigate and assess some of the amendments which I understand are being foreshadowed. We need time.

Mr Humphries: You have had 2½ years. For 2½ years this issue has been on the table.

MR STANHOPE: That is simply not true, Attorney. Look at the motley collection of amendments that have now been foreshadowed and circulated tonight. People in the community have had absolutely no opportunity to assess the implications of some of the amendments that are to be moved. We had a reasonable expectation that you would at least listen in some part to the standing committee's views on things you have completely ignored.

Adjourning the debate will also give the Minister time to circulate information to members on the relative costs of the existing scheme and the proposed scheme. The Minister should disclose exactly how much funding will be allocated to the victims services scheme. Will the amount saved by shutting out potential claimants from compensatory payments be diverted to establishing a service that will be of real benefit to victims? Or will the savings simply go on such other essential government services as guaranteeing ticket sales to football teams or to car races?

A delay would also give the Minister time to reflect on how best to ensure that the scheme is protected from claims that more appropriately should be made from workers compensation and other insurance schemes. Police officers, bank tellers and shop assistants who are traumatised in the course of their duties must be assisted by their employers rather than this scheme. This is clearly an employer's responsibility. If any payment is made from this scheme, it should be recoverable from the employer. This would force the employer to take appropriate action to ensure, as far as possible, safe conditions and methods of work.

The Opposition recognises the need for economy in the provision of government services and would support the reform of this scheme if the Government would take into account and follow the recommendations of the various committees that have reported on this Bill. We cannot support the Bill as it stands. I do not think we should be debating it tonight. I do not think community organisations have had time to respond to the fact that the Government is not accepting any of the standing committee's recommendations. I believe the community should also have an opportunity to comment on some of the amendments that are being proposed at this very late stage by a number of members of the Assembly.

Question (by **Mr Kaine**) put:

That the debate be adjourned

The Assembly voted -

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

Question so resolved in the negative.

MS TUCKER (12.20 am): The Greens are also concerned about this legislation. We supported the motion to adjourn the debate, because we think we need more time. We are of the view that too many victims of crime remain unassisted and unsupported by our community - particularly the poor, the less educated, the most vulnerable and victims of sexual assault and domestic violence. It is also our belief that this legislation as it now stands makes the situation worse, not better.

When the Minister presented this Bill in November last year, he described the proposal as addressing the real needs of victims. I am not convinced that it does so, and I will move a number of amendments based on the considerable work that has been done on the issue to remedy some of the problems.

Reform of the criminal injuries compensation scheme was first raised in 1997 through a discussion paper issued by the Attorney-General. Community groups representing victims of crime and well placed to comment on the impact of the proposal were very disturbed by the direction of the paper. The chief intent appeared to be to cut down the costs of the scheme to the territory Government without appropriate consideration of the needs of victims and equity issues. Without a doubt, this legislation achieves that primary goal but at too high a cost to the very people it purports to assist. Since then a working party has been convened by the Victims of Crime Coordinator and the Assembly Standing Committee on Justice and Community Safety has had an inquiry into the Bill.

It is ironic that in many instances this legislation will leave victims of crime worse off than they would have been under the original proposals canvassed in the Minister's discussion paper. I note, for example, that the paper recommended that assistance to secondary victims should be limited. Except in the case of death, this legislation now limits that assistance to zero. The 1997 discussion paper recommended that assistance to applicants be refused if they fail without reasonable excuse to report the event to police. Under this legislation no excuse is reasonable. The 1997 discussion paper also recommended that financial assistance for pain and suffering be assessed by the proportionate scaling method. Under this legislation there is no financial assistance for pain and suffering.

Such an outcome raises very real questions as to the value of inquiries and reports embraced by this Government. I cannot find any instances in this legislation where the Government has changed its course - although there are some amendments now - in response to the submissions and contributions made by committee members or representatives of the community. Such an imperious approach is alienating and demoralising the erstwhile contributors. It is politically and socially destructive.

The cost of the current scheme does warrant attention. In his press release of November last the Attorney-General announced a $9m expected payout for 1998-99. We did not get to that point. Indeed, the much smaller blow-out in payments last year was a problem of his own making. After foreshadowing a more limited scheme in 1997, the Attorney-General created a rush of applications. In announcing that the more limited entitlements would apply retrospectively from June 1998, he compounded the problem.

Not surprisingly, under the considerable pressure of applicants desperate to have their cases heard before this Bill was implemented, a 48 per cent surge in applications in 1997-98 saw awards in 1998-99 rise by 44 per cent. If retrospectivity were not a feature of this Bill, we would have a much more realistic view of the costs of the existing scheme.

Of course, this is not the whole picture. Many of the costs imposed on this scheme should be borne elsewhere. Thirty per cent of the artificially inflated figure of $6.6m relates to crime inflicted on people at work. Well may we ask what workers compensation is for if police officers and bank tellers have to resort to the victims of crime scheme. Surely one of the duties of a police force is, where possible, to protect its officers from, and to compensate them for, the consequences of violent crime. Surely the banks, at the very least, can afford to pay a workers compensation premium which will cover their work force for the physical and psychological impact of armed hold-ups.

Costs also reflect our growing understanding of the psychological damage that violent crime can inflict on victims. There is no earthly reason that workers compensation businesses should offload that responsibility on a scheme devised to assist victims without recourse to other support. As members will be aware, workers compensation in the ACT is on the table in this Assembly. We are presented with a rare and very real opportunity to look at the impact of violent crime and to determine a more equitable outcome for its victims. It is not good enough, even and only in light of cost containment, to dodge the issue of workers compensation and lay the burden back on victims. I urge the Government to pick up the recommendation of the committee's report to introduce psychological injury into the lexicon of the ACT workers compensation provisions.

It is important to make the point that some of the cost cutting achieved through this Bill is not at issue today. Assistance in this Bill is targeted at victims of violent crime only. Entitlements have been tightened considerably for people who were intoxicated at the time of the incident or who were engaged in criminal activity. Other than in the case of death, secondary victims have no entitlements at all. Payments are set off against Medicare, contract insurance and social security entitlements. I do not necessarily support these conditions, but the amendments I am moving simply attempt to ameliorate some of the more damaging aspects of the Bill. I remind the Assembly that I will always look to work cooperatively with other members, and I would have greatly preferred to adjourn debate on this Bill, as I have already said, so that we could work together to arrive at a better outcome.

The 1998 victim support working party and this year's standing committee made many valuable contributions to the debate. I will draw on some of that material when I move to my amendments. In brief, the working party report offered a valuable overview of interstate and international services. It drew together considerable research on the felt and perceived needs of victims of crime, many of which fall outside the reach of this legislation, although they do fall within the ambit of the Attorney-General. It called for the establishment of a more holistic approach to victim support.

It may well be that the Minister has introduced or plans to introduce a number of initiatives to address such needs, including the provision of additional victims liaison officers and court liaison officers; the establishment of a witness assistant within the office of the DPP and the establishment of a child witness service; enhanced reparation, mediation and crime prevention strategies; other procedures to encourage timely and sensitive support for victims of crime as well as accurate and timely information on legal and criminal processes; minimisation of red tape and application procedures for clients; and access to a range of approved suppliers to provide counselling and other

support services. I ask the Attorney-General to advise the Assembly of such initiatives as he has implemented or plans to implement to this effect and such other cost-cutting or revenue-raising measures he has taken or plans to take in the area of victims of crime support.

The Standing Committee on Justice and Community Safety reported on an inquiry into this Bill and tabled that report in June. The committee was chaired by Paul Osborne and included Harold Hird, Trevor Kaine and John Hargreaves. These men made 24 very clear recommendations designed to ameliorate some of the more disturbing implications of the legislation. In presenting the report to the house, the committee chair commented:

> … all members of the committee attempted to come to what we thought was a fair compromise in relation to this report.

I commend them for their work and regret that debate on the matter was adjourned and that we are debating this legislation before the chair could speak to his report. Key recommendations of the committee were that all references to "permanent" be removed from the special assistance provision in the Bill; that the Government consult directly with relevant community organisations to devise mutually acceptable wording to provide financial assistance for victims of sexual assault and domestic violence and that such victims not be disadvantaged by the introduction of this legislation; that involvement in the victims services scheme be voluntary; that victims of sexual assault and domestic violence not be required to report to police; that the retrospective provisions of the Bill be removed; and that the Government amend workers compensation legislation to incorporate psychological injury. While some of these recommendations fall short of legislation I would unequivocally support, the Bill before us falls way short of even that.

The Assembly's committee system is crucial to the public's interaction with government business and the Assembly. I am disappointed that the Government's response to the report failed to take up so many of the recommendations. I am also concerned that the chair and other members of the committee are not taking the opportunity to move amendments that put their recommendations into effect. I note that the Labor Party is proposing amendments to the definition of "extremely serious injury" and to establish the VSS through legislation rather than regulation. I support that. I will be moving further amendments in order to achieve at least some of the outcomes recommended in Mr Osborne's report, and I hope to receive support from Mr Osborne and his committee members.

MR HARGREAVES (12.29 am): Before addressing the issue specifically, I wish to acknowledge the presence in the gallery of members of the Victims of Crime Assistance League, who have been here all night and listened to all the speeches. I congratulate them on their forbearance and thank them for being here. When the Minister put the Bill forward and made his presentation speech, he said - and it was true at the time - that VOCAL's representative on the working party supported the views of the working party. It needs to be put on the record that that is no longer the case.

Mr Humphries: That is true but it was the case at one stage.

MR HARGREAVES: It was indeed, and I do not want the record to reflect any suggestion on my part that the Attorney-General has attempted to mislead the house. I just want to correct the chronology and put on the record that such is not the case any more. A lot of the concerns that led the standing committee to its conclusions came from discussions we had with VOCAL.

I acknowledge that it is a fairly recent thing, but one of the subjects around which a lot of the discussion revolved was closure. A lot of people gave evidence to the standing committee on closure. It is fairly well accepted that in a lot of cases giving people a lump sum is an attempt to effect closure, but it does not work. That came out pretty clearly in the committee's conclusions. However, that is not the case for every single victim. For some people, that is the only method of closure. The size of the award is immaterial. To do away with the award because it does not work is wrong. To address the size of it is right. There still has to be that symbolic gesture because society has let people down. I am firmly convinced that doing so will effect closure.

An award cannot be made in isolation. It has to be made in conjunction with other schemes. We need to address other non-physical issues associated with being a victim. I reject the claim that we need to severely trim this scheme back on the basis that lump sum payments do not effect closure.

I did a quick count of the cases included in the annual report on the Criminal Injuries Compensation Act. The report made great bedtime reading, although it took me quite a while to read it. I would suggest that those who have not read it through to the end do so, because it reveals quite a number of interesting things. About 528 cases are mentioned in the report. The numbers I give are very rough because some of the categories were hard to pin down, as you can imagine. But 30.5 per cent of cases involved people who were injured in the course of their employment - police officers, bank tellers, sales people, petrol station attendants and people like that. I am encouraged that the Attorney-General has an amendment about workers compensation being exhausted before an application can be made for assistance under this legislation. I want to acknowledge that and say that I support it very sincerely.

I have not done a comparison on the cost per claim, but a goodly proportion of that 30 per cent ought to be satisfied by an insurance policy or a workers compensation policy. That is what such policies are for. If a builder falls off a building and gets injured, regardless of whether it is negligence, he gets fixed up under workers compensation insurance.

Another 6.4 per cent of cases were for indecent or sexual assault and another 8.7 per cent were for robbery or home invasion. That 8.7 per cent could rise as high as 9.5 per cent if some of the cases I define as miscellaneous were defined as robbery. Another 15 per cent of cases arose from anti-social behaviour in or near licensed premises. I did not split those up, but a lot of them arose from incidents inside licensed premises as a consequence of either the perpetrator or the applicant, or both, being intoxicated.

Domestic violence and disputes between neighbours accounted for 10 per cent of cases; unprovoked assault, for 16 per cent; provoked assault where the perpetrator got criminal injuries compensation, for nearly 2 per cent. The remaining 11 per cent were miscellaneous. I could not split them up without having a chart a mile long, so I lumped them all together.

By my count, 161 cases out of 528 were for injury in the course of unemployment and 34 were for indecent or sexual assaults. These are significant figures. I think the amendment about workers compensation may very well go a long way towards fixing the problem. Cost has blown out from $6m to $10m. A wild projection by the Minister on the radio today was that they could go as high as $12m. I would suggest that that is because there has been a rush following publicity about the scheme and the retrospectivity of the legislation. We are seeing the retrospectivity already being taken care of, I suspect.

A close look at the statistics reveals a bit of inconsistency in the size of awards. Maybe the scheme is not at fault. Maybe guidelines should be provided for the magistracy, the Master of the Supreme Court and the Registrar. Let us take a look at some examples of awards of between $6,000 and $10,000. A young boy bashed by another young fellow was awarded $6,000. A person who was stabbed and hit with an iron bar was awarded $8,000, only 2,000 more. The two awards are hardly consistent.

A boy whose parents died in a house fire that was deliberately lit by an arsonist was awarded $10,000. A person who was bashed while walking through the mall in Civic was awarded $5,000. I might say as an aside that I was clobbered in Civic at one time. I did not apply for compensation, but I am tempted to apply now after seeing an award of $5,000. I see the smile on the retrospective tiger's face. I am not going to do it.

Mr Humphries: Who bashed you?

MR HARGREAVES: I am not going to dob. It was a Liberal Party member. An AFP officer was given $7,000 for a soft tissue injury sustained in the Parliament House demonstrations. I am sure that was a significant injury. Only $8,000 was given to another AFP officer who received serious injuries at the same demonstration. The guy who suffered just soft tissue injury got $7,000 and the policeman who suffered significantly serious injuries got only another $1,000. That is a bit wonky. Nine thousand dollars was awarded to a student who was punched out during a school rugby match. He got $1,000 more than the policeman who was significantly injured in a demonstration at Parliament House. Eight thousand dollars went to a policeman who was seriously injured in the Parliament House demonstration. Eight thousand dollars was also awarded to the husband of the woman who had manure thrown on her during her wedding. He was so stressed out by seeing his bride and her wedding dress covered in manure that he got $8,000. There is something a bit odd there.

In the $10,000 to $15,000 bracket, there was an award to an AFP officer who suffered spinal injuries when he was on duty. Another AFP officer got $15,000 for a serious injury in the Parliament House demonstration. But a bloke got $11,000 because he was attacked at a hockey field and somebody kicked him in the groin. He suffered excruciating pain, no doubt. It would bring water to your eyes very quickly, no doubt.

But does $11,000 for that compare with $12,000 for the AFP officer who suffered spinal injuries? I do not think so. Twelve thousand dollars, $1000 more, was awarded to a woman who was indecently assaulted by two males in Civic, and only $2,000 more was given to the mother of a boy who was sexually assaulted by her de facto husband.

I have another classic. This one absolutely blew me away. Remember that $12,000 went to an AFP officer who suffered spinal injuries at the Parliament House demonstration. By comparison, $14,000 was awarded to a senior defence officer who was barrelled over at Government House during an award ceremony and broke his arm. He got $2,000 more. A woman got $2,000 less than that senior defence officer when she was held hostage in a bank hold-up. She had a knife held to her throat and suffered lacerations. You can imagine what that woman was like. She got $2,000 less. Perhaps we should be looking at the relativity rather than trying to knock the scheme out.

When you come to awards around the $20,000 mark, there appears to be a consistency. Twenty thousand dollars went to an AFP officer who was assaulted and stabbed in the course of his duty. I have no problem with that. A child assaulted by its stepfather got $20,000. Fine. An applicant whose parents were murdered and whose brother was maimed got $20,000. I have no problem with that. Twenty thousand dollars went to a sexual assault victim. I have no problem with that either. But the woman who had manure thrown on her wedding dress during her wedding got $19,000. There is a little bit of a problem here.

Perhaps we ought to think seriously about the way in which we are giving direction to the people making these awards - that is, the magistrates, the Master of the Supreme Court and the Registrar - rather than trying to wipe the scheme out. I have a real hassle with that.

I think I have addressed the retrospectivity. We cannot go forward with this retrospectivity. It is just not on. I suspect half the problem the Government seeks to solve with the retrospectivity has been addressed in the rush and the flood of claims so far. If you have spent $12m - you are $6m over budget already - I will bet you half of the claims are retrospective. *(Extension of time granted)* I will not say any more about the retrospectivity. I think other people will. I think the case against retrospectivity is well made. I do not think retrospectivity is on.

I would like to address the Government's response to the report on this Bill by the Standing Committee on Justice and Community Safety. There are some things in the response with which I have a problem. On page 1, under "General Comments", the Government says:

> Criminal injuries compensation schemes are created by legislation and are essentially welfare measures.

I do not think so. These are not handouts. They are reparations. They are a tangible way of saying, "Sorry, we let you down". They are not welfare. The response goes on to say:

> Criminal injuries compensation schemes are a relatively recent invention which some commentators regard as primarily an attempt to mollify victims rights activists alienated by the treatment of victims in the criminal justice system.

The scheme is not mollifying people. That is to suggest that the people receiving some sort of assistance, some reparation, some expression of apology, some assistance in rebuilding their lives, perhaps do not deserve it and perhaps should not be applying for it. That is something that I reject out of hand. The response also says:

> The Government's two submissions to the Committee's inquiry reported that the efficacy of such schemes to address victims concerns in any meaningful way has been challenged both by victimologists and victims themselves.

Not to the committee I sat on. The Government's representative, Mr Temporary Deputy Speaker - as you would know, because you sat there impressively during the whole thing - did try to say that sort of thing. But, generally speaking, the people who gave evidence to the committee did not challenge the efficacy of the system. They said there were bits that could be tinkered with and fixed up. They said that if there was a problem with the money you could look at ways of fixing that but, generally speaking, they endorsed a lump sum payment for closure, something rejected by the Government's submission. They endorsed opposition to retrospectivity and they endorsed the exhaustion of an application for workers compensation before people proceeded to the next step.

I cannot allow it to be said that our approach is an attack on the opportunity for members of the AFP, bank tellers and people like that to apply for compensation under this scheme. That is not the case. What we are saying here is that a workers compensation claim should be exhausted and that when that is exhausted and there is insufficient reparation then this scheme will apply. It already does. In one case a significant amount, something like $15,000 or $18,000, was awarded to an AFP officer, but not all of the claim was paid by the CIC. There was also an amount under consideration by Comcare for the back injury the policeman sustained on the job. The two schemes should be working in tandem. Workers compensation should apply. Where it does not apply, victims of crime assistance should. In that way I would like to think we could protect members of our work force who are particularly vulnerable.

One of the things we tried to find out in the committee was how much perpetrators contributed to the victims. For example, if $5,000 has been awarded to a victim, how much have we claimed from the perpetrator? I know there is a problem in collecting that sort of money because often the types of people who will bash other people up do not have that kind of money. A reasonable attempt would be a fair go, would it not? You could say, "Let us have a go. Maybe he has a television we can knock off and sell - anything".

I do not find the activity that has occurred in the last 12 months to be all that impressive. I am reasonably reliably informed that $500 has been recovered from two people in a year. I question the commitment to chase that kind of money. If there is a problem, perhaps we ought to be addressing our thinking towards that.

One thing that rammed home the motivation behind this legislation was this statement on page 3 of the Government's response:

> The Government does not support recommendations [1], 4, 6, 12, [13], 17, [18], 19 and 21 -

which is most of them -

> on the following bases:
>
> . they are not budget neutral and they would significantly add to the cost of the scheme …
>
> . they reduce equity efficiency or accountability …

Budget neutrality has as its premise an expenditure and a revenue. That is what budget neutrality is all about. One cancels out the other. A compensation scheme is an outgoing. It does not have an income. What we say here is that we have spent $6m in a normal year, might now have to spend $10m, but have collected $500. It never was going to be budget neutral. It never could be budget neutral and it never will be, regardless of the changes you might make to the scheme. *(Further extension of time granted)*

I want to conclude on my next point. I will forget about the other points. The Government's response talks about reducing equity efficiency and accountability. The recommendations of the committee had nothing to do with the accountability of the scheme. The accountability of the scheme is about how you set it up and how you report on it. Who gets access to what and for what reasons have nothing to do with accountability. Accountability is just an audit measure. The argument that we need to change the scheme because it is not accountable enough is an irrelevant argument.

I would urge the Assembly to reject the retrospective provisions, to support the Government's changes to embrace the workers compensation provisions and to support the amendments that Mr Stanhope is going to move in due course. I thank members for their indulgence in granting me extensions of time.

MR STEFANIAK (Minister for Education) (12.53 am): I have listened with interest to this debate. I had a fair bit to do with victims as a prosecutor. Indeed, I was prosecuting when the scheme started and the maximum was $20,000. I was in the First Assembly when it was raised to $50,000. It is a scheme that worked well in the early stages, but considerable problems arose thereafter. The examples given by Mr Hargreaves highlighted some of the inequities and some of the problems with the scheme. It is a matter of concern to the Government that the costs have blown out astronomically.

One wonders whether the scheme is really achieving the best outcome for victims. My colleague the Attorney-General has put forward a sensible proposal and there seem to be one or two sensible amendments floating around tonight as well. I think that we will end up with a far better scheme than we have. It was high time that the scheme was looked at.

It is not just a question of money. Indeed, there was a lot of inequity in the examples given by Mr Hargreaves. It is very difficult for a lot of the people to understand how someone could get $7,000 for an injury and another person could get $8,000 for an injury that was far worse. I am well aware of criticisms in the legal profession of just how the scheme operates. I suppose that is like any judgment you can get from a court. One registrar or one magistrate will do one thing and another will do something very different. Inconsistencies in court decisions are always a problem. That is why the proposal of the Attorney-General that is being debated tonight is a far better deal for victims.

It has been said in this debate and I have heard it said on the radio that the system would be letting victims down if the Government's scheme were to get up. I do not know why that is being said. Victims certainly were let down until probably 10 years ago when a few improvements started to be made. Certainly, in the 1980s I saw many victims. They were mainly civilian victims, but there were also police victims. I will deal with the civilian victims first.

In those days there were no victim impact statements, which give the courts a chance to see what effect a crime has had on a victim. In fact, I remember the first victim impact statement for the ACT, which was presented in the Supreme Court to Mr Justice Kelly. I presented that victim impact statement. I think Stuart Pilkinton was the defence counsel. We had an agreed statement because I think you had to put an agreed statement then. It was an interesting case. It was about a particularly nasty incest offence committed by a father on his daughter when she was 12 and 13 years of age. She was 15 years of age at the time of the court case. It had gone on for about 2½ years and the girl had finally complained to her mother. The father had visiting rights and would make sure that the younger brother was asleep before sexually assaulting the daughter. As a result, he received what was for the ACT a very substantial prison sentence. I think it was for 8½ years and was very much in line with sentences for similar offences throughout Australia.

I remember that quite clearly. I doubt very much whether that penalty would have been imposed had there not been victim impact statements. I think the court acted appropriately there. Whilst the mother and daughter, especially the daughter, probably will always have some scars as a result of what happened, they at least felt that their side of the story had been put. The problem for victims, especially civilian victims, in a case where the defendant pleaded guilty, but often with a not guilty plea, was that their side of the story would not be told. They were the forgotten people in the court case. All the emphasis in court was on the defendant and quite often the civilian victim would feel that the defendant was being treated somehow as a treasured citizen by the court, especially if the defendant was found not guilty or, more likely, the penalty was not particularly great and they were shut out of it.

The introduction of victim impact statements certainly has helped. Improvements to court procedures and police procedures, which were not necessarily crash-hot, have helped lots of victims. I refer to simple things like keeping victims informed. I might say, too, that the DPP's procedures were not particularly marvellous earlier, but they have been improved. Keeping victims informed, making sure victims are aware of adjournments, treating victims compassionately, with sensitivity and with a little common sense, making sure victims are away from defendants in court and the introduction of video evidence are measures that have helped victims a lot.

It is difficult for victims, especially civilian victims, to appreciate that sometimes the defendant will get off. That causes trauma in itself. I am not quite sure how to overcome that, apart from doing what I was always trying to do, which was simply to explain that the court was not necessarily going to convict the defendant as there may not be enough evidence and we had certain standards in this country requiring guilt to be proven beyond reasonable doubt. The police officers who were victims often would appreciate that a lot more.

One of the biggest problems I found in Canberra - more so with police than with civilian victims - was that when someone was convicted after a very lengthy case the court would impose what the victims would regard as an unrealistic and very weak penalty. The courts are not very consistent there. It is difficult to get the courts to be consistent, but I think that that is something that the courts do need to address. The citizens of the ACT, certainly the victims, do deserve courts to be as consistent as possible and to have penalties that reflect the actual offence, are realistic and take into account just what has happened to the victim and the victim's family and the effect that it has had on them. That is at least as important, perhaps even more so, than the effect of the crime on the perpetrator because without the perpetrator you do not have the crime.

All of those things are terribly important in terms of making victims feel that the system is listening to them and that they are obviously an essential part of it because without their evidence in a defended matter there would be no trial and there would be no conviction at the end of the day. There is probably still a lot that we can do, even though I agree that there have been substantial improvements in the last 10 to 12 years. I think a lot more can be done by the judicial system and the people within it to improve the lot of victims. As I say, a lot has been done. I am pleased to see that. I am pleased to see rooms being set aside for victims and action being taken to make sure that victims are away from defendants, but a lot more can be done by both the judiciary and people within the court system.

It is not just a matter of money. Sure, having more money can help, but there are certain things that having more money cannot help with. The proposals in this scheme, especially the greater emphasis on counselling and trying to assist a victim to get back on the rails and get over the trauma and over the injury that have been caused, are very sensible indeed. If that has the effect of reducing the bill for the public, I think that is for the good. I note that some of the amendments still have payout provisions. That is fine.

I am interested in Mr Hargreaves' comments in relation to the courts chasing up money from criminals who can afford to pay it. I understand that there is provision in the current Act for that to occur. I was surprised when he said that only a few hundred

dollars had been collected. Whilst a lot of the defendants - indeed, probably the majority - are without means and the public purse is being called upon, there are certainly some who would be able to pay it. In my time at court, which, I admit, stopped in 1995, there would have been occasions when money would have been recouped.

There are factors which are very important to victims other than simply saying to them, "The system has let you down. Here is a wad of money". There have been inconsistencies, too, in terms of how that wad of money has been divvied up. I think that the package that has been put forward here addresses that and will be of great assistance in helping victims to get over the trauma of what has occurred to them as a result of criminal activity.

MR BERRY (1.02 am): Mr Speaker, the part of this debate that I have found most disturbing is that there has been a fairly comprehensive attack on the victims of violent crime in the past. We have heard about criminal injuries compensation being paid to a woman who was traumatised by finding a doormat burning on the front step. Put simplistically, that might sound uninteresting. On the other hand, I understand that this case involved a fairly lengthy harassment of this woman. Basically, she was being monstered. I do not know about you, Mr Speaker, but if I was dragged out of bed in the middle of the night to find my doormat alight, I think I would take that as a death threat. I think that it demonstrates that somebody is seriously upset and wants to do you harm. I think I would worry about that, even if I had not been monstered for weeks or months before.

That is one example I have heard of the victims being blamed for the payouts under the criminal injuries compensation scheme. If they had not made a claim, I suppose there would be no payout and there would be nobody to blame. Other examples I have heard of involve young men - again, the target of the people opposite in legislation which has been before this place on other occasions - on licensed premises who might be inebriated. The suggestion seemed to be that they should not be involved in the criminal injuries compensation scheme if they were in a place where people could drink alcohol.

What if they were in a place where people could drink alcohol, but they were stone cold sober and got beaten up? You have a right to wake up in the morning in a decent condition, whether you have been drinking or not. Is it okay for people who have consumed too much alcohol to become targets for thugs to bash up? Should they not be entitled to criminal injuries compensation because they have been on the sauce? That is an extremely upsetting approach to take, but it is typical of this Minister's approach to these sorts of issues: Pick out a few victims and give them a bit of a box around the ears to demonstrate a need for change. These people are in the minority and it is always easy to go after people in the minority.

There has been some debate about how the criminal injuries compensation scheme has applied to police and others. I seem to recall this Minister also being quite critical of the criminal injuries compensation that bank tellers could receive in the event of a bank hold-up. I do not know about others, but if somebody pointed a weapon of some sort across the counter at me, I would feel a bit upset about it. I cannot see any reason why bank tellers should be treated harshly by the Government because they have an entitlement to criminal injuries compensation.

The frailty in the Government's position is that they have the option open to them to do something about it under existing legislation. I remember the Minister saying before the last election that he was going to force banks to increase security by passing legislation, if he was given an opportunity to do so. There is no need to do that. The Minister and his colleagues could have arranged quite easily for occupational health and safety inspectors, had they been adequately resourced - it appears that they were not - to go into banks across the ACT and, where there were security inadequacies which might affect the workplace safety arrangements for employees, do something about it. I seem to recall that when this was suggested to the Minister some time ago - again, before the last election - he said, "No, that applies only to the employees". Of course, the Minister did not understand the Act appropriately because it applies to third parties, too, as has been proven by the recent coronial inquiry into the tragic death associated with the implosion of the old Royal Canberra Hospital.

Mr Speaker, there have been plenty of things that the Government could have done to improve safety for third parties at premises around the ACT and there has been no activity at all in this regard. The Government has only been interested in attacking the victims and attacking the criminal injuries compensation system which is in place, with a view to singling out certain groups of people - again, young people who frequent bars and others who have received benefits - and disadvantaging them. Of course the magistrates will have different perceptions about the awards to be applied in particular cases and there will be differences, but I do not see it as fair to ridicule the awards made in respect of criminal injuries cases as a means of securing change. It strikes me that there may be a case for change.

Mr Stanhope made the point earlier that people need to think about this matter a little more and get their head around all of the issues. I have the suspicion that we will go away from debating this legislation this evening with an inequitable arrangement whereby some classes of people will be still covered by criminal injuries compensation and other classes of people will be left out. That would be, in my view, a regrettable outcome. Much of this may have been resolved if members in this place had been given time adequately to consider the Bill. I know that the Minister has said that the Bill has been around for a long time, but there are amendments around this evening which ought to be given consideration in the broader community.

I know that there is concern in the community now, concern which has been heightened in the last couple of days, about the Government's approach to this matter. I had hoped that the Government would see reason, but it seems that the Government has the numbers for whatever scheme will be decided upon this evening and it will be just rammed through. I listened to the ABC yesterday morning and I could detect that a deal had already been done in relation to certain classes who might be affected in the future by the criminal injuries compensation legislation. If it is a deal that, for example, leaves police and certain other classes of people in the system and excludes another range of persons from the system, then it will discredit the whole process. I do not think it will do much good for those people left in the system, either, because they will be seen to have received some sort of favourable treatment. Mr Speaker, I am highly sceptical of

the Government's approach in relation to this matter. The process in the lead-up to the legislative changes which will be dealt with this evening has been, I think, a fairly sorry period.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (1.12 am), in reply: In closing this debate, I will make a few points about some issues that have been raised in the course of the debate. I commence with the point about the Government rushing the passage of the legislation. Mr Speaker, the process of reforming criminal injuries compensation in the ACT is one that this Government has had in train for nearly 2½ years. In July 1997, we issued a discussion paper in which we outlined the thrust of the reforms that we proposed to make. We announced in the budget brought down on 23 June 1998 that we proposed to legislate to change the criminal injuries compensation scheme and we announced the details of that. On 26 November 1998, more than a year ago, we introduced the Bill that is now before the house.

We have had the Bill itself for more than a year and we have had the clear indications of where the process was heading for nearly 2½ years and we are told that we are rushing the process. If that is rushing the process, I would hate to see what going slowly might add up to. Mr Speaker, this process has been exhaustively consulted about and exhaustively discussed. I have had numerous representations from and discussions with a whole range of players in this field. I think that it is time to make a decision about the legislation.

Mr Stanhope: Why is VOCAL outraged, Attorney?

MR HUMPHRIES: I do not know, Mr Stanhope. As Mr Hargreaves explained when he got up to speak, VOCAL originally supported these proposals. VOCAL appeared on a working party.

Mr Stanhope: They do not now. Do you think that they are outraged because you misrepresented them?

MR HUMPHRIES: No, that is not the case. VOCAL were represented on a working party which worked with the Government and the representatives of other stakeholders and determined that these reforms were appropriate. Apparently, VOCAL have had a change of view from the one put forward in the working party. I am afraid that that is unfortunate, but we believe that we should proceed with the thrust of the recommendations made originally by the working party of which VOCAL was a member.

Mr Speaker, we are told that more time is needed at this point to consider some of the issues which have been given rise to - for example, the amendments which have come forward. Why? The fact is that the Government's position in this matter, which is what people were supposedly waiting for with the government response to the committee report of earlier this year, is a position which has changed very little from the earlier position it took on the legislation. In fact, the Government's position has changed quite minimally indeed. So, given that the Government is basically proceeding with the

original proposal and people can see what the Government has in mind and have known what the Government has in mind for 2½ years, why do we need to have further delay?

Why are we sticking by our original proposals? The answer is very simple. The advice to me is absolutely clear. It is that to adopt the recommendations made by the Standing Committee on Justice and Community Safety with respect to the reform of this scheme would not result in the achievement of the savings that the Government had targeted in this exercise to help pay for the victims assistance scheme which we were to establish from those savings; in fact, it would cost ACT taxpayers a great deal more than they are presently paying for the system. To quote my advice:

> The extra cost to ACT taxpayers of the committee's recommendations is estimated to be in the order of $6m to $7m per year over the first two years. There would be a transitional blip arising from the current backlog of claims which would take about two years to process. The extra cost would then reduce to around $4m per year over the following years.

And further on:

> The committee's proposals would produce a scheme costing in total around $10m to $13m per year. That amount is higher than the current level of expenditure and more than twice the level of expenditure under the Government's proposals.

That, Mr Speaker, is why we have rejected the recommendations of the committee. That is why we have had to come back and have further negotiations with members of the Assembly on accepting that it simply is not sustainable to proceed with what the committee has recommended. It would be totally counterproductive. In fact, for the reasons I have just outlined, the Government would be better off abandoning the whole reform process altogether than proceeding with what the committee has recommended.

We have proposed reform in this area because it is patently obvious that we need reform in this area. I might say that it has been obvious not just to this Government, but to the former Government. I hear the claims from Mr Hargreaves, Mr Stanhope and Mr Berry about how outrageous the Government's attempts are to wind back the rights of victims. I remind those members that they were either members of or associated with the previous Labor Government in this town, which also attempted significant reform of criminal injuries compensation. Those reforms included actually wiping out whole classes of application of the legislation. For example, people involved in criminal acts in relation to sporting events would have been ineligible for claims. It was not a question of the injury being extremely serious; there would have been no claims whatsoever under the proposals that came forward from the Labor Party at that stage. Those opposite should not claim that we are the hard-hearted Harriettes who are prepared to drive victims into the ground and they are the ones who care about victims. When they were in government they tried to reform criminal injuries compensation in ways that were in some respects more harsh than the ones that we are proposing today.

Mr Speaker, we are also not the only government in Australia at the present time to be concerned about criminal injuries compensation increases. I want to quote from an article in Wednesday's *Sydney Morning Herald* under the heading "Crime compo blow-out prompts calls for curbs". Members will note a remarkable similarity with events closer to home as I read from this article. It states:

> Victims of crime lodged more than 1,000 claims a month for compensation in New South Wales during the past financial year, prompting calls for further reforms to the State's scheme, which now has liabilities of around $150 million.
>
> ... ...
>
> With the average payment around $10,000 -

I break in here to point out that the ACT's average claim is $13,300, so we are even more expensive per capita than New South Wales -

> and considering possible court appeals, the total liability facing the tribunal was in the order of $150 million ...
>
> The number of claims lodged over the past few years has ballooned largely due to the fact that more than half the people demanding compensation included temporary psychological injuries such as nervous shock.
>
> Concerned that the shock provisions were being exploited by some lawyers, the Government last year -

the Labor Government in New South Wales -

> successfully put forward a series of amendments tightening eligibility for payouts by replacing shock with a more serious category of long-term psychological or psychiatric injury.

Long-term injury, Mr Speaker. The article continues:

> But the tribunal's chairman, Mr Cec Brahe, said he believed there needed to be further reforms, including ending cash payments for both psychological and psychiatric injury.
>
> He suggested it would be better to pay for counselling and treatment programs.

Does that sound familiar, Mr Speaker? The article continues:

> It would also be better to put guidelines in legislation setting out what constituted psychological and psychiatric injuries.

Finally, the article quotes the tribunal's director of victims services, stating:

> Ms Vernon said increased powers granted in the amendments passed by Parliament last year had made attempts to recover money more successful -

money recovered from offenders -

> but many offenders were either in gaol or from a low socio-economic environment and had little money or assets.

I table that report, for the interest of members. Mr Speaker, the concerns being expressed in that article by Mr Tony Stewart, the Labor chairman of the committee in New South Wales looking at criminal injuries compensation, about where the New South Wales system is heading are almost exactly the same as the concerns that the ACT Government has put on the table today. What it tells us, Mr Speaker, is that if Mr Stanhope and his colleagues were sitting in the New South Wales Parliament they would be doing exactly what we are doing today over here.

Mr Stanhope: No, we would not.

MR HUMPHRIES: You would, Mr Stanhope, because you are a member of a party which is supporting that very process in New South Wales. Are you going to cross the floor, against your party?

Mr Stanhope: I would be leading the party, Attorney. I would be Premier and I would not allow them to do it.

MR HUMPHRIES: I see. I invite you to pursue that ambition, Mr Stanhope, and perhaps leave us to other erstwhile leaders or putative leaders in the ACT. Mr Speaker, the fact is that if they were in New South Wales they would be pursuing the same reforms. Indeed, if they were in government in the ACT they would probably be pursuing reforms because that is what they were doing last time they were in government in this Territory, pursuing reforms of exactly the same nature, to rein in the burgeoning cost of criminal injuries compensation.

I wish to make a couple of brief points before closing. We are told that retrospectivity is unacceptable; yet it is strange that members of this place had no difficulty earlier this year in retrospectively reapplying criminal liability to people associated with the hospital implosion. The one piece of comfort I took from that decision of the Assembly was that at least I would have a strong case for saying, "If you can recriminalise retrospectively, then you can remove a civil cause of action retrospectively, at least". It appears that the members who took the view that retrospectivity was perfectly acceptable in that more heinous example now find it very hard to follow the same lead in a later situation of a very similar nature.

Finally, I want to make reference to the comment by Mr Hargreaves that more effort needs to be made to collect money from perpetrators. Indeed, there is some justification to that claim; perhaps more effort does need to be made. Let me make one small point

about the amendments before us tonight. We have an amendment which, I understand, is being supported by the Labor Party and which will exclude victims from the requirement to make a complaint to police, to report a crime that has been committed against them to the police. How are we supposed to have police chase the people who are perpetrating crimes which lead to criminal injuries compensation payments if we do not know when the crimes have been committed?

Mr Stanhope: That is being incredibly insensitive to rape victims and domestic violence victims, Mr Attorney, and you know it.

MR HUMPHRIES: I am sorry, you cannot have it both ways. You cannot insist that we prosecute more of these people and get the money out of them if, at the same time, you are saying that the victims do not need to report the crime to the police. It does not make sense, Mr Stanhope. Okay, you might be right; it might be insensitive to make that point. But you cannot in the same breath say, "You have to be pursuing these perpetrators more often. You have to be chasing the perpetrators down the street when they break the law".

Mr Speaker, the fact of the matter is that this scheme needs radical overhaul in this Territory. It is a scheme which is being widely abused. The increase in the rate of claims against the scheme vastly exceeds the increase in the rate of crime in the ACT and, clearly, it is being exploited. I do not exclude the fact that there are many victims of crime who genuinely need and obtain money under this scheme, but the focus of any good scheme has to be on rehabilitation and restoration of people to their original position. Money does not always solve those problems. Mr Speaker, I commend this legislation to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5

MS TUCKER (1.26 am): I move amendment No. 1 circulated in my name, which reads as follows:

> Page 3, line 38, proposed new section 2, definition of "extremely serious injury", omit the definition.

This amendment is consequential to my amendment No. 3 so I will be speaking to both amendments. These amendments basically reinstate a reasonable compensation for pain and suffering as a justification for assistance. In Mr Humphries' press release of November last year he talked about better outcomes for victims and emphasised rehabilitation. In the presentation speech last year he described the Bill as focusing on

the whole range of victims' needs, with a mix of rehabilitative, practical and financial assistance. So, let me start with rehabilitation.

There is a tidal wave of research coming in now which links health and recovery with perceived independence and with control over your work, your environment and your life. This information is evident in studies of education, in studies of inmates in gaol, in studies linking health and occupation, in research on healthy cities and healthy communities, and in studies on recovery from illness. Payment in recognition of pain and suffering offers victims some independence. If you have been violated, betrayed, victimised, harassed, persecuted, maimed, tortured or demoralised, some sense of autonomy can be crucial to your chances of reconstructing a positive sense of self. Without such a sense of self, rehabilitation may be much harder to achieve.

Payment in recognition of pain and suffering sends a signal that some of the responsibility and opportunity to rebuild that sense of self is in your hands. Government offers you compensation as some measure of acknowledgment of the failure of society to you as a victim of crime. We should combine that benefit with the recognition that pain and suffering payments offer to victims of crime.

The Women's Legal Service again emphasised the importance of pain and suffering payments when addressing this Bill last month. The Canberra Rape Crisis Centre, in a media release last Monday, attacked the Government for shifting the focus to welfare, which can be a disabling and pejorative term. It argued that payment in recognition of pain and suffering is seen as an acknowledgment of our communal inability to protect persons from the unacceptable crime of sexual assault.

The Victims of Crime Assistance League argued in their submission to the committee's inquiry, and reiterated on Tuesday, that maintenance of payment for pain and suffering is crucial to the provision of flexible services and support. In its submission to the committee, Legal Aid argued that the removal of lump sum payments would impact negatively on the poorer and underprivileged members of our society. The AFP Association predicted that fewer complaints would come to them of paedophile activities if payments for pain and suffering were withdrawn. These organisations base their position on the real experiences of victims of crime in the Territory.

The committee itself remained unconvinced that there was any justification for removing lump sum payments in recognition of pain and suffering. It did not accept the government argument that pain and suffering was a less satisfactory option for victims and quoted further evidence that such payments encouraged victims to report crime and draw them into a system which can offer also other forms of assistance. Despite a series of examples selectively presented to the media by the Minister, the committee could not find evidence of rorting the system under this provision. Yet the Government was not convinced.

It has pointed to schemes such as the one in Victoria that moved right away from compensation payments. A review of the Victorian scheme has now been completed. The committee recommended that this legislation be delayed until that review was released. It is before the Victorian Attorney-General now, I understand, and will be released shortly. If the Government was serious about building on the experience of

other schemes it should have agreed to adjourn this debate, at the very least, until we had seen the report. Perhaps the understanding that the Victorian Government is moving back to payments for pain and suffering has motivated it to move on quickly instead.

In lieu of payments for pain and suffering, the Government has proposed a limited form of special assistance. A significant proportion of victims for whom this assistance would be vital will be ineligible. The only realistic way that this legislation can keep faith with its stated aims of providing "a mix of rehabilitative, practical and financial assistance" is by reinstating payment in recognition of pain and suffering, for primary victims at the very least.

MR STANHOPE (Leader of the Opposition) (1.30 am): Mr Speaker, I have great sympathy with what Ms Tucker seeks to achieve here. I foreshadow that my amendment No. 3 is on the same subject. This is one of those interesting drafting techniques. Ms Tucker is proposing to remove the definition of "extremely serious injury". The definition of "extremely serious injury" is in fact in proposed new section 11, so this is a bit odd. I propose by my amendment No. 3 to omit proposed new section 11 and replace it with another definition of "extremely serious injury". What I am suggesting is that great minds think alike, but the Labor Party - - -

MR SPEAKER: At 1.30 in the morning?

MR STANHOPE: This is quite difficult.

MR SPEAKER: What are you planning to do?

MR STANHOPE: I am just explaining so that people understand. This is quite complex. Ms Tucker and I basically are seeking to achieve a similar purpose. I am drawing attention to this because we are going to vote first on Ms Tucker's amendment, which then has this other related impact. People need to understand that. In making their decisions about Ms Tucker's proposed amendment, they need to look at what the Labor Party will propose in relation to the same issue.

Mr Humphries: So you are opposing her amendment. Is that right?

MR STANHOPE: Well, I am having a bit of a think about it actually because - - -

Mr Humphries: You cannot vote for yours and hers. You have to vote for one or the other.

MR STANHOPE: I know I cannot. That is why I am thinking as I speak. I am thinking on my feet.

Mr Humphries: Well, it doesn't need much thinking. If you put the amendment forward you must support your amendment, presumably.

MR STANHOPE: But I want everybody to know what is going on here and to understand. In fact, Ms Tucker rolls back the government scheme just a touch further than I. I urge members to support the Labor Party's proposed amendment. I needed to make them aware of it.

Amendment negatived.

MR STANHOPE (Leader of the Opposition) (1.32 am): Mr Speaker, I move amendment No. 1 circulated in my name. The amendment reads as follows:

> Page 4, line 10, proposed new section 2, insert the following definition:
> " 'health professional' includes a registered psychologist under the *Psychologists Act 1994*.".

This is a very simple proposal, Mr Speaker, to include a definition of "health professional" in the definition section of the Bill. The definition simply ensures that psychologists, who frequently do the counselling which will now become a feature of the scheme that the Attorney proposes, are included as health professionals.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (1.33 am): Mr Speaker, I do not oppose the amendment but it is unnecessary because reference will be made in the definition of "health professionals" to the Health Services Act where psychologists are already included. It is belts and braces again, so I do not oppose it.

Amendment agreed to.

MR RUGENDYKE (1.34 am): Mr Speaker, I move amendment No. 1 circulated in my name. The amendment reads as follows:

> Page 8, line 34, proposed new subsection 9 (2), omit the subsection.

Mr Speaker, this amendment will delete the Government's reference to police in the eligibility for financial assistance division.

MR KAINE (1.35 am): I wish to ask a question, Mr Speaker. If the Government put this clause in here, how come they are so willing to have it so easily removed? What was the purpose of having it here and what is the effect of removing it? I do not think it is good enough for the Government just to sit there and accept this amendment without explaining why it was an unimportant clause in the first place.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (1.36 am): I am happy to explain, Mr Speaker. I think this amendment is tied with Mr Rugendyke's amendment No. 2 which allows police officers to be treated as primary victims, and in fact expands it somewhat to include police officers, ambulance officers and firefighters. In effect it preserves their access to the scheme, and to payments for pain and suffering in respect of matters which fall within the ambit of the Act.

The Government's original position was not to include police officers there. We argued that we should cover their matters primarily with workers compensation type payments. I think I have accepted the argument that Mr Rugendyke has put to me that encounters with crime are a very common part of the daily work of a police officer. That is almost axiomatic. Injury from those encounters can be quite common. It is reasonable that people with such relatively high levels of encounter with injury from crime ought to be considered to be primary victims in this sense or primary candidates for application. In the circumstances, Mr Speaker, I think it is a reasonable proposition, and therefore the Government supports this amendment.

MR KAINE (1.37 am): Mr Speaker, having heard that explanation, I have to say that I am opposed to what is being proposed here. I go back to the committee's report. The Government already has pretty much rejected most of the recommendations that came out of the committee, for what reason I do not know, because it was all based on evidence presented to the committee. In respect of this question of police officers, our recommendations and our comment was quite specific - that police officers should have first recourse to their own internal workers compensation schemes. We went further and we said that they could remain in the scheme until the Government made other arrangements with the Commonwealth.

To do what is being proposed here is to completely set aside the recommendations of the committee, yet again. It not only builds the police back into this law, which was not the intention of the committee, but it also, if you take the next amendment that Mr Rugendyke is going to propose, makes them a special class of beneficiary at a sum greater than other beneficiaries will receive. This is a total abrogation of what the committee recommended. It is a total reversal of the committee's recommendations, and the Government gives no explanation for this except to say that it is reasonable. Well, I do not think it is at all reasonable, Mr Speaker.

It is a pity that Mr Osborne is not here because he was the chair of the committee that made these recommendations. This one in particular not only has been set aside but also has been so distorted as to make police officers a special class of recipient who will get $20,000 more under the special awards clause than anybody else. Nobody has explained to me why that is necessary, or why it is logical, or why it is reasonable, and, until somebody does, I am not going to support it.

MR RUGENDYKE (1.39 am): Mr Speaker, my amendment No. 2 also includes firefighters and ambulance officers in that section. These are people who often are injured on duty. Also included in that amendment are victims of sexual assault. They are still able to access criminal injuries compensation for injuries sustained as a result of violent crime under the sexual assault provisions.

MS TUCKER (1.40 am): I am glad that Mr Rugendyke has explained his amendment because I am also interested in making a comment on this. I am equally concerned, as is Mr Kaine, about what the process is here. We are in fact creating another class of persons. The argument seems to be that police, firemen and ambulance people have a higher exposure to violence. Well, that is obviously part of the work. Bank tellers, increasingly, also have an increasing likelihood of exposure to violence.

We know that about 30 per cent of the cost of the so-called blow-out that we are looking at is a result of these sorts of work-related incidents. In the ACT Assembly right now we have an opportunity to look at issues of workers compensation. It seems to me that this is a process which is not really based on much more than Mr Rugendyke's connection with the police force and a similar grouping. So there is some kind of consistency in that grouping, but bank tellers are left out. Then we get sexual assault thrown in because someone obviously has persuaded Mr Rugendyke that this is something worth supporting.

It is the inconsistency and the ad hoc nature of this form of development of legislation that is of such a concern to me. Anyone who looks at this piece of legislation from outside will think, "What on earth went on in that Assembly?". So we now have this class of people, ambulance officers, firemen, police and people who are victims of sexual assault. Well, in my amendment I am going to try to add victims of domestic violence.

I was inclined in one way to step right back from this, but we know there are just as many representations made about domestic violence. The same group of people, women, are most commonly victims of sexual assault, so I will try to make it a little bit more balanced. I will add domestic violence victims in case I do not get the other part of my amendment supported, which seeks to take away the exclusivity of the list. What we know well, and we have had this debate in this place before, is that when you put a list in legislation there is an exclusivity about it. I will try to amend it so that we make it a general grouping which can be decided by the processes that are in place and not some ad hoc list that has been imposed by this place for reasons that are not supported by any real arguments. They are inconsistent. It is just an appalling process for developing legislation.

I also will be opposing Mr Rugendyke on this. I am also very surprised that the Government would support this amendment. I can only imagine that they are allowing their legislation to be butchered in this way, or messed up - whatever language you like to use - because they feel they owe something to Mr Rugendyke, which is understandable because he keeps supporting them, but it is not good process.

MR QUINLAN (1.43 am): There is a fundamental error in logic here. This does not stand up. Apparently what you are looking for is to pay more because of a higher frequency; more per instant because there is the possibility of a higher frequency. That needs to be supported. Because of the possibility of it happening more than once, why would you pay more for each time? There is no justification for that.

Mr Humphries: It is an occupational threat.

MR QUINLAN: Well, as an occupational threat, if there is frequency and if there is basic training, I would have thought there is some basis for a reverse in the logic and to pay less for someone who might become inured to this problem, much as a footy player can take a smack in the head and walk off and have a beer at the end of the night, whereas the guy who is not used to rough and tumble might not. But, leaving that aside, I do not actually want to pay less, and I do not want what I am saying to be argued

against or verballed because of the less argument. You cannot sustain a payment of more per instant because there is a possibility of more instances, particularly for police who are trained and have an expectation that there might be some rough times in what they do. This is idiotic.

MR STANHOPE (Leader of the Opposition) (1.45 am): I share the same concerns as Ms Tucker, Mr Kaine and Mr Quinlan. There are, in this group of amendments that flow from the proposal to amend proposed new section 9(2), some very serious concerns about the nature of the proposals that we have before us. They actually change the entire Bill fundamentally. This is a fundamental change to the scheme that the Attorney has been supporting because it does create a hierarchy of victims.

All of a sudden the Assembly is being asked to say, "Let's put a certain group of victims on a pedestal. Let's give a certain group of victims an advantage". We name them. In Mr Rugendyke's hierarchy of claim we have the police, ambulance officers and firefighters. All are people in the community that we depend on. We have in the ACT a very professional and expert police force, ambulance officers and firefighters. Then, under this proposal, we go on and add a group of people who suffer as a result of offences under certain provisions of the Crimes Act in relation to sexual offences, and that is it.

A decision has been made by Mr Rugendyke, and it seems to be supported by the Government, that these four groups of people within the Canberra community are the only people in this community deserving of maximum support as victims of crime. The rest of the community, the mums and dads, people working in shops, people working in service stations, people going about their business, people attacked outside nightclubs, kids attacked on buses, are secondary victims. These are second-class victims. The child that is a paraplegic or a quadriplegic as a result of a beating is a secondary victim. That child is not as worthy or as demanding of compensation or of care as a policeman or an ambulanceman, and there is such a case. We spoke about it earlier. A boy, innocently going about his life and beaten within an inch of his life, is now a quadriplegic. Mr Rugendyke and the Government do not think this boy is as deserving of this community's concern and resources as are Mr Rugendyke's former colleagues in the police force. Well, there is no way in the world - - -

Mr Humphries: Who is being emotive now, Jon?

MR STANHOPE: I am being shamelessly emotive because this is disgraceful. It is disgraceful that this Assembly should set up a hierarchy of victims. Certain groups of victims are more deserving of community support than other victims, and who leads the hierarchy of victims? Mr Rugendyke's former colleagues in the police force.

Mr Humphries: And firefighters and ambulance officers.

MR STANHOPE: And ambulance officers and firefighters, and that is it.

Mr Humphries: And victims of sexual assault.

MR STANHOPE: And victims of sexual assault. Yes. Right. We have got through the first 0.5 per cent of the population. There is just 99.5 per cent left and they do not rate. They do not rate in this hierarchy. This is simply not acceptable. I cannot believe that this Government is setting up a scheme for an elite and leaving the rest of the community, the mums and dads, the kids and the shop assistants to go without. They are not deserving of the same level of care and attention.

Ms Tucker: A pity they do not know Dave, eh?

MR STANHOPE: I sympathise with Ms Tucker, and my response was basically the same. This is where this whole process is just ridiculous. As a result of Mr Rugendyke's amendments we have Ms Tucker, in an effort to defend the rights of some other people within the community, in an act of desperation almost, forced to seek to include victims of domestic violence, another group of very needy people, and then also, in a general provision, to say, "Look, this is just not fair; it is just not right". So Ms Tucker then proposes a second group of victims, basically the rest.

We are in this absurd situation. Once we set down on this path of deciding that the police, the ambulance drivers and the firefighters are so incredibly deserving that only they should have access to a pain and suffering component of compensation, where does it leave the rest of the community? This just cannot be supported. The problem is that Ms Tucker is forced, out of simple principles of fairness, justice and equity, to move these amendments which get us back to where we are now. That is the effect of the amendment and it must be supported.

Mr Rugendyke, if your proposal in relation to the police, ambulance officers and firefighters gets up, there is no earthly basis on which you cannot then support Ms Tucker's amendments, and once we do that we are back to where we started. In fact, every thinking member of the Assembly must support Ms Tucker's amendments. There is no way not to support them. We then go back to the other issue raised by Mr Kaine about workers compensation. The Government is just so willing to jettison some of the principles it claims it has. There is the amendment to be moved by the Attorney-General relating to the exhaustion of workers compensation remedies. I presume we are not proceeding with that. That just goes out the window, does it? So we are abandoning that in relation to the police, ambulance officers and firefighters.

Mr Kaine: Have a look at proposed new section 34(1) because it further compounds the injustice.

MR STANHOPE: It does. Everything we do then compounds, down the track, and the whole Bill becomes a nonsense. It is just a joke. The whole thing becomes a joke if you accept this amendment of Mr Rugendyke's. The whole thing becomes appalling. It is an appalling travesty of justice in relation to all those people regarded by this Government as second-class citizens - the victims not worthy of support, the kids that are bashed up, the shop assistants that are robbed at the point of knives and guns every day of the week.

Mr Humphries: Jon. Dear, oh dear.

MR STANHOPE: You do not think it happens?

Mr Humphries: No. I am very well aware it happens.

MR STANHOPE: You do not think that a young 18-year-old kid at a service station robbed by some drug addict with a blood-filled syringe is as worthy of compensation as the policeman going about his duty. You do not think they are as worthy. That is just outrageous. Once you accept this amendment that is where we are. Second-class citizens. The kids do not matter. The mums and dads do not matter. What matters is that you need to concede to this amendment in order to get your Bill through, and by conceding to this you destroy the whole thing.

MR HARGREAVES (1.54 am): Mr Speaker, I think it is about time Mr Rugendyke stopped being a policeman and started becoming a politician. He should realise that he has to look after the people of his constituency in Kaleen, the area he became famous for. People in Kaleen have supermarkets. There are people working in those supermarkets. They are the people who get held up, just as the police have injuries doing their job.

I spoke earlier on about some numbers. Well, I am going to quote them to you again. In that annual report that you have on your table, 30 per cent of the cases referred to, give or take a bit, related to people who were injured through criminal activity while they were doing their job. About half of them were policemen, Mr Speaker, but none of them were firemen and none of them were ambulance officers. None of them.

Now, let us talk about indecent or sexual assault. I added indecent assault to the sexual assault things when I did my rough numbering. That was 6.4 per cent. We are up to 36.4 per cent. Let us add domestic violence and what I put down as neighbourhood disputes. It is sometimes very difficult to tell whether it is a domestic violence case or whether it is just neighbours fighting. That was 10 per cent. By my adding, 46.4 per cent of the cases in that book fill your Bill. What about the other 54 per cent? What about the robberies and the home invasions? They are not there. What about the people who innocently go to a nightclub and because some character is intoxicated they get done over?

Mr Humphries: Yes, they deserve money too, do they?

MR HARGREAVES: They deserve it every bit as much as a police officer does, Mr Humphries. Every bit. You either leave them in or you leave them out.

Mr Humphries: Rubbish. What, the world is black and white, is it?

MR HARGREAVES: It is certainly not black and white for the plod party over here.

Mr Humphries: The what?

MR HARGREAVES: The plod party. I say it again. These people have to understand that they are here to represent the wider community. They have a tunnel vision approach and are looking after what they perceive to be a constituency in the police force. I do not believe the police force are like that. All the police people I know are far more

responsible than either of these two gentlemen over here and would not deny people access to a criminal injuries compensation scheme the way you and they are doing it tonight. It is just appalling.

MR SPEAKER: This morning, I would suggest.

MR HARGREAVES: It is appalling. There are unprovoked attacks on people walking down the road. A character got something like $12,000. He was just walking through Civic and he was set upon. He was minding his own business, and bang.

Mr Humphries: He will have access to the counselling and rehabilitation services under this Act.

MR HARGREAVES: You are saying that a policeman who suffers a soft tissue injury in a demonstration in Parliament House is more deserving than that person. Mr Stanhope used the example of a person who was threatened with a blood-filled syringe. That happened in my electorate, Mr Humphries, and I have to tell you that that person is going to carry that threat for life.

A woman who was merely going about her business in a bank - she was not a bank employee - was held hostage. She had a knife held at her throat and sustained lacerations to her throat. She was eventually let go after the bank had been robbed. You are telling me that that policeman who suffered a soft tissue injury at a Parliament House demonstration is more deserving and should be on the list and she ought not. That is what you are saying. You can shake your head until it falls off, but that is what you are saying, and that is what Mr Rugendyke is saying. He is saying exactly what Mr Stanhope said: There are two classes of citizens here.

Well, I have to tell you that I reject it. There was the lad whose parents were murdered and the daughter whose parents were murdered and her brother maimed. They are going to carry that for a heck of a lot longer than that policeman with the soft tissue injury, I have to tell you. And you, and you, and you, and you, Mr Humphries, will deny them that.

Mr Humphries: Don’t shout at me please, Mr Hargreaves.

MR SPEAKER: Order! Let us just settle down a little, please.

MR HARGREAVES: I am sorry, Mr Speaker, but I just cannot stand it. This is really ridiculous.

MR SPEAKER: It certainly is at 2 o’clock in the morning. I would ask you people please to just settle down and debate this properly.

MR HARGREAVES: Mr Speaker, I call upon Mr Rugendyke to withdraw this thing, pretty smartly.

MR SPEAKER: May I remind members that it is 2 o'clock in the morning. I appreciate that you want to debate these matters out, but I would urge you to consider the items that are being debated, and please let us not have too much repetition at this point. I do not want to deny people the opportunity to put their point of view, but please let us be conscious of the time, and the fact that there are other members who have certain responsibilities tomorrow morning, two of whom I know are leaving town.

Mr Stanhope: Mr Speaker, I have great respect for the chair. This is an incredibly important piece of legislation.

MR SPEAKER: I have no doubt about that.

Mr Stanhope: It must be debated in full. We had an opportunity to adjourn this matter. It should have been adjourned. Members must be free to contribute to this debate in the way that they feel is appropriate.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.00 am): Mr Speaker, I will speak very briefly on this amendment moved by Mr Rugendyke. We have been urged by members to relax the severity of the bar on access to pain and suffering. The Government has put forward a scheme which provides only very limited access to payments, not in the nature of payments for damages but in the nature of a solatium for permanent or extremely serious injury. The Government has been prevailed upon to compromise the severity of that position and it indicates its intention to support the relaxation of that rule with respect to the class of people referred to in Mr Rugendyke's amendment No. 2.

Mr Speaker, there are all sorts of places at which you could draw the line between those who might be eligible for high levels of assistance and those who are not. The Government accepts that there is a case for some relaxation of its view. It accepts that there is a particularly good case for people who are subjected on a daily basis to exposure to problems arising from criminal activity. No policeman who serves even a few years in the police force would not suffer some significant injury at some point or another unless they are permanently driving a desk, and the result, Mr Speaker, is that such people deserve, I think, some special consideration. I have taken the same view about victims of sexual offences, and I think that is a reasonable position to take.

Question put:

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

The Assembly voted -

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

Question so resolved in the affirmative.

Amendment agreed to.

MS TUCKER (2.06 am): I move:

> Page 9, line 11, after proposed new paragraph 10 (1) (c), insert the following paragraph:
> "(ca) reasonable compensation for the victim's incapacity (if any) to continue to perform unpaid domestic work and childcare;".

This amendment provides for financial assistance for victims unable to continue to perform unpaid domestic work and child care in the section dealing with incapacity for work. This was a recommendation of the committee's inquiry into the Bill as well. Four members of this house not known for social radicalism, in fact, recognise the importance of this issue. In his presentation speech the Minister described the proposals in this Bill as being based on the real needs of victims. But in his response to the committee's report, he rejected this recommendation exclusively on an estimate of cost.

The real result of victims being unable to continue to perform unpaid domestic work and child care is that someone will have to do it. It is a loss of income in a very real sense, or children will not be cared for properly, or families will be in crisis. The victim support working party in 1998 made considerable play on the notion of equity. It drew attention to the significance of individual circumstance in delivering appropriate support to victims. The overwhelming number of victims of extremely serious crime are women. By and large, they are victims of sexual assault and domestic violence. Almost always, of course, they are the primary providers of unpaid domestic work and child care.

In very many instances they have low incomes. They are often from single adult households. We know this from research; we know this from experience. We should not penalise women for their poverty, penalise women for their children, or penalise women for their vulnerability. I urge members of the Assembly, including the members of the

committee who made this recommendation, to edge us slightly closer to a humane and purposeful assistance scheme and support this amendment.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.08 am): Mr Speaker, this is one of a number of amendments tonight which have the effect of winding back the nature of the changes put forward by the Government's legislation. I want to remind members why we have urged members to reconsider the approach that has been suggested. I quote again. Perhaps members were not present the first time that I read this out. Mr Kaine in particular asked why we were banning the recommendations of the committee. The reason is not how much less do we save on this scheme; but how much more it costs us to have this scheme in operation. (*Quorum formed*) Mr Speaker, as I was saying, members have asked the question, "Why are we not adopting the committee's recommendations?". It is very simple. We have put forward this scheme to be able to reduce the cost of criminal injuries compensation in order to fund a victims assistance scheme. We need to make savings to do that.

The result of the committee's recommendations is that in each of the first two years of the changes we would be spending in the order of $6m to $7m more per year to deliver the scheme. In other words, the total cost would rise from around $6.3m in 1998-99 to between $10 and $13m per year. It would be higher than the current level of expenditure and more than twice the level of expenditure under the Government's proposals. That is why we have urged members to accept that there has to be some containment of the costs of this scheme. It would be better for the Government to abandon these reforms altogether and go back to the original criminal injuries compensation scheme - forget about a victims assistance scheme altogether - than it would be to adopt the recommendations made here for changes to the proposals of the Government.

So the only financially responsible approach here is to take one approach or the other. You either take the Government's approach or you stay with the present system. Some hybrid of the two might sound like a nice compromise, but the result is that you end up with a much greater cost. The amendment here of Ms Tucker's is of that nature. We are again pushing the line out. We are going to now include a victim's incapacity to perform unpaid domestic work and child care. It sounds nice in theory, but it is one of a number of exceptions we could make to the rules and we could push them out further and further and further. I simply ask members to accept that some limits, some lines, should be drawn around that. It might be entirely arbitrary where it gets drawn, but it is important to contain it in some way. I ask that this amendment and other amendments of this kind be rejected.

MR KAINE (2.12 am): Mr Speaker, the Minister's explanation rings pretty hollow, because one of the recommendations of the committee was that the financial compensation for the police should be the responsibility of the AFP; in other words, take the AFP out of this system, except as a last resort. That is what we recommended, and that is where a lot of the cost comes from. But what have you done? With Mr Rugendyke's assistance you have not only put the police back in, contrary to the recommendation of the committee, but you have given them a higher rate of compensation than anybody else. And you talk about cutting costs!

Your argument just does not stand up, Minister. Mr Rugendyke, I am sure, is having a wonderful victory at your expense, and you think this is logical. You are increasing the costs by your very own action of supporting Mr Rugendyke in this matter. To argue that Ms Tucker's amendment increases the costs is nothing compared to putting the police back in after the committee recommended that they go and get their compensation some place else, except as a last resort. You are not very convincing.

MS TUCKER (2.14 am): I am also interested in those comments from Mr Humphries. I would really like to see Mr Humphries show us detailed costings of this new scheme. It is all very nice to come up with these ideas. He has a particular cost estimate of this, but where are the real costings of, for example, this whole service? What is the counselling going to mean in terms of dollars? Have we got from you, Mr Humphries, a definite costing of this new service?

Mr HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.15 am): Yes.

Ms Tucker: We have? Good. Well, can we see it? We have not seen it.

MR HUMPHRIES: Mr Speaker, that information has been tabled before and I have answered questions about it before. I was also asked in the committee, of which Mr Kaine was a member, to provide details of the costings.

Ms Tucker: So you know exactly what it is all going to cost?

MR HUMPHRIES: And I provided answers to all the questions that were asked of me at that time. If you have got a question now, Ms Tucker, at the eleventh hour, it is a little bit late, with respect.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

MR RUGENDYKE (2.18 am): Mr Speaker, I seek leave to move amendments Nos 2 and 3 together in my name.

Leave granted.

MR RUGENDYKE: I move:

> Page 9 –
> Line 12, proposed new paragraph 10 (1) (d), omit the paragraph, substitute the following paragraphs:
> "(d) unless paragraph (e) or (f) applies—special assistance in an amount of $30,000;
> (e) if the victim is a police officer, ambulance officer or firefighter, and the criminal injury was sustained in the course of the exercise of his or her functions as a police officer, ambulance officer or firefighter—special assistance by way of reasonable compensation for pain and suffering in an amount of no more than $50,000;
> (f) if the criminal injury was sustained as a result of a violent crime consisting of an offence against sections 92A to 92L of the *Crimes Act 1900* (in Part 3A "Sexual offences")—special assistance by way of reasonable compensation for pain and suffering in an amount of no more than $50,000.".
> Line 16, proposed new subsection 10 (2), after "court", insert "under paragraph (1) (d)".

Mr Speaker, amendment 2 is the one we have just been discussing. Amendment 3 is simply a machinery provision.

MR STANHOPE (Leader of the Opposition) (2.19 am): I will not repeat the arguments. Mr Rugendyke has now formally moved this proposal that just a special group of citizens be elevated to this position. In fact, we are talking about 0.1 per cent of the population having this enhanced position. These are the elite. These are a primary group of victims. These are the only victims of crime in the ACT that are to get this Rolls Royce treatment. We had a little discussion about Rolls Royce in relation to the Discrimination Act the other day. This is Rolls Royce treatment, for just this minute group of people. We are talking here about a couple of thousand people. These couple of thousand people have been elevated to the top of the tree. This is the elite. There is a Rolls Royce service for this elite. The rest of the community miss out.

MR SPEAKER: Repetition.

MR STANHOPE: Mothers and fathers miss out. Kids miss out. Shop assistants miss out. Bank tellers miss out. Attendants, kids in shops, kids actually going about their business in Civic who get beaten up, kids who get beaten up on the way to school all miss out. They do, precisely. Women subjected to appalling harassment culminating in the burning of their doormats miss out. They do. We need to restate that. That is what this means.

But we as an Assembly think there is one small group of our fellow citizens so far above the rest of us in their need to be protected by the Assembly and the community. They are the only group of people entitled to this degree of care and attention and potentially monetary recompense. Well, this is an awful principle that we divide the community up into a hierarchy of victims. We create an elite of only certain people who are entitled to this sort of compensation and this care. This is an appalling principle. It is truly awful what is being proposed here.

MS TUCKER (2.21 am): I move the following amendment to Mr Rugendyke's amendment No. 2:

> Page 9, line 12, after proposed new paragraph 10 (1) (e), insert the following paragraph:
> "(ea) if the criminal injury was sustained as a result of a violent crime consisting of conduct constituting domestic violence under the *Domestic Violence Act 1986*—special assistance by way of reasonable compensation for pain and suffering in an amount of no more than $50,000;".

I am trying to salvage to some degree the iniquitous situation that is being created by the Liberals and Mr Rugendyke and Mr Osborne tonight. I would prefer my amendment No. 2 to get up because it will address it in a more general way. But I am doing it in these two sections in the hope that Mr Osborne and Mr Rugendyke and the Government therefore might at least deal with the issue of domestic violence if they are choosing to deal with the issue of sexual assault. That is what this amendment is about.

It is including not just the group of sexual assault victims, as Mr Rugendyke has chosen to proclaim, needing particular special attention, but also giving the same attention to those people who are victims of domestic violence. They are mostly women who are victims of domestic violence. I am very interested to hear an argument for the rationale of Mr Rugendyke to make this decision to only choose sexual assault victims. I will sit down now so that we can be enlightened on it.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.23 am): Mr Speaker, I think there are some people here who misunderstand what actually happens with criminal injuries compensation in the ACT. People seem to - - -

Mr Quinlan: I do not think we misunderstand what happens here.

MR HUMPHRIES: Hear me out please and you will hear what the argument is. People claim, as Mr Stanhope just claimed, that people under these proposals to restrict access to cash payments are to miss out on their entitlements. Victims are to be left by the roadside in this wild dash by the Government.

Mr Quinlan: Explain the elite group.

MR HUMPHRIES: If you would not mind letting me say what I am going to say, Mr Quinlan, you will learn something perhaps. People are being left on the wayside as the Government steams ahead to make these reforms to the system. We have got this terrible system being put in place which deprives so many people of their access to just deserts with respect to criminal injuries compensation in the ACT. Mr Speaker, there are something like 34,000 people each year in the ACT who are victims of crime in various ways. Of those 34,000, something like 600 or 700 make criminal injuries compensation claims. It follows, Mr Speaker, that a system which is geared at the moment - - -

Ms Tucker: On a point of order, Mr Speaker: We are debating an amendment now about adding another group to a list which exists. We would like to hear an argument from Mr Humphries about why that list is appropriate; why it is not appropriate to add what I put there. We do not need an explanation of the whole system.

MR SPEAKER: I have listened very carefully to a number of people who have been all over the world on this issue and I am sure Mr Humphries is coming to the point that you are looking for. He is explaining it to begin with. In fact, I could go so far as to say we have listened, with tedious repetition on occasions, to some members.

MR HUMPHRIES: Indeed, Mr Speaker. The point I am making is that people say, "We need to define access to redress victims of crime in terms of cash payments". Ms Tucker wants to enlarge the number of people who are entitled to these cash payments.

Ms Tucker: Why do you need sexual assault there then?

MR HUMPHRIES: It is an absorption, it is complete obsession - - -

Ms Tucker: Why do you need sexual assault there then?

MR HUMPHRIES: It is complete obsession then - - -

Ms Tucker: Why do you want sexual assault there?

MR HUMPHRIES: Let me finish, Ms Tucker.

Ms Tucker: Do not support his amendment.

MR HUMPHRIES: It is a complete obsession with this idea that cash payments solve all the problems. If you get cash, you are fine. If you get cash, you are okay. Mr Stanhope talked about the 99 per cent who are left out. At the moment, under the present system, 98 per cent of victims in the ACT get no access to the criminal injuries compensation system, because it is a cash based system which is not about rehabilitation; not about counselling and services designed to restore the victim to the position in the community they were at before the crime was committed. It is about getting access to cash payments.

Mr Stanhope: We treat them all the same, Gary, they all have access. They are equal.

MR HUMPHRIES: But they do not use it, do they? That is the point. In the present system in the ACT, if you are injured or otherwise affected adversely by a criminal act, your recourse is, essentially, in terms of government run services at least, access to cash. You go and you ask for money to somehow compensate you for injuries suffered. We want to expand the availability of services to people who are victims of crime by providing a system that is free, accessible by any victim of crime, without having to prove that they have been a victim of crime in some court-related way. This provides every person who has been a victim in that sense with counselling and rehabilitation in a way that will be immediately accessible. It does not involve the use of lawyers or having to make claims for cash payments. That is a worthwhile reform. That is a broadening of accessibility to services for victims of crime. It is simply nonsense to suggest we are winding back access by victims to suitable services. On the contrary.

Mr Stanhope: Rubbish.

MR HUMPHRIES: On the contrary. Our victims assistance scheme will expand the availability of services to those victims. It will provide them with a service to which they have no access at present. Isn't it amazing? Those opposite are in this place defending the right of lawyers to seek cash payments in the courts in a scheme that on any reasonable view is being rorted to a very large degree by those who use it - a scheme which even their colleagues in New South Wales are calling now to be reformed, and their average payments are $3,000 lower than they are in the ACT.

Mr Stanhope: And a certain class of rorters can stay in.

MR HUMPHRIES: When average payments are $10,000, Labor in New South Wales are concerned about what is going on.

Ms Tucker: Why are you supporting only sexual assault?

MR HUMPHRIES: When they reach $13,300, we find that Labor in the ACT is not quite so concerned. Mr Speaker, everybody who has observed this scheme with some degree of objectivity, realises it needs fundamental reform. We cannot have a scheme that perpetuates the idea that a small minority of victims can be showered with relatively large sums of money while the vast majority - 98 per cent or so of victims - receive nothing under the present scheme. This attempts to reverse, to redress, that imbalance, and I believe it is worth supporting.

MR QUINLAN (2.30 am): I think Mr Humphries in that little dissertation was trying to change the subject of the inequity inherent in the amendment put forward. He said nothing about that fundamental inequity. I would rather expect, and hope, that Mr Humphries might vote on the compromise he has apparently made with a couple of members here. But please do not insult this place, the members of this place or future victims who will get less if they are not in the upper class, by trying to justify it. Just vote on the compromise you have made. This is, as far as I can recall, in terms of just principle, the lowest point in the two years I have been here.

MR SPEAKER: It is hardly surprising, at 2.30 in the morning.

MR KAINE (2.31 am): The Minister just digs deeper and deeper the hole he is falling into. He started that little lecture with a proposition that money did not solve problems; did not fix things. If you are a police officer or maybe an ambo or a firey, if you happen to have a bit of a problem, 50 grand a time for special purposes over and above anything else that a police officer can get apparently does solve problems. If he says money does not solve the problem, why is he prepared to give any police officer 50 grand? If his argument is valid, he should not be giving them any. So he falls on his own argument and, of course, so does Mr Rugendyke in trying to put up such an inequitable proposal.

MR BERRY (2.32 am): I have a couple of challenges to issue. First, I call on either Mr Rugendyke or Mr Osborne to take Mr Humphries to task for including police among a class of "rorters" who - - -

Mr Stanhope: Apologise.

MR BERRY: Why do you not apologise for that, Gary? If Mr Rugendyke and Mr Osborne were keen to make people apologise for these sorts of things this morning, I would like to see you be consistent and take - - -

Ms Carnell: That's not what he said.

Mr Humphries: I've been Gary-ed.

MR BERRY: The next challenge is this: I would like to throw down the gauntlet to Mr Rugendyke and have him explain to the Assembly amendment 2 moved by Ms Tucker on the blue sheet, which states:

> ... if the criminal injury was sustained as a result of a violent crime consisting of conduct constituting domestic violence under the *Domestic Violence Act 1986*— special assistance by way of reasonable compensation for pain and suffering in an amount of no more than $50,000;".

Would you tell us why that should not be supported, please, Mr Rugendyke? I would like to hear your case against that particular amendment.

Question put:

> That **Ms Tucker's** amendment to **Mr Rugendyke's** proposed amendments be agreed to.

The Assembly voted -

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

Question so resolved in the negative.

MS TUCKER (2.37 am): I move a further amendment:

> Page 9, line 12, after proposed new paragraph 10 (1) (f), insert the following paragraph:
> "(g) if the criminal injury is, in the court's opinion particularly serious and has persisted for a considerable period, or is likely to persist indefinitely or for considerable period—special assistance by way of reasonable compensation for pain and suffering in an amount of no more than $50,000.".

My amendment will solve the problem tonight. I am hoping that the Government and Mr Rugendyke and Mr Osborne did not support my first amendment because they realised after listening to the debate that this is such an incredibly embarrassing situation that they are going to support this amendment that will address the broad issues raised in this debate. We have a piece of legislation that is totally ad hoc.

We have a list devised by a person in the Assembly who has an allegiance to a particular group. It has been plucked out of larger groups that also have needs - groups such as women suffering domestic violence, sexual assault. He has got this list. It is looking really bad. The Government is very uncomfortable with it. So they are going to support my amendment, because it will fix it up and we will come out of this place with some credibility. We will not be the laughing stock.

That is why Mr Rugendyke probably just did not speak. He is going to speak now and explain that he has listened to the argument and is going to fix it up. So, I look forward to that. What this amendment says is if the criminal injury is, in the court's opinion, particularly serious, has persisted for a considerable period, or is likely to persist indefinitely or for a considerable period, there will be special assistance, by way of reasonable compensation for pain and suffering in an amount of no more than $50,000. That means people will be supported according to their need, not according to the people they know.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.39 am): Mr Speaker, again I remind members, if they want to wind back the extent of the definition of "extremely serious injury", then they will simply wind back the extent to which the scheme is affordable, particularly provisions about what constitutes an extremely serious injury.

Mr Berry: There is more to life than dollars, Gary.

MR HUMPHRIES: You find the money to do that and we will reconsider our position.

Mr Berry: Well, you can find it to blow up hospitals and you can find it to build stadiums.

Mr Stanhope: Or at Bruce Stadium.

MR HUMPHRIES: We will bring our draft budget down next month. The Assembly is going to have its committees look at that draft budget. You find where the $6m to $7m is going to come from and we will think about changing our position. Mr Speaker, I know they do not like what I am saying, but they do not have to talk over me the whole time I am up. If those opposite believe that money should be spent here compensating people for the sorts of claims that Mr Hargreaves was reading out earlier tonight, rather than funding more beds in the hospitals, more services available to students in our schools and other essential community services, good luck to them.

I do not think that is what the Territory should be spending its money on. Neither, apparently, do most of the colleagues of ours in other governments in other parts of Australia, including Labor governments, believe that to be the case. It is time we started to look rationally at what we can afford as a community. We are already paying compensation payments at the highest level in Australia by a very long margin. Most other jurisdictions have moved to reform their system and move, in fact, away from pain and suffering, notwithstanding what Ms Tucker said about Victoria.

I am very doubtful that Victoria is going to change its law in that respect. I think it would be very unlikely any State is going to go back to the old regime of pain and suffering being available to everybody, to all and sundry. Labor have not yet bothered to try to explain to the house why it is that the position that their parties have taken in New South Wales apparently is not good enough for the ACT. It is a system that clearly cries out for reform. For that reason we should not accept this amendment.

MR STANHOPE (Leader of the Opposition) (2.41 am): I will respond very briefly. This is not an amendment that, had it simply been dropped here tonight without Mr Rugendyke's proposal to create this hierarchy of victims, the Labor Party would have supported. The only reason Labor is supporting this particular amendment is that we have no option in the interests of simple justice and equity. I am unable to see how anybody cannot support this amendment, having regard to the fact that the Assembly has now on Mr Rugendyke's amendment, with the support of Mr Osborne and the Government, agreed to introduce a whole separate scheme just for the police, ambulance and firefighters, whom, I understand, made no claims in the past year.

We have a class of people there that basically makes no claims other than for the police and victims of sexual offences. Yes, victims of sexual offences, which was put in there almost as an afterthought, which adds to the insult. We will provide a separate scheme for the police, ambulance officers and firefighters. This is a separate scheme we are creating. We are going to have two compensation schemes - one for the hoi polloi, then we have this special scheme, a separate scheme as a bit of an afterthought to make us feel a bit warm and fuzzy. We then include victims of sexual offences.

We cannot stretch that to include victims of domestic violence. That is asking far too much. That particular amendment of Ms Tucker's was defeated. Just in simple equity, justice to ensure that all of our residents, all citizens, all of our constituents are equal, we must support this amendment. There is just no rational reason for not supporting this amendment. It gets back to the crux of the issue, that the Attorney has allowed the basis of his scheme to be corrupted by this sort of amendment. What this amendment has done, Mr Rugendyke's amendment, is basically to undercut the integrity of the scheme that the Attorney was seeking to actually introduce.

Ms Tucker: Why is he supporting it?

MR STANHOPE: Well, that is right. It begs the question. Mr Rugendyke's amendment just breaches the integrity of the scheme. Once breached, in the interests of justice and equity and fairness, you have to go the whole way. The Labor Party does have some amendments we have moved to Mr Humphries' scheme. But they do not have the impact of the one we are discussing. We were prepared to try to work within the confines. We do not like it all that much, but we were prepared in our approach to accept the need to ratchet back the scheme.

We were prepared to accept a limit of $30,000. We were prepared to accept the need to report to police, except in some limited circumstances. We were prepared to accept concentration on counselling. But you have destroyed your scheme. By accepting Mr Rugendyke's amendment, you have destroyed the whole basis of your scheme and you now have no option but to go the full Monty in the interests of simple justice.

MR QUINLAN (2.45 am): Let me just say through you, Mr Speaker, to the Treasurer: If you wanted to save money what about the crazy idea of still having a common limit, somewhere between $50 and $30,000? You cannot use the saving of money to rationalise or justify an inequitable system.

Question put:

> That **Ms Tucker's** further amendment to **Mr Rugendyke's** proposed amendments be agreed to.

The Assembly voted -

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

Question so resolved in the negative.

Amendments (**Mr Rugendyke's**) agreed to.

MS TUCKER (2.49 am): I ask for leave to move amendment No. 4B circulated in my name.

Leave granted.

MS TUCKER: I move:

> Page 9, line 18, proposed new paragraph 10(2)(b), omit the paragraph.

This amendment effectively removes the compulsion for victims of crime to use the victims support service. It puts into effect another recommendation in the Justice and Community Safety Committee's report. Almost every major contributor to the working party report and the committee's report affirmed the value of a victims support service or services and access to a range of health and counselling services. Legal, medical and social advice can be crucial in the rehabilitation of victims when they choose to use such services.

The Government must be commended for seeking to provide such a service. However, there is no reason to compel victims to use the service. The working party, in its proposals and discussions, emphasised the importance for victims to choose the support services they require. The preferred model the working party proposed was for a mix of government and community services. National and international research universally identifies the individual nature of victim requirements. It draws attention to the importance of informal support, the availability of a number of options for victims and the necessity to afford them autonomy, dignity and information as they require it.

Compulsion to use the victims support service is patronising and high-handed. It is the product of minds that presume anyone who is unwilling to front up is simply out to rort the system. There is no evidence that this is the case. More to the point, such a tactic may well have entirely the wrong outcome. The committee quoted Professor E. Fattah as saying:

> Telling victims … they can not cope on their own without the help of professionals can become a self fulfilling prophecy … This is perhaps the saddest aspect of victim support, the possibility that those who are genuinely trying to help victims may inadvertently end up by hurting them.

If this Assembly wishes to improve on the victims of crime scheme as it presently exists, then first and foremost we must treat victims with dignity and respect. A compulsory government service where each victim, if not an enemy, is a dubious dependant will alienate victims from the service and add to the damage already caused. The compulsion to access the proposed service is unwarranted and should be struck out.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (2.52 am): One of the philosophies behind the Government's approach is to create a disincentive for people to make claims which are basically geared around obtaining money and only for the purpose of obtaining money rather than for the purpose of obtaining redress and rehabilitation. Interestingly, in other States, particularly in Victoria, where the approach has been taken to require victims to obtain counselling and services before they have access to cash payments, the number of people who have chosen to go that path has dropped dramatically since the days when payments were accessible without that kind of recourse.

Does that mean that people are so badly traumatised by their experience that they cannot bear the shock of having to go and access a service like occupational therapy or counselling or some other kind of service? I think it much more likely that those who previously saw it as being relatively easy to access cash payments without much fuss, just by instructing their lawyers and basically waiting for the money to come through the mail in due course, would find that having to front up to services and get assistance for whatever permanent injury they had suffered was a step more than they wanted to take, and hence there would be a reduction in the number of claims.

I do not think it is a particularly onerous requirement for a person who claims to have been extremely seriously injured to seek some assistance for those extremely serious injuries. There is no requirement that the assistance be of a particular kind. They are not required to undertake, say, physiotherapy if that is not appropriate to their case. They are also not required to undertake any therapy or to access any services at all if they are physically incapable of benefiting from the scheme. A person, say, who as a result of a criminal act has broken their back clearly is not required to go and obtain counselling or therapy for the broken back, because no level of support or therapy is going to fix the broken back.

But it does seem to me reasonable to ask people who want money from the state to indicate some level of capacity to seek rehabilitation of their injuries, their harm, before they ask the community to fund the redress of that harm through a cash payment. Do not forget that the cash payment is designed to put the person back on their feet. If we can put them back on their feet through counselling and other services, through rehabilitation, why do we need to make a cash payment also? Those who oppose this

provision really have to ask themselves what is so wrong with asking people to access those services where they are appropriate.

MS TUCKER (2.55 am): I do not think anyone is suggesting that if someone has broken their back they are going to ask for physiotherapy or some other physical treatment. That example is clearly ludicrous. I explained that there are great complexities in individual cases that are the subject of this legislation, and the experts are saying that there is a case for not compelling people to take treatment in certain situations. It is probably the case that most people, if they have a physical injury, will want to get it fixed up. The point is that you would not have to force someone to do that. Why is there a need to force people to seek rehabilitation? That is exactly the point that is being raised here. It can be counterproductive for the rehabilitation of people in certain circumstances.

What the research is saying - and I said it a couple of times in my speech - is that it is a very individual thing. The healing of people who have been traumatised by crime is a very individual thing. That is why we have to accommodate and respect that in legislation. That is why Mr Rugendyke's amendment is so offensive. He is creating classes of persons here, when all the researchers keep referring to the individual nature of healing.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

MR STANHOPE (Leader of the Opposition) (3.00 am): I move:

> Page 9, line 30, proposed new subsections 10(4) and (5), omit the subsections, substitute the following subsection:
> " '(4) An applicant under this section in respect of a criminal injury must serve a copy of the application on each other person whom the applicant believes to be entitled to financial assistance under this section in respect of that injury.'.".

This amendment is a reasonable, non-contentious amendment that I hope the Government can support. It proposes that an applicant under this proposed section must serve a copy of the application on each other person whom the applicant believes to be entitled to financial assistance under this section in respect of that injury. There is an element of first in, first served in relation to related victims under the Government's proposed scheme. This amendment would require a related victim who has made an application to seek out other potential related victims and let them know that he is putting in an application or seeking to make a claim, so that there can be some equality of opportunity amongst related victims. It is a proposal to ensure that all related victims who might potentially wish to make a claim know that one of their group is intending to make a claim. It is something I hope the Government can support.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.02 am): My advice is that this could be a bit of a problem for the court. They would need to be able to be satisfied that certain steps had been taken in respect of these sorts of applications. They would need to be sure that the notices had been served. I am not particularly concerned about this. It is a sensible move in concept. If there is a problem with the way in which it works within the context of the courts, I am sure Mr Stanhope would be prepared to consider some amendment to fix the problem down the track.

Amendment agreed to.

MR RUGENDYKE (3.03 am): Mr Speaker, I ask for leave to move amendment No. 4 circulated in my name.

Leave granted.

MR RUGENDYKE: I move:

> Page 9, line 33, proposed new section 10, add the following subsection:
> " '(6) In this section—
> ***ambulance officer*** means—
>
> (a) a member of the ACT Ambulance Service, or its Chief Officer, under the *Emergency Management Act 1999*; or
>
> (b) a casual volunteer under that Act while participating in an operation undertaken by the ACT Ambulance Service.
>
> ***firefighter*** means—
>
> (a) a member of the Australian Capital Territory Fire Brigade, or the Fire Commissioner; or
>
> (b) a volunteer who, at or immediately after a fire, has placed his or her services at the disposal of the Fire Commissioner, while exercising functions under section 7 of the *Fire Brigade Act 1957*; or

(c) a bushfire brigade member, a fire control officer, an emergency volunteer firefighter, or the Chief Fire Control Officer, under the *Bushfire Act 1936*; or

(d) a member of a firefighting organisation established in any area of a State or another Territory, while assisting at or immediately after a fire in the Territory.'."

This amendment defines "ambulance officer" and "firefighter" as they apply to this Bill.

Amendment agreed to.

MR STANHOPE (Leader of the Opposition) (3.04 am): I ask for leave to move my amendment No. 3.

Leave granted.

MR STANHOPE: I move:

Page 9, line 34, proposed new section 11, omit the section, substitute the following section:

" '11 **What is an extremely serious injury?**

'(1) An extremely serious injury is an injury that satisfies all the requirements of this section.

'(2) The injury must be a criminal injury.

'(3) The injury must reasonably require treatment by a health professional.

'(4) The injury must result in 1 or more of the following consequences to the primary victim:

(a) impairment of a bodily function;

(b) loss of a bodily function;

(c) disfigurement;

(d) mental or behavioural disturbance or disorder;

(e) loss of a foetus.

'(5) The injury must result in a considerable reduction to the primary victim's quality of life.".

This amendment replaces proposed new section 11 with a new definition of an extremely serious injury. We had this debate to some extent in relation to Ms Tucker's amendment No. 1, which proposed the deletion of the definition of "extremely serious injury". My proposal does not go to the same extent as Ms Tucker's did, but we are both seeking to address the same issue, namely, a concern that the definition of "extremely serious injury", to the extent that it requires an extremely serious injury be a permanent impairment or a permanent loss of a bodily function or a permanent disfigurement, et cetera, raises the bar so high in relation to the group of victims who can potentially claim under this Bill that it goes too far.

The amendment redrafts proposed new section 11 and the definition of "extremely serious injury" by removing any mention of permanency. It also slightly lessens the test in relation to the reduction in quality of life referred to by the Government in its Bill, but it does retain the other tests that the Government has. I think this is a reasonable compromise in relation to this definition, and I commend it to members.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.05 am): Again, this is a considerable watering down of the definition of "extremely serious injury". For the reasons I have already given, I do not think we should accept it.

MS TUCKER (3.06 am): I urge members, Mr Osborne and Mr Rugendyke in particular, to support this amendment from Mr Stanhope, because it will look after the second-class citizens the Government have just created.

Amendment negatived.

MS TUCKER (3.07 am): I ask for leave to move my amendment No. 6.

Leave granted.

MS TUCKER: I move:

> Page 10, line 25, proposed new paragraph 12(1)(c), add ", or another reasonably appropriate community service organisation or office holder (for example, a rape crisis service, a domestic violence support service or an aboriginal health service)".

This amendment modifies the absolute obligation that exists in this legislation to report to the police and identifies other possible reporting mechanisms. It picks up on a recommendation of the committee chaired by Paul Osborne and including Harold Hird, Jon Stanhope and Trevor Kaine. It modifies the tone and practice of compulsion so apparent in this legislation and accords victims of crime some dignity, independence and control of the situation.

There is a long way to go before all sections of society are comfortable dealing with the police in the context of every crime. Aboriginal people, women trapped in dysfunctional relationships - with or without children - and people who have some criminal record are surely still entitled to the protection of society. It is absolutely apparent that in some instances insisting that victims report to the police will result in fewer rather than more reports. Of course, it may save money. Perhaps that is why these conditions are there, but the people who will suffer are the very people most vulnerable to crimes of violence. Let me quote from the report of the working party:

> One parent households have a high victimisation rate, as do young people under 25 years, the unemployed, and males (6% as opposed to 5% of females).\

It goes on to state:

> Police crime statistics further show that crime victims are disproportionately drawn from lower socio-economic groups (especially the unemployed and single parents) … Women of any age and children of either gender are less likely to report offences against the person …

These are the people to whom we are saying, "Report to the police or forget it" - the very people most in need of some sympathetic support, the very people in need of some scaffolded way into the justice system. Or is the Assembly saying that these are the people for whom we have no time, for whom it is simply bad luck, about whom it can be said that they brought it on themselves because they are scared of the police or their partner or their family? The working party and the Government's 1997 discussion paper also suggested that the requirement to report to police should not be compulsory. All community groups representing victims of crime have been adamant that other forms of reporting must be allowed.

Of course, given a bit more time and goodwill from all in the Assembly, it would be possible to include a rider in the legislation so that magistrates could take into account the reporting or non-reporting of an incident to police. But in the end it is more important that victims of crime report the incidents and seek assistance rather than some reporting to the police and others not reporting. If the intention, to quote the Attorney-General's media release of a year ago, is to broaden the reach of the scheme, I cannot understand for the life of me why reporting to the police has been made mandatory. I hope to get support for this amendment from the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.10 am): The Government has asked that reporting be made part of the scheme, for the reason that I and court officials were grilled at length the other day by the Justice and Community Safety Committee about the extent of pursuit of those people who perpetrate crimes and who are liable, in theory, to pay money to meet the cost of paying victims. Mr Speaker, how do you expect the police to be able to pursue perpetrators for the purpose of getting money from them to pay victims if the police do not know who the perpetrators are, if the police have not had the incident, the crime, reported to them in the first place? With great respect, how can you simultaneously maintain that we have to be doing more to pursue the perpetrators of crime and in the same breath say, "No, you do not have to report the crime to the police."?

Let me make something perfectly clear. Reporting the crime to the police does not entail having to undertake some kind of traumatic encounter with the police. Reporting to the police is not a matter which is defined in any particular way. You could report to the police if you have been traumatised by a particular incident. Say you are a woman who has been raped, you are traumatised and you have the impression perhaps that the police are not very sympathetic to rape victims and tend to give them a rather hard time, treat them as the guilty party, and so on. That is a far cry from the operation of the sexual assault and child abuse team operating in the ACT. It is a very effective body that is very sympathetic to people who have been victims of crime in that particular category.

But let us assume you have that impression and do not want to report the crime. Do not front up to report the crime. Ask someone else to go and report it for you. Make a telephone call and report it. Write a letter and report it. What is so onerous about doing that? We simply ask that a person put the community on notice that that crime has occurred. What is so difficult about that, Ms Tucker?

Supposedly a person who has been subject to some kind of crime feels so traumatised and unable to confront the police that they do not want to report the crime to police and do not want to relive the incident in front of anonymous police officers, but they are prepared to go into the court and relate the events to the court and obtain money for doing so. It does not make sense to me.

In order to prevent rip-offs and rorting of this system - and we know there has been some element of that in this scheme - it is only reasonable to say to people, "If you want to claim from the taxpayer a lump sum of money for your injury, at least have the decency to tell us when you were injured by a criminal". It is hardly a lot to ask.

MR STANHOPE (Leader of the Opposition) (3.14 am): Mr Humphries can seek to rewrite reality or to wish reality was not as it is, but it is no good just wishing away the fact that so many women are not prepared to report to the police that they have been raped or otherwise sexually assaulted. That is a fact that you need to grasp. It is something you need to take on faith. You need to accept that a lot of women who are raped or who suffer sexual assault cannot bring themselves to go to the police.

Mr Humphries: They do not have to go to the police.

MR STANHOPE: I do not care. It is a simple fact of life, Mr Humphries, that they do not do it. You could design in your mind all sorts of stratagems by which they might get around this decision that they make not to go to the police. You could seek to speak for them, which is what you are doing. You are saying, "The silly things. Why don't they get a friend to go along for them or why don't they write a letter?". There are probably very good reasons, Mr Humphries, which you and I will never fully understand.

Mr Humphries: Can you give us an example? What reasons? Why can't they write a letter?

MR STANHOPE: I think this is so crass and so insensitive of you, Attorney, that you are sitting here and basically demanding that all women who are raped or sexually assaulted must go to the police, irrespective of their feelings about it.

Mr Humphries: I am not saying that.

MR STANHOPE: That is what you are saying. They might not be able to bring themselves to take themselves off to the police or to find a friend to take them off to the police. Perhaps it is a sexual assault in the family context. Who knows what the arrangement is? There are a million possible permutations of reasons why women do not go to the police or the authorities in relation to a rape or a sexual assault. It is a simple fact. Just think about how many rapes are not reported. We all know it is

a major problem. It is a major problem in the administration of justice. It is a major problem for the police.

I cannot believe that you are taking this attitude to women who find themselves in this situation. I cannot believe that you seek to restructure human nature or restructure the feelings which women have about the fact that they have been raped. They do not wish to expose that fact to the police or other people in positions of authority. That is a fact which you should accept if you have any sensitivity for the issue at all.

It is not asking much to adjust this scheme to allow women who have been raped to report that fact to some other organisation in order to allow them to fit within your scheme. This group of women have a right to be compensated for their injuries and for their trauma. You are seeking to place on them a condition which you know, as a matter of fact, is unacceptable, unobtainable. They will not do it. They will not go to the police. They have made a decision about it. We know it for a fact. You exclude a group of potential victims - rape victims who will not go to the police. It is crass, insensitive and unjust. I cannot fathom the level of your insensitivity on this issue.

Amendment negatived.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.17 am): I move:

> Page 10, line 30, after proposed new section 12, insert the following section:
> "**12A Exhaustion of workers' compensation remedies**
> **(1)** If a criminal injury arises out of or in the course of the primary victim's employment, the victim may not apply for financial assistance until—
>
> (a) an application has been made by the victim, or on the victim's behalf, for workers' compensation under the applicable workers' compensation law; and
>
> (b) either workers' compensation is awarded to the victim, or workers' compensation is refused following any applicable arbitration procedure under that workers' compensation law.
>
> **(2)** In this section—
>
> ***workers' compensation law*** means the *Workers' Compensation Act 1951*, or any other law applying in the Territory that provides for the payment of compensation for injuries arising out of or in the course of employment.
>
> *Note* Under s 33 and s 34 of this Act, if a primary victim has received, or is entitled to receive, an amount of workers' compensation in respect of his or her criminal injury, any amount of financial assistance the primary victim might otherwise be awarded under this Act is reduced by that amount. Under s 32 of this Act, if the amount of workers' compensation exceeds the amount of financial

> assistance that would otherwise be awarded, no financial assistance is payable under this Act.".

This recommendation picks up the recommendation of the standing committee on the exhaustion of workers compensation remedies before criminal injuries payments are accessed by a claimant.

Amendment agreed to.

MS TUCKER (3.18 am): I seek leave to move amendment No. 7 circulated in my name.

Leave granted.

MS TUCKER: I move:

> Page 10, line 31, proposed new section 13, omit the section, substitute the following section:
> " '13 **Maximum award—primary victims and responsible persons**
> '(1) The maximum financial assistance that may be awarded under this Division to the primary victim for a criminal injury is $50,000.
> '(2) The maximum financial assistance that may be awarded under this Division to any person responsible for the maintenance of a primary victim is $30,000.".

The purpose of this amendment is to take up the aggregate function of the proposed section. As we have already said, the problem with the aggregate award is that individual cases vary to an extraordinary degree. We are talking about exceptional circumstances where the impost on the victim and responsible persons is enormous. I remind the house that these awards are offset against social security, Medicare and insurance entitlements. It is not as if victims and responsible persons will be double dipping or overwhelmed with assistance. Even a maximum payment will get nowhere near the real cost such a payment implies, nor would it come close to offering a fair compensation for pain and suffering in many cases.

May I also remind the Assembly that this legislation makes no allowance for secondary victims. We have tightened eligibility and total payouts considerably and unfairly already. The research material with which, through the genesis of this Bill, we have all become familiar continually refers to the widely varying circumstances of such an event. What do we say to the parents of one young man, who has already been mentioned, criminally injured in town one night and now a quadriplegic? His life and his parents' lives have been destroyed. His parents are victims of that crime, without a doubt. Under this legislation they are responsible persons, of course, and I am sure they will remain so.

The financial assistance under this amendment is still small, but it may make a small difference. I am moving this amendment in recognition of the range of circumstances and to offer a little more support for people whose lives have been so destroyed through injuries to themselves and their perpetual dependants.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.20 am): Again, this amendment would increase the cost of the scheme. It would increase, in effect, the maximum amount that might be payable in respect of a criminal injury to a total of $80,000 where someone other than the primary victim is responsible for that victim's maintenance. In theory, it would be nice to do so, but again it sends the scheme in the wrong direction and increases costs in a way which is simply not sustainable by this community.

MR QUINLAN (3.21 am): If a criminal act is perpetrated on a person, quite often it is not only that person who suffers for a considerable time. A primary carer may have considerable inhibitions placed on their lives, possibly on their earning capacities and on their general freedoms. It seems to me that not many cases would fall into this class. To completely shut out the primary carer of someone who has been severely incapacitated to the point of needing that primary carer seems to me to be niggardly in the extreme.

Amendment negatived.

MR STANHOPE (Leader of the Opposition) (3.22 am): Mr Speaker, I ask for leave to move my amendment No. 4.

Leave granted.

MR STANHOPE: I move:

> Page 11, line 30, proposed new subsection 16(2), omit the subsection, substitute the following subsection:
> " '(2) A related victim applying for financial assistance in relation to the death of a primary victim must serve a copy of the application on each other person whom the applicant believes to be another related victim in relation to the deceased primary victim.'.".

This amendment mirrors amendment No. 2, which the Government very graciously agreed to support. I look for similar support here.

Amendment agreed to.

MR STANHOPE (Leader of the Opposition) (3.23 am): Mr Speaker, I ask for leave to move amendment No. 5.

Leave granted.

MR STANHOPE: I move:

> Page 12, line 17, proposed new paragraph 18(2)(b), omit "such proportion of $30,000 as the court thinks fit, such that the total amount of special assistance awarded is $30,000", substitute "such amount as the court thinks fit, such that the total amount of special assistance awarded does not exceed $30,000".

This amendment is related to an earlier amendment. It ensures that the court divides the total amount of compensation available between related victims whilst retaining the maximum cap of $30,000 on special assistance. If more than one related victim applies, the total amount available will be divided.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.24 am): I prefer the position the Government has outlined in the legislation. What the amendments the Government has put forward do is more beneficial to victims than the present scheme, mainly for the reason that, while the current scheme requires a relative to prove that he or she has personally sustained an injury as a result of death, the Government's Bill provides for an automatic entitlement to $30,000, plus expenses and lost earnings, up to a maximum of $50,000 in the same circumstances. I urge support for the government proposal.

Amendment negatived.

MS TUCKER (3.25 am): I seek leave to move amendment No. 11 circulated in my name.

Leave granted.

MS TUCKER: I move:

> Page 14, line 39, proposed new subsection 29 (1), omit "of its choice", substitute "chosen by the victim from a list of health professionals approved by the Minister as having suitable expertise for examining and treating injuries of the type allegedly suffered by the victim".

This is another instance where a small change to the legislation can offer some choice and some recognition and respect for victims of crime. The purpose of this amendment is to offer victims of crime some of the capacity to moderate a direction on consulting or being examined by a specified health professional. I have to remind the Assembly that such a directive would only be issued if the Territory is a party to the application, which will be the case, so this is relevant. A victim of crime in such a situation may well be extraordinarily disturbed or vulnerable, and sensitivity ought to be paramount.

Research in Britain and the Netherlands identified sympathetic response and personal choice as key elements in the rehabilitation of victims. The freedom to select from a list of health professionals, which in the end is still very clearly determined by the Territory, would be a tiny concession by the Government, yet it could be of real personal significance to victims.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.26 am): Mr Speaker, the Government supports this amendment.

Amendment agreed to.

MR STANHOPE (Leader of the Opposition) (3.27 am): Mr Speaker, I ask for leave to move my amendment No. 6.

Leave granted.

MR STANHOPE: I move amendment No. 6 circulated in my name, which reads as follows:

> Page 15, line 3, proposed new subsection 29 (3), after "refuses", insert, "without reasonable excuse,".

This is an extension of the section that we just debated and was just amended to allow some choice of health professional. I will explain this briefly. Subsection (3), which we have just discussed, says that if the primary victim refuses to submit to a requirement made under subsection (1), which we just amended, to visit a health professional, the court shall not award any financial assistance pursuant to the application. I am proposing that we add the words "without reasonable excuse". The subsection will then say that if a primary victim refuses without reasonable excuse to submit to a requirement to attend a health professional, then the court can refuse an award. I think it is appropriate that it be a reasonable test.

Mr Humphries: What is a reasonable excuse?

MR STANHOPE: Well, the courts deal with reasonableness in lots of instances.

Mr Humphries: Give me an example.

MR STANHOPE: I will leave that to the courts. A reasonable test. If a person has a reasonable excuse for not attending, the courts will take that into account. They do it in a whole range of areas now. The police actually have significant and numerous powers in relation to reasonable cause. It is a concept well known to the law. The courts will have no difficulties in dealing with the notion of reasonable excuse.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.29 am): Mr Speaker, I have to argue against this very strongly. In effect, what Mr Stanhope is doing is arguing that it is not compulsory for a person who claims to have been injured in some way by the act of a criminal to submit to an examination to establish that in fact they were so injured. Mr Speaker, quite deliberately, this Bill provides that there should be a test, a medical examination, conducted on the person to ensure that they are in fact injured as they say they are for the purpose of making a claim. In personal injuries actions, say an action for damages for some tortious liability, it would be unheard of for the victim not to provide some kind of medical evidence. I think we should have no less a standard where an injury has been claimed for in respect of criminal injuries compensation. I have asked Mr Stanhope to tell me what is a reasonable excuse, and of course he cannot do that.

Mr Stanhope: Of course I could. I could, but it is not productive.

MR HUMPHRIES: Well, I ask hypothetically for an illustration. What would be a reasonable excuse not to be examined to establish what your injury might be? If you have some kind of - - -

Mr Stanhope: You know that the reasonableness test is well known to the law, Attorney. You know that, or you should.

MR HUMPHRIES: No, no, Mr Speaker. Mr Stanhope misunderstands me. "Reasonable" is well defined in the law. I am well aware of that. What I am asking is a different question.

Mr Stanhope: "Reasonable" is well defined.

MR HUMPHRIES: Yes, I know that. I just said that. I am saying it is a different question that I am asking here. What would a possible reasonable excuse be? Why would a person who was going to ask the courts to give them money, taxpayers' money, not be prepared to submit to a medical examination? What possible excuse could there be? I cannot think of one. Can anybody else?

Mr Stanhope: Look, there is a whole range of possibilities, Attorney. You know that.

MR HUMPHRIES: Give me one example.

Mr Stanhope: Well, that the person had subjected themselves to a dozen doctors for examination already and simply refused to go to any more. They are sick of going to doctors, so they say, "I've been to a dozen doctors. I'm not going to another one". That is a reasonable excuse.

MR HUMPHRIES: No, Mr Speaker. Clearly, if they have submitted themselves to a dozen doctors, presumably for the purpose of their own examination, but they are not prepared to go to the 13th doctor in order to establish for the purposes of public payment of money that they have been injured, then - - -

Mr Stanhope: They have already got 12 certificates.

MR HUMPHRIES: Mr Speaker, I think Mr Stanhope clutches at straws. I believe it is reasonable for the Territory to be able to ensure, by means of a medical examination, that a person has been injured.

Mr Stanhope: You shouldn't ask questions when you don't know whether or not there is an answer, Attorney. Sit down. Sit down, you've done your dash.

MR SPEAKER: Order!

MR HUMPHRIES: Obviously it is very late, Mr Speaker.

MR SPEAKER: Yes, it is.

MR HUMPHRIES: We can excuse people for boorish behaviour in those circumstances.

Mr Stanhope: Well, you have been found out, Attorney.

MR SPEAKER: Settle down.

MR HUMPHRIES: I believe, Mr Speaker, that it is reasonable to have the taxpayers' money justified before being spent by having a medical examination for a person who claims to have been extremely seriously injured before they are able to make a claim before the court.

MR STANHOPE (Leader of the Opposition) (3.33 am): The Attorney is embarrassed. The Attorney challenged me to find a reasonable excuse. It is, of course, a reasonable excuse if you say, "Look, I have this condition. I received this condition as a result of an injury. I am sick and tired of going to doctors. I haven't been to 12. I've been to 20. I've been to 20 doctors. Every single time I've been to a - - -

Mr Humphries: "I want government money. I want taxpayers' money, but I won't prove - - -

MR STANHOPE: "I've been to 20 different doctors, the leading specialists in the field in Canberra, every single one of them, and I've demanded a certificate from every one of them, all 20 of them. I come along and make a claim and the Territory says it wants me to go to the doctor again. I say, 'No. Look, I've been to every doctor at the Canberra Hospital. I've been to every one of the visiting medical officers. I'm not going to the doctor again. I've been to 20. No, I've been to 25. I've got 25 certificates. I'm not going again' ". That is a reasonable excuse, Attorney.

Mr Humphries: It is a very implausible excuse.

MR STANHOPE: That is a reasonable excuse.

Mr Humphries: It's a very unlikely excuse.

MR STANHOPE: It may be unlikely but you have to concede that in the circumstances it would be a more than reasonable excuse and it would be an unreasonable demand of the Territory to ask them to go to another doctor. I just use that as an example. There would be a whole range of reasonable excuses. This is one of them.

Mr Humphries: You only found one so far.

MR STANHOPE: I am happy to stay. Shall we talk it through? Shall we keep going? Shall we have a little competition and see how many reasonable excuses we can find? Perhaps we can do that. You laid down the challenge, Attorney, and you are now embarrassed.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Amendment negatived.

MR STANHOPE (Leader of the Opposition) (3.38 am): Mr Speaker, I seek leave to move amendment No. 7 circulated in my name.

Leave granted.

MR STANHOPE: I move:

> Page 17, line 23, proposed new subsection 36 (3), definition of "intoxicated", omit "substance specified in Column 1 of Schedule 1 to the *Drugs of Dependence Regulations*", substitute "drug of dependence, or a prohibited substance, within the meaning of the *Drugs of Dependence Act 1989*".

Mr Speaker, bear with me while I find my place.

Mr Humphries: Yes, I have all the time in the world.

MR STANHOPE: We have at this stage, haven't we? Proposed new subsection 36(3) deals with the definition of "intoxicated". Actually, this is a minor technical matter. Not wishing to teach how to suck eggs or anything, but the Government's Bill refers only to intoxication by drugs of dependence. The amendment adds intoxication by prohibited substances, for instance, heroin. Heroin is not a drug of dependence. It is defined as a prohibited substance. This is just a bit of tidying up.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.39 am): That sounds reasonable to me, Mr Speaker.

Amendment agreed to.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.40 am): Mr Speaker, I move amendment No. 2 circulated in my name. It reads as follows:

> Page 21, line 10, after proposed new section 45, insert the following section:
>
> "**45A Legal fees**
>
> A legal practitioner must neither charge nor seek to recover in respect of a proceeding under this Act an amount by way of fees that exceeds the amount allowable under the regulations.".

Mr Speaker, amendments No. 2 and No. 3 are related. Again this stems from a recommendation of the standing committee that there be a cap on the amount that solicitors are able to charge in respect of their processing of criminal injuries compensation claims. That is set out in Schedule 3. The amount concerned is to be set under this arrangement, as a regulation which can be changed from time to time, at $650.

MS TUCKER (3.41 am): We have concerns about this amendment. As I have already said, I would have liked to have had this debate adjourned so as to have time to look at these issues. We cannot support this. In the time we have had to look at it we have come to the conclusion that $650 is too low a cap for legal services. Fees in the New South Wales scheme, for example, are capped at $750. The difference between these systems is that appearance at court is not required in New South Wales. This new legislation has tightened up eligibility requirements significantly, particularly for applicants seeking significant reparation. While the Government may attest that it will only appear and contest cases which are highly dubious, we do not know for sure that that will always be the case. While there may not be so many applications for assistance in the future, a higher proportion of those applications may well require quality support and representation in the preparation of papers and reports, and on occasion an appearance at court. What does a victim of crime get for $650? Not someone with any great level of experience, you can be sure of that, and this figure, once set, is probably not likely to rise easily.

By way of comparison, Legal Aid in Canberra, which also enjoys a capped fee structure, has had more and more people dropping out recently, not because they had hoped to get rich on the legal aid they provide but because it is becoming untenable for them to continue to contribute.

We will oppose this amendment because fee capping at such a low level may repercuss badly on victims of crime, particularly in complex cases and where appearance at court is called for.

MR STANHOPE (Leader of the Opposition) (3.42 am): I am more concerned about the basis upon which the Attorney defined the figure of $650.

Mr Humphries: Do you want me to tell you?

MR STANHOPE: Yes, perhaps you can.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.43 am): I will do that. Mr Speaker, there is no particular magic about this. Apparently maximum legal fees are set in legislation in other jurisdictions. Apparently we have looked at the other scales and $650 is close to the top of the other scales.

Ms Tucker: It is $750 in New South Wales.

MR HUMPHRIES: All right. Okay, we are not as high as New South Wales but we probably have lower overheads than people operating in places like Sydney. There is no particular magic. If you want to make it $750, be my guest, Ms Tucker, but the committee recommended that we set an amount. We have looked at the range of scales and $650 is close to the top. It might not be the top but it is close to the top of the scales around the country, and we are proposing to use it in the ACT.

MR STANHOPE (Leader of the Opposition) (3.44 am): I thank you for that, Attorney. I respect the recommendation made that we do need to set some figure for some certainty in order to keep some cap on costs. I also do not want to go out and be the advocate for lawyers, but I do have a concern about how you justify just plucking out of the air the figure of $650. I would have liked to have seen some justification of the basis. What does a standard matter cost here in the ACT in terms of this particular scheme? What work will be required of a lawyer? What charging regime will be applied by lawyers to work of this sort? Will they use the Supreme Court scale of charges?

Mr Humphries: No, they will use this scale.

MR STANHOPE: Well, they will be required to use this. But if lawyers, under the Supreme Court rules, are charging $195 an hour, which I believe they are for this sort of work, and if there is more than three hours work involved in representing a standard matter for criminal injuries compensation, what have we done? These are relevant questions. It concerns me that we have just picked on this figure of $650 on the basis of looking at what is done around the States and it looks like a fair figure. What is involved?

Mr Humphries: Do you want to increase the amount?

MR STANHOPE: Actually, what I wanted you to do was to adjourn this piece of legislation so that these sorts of things could be looked at. What does the Law Society think about this? What is their view?

Mr Humphries: They do not want any limit. They want no limit on how much they spend.

MR STANHOPE: Well, what is their view on the extent to which a provision such as this will have a genuine impact on the access of poorer people to justice? There are genuine access to justice issues in everything we do that relates to the courts. You are imposing a charge of $650. What if most lawyers around town tell you they cannot do this job for $650?

Mr Humphries: We will have to increase it, will we not?

MR STANHOPE: Well, no, you probably will not increase it. You should not be waiting until after the event to be told. You should know now where this slots into the scheme of things. What if they tell you that this is 3½ hours work at the standard Supreme Court rate?

Mr Humphries: Good work if you can get it. I wish I was earning that much money an hour.

MR STANHOPE: It is. Maybe it is good work if you can get it, but that is what they get. It is 3½ hours work. I bet there is more than 3½ hours work in a basic, standard application for criminal injuries compensation. You just think about this. What happens? Who misses out? Whom do lawyers stop representing? When a poor person goes along and says, "Look, I've had this injury and I want to be represented. How much is it going to cost?", the lawyer says, "Well, $650 is all I can charge, but I'm not really prepared to do the work for that". I know the people who do get represented, the people who do have access to justice, and you know who they are. It is not the poor people. You know that the richer people in the community always manage to be represented. They always get their way there. It is the poorer people who cannot get to the courts.

I think this is a pretty sloppy way of deciding a maximum cost for a matter such as this. There has been no investigation of how much a standard matter costs in the ACT. You have just dropped it on us this evening. You have not checked with the Law Society. It is just incredibly sloppy. You do not even know the implications of it. I can tell you one implication of this - poorer people once again will be pushed to the edge. Poorer people once again will not have access to this service. That is what this sort of approach means if lawyers do come and say, "Look, I can't do the job for $650", and we do not know whether that is the case or not. We simply do not know.

MR SPEAKER: Gentlemen, we are not going to find out at a quarter to four in the morning either.

MR STANHOPE: We wanted this matter adjourned, Mr Speaker. I do not think you should continue to upbraid us for debating these issues out.

MR SPEAKER: I am not. I am just drawing your attention to the fact that this is not a matter that can be easily resolved at this hour.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.48 am): Mr Stanhope, he is not upbraiding. He is operating as a talking clock. That is all he is doing. If you want to go into bat for lawyers getting more money, then be my guest. Mr Speaker, this figure was chosen simply on the basis of the scale that different States charge. I suggest we resolve this matter by me saying to you that if the Assembly passes this figure tonight I will write to the Law Society and ask for representations from them about what ought to be a reasonable figure. If they persuade me that we should increase it to $750, as Mr Stanhope appears to want, or something more than that, then I - - -

Mr Stanhope: I simply asked the question.

MR HUMPHRIES: You suggested that poor people will not get access to these services if their lawyers are not prepared to do the work for $650. In most States in Australia apparently they will do it for $650 or less. Why they would not be able to do it in the ACT for that amount I do not know. Mr Speaker, I am quite prepared to live with that figure, but, if people want me to, I am happy to write to the Law Society and ask them to make representations about what a reasonable figure should be. If they convince me that it should be higher than $650, I am happy to increase it on the basis that this is a regulation.

Mr Stanhope: They might suggest $500, Attorney.

MR HUMPHRIES: Well, what do you want to do, Mr Stanhope?

MR SPEAKER: Order!

Mr Stanhope: They might suggest $500.

MR HUMPHRIES: It is 10 to 4 in the morning. What do you want to do about it? Do you want to vote it down? The committee recommended that we have a figure in there.

Mr Stanhope: Yes, I would be happy to vote it down.

MR HUMPHRIES: Okay. Well, do so. I do not care. That is fine.

Question put:

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

The Assembly voted -

AYES, 10	*NOES, 7*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Quinlan
Mr Kaine	Mr Stanhope
Mr Moore	Ms Tucker
Mr Osborne	Mr Wood
Mr Rugendyke	
Mr Smyth	
Mr Stefaniak	

Question so resolved in the affirmative.

Amendment agreed to.

Clause, as amended, agreed to.

Proposed new clause 5A

MS TUCKER (3.53 am): I move the amendment on the green sheet circulated in my name which proposes a new clause 5A. The amendment reads as follows:

> That the following new clause be inserted in the Bill: Page 27, line 34:
> "**5A Insertion**
> The Principal Act is amended by inserting after section 35 the following section:
> '69A **Review of Act and victims services scheme**
> '(1) The Minister must commission an independent review covering the operation of this Act and the victims services scheme during the 2 year period after this section commences.
> '(2) The Minister must table the final report of the review in the Legislative Assembly within 3 months after the end of that 2 year period.'.".

Mr Humphries: Kerrie, we will support it.

MS TUCKER: You will?

Mr Humphries: Yes, as long as you do not speak to it.

MS TUCKER: I will be very brief. I have been given an indication from the Government that I will be supported on this. This is basically about having an independent review covering the operation of this Act and the victims services scheme during the two-year period after this section commences. I thank members for their support.

Amendment agreed to.

Clauses 6 and 7, by leave, taken together and agreed to.

Clauses 8 and 9, by leave, taken together.

MR STANHOPE (Leader of the Opposition) (3.54 am): Mr Speaker, I ask for leave to move my amendments Nos 8 to 11 together.

Leave granted.

MR STANHOPE: I move:

Page 29, line 9, after paragraph 8 (c), insert the following paragraph:

"**(ca)** by inserting in subsection (1) the following definition:

' "board" means the Victims Assistance Board established under Division 4.2;'; and".

Clause 9 –

Proposed new Division -

Page 29, line 16, proposed new section 19, omit the section, substitute the following new Division heading and section:

"***Division 4.1—Management of scheme***

'19 **Establishment and administration**

'(1) A victims services scheme is established under this division.

'(2) The Minister is responsible for the administration and operation of the scheme, taking into consideration the recommendations of the board.

'(3) The following matters may be prescribed under the regulations:

(a) conditions for eligibility for the scheme;

(b) different levels of service for different categories of victim, or for victims in different circumstances;

(c) the performance of functions in relation to the scheme by the coordinator (other than functions inconsistent with the coordinator's other functions under this Act);

(d) any other matters necessary or convenient for the establishment, administration or operation of the scheme.

'(4) The Minister must seek and consider the advice of the board about regulations proposed to be made for subsection (3).

'(5) If the Minister decides not to give effect to a recommendation, or advice, of the board about a matter mentioned in subsection (2) or (3), the Minister must give a written statement of the reasons to the chairperson within 14 days after making the decision.".

Amendment -

Page 30, line 8, proposed new section 21, omit the section.

Proposed new Division -
Page 30, line 27, proposed New Division 4.2, after proposed new section 22, insert the following Division:

"***Division 4.2—Victims Assistance Board***

'22A **Establishment**

The Victims Assistance Board is established under this Division.

'22B **Functions and powers**

'(1) The functions of the board are as follows:

(a) to give written advice to the Minister about the administration and operation of the victims services scheme, and any regulations proposed to be made for subsection 19 (3);

(b) to perform such other functions as are conferred on the board by this Act, the regulations or another law of the Territory.

'(2) The board has the power necessary or convenient for the performance of its functions.

'22C **Constitution**

'(1) The board consists of a minimum of 3 members, appointed by the Minister, made up as follows:

(a) at least 1 legal practitioner, who may not be a public servant;

(b) at least 1 health professional, who may be a registered psychologist under the *Psychologists Act 1994*, but who may not be a public servant;

(c) at least 1 person nominated by, and representing, an organisation (whether or not incorporated) that has the object of representing the views of victims of crime.

'(2) Each member may be appointed for a term not exceeding 3 years, and may be reappointed.

'(3) A member holds office—

(a) for the term stated in the instrument of appointment; and

(b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are stated in the instrument of appointment.

'22D **Chairperson and deputy chairperson**

The Minister must appoint—

(a) a member of the board to be its chairperson; and

(b) a member of the board to be its deputy chairperson.

'22E **Early termination of appointment**

'(1) The Minister may terminate the appointment of a member before the expiry of his or her term of office because of the misbehaviour or physical or mental incapacity of the member.

‘(2) The Minister must terminate the appointment of a member early if the member—

(a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

(b) is absent for 3 consecutive meetings; or

(c) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer.

‘(3) For paragraph (2) (b), an absence on leave is to be disregarded.

‘22F **Convening meetings**

‘(1) The chairperson, or if the chairperson cannot do so, the deputy chairperson, must call such meetings of the board—

(a) as the chairperson or the deputy chairperson considers necessary for the efficient performance of its functions; or

(b) as the Minister directs, by written notice given to the chairperson or the deputy chairperson.

‘(2) The chairperson, or if the chairperson cannot do so, the deputy chairperson, may call a meeting of the board at any time, and must do so at the request of another member.

‘22G **Leave of absence**

The board may grant leave of absence to a member either before, or at the earliest practicable time after, the absence occurs.

‘22H **Procedure**

‘(1) The chairperson presides at a meeting of the board when he or she is present.

‘(2) If the chairperson is not present, the deputy chairperson presides.

‘(3) The member presiding at a meeting may give directions in relation to the procedure to be followed for the meeting.

‘(4) The member presiding at a meeting has a deliberative vote and, if there is an equality of votes, a casting vote.

‘(5) The board must keep minutes of its proceedings.

‘(6) A meeting of the board may be called by telephone, television or any other device which permits instantaneous audio communication, with or without instantaneous visual communication.

‘22J **Quorum**

At a meeting of the board, a majority of the members for the time being of the board is a quorum.

‘22K **Administration**

The board may make arrangements with the chief executive for the provision of administrative or secretarial services to the board.’.”.

Mr Speaker, amendment No. 8 simply provides a definition of a board which is consequential on the following three amendments, Nos 9, 10 and 11.

These amendments arise out of a report of the scrutiny of Bills committee. This is the Mr Osborne double whammy review of this scheme. We had Mr Osborne chairing the standing committee that did recommend all the changes which we have now just ignored completely and we had Mr Osborne also chairing the scrutiny of Bills committee which recommended that it was inappropriate to leave the establishment of a victims services scheme and the creation of a Victims Assistance Board to regulations made by the Executive. The scrutiny of Bills committee said that that was an inappropriate delegation of legislative authority and that the issue was far too important to leave to regulations. That is what the scrutiny of Bills committee said, but we have ignored a lot of the recommendations that committees have made today. The Minister's response was that he wanted maximum flexibility to establish the scheme and board, so the Minister decided that he would not accept the scrutiny of Bills committee report in relation to this matter.

Amendments Nos 9, 10 and 11 go together to establish the scheme and make the Minister responsible for administering and operating it. They establish a Victims Advisory Board with certain functions and composition. The functions are similar to those proposed by the Government but are now to be established by primary legislation, not subordinate legislation. There are other machinery provisions for meetings, forums, et cetera.

The board will be advisory. The Minister must consult it about regulations he proposes. If he rejects a board recommendation he must give reasons. I have suggested that the board consist of a legal practitioner, a health professional and representatives of victims organisations. The first two, I suggest, should not be permitted to be public servants. The victims representative can be anybody nominated by a victims organisation.

I am responding very much to the scrutiny of Bills committee and I think it is appropriate. I take the point made by the scrutiny of Bills committee that it is an entirely inappropriate delegation of legislative authority to leave this to regulations for the flexibility that the Attorney says he would like. This is something which the Assembly should decide upon. I commend these proposals to members.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.57 am): Mr Speaker, I acknowledge that there is a choice here between which set of recommendations one follows. The Government's proposal has been predicated on the recommendations of the Justice Committee that the structure of the service and the advisory board should be a matter that can be flexibly adapted as the scheme is developed. In particular, it should be capable of being discussed with victims organisations and other stakeholders in this area to make sure that they are satisfactory.

Mr Speaker, the intention of the Government is to go back to various stakeholders. Some of them, such as VOCAL, may be interested in providing the victims assistance service which we have talked about there. If we do not have the flexibility to negotiate what form the service should be because it is enshrined in legislation, we will have considerable disability in working out how the scheme should operate.

It makes eminent sense to do as the committee has recommended and provide that we have the flexibility to work this thing through in discussion with stakeholders and finalise the arrangements under regulations. If the proposals are unacceptable to the Assembly the Assembly has the power to disallow the regulations or to amend them.

If the arrangements the Assembly puts in place tonight in legislation are unacceptable to victims groups, or to whomever else it might be that wants to operate the victims services scheme, there is not much you can do about that for the two months between now and February when we next sit. There is nothing you can do about it until we come back and fix the legislation. With great respect, it makes no sense at all to build these things in the legislation in an inflexible way when appropriately they are matters that should be discussed and negotiated with the relevant stakeholders.

Amendments negatived.

Clauses agreed to.

Clauses 10 and 11, by leave, taken together and agreed to.

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

MS TUCKER (4.00 am): I move amendment No. 12 circulated in my name which reads as follows:

> Part VI, page 31, line 11, omit the part, substitute the following part:
>
> **"PART 6—TRANSITIONAL**
>
> **13 Definitions**
>
> In this Part—
>
> ***award*** means an award of compensation made under the Compensation Act, including an interim award under section 16 of that Act.
>
> ***commencement day*** means the day on which the provisions of this Act (except sections 1 and 2) commence.
>
> ***Compensation Act*** means the *Criminal Injuries Compensation Act 1983*, as in force before the commencement day.
>
> **14 Proceedings instituted before commencement day**
>
> The Compensation Act continues to apply in relation to an application for compensation under that Act made before the commencement day, and to any award made pursuant to such an application, as if the amendments to the Compensation Act effected by this Act had not been made.".

This amendment removes the retrospective provisions in the Bill which have created a blow-out in applications and awards under the existing scheme. The Standing Committee on Justice and Community Safety strongly supported the removal of these retrospective provisions. I can see no way by which members of that committee could have changed the position from such a strongly held view. I quote:

> The Government has consistently stated that one of the main incentives behind the amendments is economic efficiency and cost cutting. However, to view the proposed changes as purely a budgetary measure ignores the fact that what the Bill effectively does is to alter the legislative rights of victims of crime. There is an undeniable social aspect to the amendments.
>
> Whilst it is true that victims do not have a common law right to criminal injuries compensation, it is arguable that the welfare role which Criminal Injuries Compensation Scheme fulfils arises from the responsibility of the government to members of the community. The money which is paid to victims may be viewed as compensation for the Territory's failure to protect individuals from the consequences of criminal activity. The Government itself justifies the changes which it is making in terms of the needs of victims and the role of the Government to provide the most wide ranging and effective service to these victims as is possible.
>
> The overwhelming consensus from submitters was that the retrospective aspect of the proposed legislation is unfair -

Mr Osborne, you said it was unfair and unjust -

> unjust and should be removed. Those objecting to the retrospectivity included the ACT Bar Association, Legal Aid (ACT), the Australian Federal Police Association (ACT Branch), the Australian Plaintiff Lawyers Association, the Australian Society of Labor Lawyers, the Law Society of the ACT, the Women's Legal Centre, Canberra Rape Crisis and VOCAL.
>
> The committee concurs with this majority community view and strongly supports the removal of the retrospective provision.

I think that is quite well expressed really.

Mr Speaker, with this Bill the Government has addressed the costs of the victims of crime scheme on a number of levels. It has stripped away entitlements of victims of crime, at both the high end and the low end of the scale, strengthened the obligation for applicants to pursue workers compensation before applying for victims of crime assistance, and capped the fees of the legal practitioners. The Government has further options, such as raising the criminal injuries levy, demonstrating more diligence in recovering funds from the perpetrators of crime, and establishing a new scheme designed for police to negotiate a commitment from the AFP to accept their responsibility. Furthermore, there is considerable scope in the upcoming reformed workers compensation in the ACT to incorporate psychological injury into the definitions of injury and disease. It is not simply an issue of money. It is an issue of government will.

Mr Speaker, these retrospective provisions are unjust and uncalled for. They must be removed. Tonight we have seen a deal done between the Liberals and Mr Osborne and Mr Rugendyke which is at the expense of people's lives in the ACT community.

MR STANHOPE (Leader of the Opposition) (4.03 am): Mr Speaker, the Labor Party supports this amendment. I support very much Ms Tucker's attempt to introduce a new Part 6 to cover transitional provisions and in effect to eliminate the retrospectivity inherent in the Government's approach to this matter.

I am aware of the Attorney's argument. He believes that because he announced this scheme some fair while ago the new rule should apply from thence onward. It is because of the Attorney's actions in relation to that that we had this burgeoning of claims over this last year. The fact that the scheme has blown out in the way it has is a direct response to the Attorney's actions. It seems to me to be incredibly unfair that people who have suffered injury as a result of a crime since the Attorney made his announcement should be disadvantaged as against their fellow citizens. I see no justification for it at all. It is just a simple question of fairness once again.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.05 am): Mr Speaker, I have made the case already in the debate tonight for these provisions to apply from the date the Government announced it wanted to apply them. It was a measure that was built into our budget, not for this financial year but for last financial year. It was a measure which was put in place in a similar way to many government measures by other governments, including Labor governments - that is, to announce provisions to operate from a particular day, and to address later the legislation which underpins the operation of that particular announcement or scheme.

That is not, I concede, the most desirable way to implement new schemes because there is always the chance that people rush through the gate to get in before it closes. That certainly has happened here. Mr Speaker, I think it is reasonable to draw up the drawbridge on this at some reasonable point. I simply have to regard many of the extraordinary number of claims as opportunistic in the present circumstances and unwarranted. There are some extremely - - -

Mr Stanhope: You have told us before that the police are rorting the scheme. Now you are saying they are opportunistic.

MR HUMPHRIES: That is right. They are opportunistic and they are rorting. Unfortunately, it would be improper for me to give details of those sorts of cases, but I am happy to give members details of those sorts of cases in private. I cannot disclose them because they are before the courts at the moment. There are a few cases which would make your hair curl, Mr Stanhope, absolutely make your hair curl. I am happy to talk to you about those a little bit later if you would like to know about them.

Mr Speaker, I remind members, after hearing about how incredibly unfair it is to remove people's rights retrospectively, that only a few months ago the Assembly did just that with respect to the hospital implosion inquiry.

Ms Tucker: Totally different. You had a chance to stop that. We did not have to do that. You had the opportunity to deal with that at the time.

MR HUMPHRIES: It is not totally different. In both cases people's rights were being retrospectively affected. I said to myself at the time, "Well, at least, if they are prepared to re-criminalise an act retrospectively, they can hardly complain about civilly adversing somebody's position retrospectively". It appears that I was wrong in that assumption. Nonetheless, Mr Speaker, there is at stake in this decision close to $6m in payments otherwise that would be made by the Territory. I ask members to consider what better use that $6m would be put to in the ACT than the proposal that is presently before the chamber.

MR BERRY (4.08 am): Mr Humphries referred to an earlier matter where retrospectivity was decided by this chamber. It was only because of your incompetence, Mr Humphries, that we had to go down that path. There was no other reason, and we were proven to have taken the right course. I know you are still stinging from that because it was an unhappy affair for you. It was embarrassing for you to be exposed full Monty as an incompetent Attorney-General out there in the community. But, Mr Humphries, it is too late. It is done. It was a good idea. It was endorsed by the chamber, and widely accepted. You were outed as an incompetent. It is no good bleating about it. It is all over.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative.

Amendment negatived.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.12 am): Mr Speaker, I move amendment No.3 circulated in my name. It is simply the follow on from amendment No. 2 in my name and it reads as follows:

Schedule 3, page 38, line 10, after the proposed amendment to regulation 3 of the *Criminal Injuries Compensation Regulations*, insert the following proposed amendment:

"**New regulation 3A—**

After regulation 3 insert the following regulation:

'3A **Maximum legal fees**

For section 45A of the Act, the maximum amount of legal fees that a legal practitioner may charge or recover in respect of proceedings under the Act is $650.'.".

Amendment agreed to.

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

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Bill, as amended, agreed to.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Reference - Commission for Integrity in Government Bill 1999

Motion (by **Mr Osborne**, by leave) agreed to:

That:

(1) the Standing Committee on Justice and Community Safety inquire into and report on the Commission for Integrity in Government Bill 1999;

(2) on the Committee presenting its report on the Bill to the Assembly, resumption of debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for the next sitting;

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

WORKERS' COMPENSATION - SELECT COMMITTEE
Reference - Alteration to Resolution of Appointment - Workers Compensation Amendment Bill 1999

Motion (by **Mr Osborne**, by leave) agreed to:

That the resolution of appointment of the Assembly of 1 July 1999 appointing a Select Committee on the Workers' Compensation System be amended by inserting the following new paragraph (2):

(1A) the Workers Compensation Amendment Bill 1999 be referred to the Committee and on the Committee presenting its report on the Bill to the Assembly, resumption of debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for the next sitting.

ABSENCE OF SPEAKER

The Clerk: Members, pursuant to standing order 6, I wish to inform the Assembly that the Speaker will be absent for the period 26 January to 3 February 2000, and in that period the Deputy Speaker, Mr Wood, will, as Acting Speaker, perform the duties of Speaker.

ADJOURNMENT

Valedictory

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.16 am): Mr Speaker, I move:

That the Assembly do now adjourn.

I exercise my right as the mover of the motion to speak first on account of the fact that last year Mr Kaine pre-empted me by having somehow worked out what I was going to say in my Christmas speech and stolen my theme for it. I will speak first to avoid that happening again this year. Mr Speaker, I realise that some members have not enjoyed my Christmas speech in some years, strange to say. I thought that I would sweeten my Christmas speech this year by actually giving out gifts. Mr Hargreaves rushes back to his chair in those circumstances. They are not really gifts, Mr Speaker; they are more in

the way of loans. I thought that, after a hard slog in this chamber this year, members might like to enjoy some movies at home, so I have obtained some movies for members to take home and enjoy over the coming week.

Ms Carnell: From Fyshwick?

MR HUMPHRIES: None from Fyshwick. I will go through them fairly quickly. Some members are not here, so they will miss out on their movies; but that does not matter. For Ms Tucker I was going to get *How Green Was My Valley*, but that would not have been satisfactory to her as there is only a singular green in that. On account of the fact that she has lost Ms Horodny, I thought she might enjoy *Home Alone*.

I do not know why, but I thought Mr Quinlan might enjoy *Mutiny on the Bounty*. For Mr Stefaniak, I found a movie called *The Substitute.* The subtitle of that is "The most dangerous thing about school used to be the students". For you, Mr Speaker, *One Flew Over the Cuckoo's Nest* seems appropriate, given your performance and your presiding over this chamber.

I thought originally that *Kindergarten Cop* would be a nice movie for Mr Rugendyke to watch. In the end, on account of his being an Independent, I thought *The Power of One* would be good for him. For Mr Stanhope, *Conspiracy Theory,* and for Mr Hird, *Speechless*. There were lots of suggestions for Mr Kaine, but I could not go past *Citizen Kaine*. *Boiling Point* was rather a good movie that I thought I would bring along.

Ms Tucker: I reckon *Grumpy Old Men*.

MR HUMPHRIES: *Grumpy Old Men* was also suggested to me. In the end, Mr Speaker, I decided simply on *Dr Jekyll and Mr Hyde*. I thought Mr Hargreaves might enjoy *The Good, the Bad, and the Ugly*. He could decide which of those categories he most fell into. I will not presume to tell him. At one stage I thought that *Mr Smith Goes to Washington* - a nice 1939 movie - would be good for Mr Smyth. In the end, I chose *The Truman Show*. It is all about a guy who spends his entire waking life being filmed by a camera. I thought that would be a very good movie for Mr Smyth. For Mr Berry, *Backdraft*. It is all about firemen. For Mr Moore, I thought of *The Shootist* or *Speed.* In the end, I decided on something rather more mundane - *Michael*.

Ms Carnell: Michael the angel.

MR HUMPHRIES: Actually, the title of that movie is "He's an Angel, not a Saint", and that is true. One of Mr Corbell's caucus colleagues suggested that I give him *The Wizard of Oz*. I do not quite understand that. Perhaps it will be explained to me one day. In the end, I decided to give him *My Left Foot*. At a few points in the course of this year I thought that my colleague Mrs Carnell might have to get *Titanic*, but she has survived for the time being. Instead, I will just give her *Unforgiven*. For Mr Wood, who is not here, I have *Blinky Bill*. Last but not least, for Mr Osborne, who is cowering in the galleries over there, there were a few suggestions. *In the Name of the Father* was one suggestion. *Honey, I Shrunk the Kids* was another. In the end, I decided to give him *Parenthood*.

Mr Speaker, I hope members will give me a nice Christmas present by returning the videos to me by this time next week so that I am not in trouble with the video shops. I wish all members a very peaceful, safe and enjoyable Christmas.

Valedictory

MR QUINLAN (4.21): Mr Speaker, half of the audience has gone. I had intended to hand out notional calendars as we move towards the new millennium. For instance, I was going to give Wayne Berry a calendar where every day was 1 May. We could have the red flag and *Solidarity* all day and, of course, it would be a half holiday. Mrs Carnell's calendar would be stuck on 27 January 1832, the birthday of Charles Ludwidge Dodgson, otherwise known as Lewis Carrol, who wrote the story of Alice, a shy girl who went on a wondrous journey where things were seldom as they seemed.

Mr Osborne's *Groundhog Day* would be 25 September 1994, when a couple of passes got him to where he is today. Mr Stefaniak would enjoy 6 November 1999 again and again, as that is when the Wallabies won their second World Cup, reaching the final after a magnificent drop kick by a local Brumbie, Steve Larkham. I will skip a couple. For Mr Rugendyke, Father's Day out of deference to his role as a foster parent. I could not find out the name of the patron saint of police, otherwise I would have included that. Mr Cornwell's calendar would be stuck on the Queen's Birthday - not ERII, but Queen Victoria.

MR SPEAKER: We are not amused!

MR QUINLAN: You are not amused. Mr Hird would consistently enjoy Anzac Day. You can have a drink before breakfast, a bit of bonhomie and a bit of a punt all day. Michael Moore's calendar would be around 1968 and Woodstock. I am sure that his image would have blended in. Mr Smyth's calendar would have been a fairly standard one, except it would have had one birthday per month. We need to put a couple of years on him to bring him up to the image of a potential Chief Minister.

For Gary Humphries every day would be a Sunday. We know that the diet of press releases that Mr Humphries puts out on tinkering with the law exploit the weekend. Sunday is also appropriate because he is the only bloke you could take to Ireland who would go to more churches than pubs. Finally, for Mr Stanhope, it would be 20 October 2001, the next election day, followed by a 1,000-day honeymoon.

Wetlands

Tuggeranong

MR SMYTH (Minister for Urban Services) (4.25 am): I am sorry to do this, Mr Speaker, but I wish to make short speeches on two subjects. First and foremost, members may have heard me talk about the Conder wetlands program, which is a wonderful community program that has been put together for Tuggeranong. It is not just the people of Tuggeranong that are coming up with such ideas. Graeme Evans of the Belconnen Community Council, together with Mr Raymond Hockley, have developed a proposal for a centenary wetlands in the Belconnen Town Centre. It runs

from Emu Ridge to Lake Ginninderra. I table a copy of the proposal for the interest of members and seek leave to have the speech incorporated in *Hansard*.

Leave granted.

The speech read as follows:

> Mr Speaker, members may have heard me talk about the Conder wetlands proposal, which is a marvellous community environmental initiative in Tuggeranong.
>
> Well, Mr Speaker, it seems that it's not just the people of Tuggeranong that are putting their heads together with such thoughtful proposals.
>
> Graeme Evans of the Belconnen Community Council, who I am sure most Members know, introduced me some weeks ago to Mr Raymond Hockley, who has developed a proposal for Centenary Wetlands in the Belconnen Town Centre, from Emu Ridge down to Lake Ginninderra.
>
> Mr Speaker, the proposal relates to Sections 143 and 150 of Emu Ridge, and suggests the construction of an artificial wetlands.
>
> Mr Speaker, this work will be examined closely in the work currently underway into the Belconnen Town Centre Masterplan.
>
> I'd also encourage the Community Council to do some consultation throughout the areas that will be directly affected by the proposal, because there is an issue about the existing oval Emu Ridge and its desgree of usage.
>
> The proposal contains an interesting mix of environmental controls and aesthetics, and Mr Hockley should be congratulated for the level of work that has gone into this very well thought-through proposal.
>
> My congratulations also to the Belconnen Community Council for their commitment to Belconnen and the environment in supporting this plan.
>
> With the leave of the Assembly, I would like to table a copy of the Proposal.

MR SMYTH: Last night, Mr Hargreaves gave an unusual thumbnail sketch of Tuggeranong and I would like to refute just about everything that he said in it. Over the past five years the Carnell Government has put in facilities ranging from community art centres to police stations. We have got employment up and unemployment down. We are building a tremendous city in its own right in Tuggeranong. I have prepared a speech which is a true and accurate picture of the events in one of Canberra's largest areas and I seek leave to have it incorporated in *Hansard* as well.

Leave granted.

The speech read as follows:

"As a Tuggeranong resident it seems to me that those who describe the Valley as a 'dormitory area' are using this phrase unkindly.

Let's test the claim that there aren't enough business opportunities in Tuggeranong against the available data.

The economic health of any local community can be assessed through such measures as population growth, jobs and business growth, and housing demand. Let's look at each of these in turn.

Between 1993 and 1998, the population of the Valley has increased by an annual average rate of 0.9 per cent, second only to Gungahlin as Canberra's fastest growing area.

In that six year period, the population rose by 4,035 overall to 89,398 (nearly 5 per cent), making it the most populated subdivision in the ACT, according to the Australian Bureau of Statistics. It is projected to reach 92,900 by the year 2009.

That kind of growth is an indication that more and more people WANT to live in the Tuggeranong area rather than move away. And what's wrong with that? Absolutely nothing.

Instead of stagnating, as Mr Hargreaves seems to want us to believe, Tuggeranong has been growing. That's why we've had to provide so many new services and facilities in the Valley since 1995 to cater for this increased population (family care cottage, skateboard park, youth centre etc).

Let's look at employment.

The ABS found that between June 1995 and June 1998 (the period of the Carnell Government), the unemployment rate in Tuggeranong fell from 5.6 per cent to 5.4 percent. The Valley has the lowest rate of all the subdivisions in the ACT. Compare this unemployment rate with the national jobless rate of 7.1 per cent.

This is backed up by official data from Centrelink which reports that the number of registered jobseekers at its Tuggeranong office fell from 1,961 in April 1996 to just 1,358 in September 1999 (registered at both its Tuggeranong and Lanyon. offices). This is a reduction of 603 or 30 PER CENT in just three and a half years under this government.

The 1996 Census (the most recent undertaken) also estimated that about 70 per cent of the jobs available in Tuggeranong were taken by residents of the district. What this means is that in 1991, only 17 per cent of Tuggeranong residents worked in jobs local to their area. In 1996, under the Carnell Government, this has increased to 22 per cent.

These represent further examples of the increasing number of business and job opportunities in the Valley.

In terms of business growth, Tuggeranong has been doing quite well. The latest 1999 Commercial and Industrial Centres Inventory by PALM estimated that there were 604 in businesses in the Valley that were providing retail and commercial services, of which 313 were in Greenway.

Under Labor back in 1993, there were only 506 businesses, of which 287 were in Greenway. Put simply, the number of businesses has grown by almost 20 per cent in the last six years, again with the support of the Carnell Government.

In Tuggeranong, employment opportunities have expanded significantly in recent years, again under this administration.

Examples include the expansion of the Hyperdome (170 new jobs at Target alone), the new Bunnings Centre (150 new jobs and $15 million investment) and a new Ansett Call Centre which will see 170 jobs created in the Valley in a $5 million call centre development.

Then of course, there is Tuggeranong's first motel and significant expansion by both the Southern Cross Club and Tuggeranong Valley Rugby Union Club - both of these organisations have built new facilities in recent years.

We have a variety of programs to help and encourage businesses to expand and set up in the ACT, including a Business Incubator Scheme, New Futures in Small Business, Business Mentoring Program, and the Business Incentive Scheme**.** It has been a long-standing philosophy of this Government to promote business growth and we will continue to do that. Obviously, Tuggeranong is certainly a part of that and as such is enjoying population growth and job growth.

Then there is the issue of demand for new housing.

Labor has criticised this government for releasing new blocks in the Valley, claiming that the area is oversupplied. Yet the facts are that this government has not entered into one joint venture since 1995 because of the massive oversupply of blocks that we inherited from the previous ALP Government.

For example, in 1994/95, in the dying days of the Labor Government, it released 469 blocks of land at Gordon 9 and Conder 1. Since then little has been released, as the Carnell Government did all it could to reduce the oversupply across Canberra.

It is true that land has been released in recent months as part of existing joint venture agreements (again entered into by Labor). But this is because demand in Tuggeranong has sharply risen (and that's a good thing, not a bad thing). Those that have been released are selling well, a further indication that more people WANT to live in Tuggeranong.

Land across Canberra is zoned under the Territory Plan. It's incredible for Labor to complain about this - when it was in government, the areas around Tuggeranong were zoned as primarily residential and it released a large number residential blocks!

I would argue that the notion that all we have to do is simply convert residential zoned land into light industrial as simplistic in the extreme.

Firstly I'm sure that there would be lots of residents who bought properties on the understanding they were not next door to industrial areas and they would be upset to suddenly have industrial firms set up next door.

Secondly there is industrial land available at nearby Hume, which is 10mins from Tuggeranong and in Fyshwick, about 15min away. There is no reason why people working in these areas would not live in the south - again that's the beauty of Canberra – it's size and ease of getting around.

As always, this Government would be happy to talk to and help any business that might want to set up there and I urge them to contact me. After all that's how Bunnings and Ansett and a range of other great developments went ahead.

It is important to note that this government deliberately takes a Canberra-wide view when it comes to promoting business and jobs growth. It's one of the reasons why we have 11,500 more jobs than when we came to government, the highest number of jobs ever and the lowest unemployment rate for nine years. And that's despite losing 7,500 Commonwealth public service jobs over the same period.

For the first time since 1989, a Territory government has been doing something about encouraging private sector growth across Canberra. And it's working.

> The continued growth of Tuggeranong and reduction of the number of job seekers is reliant on a strong economy across Canberra. Canberra is too small to isolate areas. Indeed this is seen as one of the pluses of living in the ACT. It's size means it only takes a short amount of time to travel throughout Canberra to work or play, giving people more freedom to live and travel to where they please, quickly. The ACT is too small to compartmentalise and promote something in one area but not five minutes down the road.
>
> Tuggeranong has a bright future, as I have shown in the information provided above.
>
> But its future won't be decided by thinking simplistically that all we have to do is just get more businesses down there. First, we have to provide the right economic climate for local businesses to expand, for new ones to start up, and for interstate firms to want to come here and establish themselves. We have to promote Canberra, not just Tuggeranong.
>
> Secondly, more demand for housing in the Valley is not a bad thing, in my view. If more people move there and want to live there, that helps local businesses which in turn, provides the foundations for new enterprises, more profitable ones and new job opportunities for local residents.
>
> What we cannot do is just hope that there'll be more public service jobs to go around and that they should be in Tuggeranong. That's the horse that Labor backed and we all saw what happened to our economy when the Keating and Howard Governments began cutting back on the number of public servants."

Valedictory

MR STEFANIAK (Minister for Education) (4.26 am): I will be very brief, Mr Speaker, on something I thought we might have done before the end of the year, but we have not. I hope that the Assembly will join me in wishing all the best for Christmas and the New Year to our troops in East Timor, led by Major General Peter Cosgrove. They are doing a magnificent job. I hope that they will have a very good Christmas and all will return home safely. I hope that members of the Assembly will join me in that. Might I also thank members of the Assembly for the year and also thank my department and staff for their diligence.

Valedictory

MR HIRD (4.26 am): Mr Speaker, I share the sentiments expressed by my colleague Bill Stefaniak and extend them to the Australian Federal Police contingent in East Timor. I know all members would want to wish for them and their families seasons greetings and a great year 2000. I would like to thank my colleagues on this side of the room, on the other side and on the crossbench. We have had a lot of fun.

I would also like to thank my staff and the staff of all the members here. They make my job that much easier. That goes for the Clerk, the Deputy Clerk and all others within the building. It functions so well, which makes it easier for those who have to undertake tasks here. Nothing is ever too much of an effort. I have to say that the guy who really stands out in respect of nothing being a problem is Barry Schilg, the Building Manager. He is absolutely superb. Thank you, Mr Speaker, and Merry Christmas to you, too.

Valedictory

MR MOORE (Minister for Health and Community Care) (4.27 am): I understand that the Chief Minister will do the broad thank-you speech and I am happy to support her in that regard. I would like to say something quite different. I have spent more than a decade in this Assembly. In reflecting on the last year, I have to say that I think that it was the most acrimonious and the most negative year that I have had in this Assembly. I think that is illustrated by looking at who is still sitting in the Assembly; granted it is late.

Mr Quinlan is here. He has a sense of humour and is always prepared to pitch in, but I have to say that one of the great disappointments for me in this Assembly has been the acrimonious nature and the negative nature of the year. In the Labor ranks in particular there is one notable exception to that. It comes as a great surprise for me, and you will find it a surprise for me to say it, that that is Wayne Berry. I have already excepted Mr Quinlan. It is interesting that I should say that about Mr Berry, but Mr Berry introduced seven pieces of legislation and had six of them passed. He has clearly worked quite hard for his constituency. I have probably voted against all of them – I cannot remember - but he was working positively and constructively for his constituency, which contrasts with a great deal of the negativity, the pulling down and the muckraking that have gone on throughout the year. I hope that, as people think about Christmas and the Christmas spirit, they will also think about trying to build a more positive year in the new year of the new century of the new millennium.

Valedictory

MS CARNELL (Chief Minister) (4.29 am): Mr Speaker, on behalf of, I hope, everyone in the Assembly, certainly everybody on this side of the house, I would like to wish everybody a very happy Christmas and to thank all the staff of the Assembly - particularly, the Clerk and the Deputy Clerk. To the attendants who are still here at 4.30 in the morning, thank you, guys. We really appreciate the ongoing help and support. You can even smile at 4.30 in the morning, which is pretty impressive. I hope that everyone will have a great Christmas. Some public servants have had a pretty tough year as well. I think we all appreciate their ongoing support.

For me, it has been a tough year. I would like to thank my staff and the staff of all of the Ministers for their incredible loyalty and incredible support through some pretty tough times. Most importantly, I say to my colleagues, “I love youse all”.

MR SPEAKER: Chief Minister, I would like to join you in that. I am not going to be nice to the people down on the floor because you have all given me a hard time at one time or another, but I would like to join the Chief Minister in thanking the staff of this building, certainly the attendants both in this chamber and outside, who, in my experience, assist us so well, so willingly and so promptly.

I would like to thank in particular Maureen Weeks for her efforts in preparing the running sheets over the last couple of days of a heavy workload. That is not an easy job. I understand that she spent many hours, working until midnight and such like, preparing for things such as the transport Bills, the supervised injecting place Bill, and the amendments to the victims of crime legislation. I give her full credit for that.

Lastly, I would like to congratulate the Clerk, Mr Mark McRae, who two weeks ago achieved 10 years' service as Clerk of the Assembly. On that note, I wish you all well.

Question resolved in the affirmative.

Assembly adjourned at 4.31 am (Friday) until Tuesday, 15 February 2000, at 10.30 am.

ANSWERS TO QUESTIONS

Crime - Statistics
(Question No. 201)

Mr Hargreaves asked the Minister for Justice and Community Safety, upon notice, on 19 October 1999:

In respect of major crime

What is the breakdown by suburb for 1995, 1996, 1997, 1998 and the year to date for the following crimes:

(a) assault (sexual and non-sexual)
(b) drug offences;
(c) unlawful entry;
(d) vehicle theft;
(e) property damage; and
(f) robbery (armed and non-armed)

Mr Humphries: The detailed answers to Mr Hargreaves questions have been provided to him privately in recognition of the fact that the data are operational data collected by the Australian Federal Police and carry an AFP IN-CONFIDENCE classification.

Data by geographic location is attached for tabling. This is an aggregation of the detailed data provided to Mr Hargraves. Drug data has not been provided due to the fact that it is not available in the format requested and manual extraction of the data would be prohibitively resource-intensive.

Geographic areas

Number of selected offences 1995, 1996, 1997, 1998, 1999 (to November)
ACT Region, by geographic area (excludes rural areas)
Source: COPS as at 1 December 1998 (for data January 1995 to November 1998)
Source: PROMIS as at 2 November 1999 (for data December 1998 to November 1999)

		Number of offences by year				
Offence type	***Geographic area***	***1995***	***1996***	***1997***	***1998***	***1999 to Nov***
Assault						
	Belconnen	337	511	386	393	418
	City	711	769	777	737	612
	Tuggeranong	241	406	410	400	356
	Woden	265	370	323	371	440
	Total	1554	2056	1896	1901	1826
Sexual assault						
	Belconnen	37	11l	107	97	52
	City	60	55	93	110	28
	Tuggeranong	45	41	68	49	64
	Woden	51	47	29	61	37
	Total	193	254	297	317	181
Robbery - armed						
	Belconnen	10	14	18	30	21
	City	16	22	39	38	33
	Tuggeranong	4	12	6	11	3
	Woden	10	23	23	17	36
	Total	40	71	86	96	93
Robbery - other	Unknown	0	0	0	0	5
	Belconnen	14	17	17	17	47
	City	54	55	58	84	83
	Tuggeranong	13	17	18	30	12
	Woden	29	35	37	52	66
	Total	110	124	130	183	213
Burglary (unlawful entry)						
	Belconnen	1115	1054	1118	1404	1722
	City	1711	1552	1669	1857	2315
	Tuggeranong	878	756	660	951	968
	Woden	1290	1281	1044	1544	1844
	Total	4994	4643	4491	5756	6849
Theft or illegal use of a motor vehicle						
	Belconnen	339	313	436	590	951
	City	761	756	662	994	1279
	Tuggeranong	202	223	208	341	361
	Woden	339	412	345	625	671
	Total	1641	1704	1651	2550	3262
Property damage						
	Belconnen	1804	1875	2038	2210	1841
	City	2069	2512	2455	2842	3119
	Tuggeranong	1440	1432	1572	1600	1301
	Woden	1545	1747	1511	2054	1700
	Total	6858	7566	7576	8706	7961

Public Servants – Conflict of Interest
(Question No. 205)

Ms Tucker asked the Chief Minister, upon notice, on 16 November 1999:

In relation to the general obligations on public employees to avoid conflicts of interests in the performance of their duties under *the Public Sector Management Act* 1994, and in light of your answer to Question on Notice No. 191:

1) What is the number and percentage of Chief Executive and other Executives who have been given approval to (i) hold other employment, (ii) to engage in any business or profession, or (iii) act as a director of a company outside of their current positions.

2) What are the types of additional employment or business approved.

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

Executives are required under the Public Sector Management Act and their contracts to disclose their financial interests. This occurs both when a contract is signed and whenever the Executive's personal financial interests change substantially. This information is provided to the relevant Chief Executive, or in the case of Chief Executives, the Minister.

The change in the question to provide statistical information rather than names does not change my approach to this issue. If any Member has specific concerns about an individual, they should raise them with me directly so the issue can be addressed. It is not appropriate to use parliamentary powers and privilege to examine what will inevitably come down to questions about individuals. A search of all records across ACT Government for this information is not justified in the absence of evidence of wrongdoing.

Alcohol and Drug Program
(Question No. 206)

Ms Tucker asked the Minister for Health and Community Care, upon notice, on 16 November 1999:

In relation to the restructure of the Alcohol and Drug Program's client intake system, and in light of your answer to my Question on 12 October 1999 *(Hansard, p.68):*

(1) What research has been undertaken to support the decision to move away from the drop-in, duty-counsellor system to a phone-intake system.

(2) Did this research include any study of:
(a) methods of service delivery in the drug and alcohol counselling field;
(b) the effects of phone contact vs personal contact for people in crisis;
(c) the cultural appropriateness of phone-intake vs personal contact intake for different groups, such as indigenous people, and people from a non-English speaking background; and
(d) the psychology of personal contact in assessing, treating and counselling people regarding drug or alcohol use.

(3) Under the duty-counsellor system, how long did clients who dropped in to the service seeking assistance wait before they were given their first in-person contact with a counsellor.

(4) Since the implementation of the new phone-intake system:
(a) how long have people waited to actually have face to face contact with a counsellor from the time that they first contact the Program:
(b) how many people have not turned up for their pre-arranged counselling appointments and how does this compare with the same period last year.

(5) What arrangements are in place for staff located in the intake unit to physically attend to clients who are assessed to be 'category 1 – crisis intervention', and therefore require an immediate response, i.e. within 0-2 hours.

(6) What training and support mechanisms for the staff of the Alcohol and Drug Program have been implemented as part of the implementation of the restructure.

Mr Moore: **The Minister's answer is as follows:**

(1) & (2)

In 1997 and 1998 the Alcohol and Drug Program (ADP) sought consumer input through surveys, telephone surveys and discussion groups. Consistent themes emerged eg: that consumers of the Program would prefer better liaison between the ADP services and to access services by making one phone call.

When the Alcohol and Drug Program went through the Community Health Accreditation Standards Program (CHASP) accreditation process consistency in practice, and improved continuity and integration of care were recommendations made to improve the services provided.

The new model is based on integrated care systems. Such models have been successfully introduced in the (previously named) Community Health Care and Child Family and Youth Health Programs of ACT Community Care but also interstate in Victoria and Queensland. Integrated care systems have been shown to increase outputs for the same cost, eliminate waiting times, produce higher referrals, show improvements in consumer and staff satisfaction levels.

The changes to the Alcohol and Drug Program aim to build on previous aspects of the service delivery such as 24 hour helpline, phone assessment processes applied by both the detoxification unit and methadone clinic prior to the implementation of the reforms. It is also a variation of the duty system previously implemented by staff of the community unit.

When the drop in duty counsellor system was operational many clients before presenting at the community unit would initially make phone contact, it was during this phone contact that consumers would be advised of the duty counselling system. It is more efficient for the client to be responded to when they initially make contact on the phone.

The new service delivery arrangements of the Alcohol and Drug Program seek to draw together all aspects of service delivery therefore the intake system replaces all previous intake systems across the Program not only the counselling systems previously in place. Hence integrated service delivery models have been used as the basis for developing the new service arrangements for the ADP.

If it is evident that the intake process is not the most effective means of communicating with the client there is flexibility within the new arrangements for staff to coordinate an appointment with the client to meet with the client in person to assess their needs.

When consumers do drop-in because they are not familiar with the changes to the Program these clients are seen and an intake process completed - as if the client had contacted the service by phone.

One to one contact with clients is retained for assessment, treatment and care purposes. Access to the service in the first instance is via the intake telephone line.

The new service delivery arrangements will be subjected to ongoing review and refinement. Consultative forums have, and will continue to be coordinated with consumers, staff, unions and stakeholders to ensure the identification of issues and resolutions. The implementation of the reforms will continue to be monitored by the ADP Reform Steering Committee.

(3)

Clients would probably have made contact with the Program by phone initially and been advised to drop-in.

The drop-in duty system operated between the hours of 9.00 - 12.00 md and 1.00 pm - 4.00 pm Monday, Tuesday, Thursday and Friday. Staff previously employed in counsellor/project officer positions would be rostered to perform duty system shifts consisting of a morning or afternoon duty shift, one to two occasions each week. Another staff member would be rostered as the 'back-up' duty system person.

Clients would present without an appointment. If the duty worker was already with a client then the back up person (if available) would see the client. The client demand on any given day was unpredictable. At times a client may wait hours before seeing a counsellor or on a busy Tuesday afternoon be asked to come back on Thursday. It is unclear how many clients may have left the service due to the waiting times.

The duty system did not work well clients who were working. They found it difficult to access the duty counsellor during their lunch hour, as there may have been a queue before they arrived.

Clients would usually see a counsellor on the day they presented for the duty system. However, if the client was assessed as requiring allocation to a counsellor for a counselling intervention then the client may wait up to three weeks for an appointment with their counsellor.

The new service arrangements meets the needs of clients to access with the intake service operating 24 hours each day, whilst making initial contact an appointment time is booked and staffing resources are allocated to meet service level demands.

(4)

In accordance with the new service delivery arrangements of the Alcohol and Drug Program the longest period of time a client should have to wait for a face to face assessment is 72 hours. However when the new arrangements were implemented not all staff were available and some clients waited for up to seven days for an appointment. Systems are still being refined to ensure that time frames outlined in the reform documentation can be achieved.

During October 1999 40 clients did not attend pre-booked counselling sessions and 7 cancelled their appointments. This compares to October 1998 where 44 clients did not attend pre-booked counselling sessions and 28 cancelled their appointments. The number of clients not attending scheduled appointments was an average of 40 each month, and an average of 27 clients cancelled appointments each month last financial year. This compares to an average of 209 clients attending appointments each month.

A benefit of the new system is that all clients who do not attend for appointments will be routinely and consistently followed up across the Program. In the past the decision to follow up a client was left up to the worker and such processes were applied inconsistently.

(5)

A client would be categorised as a requiring a crisis response because of: severe withdrawal complications; or an intercurrent serious illness requiring immediate medical/clinical advice; or evidence of intention to suicide and/or threatening to seriously harm others; or drug or alcohol overdose.

If a client makes phone contact with the intake worker and is prioritised as category 1 it is the intake officer's role to ensure that the client receives the necessary assistance and therefore to coordinate an appropriate response for the client. Most crisis responses will require an immediate medical response or a referral made to the mental health crisis team.

There is no capacity for the intake worker to respond in person to a client making a phone call. However, if a client presented at any of the ADP service areas in a crisis situation then any staff member on duty (not only the intake officers) would be expected to respond to client and coordinate the necessary response.

(6)

A three day orientation training program in the new service delivery arrangements was provided to staff prior to implementing the reforms in October 1999.

A component of the reforms and restructure to the Program is the provision of two senior clinical positions within the Program. Both positions are focused on the professional development staff and the quality of service delivery within the Program. Both roles will provide clinical supervision for staff.

Based on the immediate needs of staff a four day training package will be delivered later this month. This will ensure that staff, who have made the transition into new and different roles are sufficiently skilled in their work with clients. A buddy system (where less experienced staff are supported and coached by more experienced staff members) has been established.

In February 2000 all staff will be assessed against the national alcohol and other drug worker competency standards. This will clearly identify the individual training needs of all staff. Areas in which staff require further support or training (either individually or Program wide) will be addressed following this process.

Parking Infringement Notices
(Question No. 208)

Mr Rugendyke asked the Minister for Urban Services, upon notice:

In relation to parking infringement notices:

(1) How many off-street parking area infringement notices have been issued by the Government and over what period have they been issued.

(2) How many and what is the total value of off-street parking area infringement notices that (a) have been paid; (b) not been paid.

(3) What is the breakdown of outcomes and reasons for off-street parking area infringement notices that have not been paid.

(4) How many and what is the total value of off-street parking area infringement notices that have not fallen due for payment.

(5) Have there been other infringement notices issued that do not clearly specify the place of the alleged infringement as required by the Motor Traffic Act.

(6) How many and what is the total value of other parking infringement notices issued with insufficient location details such as "Public Place" and "Voucher Parking Area."

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

The amount of information printed on the face of parking infringement notices was reduced from 8 April 1999 to streamline processes and address occupational health and safety concerns in Parking Operations. Full location information is reported by the parking inspector at the time of the alleged offence, and is contained in the computer record at the Department of Urban Services.

The level of location detail shown on parking infringement notices was increased from 8 November 1999. Hence, I have answered Mr Rugendyke's question in respect of parking infringement notices issued between 8 April 1999 and 7 November 1999. The information provided is current as at 23 November 1999.

(1) There were 27,679 parking infringement notices issued between 8 April 1999 and 7 November 1999 for infringements in off-street parking areas.

(2) Of this figure, 21,189 notices have been paid, with a value of $1,290,870, and 6,490 notices have not been paid, with a value of $403,212.

(3) Of these 6,490 notices (as at 23 November 1999) 225 were the subject of a representation which had not been finalised, 2,270 were withdrawn following a representation to the Parking Review Office on a range of reasons (such as problems with the display of parking vouchers, medical emergency, or voucher machine malfunction), 570 had resulted in a fine default sanction, 44 were recorded as invalid because of computer system reasons, and 2,931 were due or overdue for payment.

(4) As at 23 November 1999, there were 476 unpaid notices, with a value of $29,506, issued between 26 October 1999 and 7 November 1999 in off-street parking areas which had not yet reached the 28 day payment due deadline.

(5) Four location codes are used by Parking Operations in their hand-held computers – "off street parking area", "public place", "loading area", or the specific public street. ("Loading areas" are four specific places in the Civic area, as defined in the Motor Traffic Act 1936). The Department has revised the information provided on notices issued in "off street parking areas", "loading areas" and "public places". In cases where motorists are in doubt about the place of an infringement, the Department is able to provide additional information or issue another notice which contains additional location information as reported by the parking inspector and held in the Department's computer record.

(6) During the period between 8 April 1999 and 7 November 1999 there were 391 parking infringement notices issued in loading areas, with a value of $31,388, and 1,559 notices issued in public places, with a value of $103,014.

Arts Grants
(Question No. 212)

Mr Wood asked the Chief Minister, upon notice, on 9 December 1999:

In determining the rankings attributed to each applicant for an arts grant:

(1) Who makes the assessment for consideration by the Cultural Council.

(2) How are those assessments made.

(3) What opportunities are available for applicants to assess the rankings before funding decisions are made.

Ms Carnell: The answers to the member's questions are as follows:

(1) Art form based peer committees assess applications for consideration by the Cultural Council.

(2) Grants sought through the ACT Arts Development Funding Program are assessed against a published set of assessment criteria. For 2000 these were:

demonstrated benefit to the ACT community from a project that would not otherwise occur in the marketplace; artistic excellence and innovation; ability of the people involved to deliver the stated outcome; including: qualifications, experience and skills; past artistic and administrative performance; and viability of the group or organisation; and realistic and sound project budget.

(3) Applicants are not involved in the assessment process, and therefore are not able to assess their ranking before funding decisions are made.

Arts Grants
(Question No. 213)

Mr Wood asked the Chief Minister, upon notice, on 9 December 1999:

> In determining the allocation of grants amongst the various categories of artistic endeavour (drama, music etc) what criteria are used in establishing priorities and what principles have been established.

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

> In assessing grants, no priorities have been established amongst the various categories of artistic endeavour. Grants sought through the ACT Arts Development Funding Program are assessed against a published set of assessment criteria. For 2000 these were:
>
> demonstrated benefit to the ACT community from a project that would not otherwise occur in the marketplace; artistic excellence and innovation; ability of the people involved to deliver the stated outcome; including: qualifications, experience and skills; past artistic and administrative performance; and viability of the group or organisation; and realistic and sound project budget.

ACTEW - Rebates
(Question No. 214)

Ms Tucker asked the Treasurer, upon notice:

In relation to ACTEW:

(1) How many rebates have been paid under the ACTEW water tank rebate scheme in each financial year since the scheme commenced.
(2) How much money has been expended on these rebates in each of these financial years.
(3) What activities have been undertaken by ACTEW and the Government to promote the water tank rebate scheme.

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

(1) There have been 77 rebates claimed since commencement of the scheme. The breakdown for each of the financial years is as follows:

	1997-98	**1998-99**	**Jun 1999 - 17 Dec 1999**
Number of rebates paid	22	30	25

(2) The total amount paid for rebates claimed since the commencement of the scheme is $25,000. The breakdown over the financial years is below:

	1997-98	**1998-99**	**Jun 1999 - 17 Dec 1999**
Amount expended for rebates	$7,100	$9,600	$8,300

(3) A number of activities have been undertaken by ACTEW and the Government to promote the water tank rebate scheme. These include:

• Permanent water tank displays at ACTEW shopfronts;

• Provision of information to customers through the ACTEW Advisory Team Development of a Rain Water Tank Brochure;

Brochures relating to tank manufacturers and suppliers are exhibited on all of ACTEW's display stands;

Regular articles in the ACTEW Homelife Brochure, distributed to every home in Canberra;

Displays set up by ACTEW at the Canberra Home Improvement Shows and Royal Canberra Shows;

As the scheme has synergies with ACTEW's Greenchoice program, cross promotion is undertaken where possible;

Advertisements have been placed by ACTEW in the Master Builders Association and Housing Industry Association magazine and in other industry promotional material; and

ACTEW has developed relationships with tank suppliers and developed a flyer "Rainwater Tank Supplier List".