# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

29 August 2000

**Tuesday, 29 August 2000**

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

## ACTEW/AGL JOINT VENTURE
## Ministerial Statement and Papers

**MS CARNELL** (Chief Minister) (10.32): Mr Speaker, I ask for leave to make a ministerial statement concerning the ACTEW/AGL joint venture.

Leave granted.

**MS CARNELL**: I thank members. Mr Speaker, the introduction of the national electricity market together with national competition policy and independent regulation of monopoly businesses over recent years has fundamentally changed the nature of the energy industry. The changes have substantially increased the commercial risk faced by ACTEW, and thus by the ACT and its citizens.

The ACT government knew that these changes were coming and attempted to provide an operating environment in which ACTEW can prosper into the future and at the same time limit the exposure of the government and the community. Limiting risks and protecting and maximising the territory's interests are this government's primary objectives in supporting the proposed changes to ACTEW.

I am pleased to announce today that the voting shareholders of ACTEW, the Treasurer and I, have agreed to the formation of the ACTEW/AGL joint venture. Formally, the Treasurer and I have accepted the recommendation of the Chairman of the ACTEW board that we authorise ACTEW, in accordance with section 16 of the TOC Act, for ACTEW and its related entities to enter into contracts that will implement the joint venture, and authorise the ACTEW partners in the joint venture to grant equitable charges in favour of ACTEW over the assets to be contributed to the partnership as additional protection over the assets. In addition, we have agreed to enter into a memorandum of understanding with AGL in relation to other economic initiatives.

At present the ACT government is exposed to the full extent of ACTEW's financial and operating risks. These risks, should they come to pass, could result in a reduced shareholder value, lower dividends and tax receipts. In addition, consumers might be confronted with higher electricity prices.

In the competitive electricity market, ACTEW is disadvantaged due to its relatively small size and its limited capacity to grow. In addition, ACTEW's charges, its source of revenue, are constrained and subject to independent regulation. The establishment of this joint venture demonstrates that this government is prepared to actively manage the assets of the community in our care.

In February 1999 the Assembly did not support the motion for the sale of ACTEW. The government then pursued the alternative option of establishing a joint venture which did not require the sale of ACTEW's assets. In October 1999 the ACTEW board confirmed its support for the AGL proposal. On 9 March 2000 the Assembly enacted the ACTEW/AGL Partnership Facilitation Act 2000 to facilitate any future agreement between ACTEW and AGL to form a joint venture by way of partnerships for the provision of electricity and gas, and for the undertaking of certain water and sewerage operations and maintenance activities.

In his letter of 11 August 2000 recommending the joint venture to the voting shareholders, the Chairman of the ACTEW board has listed the following benefits: the increased scale of operations of the joint venture will strengthen the viability of the electricity business; the potential for losses will be reduced by transferring parts of the electricity trading risk; and the capacity of the joint venture to offer gas as well as electricity is considered to enhance competitiveness.

As ACTEW is contributing more assets to the joint venture than AGL, the parties have negotiated an equalisation payment. AGL will provide this payment as part of the transaction. The outcome negotiated is a minimum equalisation payment of $119 million. This is based on valuing the ACTEW contribution at $525.1 million and the AGL contribution at $287.1 million.

The value of the equalisation payment is expected to increase to $128.8 million, taking into account that half of ACTEW's $12 million employee leave liability will be met by AGL in the joint venture—in effect, a $6 million value transfer from AGL—and an estimated $3.8 million reduction in shared water and sewerage IT system service charges payable by the ACTEW residual company. In addition, the equalisation payment may increase as a result of a determination by the Independent Competition and Regulatory Commission, the ICRC, on the valuation of the initial capital base of the AGL network business. ACTEW and AGL have agreed that half of any difference between their agreed valuation of the AGL initial capital base and the final value determined by the Independent Competition and Regulatory Commission will be paid to ACTEW.

ACTEW and AGL, for commercial reasons, have agreed that AGL's initial capital base be valued at $251 million, while the draft ICRC determination values it at $170 million. If the final ICRC determination is at the same level, an additional equalisation of $40.5 million will be payable by AGL—that is, half of the $81 million difference between an ICRC determination of $170 million and the ACTEW/AGL agreed figure of $251 million. If the final ICRC determination is set at $251 million then no additional equalisation payment would be required. This final determination is expected in October this year.

The asset valuation methodology adopted by ACTEW's advisers has been independently reviewed by KPMG. They have verified that the methodology is appropriate and has been applied correctly. A copy of the KPMG report is included in the documents that I will seek to table at the end of this speech. KPMG undertook a desk top analysis. They were not tasked to undertake a full valuation.

Their theoretical review suggested an equalisation payment in the range of $123 million to $138 million. The likely equalisation payment of $128.8 million which has been achieved through negotiation lies within this range. A market sale of ACTEW or its electricity assets and business would yield a higher price than can be achieved through the negotiated establishment of a partnership. However, the Assembly determined that a sale option is not available.

The government and the committee of ACT government chief executives which has oversighted the entire process consider the minimum equalisation payment achieved by ACTEW represents fair value to the ACT.

The value which the ACT will derive from the joint venture goes well beyond the receipt of the equalisation payment. The joint venture will increase the shareholder value of ACTEW by an estimated $56 million to $1,272 million. ACTEW's annual profits are also forecast to increase over the next five years, resulting in increasing annual dividends and tax equivalent receipts to the ACT.

As I mentioned earlier, the ACT government and AGL have agreed to a memorandum of understanding which sets out the initiatives which AGL will undertake to contribute to the ACT economy. These initiative are: the development of a gas-fired power generation plant in the ACT; the establishment of a major operation in AGL's national customer call centre system in the ACT; and the location of the national headquarters of an AGL infrastructure services management business in the ACT.

This memorandum of understanding will deliver significant additional economic benefits and employment benefits to the ACT region. There will be substantial investment, and about 100 full-time ongoing direct and indirect jobs in the ACT are expected to be created.

Mr Speaker, in endorsing the joint venture the government has taken particular care to ensure that the territory's assets have been afforded the maximum protection. The proposed contracts between ACTEW and AGL to establish the joint venture and partnerships have been reviewed and cleared by the ACT Government Solicitor. In addition, an independent probity auditor was appointed with a key task of ensuring "that by the provision of proper, independent professional service, the interests of ACTEW and its shareholders are protected and that any agreement is fair and equitable".

The independent probity auditor has reviewed the process of the establishment of the joint venture and has concluded that: the process was appropriate for a transaction of this kind, and has been carried out professionally; those representing ACTEW acted fairly and equitably, with full information being provided to the ACTEW board, the shareholders and the Standing Committee on Finance and Public Administration; and that the shareholders now have sufficient information to make an informed decision on whether to proceed with the final agreement as negotiated between the parties. The full report of the independent probity auditor is also part of the papers I plan to table today.

Appropriate legal protections have been developed to ensure that the assets which ACTEW is to contribute to the partnership are fully protected. On 5 July 2000 AGL advised ACTEW that AGL and its subsidiaries are restricted from borrowing on either

a secured or unsecured basis because of negative pledges which AGL had entered into with both US bond holders and a consortium of Australian banks. This limitation would also apply to the partnerships proposed to be established with ACTEW.

ACTEW's legal advisers, supported by the ACT Government Solicitor, indicated that, as a result of these arrangements, there was a small risk that ACTEW, and thus the ACT, could encounter some difficulty in recovering its assets following dissolution of the partnership in the remote event of AGL becoming insolvent. In order to overcome this risk, the assets to be contributed by ACTEW to the partnership will be covered by an equitable charge. Under the equitable charge, each of the ACTEW partners grants a charge, in favour of ACTEW, for all of its right, title and interest in the ACTEW assets contributed to the joint venture. In the unlikely event of a claim by the lenders under the AGL negative pledge arrangements, the equitable charges would assist ACTEW to resist any such claim. This arrangement has been reviewed and verified by the ACT Government Solicitor.

The Utilities Bill and related instruments provide a further comprehensive range of measures to protect the public interest. These bills have been reviewed by the Standing Committee on Planning and Urban Services. The committee has recommended that the bills proceed, subject to a number of minor amendments which do not impact on the fundamental elements of the package. The package is a comprehensive and robust approach to ensure the provision of high-quality utility services in the ACT.

Mr Speaker, in summary, the proposed joint venture partnership between ACTEW and AGL has been the subject of extensive due diligence. The proposal has been review by the ACTEW board and its professional advisers. The ACTEW board has recommended that the joint venture be approved. In parallel, a committee of ACT government chief executives, led by the chief executive of my department, has undertaken an extensive review. The committee also has recommended the joint venture and the MOU with AGL.

A similar extensive scrutiny has been undertaken on behalf of the Assembly by the Standing Committee on Finance and Public Administration. This scrutiny has been supported by the independent probity adviser and an independent review of the valuation methodology. Finally, the government yesterday reviewed and agreed to the proposal.

Mr Speaker, today is a major milestone in the history of the ACT since self-government. We believe that the right decision has been made in the interests of the ACT and that the ACT and its citizens will continue to benefit from this decision for many years to come.

Mr Speaker, I table the following documents:

> Territory Owned Corporations Act, pursuant to paragraphs 16 (1) (a) and (c)—ACTEW/AGL joint venture and related transactions—Shareholder consent, dated 28 august 2000.
> ACTEW/AGL proposed partnership—Chief Executives' Steering Committee—Report, dated 28 August 2000, including Appendices A to F.

The appendices to the Chief Executives Steering Committee report on the proposed ACTEW/AGL partnership are: the 11 August 2000 letter from the Chairman of the ACTEW board; the final report of the independent probity auditor, Mr Stephen Marks; the KPMG report on their independent review of valuation methodology; the

memorandum of understanding between the ACT government and AGL; and the formal consent signed by the Treasurer and I in accordance with section 16 of the Territory Owned Corporations Act 1990, relating to the disposal of main undertakings and relevant subsidiaries.

Mr Speaker, we have tabled today an extensive range of checks and balances by a number of independent entities, by ACTEW, by the chief executives of respective departments and by the Government Solicitor. A large amount of information was made available during the whole process to the Assembly committee, and I thank them for the work they have done as well.

This is a significant milestone for the ACT and for ACTEW. It is already being seen as a model for other parts of Australia, for other government entities, as a way to maximise growth and minimise risk while maintaining the ownership of assets. Mr Speaker, that was the brief that this Assembly gave to the government—that it did not want to sell ACTEW assets. The assets have not been sold, Mr Speaker. The majority of the Assembly indicated that they did want the ACT government to take very seriously the risks that were associated with the new electricity environment with regard to ACTEW. We have taken those risks seriously and we believe that the approach we have taken is in line with the Assembly requirements and a bill passed in the Assembly and is in the best interests of both ACTEW and the ACT shareholders of ACTEW.

Mr Speaker, I move:

> That the Assembly takes note of the papers.

**MR QUINLAN** (10.50): Mr Speaker, this response that I make today will have to be a qualified response and, although I am the chairman of the PAC, an individual response. We effectively at this moment have received a quite considerable volume of information. What we have been able to assimilate through committee activity does not include this volume of information. I understand, from informal discussions that we have had, that the probity auditor's report puts a tick on what has been done, the independent valuer's report puts a tick on the process of valuation, and that the directors of ACTEW, the ACTEW board, have recommended that the joint venture that has been taking shape over the last number of months is the joint venture that is being accepted today.

I have to say that I am a bit disappointed that the committee has not been afforded the time to absorb this information and incorporate it in its report. I can assure you that the committee has worked very hard on this project, and has attempted to do so with a greater spirit of goodwill and cooperation. We tried to demonstrate a little bit of leadership in the way things are done around here in terms of getting the right outcome for a decision already taken.

This is, as Mrs Carnell has pointed out, a major milestone. In fact, it is the most important decision, at least in terms of finances or economics, that has been taken in the ACT since the advent of local government. I can say from my experience on the committee that we have had nothing but cooperation from the officers, particularly those in ACTEW, who have been involved. There has been a free flow of information. We have made sure that we have provided, for our part, the opportunity for everybody who has a stake in this to talk to us, and to dovetail with the role that the committee has taken

to the point of talking to shareholders, or at least one of the shareholders, the head of the Chief Minister's Department, and very lately, in terms of the way that this would be reported to the Assembly.

I have been of a mind that this decision is of such magnitude that the first people who should have known about it should have been the Assembly that made the decision. I have tried to work, and the committee has tried to work, to ensure that this decision was taken, and so that assemblies of the future and people in the future can look back upon the way this project was handled and say that within the framework of the decision of the Assembly this job was done properly. This job was done properly because the committee that I chaired conducted its role as it should. We certainly went out of our way to do so. So I do have to express a little bit of disappointment as to the way it has been served up today.

**Mr Berry**: But not surprised.

**MR QUINLAN**: No, unfortunately, I was not surprised. I congratulate all of those officers and people who have been involved in putting this together. It has not been an easy project in the time frame. We can talk about six months and say you should be able to do anything in six months. I happened to lead the project that put ACTEW together in the first place and we did that over a period of six or so months. I can guarantee that those sorts of projects are not simple projects to handle, particularly when you take into account the legal niceties that must be catered for. So the people who have been involved in putting this project together are to be congratulated on the job they have performed within the framework of the decision.

I would also like, in a backhanded way, to congratulate the government for its ability to create the illusion of being capable in the activity of business. What we have ended up with here is a far less than optimal result for the ACT than we should have done. Some time ago, after a heated and extended debate in which this Assembly said don't sell ACTEW, and the public certainly said don't sell ACTEW, we, the Assembly, decided that we would at least go into a joint venture, which is partly selling ACTEW. We did that on the basis that we were informed that there was only one option, and that was one of the options that AGL put forward.

I simply do not accept that. I have not accepted, from the original day, that the first option that AGL put forward, which was a joint venture on retail and did not involve the change of ownership of assets, was closed to us. It just seems to me to be an insult to the intelligence to ask us to accept that a company the size of ACTEW would put forward an option and then, after limited discussions, withdraw it. I simply cannot accept that option two, the option where we did cede ownership of assets to AGL and in return gain some equity in their local assets, was the only option available. It is certainly not the optimum option that was available.

We now will become, as of this particular joint venture, very junior partners of a very large national conglomerate, and a conglomerate that I expect, in exercising its responsibility to its own shareholders, will seek to optimise its benefit from this joint venture. If it does not it is not being responsible to its shareholders. I have held the view,

and certainly this side of the house has had the view, that, given that we are talking about essential services in the community, there are more considerations than optimising benefit to the owners. Rather, there is a level of service to be provided.

We accepted in this place right from the outset that ACTEW did face some risks, but the government has persisted in putting a price tag on ameliorating that risk. The price tag has been: "We have to sell something." We now are receiving the princely sum of $119 million or $160 million, depending on how the calculation pans out. We do not know at this point because we have bought ourselves a half share in the gas business and we do not know exactly how it stands in relation to price regulation, and we do not know what the impact of the advent of Bass gas from down south is going to have on that business. But we are in there and we have a slice of it.

Mrs Carnell, in presenting this proposal to this house, has made claims that we wanted to make our business to allow ACTEW to grow. Again, that is a nonsense. The ACTEW of the future will be working, as I said, as a very junior partner of the national firm AGL. It will have a one-to-one contractual relationship for the purchase of energy, of both types, through AGL. Yet somehow we are supposed to believe that we are going to go out and compete against AGL and others, knowing that competition in selling is about buying and selling. So we are going to compete with someone who is selling us the product in the first place. It would seem to me to be an absolute nonsense.

If we attempt to go out and get into the mass retail market for energy across Australia we will be returning to the risk situation that this government has claimed that it is trying to avoid. So there is a contradiction in that process. ACTEW may be able to compete outside the borders of the ACT in very small sectors. The report we have been putting together referred to a boutique competitor which might specialise in supplying to disaggregated businesses like McDonald's or a couple of the things they compete for already. As for becoming a major player or enjoying major growth, the prospect of that is highly unlikely.

We have to recognise also that this joint venture will be subject to competition within the boundaries of the ACT, and I doubt very much whether we will see massive growth. I think it is misleading to claim that that is a major potential advantage of this particular exercise, because it is simply not.

**Mr Humphries**: What would you have done? What is your latest solution?

**MR QUINLAN**: Mr Humphries interjects and asks what would I have done. Mr Humphries, I would have accepted AGL's option one. I would have gone into no more than a joint venture on the retail side. I would have maintained, like this Assembly wanted, the ownership of those public assets, the electricity supply system, in public hands. It is a natural monopoly. It is not subject to competition. It has not been subjected to risk. I would have ensured that we retained ownership. If I was going to sell it, if I was going to put it on the market, I would not allow myself to be drawn into a joint project now which means that should I want to sell it at a later date I am never going to get the optimal price for it. This joint venture makes it highly likely that there will be—

**Mr Humphries**: Write that down, Wayne. Sell it at a later date.

**Mr Stanhope**: Gary-ed. The first Gary of the new sitting week. Half an hour for the first Gary.

**Mr Hird**: I am trying to hear this.

**MR SPEAKER**: Order, please! Everybody.

**MR QUINLAN**: This decision makes it highly likely that there will be extreme pressure in the long run for a total sale of the electricity assets of the ACT and we will be captive in that to our joint partner. We will have lost.

After thumbing through the papers that I got this morning—I did not get time to read them—even the board of ACTEW recognises that there is a less than optimal price in what we have received for our assets because they do not include the control premium that should be associated with the disposal of these assets. So we have sold ourselves short, but don't you worry about that.

As I said at the outset, I congratulate this government on its capacity, at least out there on the streets, to create the illusion of being capable in business. Its record is appalling, and we have just taken another blundering step in a procession of very poorly managed business decisions. This is a government that is not good at business. As I have said in this place before, if you are in the business of doing business with government, then this is the government to do business with because you are bound to come out in front.

When we started out we were going to have a joint venture, but then reality started to bite. We realised that mixing a public entity with a private entity has considerable problems. The fact is that we cannot create an entity of limited liability. All we have got is a partnership, the most basic of business associations. We wish to retain the advantage of freedom from taxation as the publicly owned element, and AGL is required to operate as a private sector operation and pay taxes. *(Extension of time granted.)* Because we still wanted to flog some assets, the best we could come up with is a partnership. We have a partnership and we are the sole captive of AGL in our energy dealings. We get, as I said, the princely sum of $100 million or something like that for losing effective control of our public utility.

**Ms Carnell**: A minute ago you said it was a loose partnership. Now we have lost control.

**MR QUINLAN**: I was just moving to the constraints upon the dissolution of the partnership. At least the officers that came to us were honest enough to recognise, in their informal discussions, that once this partnership is put into place dissolution is virtually impossible. The only way it can change today is for AGL to buy us out, and to buy us out on their terms because we, in business, are dumb. We have continued to show this business naivety that has parleyed evenly. We do not want to sell public assets, but, even worse, we do not want to see them sold at less than their actual value. But we bargained ourselves out of that along the way because we tried to play with the big boys.

We discover that there are problems in relation to the capital structure of this joint venture, which means that because of the structure of AGL and its corporate financing at the international level it is virtually incompatible with an internal financing of the joint

venture. Now, that leaves this Assembly with a problem at some future time. I am sure this government intended to come to us with a proposition that, quite obviously, this new joint venture had to be restructured. It had to undergo a capital restructure because it had to meet industry norms or had to reach regulator benchmarks that they use in terms of debt equity structures. But now each partner is on their own in terms of what they borrow against their asset, a share in the partnership. I look forward, Mr Speaker, to the gymnastics that could follow when and if this government persists in its original plan to sell ACTEW, a plan that they had before they went to the last election.

I will conclude, Mr Speaker, by saying we have entered a deal that does reduce the exposure of ACTEW in the electricity retail market. It does, at the same time, bring with it exposure to risk in the natural gas market. I think in the overall context, in terms of retail, we are subject to less risk than we were before, but we have paid more than we needed to do to achieve that. I think the government's bloody-minded persistence in wanting to sell part of ACTEW—a decision they had taken before the last election, but denied it—has been borne out in this process, and in fact the government has given us a less than desirable result, a less than optimum result, because of that blind determination which turns out to be totally unnecessary.

**MR BERRY** (11.10): Mr Speaker, this deal is the culmination of a period of deceit and betrayal of the Canberra electorate. Before the last election I recall Kate Carnell being asked what her views were on the future of ACTEW, particularly in relation to the sale of it. She was emphatic: "It is not on the agenda." Well, Mr Speaker, to use a contemporary pun, I have to say she did not let the grass grow under her feet for long. She went straight out into the marketplace, trying to sell the territory's major asset. Straightaway, she was out there trying to sell the territory's major asset.

Mr Speaker, this will join all of those others on Mrs Carnell's CV—the Kingston/Acton land swap and all the massive costs that go with that, the tragic hospital implosion that ended up—

**MR SPEAKER**: Relevance, Mr Berry, relevance.

**MR BERRY**: Mr Speaker, this is about management style.

**Ms Carnell**: No, it's not.

**MR SPEAKER**: It's about ACTEW/AGL.

**MR BERRY**: The futsal slab, the Floriade fee, the Hall/Kinlyside deal, the Feel the Power campaign, and, of course, Bruce Stadium. We could not possibly leave out Bruce Stadium. What a CV.

**MR SPEAKER**: We could if we were discussing the AGL/ACTEW merger.

**MR BERRY**: What a great CV, Mr Speaker. Why is it that people did not have the courage to go to the electorate with a promise to do something with ACTEW? Because they knew that the community just wouldn't cop it. That's why. Mr Speaker, I heard Mr Moore say in an interjection a moment or so ago that we should have sold it. That was highly disorderly, of course, and I should not take notice of it. If Mr Moore had said

that before the last election he would not be in here denying his responsibility for the tragic occurrences in his portfolio in respect of the four or five thousand people who are waiting for elective surgery in his hospital system because he would not have got elected on the basis of that, and neither would anybody else. That is why people in this place would not go to the electorate on the ACTEW issue. They wanted to do it in a big hurry between elections so as to ensure it was out of the way before those pesky electors had any say in the matter. That is what this has been about. There has been dishonesty and betrayal around this whole issue from the beginning.

Mr Speaker, I have not had time to sit down and read all of these papers, but one thing I have picked up in the course of the Chief Minister's contribution and some radio announcements this morning is that a huge liability which was shifted to ACTEW to fund our superannuation liability has now been shifted away from ACTEW as a whole and stacked up against the water and sewerage resources. So, in effect, what has happened is that the gearing of ACTEW as a whole, which was seen by some to be quite acceptable, has now been increased on the smaller entity of ACTEW water and sewerage. This is all going to come out in the wash. AGL have done very well out of this. They have got hold of the electricity authority and we have ended up with a debt. That liability has been shifted onto the water and sewerage assets of the territory.

Mr Speaker, these are the issues that will come out in this deal. These are the issues that should have come out before an election so that the electors could decide what they wanted to happen with their major asset. That is the betrayal of the electorate which we have been confronted with. These things cannot go unnoticed, and they won't go unnoticed.

It has been very clear from the outset that this government wanted to get rid of ACTEW in some way. First they tried to sell it and they failed. The community rejected that overwhelmingly. So they decided on another course. Mrs Carnell will be able to put on her CV at some point in the future, "I started the rot." She might not put it that way, but she will be able to say, "I started the rot. I saw the beginning of the end for ACTEW." That is what we are seeing here today, and that is what I fear.

My colleague Mr Quinlan has been chair of a committee looking at this issue, trying to get the best deal for the territory out of an ideological commitment by the Liberals to unload our major asset. Well, it's a bit hard when the numbers are stacked up against you, and it's a bit hard when the government, and the two chief shareholders, have the authority to get rid of it anyway. Their ideological position has been to unload this important asset, come what may.

Mr Speaker, I go back to my earlier points. The major point here is that nobody has had the courage to face the electorate on this issue. Those opposite didn't want those nosy parkers out there who own this asset to have anything to do with it, and they were not game to stand up in front of the electors and say, "We want to sell it, or we want to unload it in some other form." I know that the Liberal political advisers would say, "You are in trouble as a result of your activities over ACTEW. You have to take the issue somewhere and bail out in some way." This partial sale is going to be the tool by which they try to do that. Mark my words; we will see some early benefits manufactured to try to impress upon the community what a good deal this has been.

Mr Speaker, there is no avoiding the fact that this government failed to confront the electors over the disposal—we will leave it at that—of this asset in one form or another. The electors out there, the owners of ACTEW who unreservedly did not want it disposed of, should have had the opportunity to have their say in the matter and to elect a government on the basis of at least part of their philosophy on the future of ACTEW. They never had that opportunity. It was denied to them. I think that was a betrayal that will not be forgotten.

**MR STANHOPE** (Leader of the Opposition) (11.15): Mr Speaker, I have not had an opportunity to look at any of the papers that have been tabled today, but I share the regret expressed by my colleagues that the government saw fit to pre-empt the committee process that was in place to monitor the proposals to develop the ACTEW/AGL partnership. I think it is a matter of serious regret, something that we shouldn't simply gloss over, that the government did cut across the process that had been put in place. The committee has been working in good faith to monitor the negotiations, and the government has simply treated that process with derision. I think it is a real pity that the government has treated this committee, and through it the Assembly, with this sort of contempt. That is what it is; it is quite contemptuous. This Assembly set up a committee process to monitor the development of the partnership, and the government simply ignored it and in this pre-emptive way announced through the media that the deal was done.

I also want to reinforce the point that my colleague Mr Berry made, although to some extent I do not entirely agree with him when he says that people were not given an opportunity before the last election to bend their minds to what it was that the Liberal party and those who support it would do in relation to maintaining ACTEW public ownership. The point is that Mrs Carnell was asked publicly what her attitude was to the sale of ACTEW, and the people of Canberra were entitled in the election campaign to take note of what her position was, and what her party's position was, in relation to the maintenance of ACTEW in public hands. Mrs Carnell declared her position emphatically in February, the month of the election, that the sale of ACTEW is not on the Liberal Party's agenda. The people of Canberra listened to that and they said, "Oh, the Liberal Party has no intention of interfering with the ownership arrangements applying to ACTEW." That was the statement. So to suggest that the people of Canberra were not told of the views of the Liberal Party before the last election is not entirely true. In fact, they were. It is just that they were deceived. It is just that the truth was not told.

Within a month of the election the Chief Minister announced the scoping studies by ABN AMRO, I think it was, or Fay Richwhite in relation to the sell-off of ACTAB, ACTION, and ACTEW, the trifecta. That was in April 1998. Within two months of the election, and two months of the promise that the ownership arrangements in relation to ACTEW were not on the agenda, six weeks after the election the Chief Minister had announced a scoping study into the possible sale of ACTEW, ACTAB, and ACTION. What amazing deceit. Within six weeks of a promise that the sale of ACTEW was not on the agenda a scoping study was issued.

It was on 8 October, only five or six months later, that the Chief Minister formally announced that ACTEW was to be sold. Do we remember the arguments then, in October 1998, as to why ACTEW had to be sold: that it was uncompetitive in the new competitive electricity market, and that it was a high risk market and would expose the

ACT because it was in public hands? I am sure we can all remember the debate and the strident claims that if it was not sold immediately it would lose half of its value. Do you remember those claims? I remember the claim that it was losing $10 million a week, or something or other. That was in October 1998. It was claimed that if it was not sold immediately it would halve in value within six months. That was the strident, hysterical claim in October 1998. The other states would flood the electricity market and we would not survive.

Then we had the great superannuation debate, and I regret that my colleague Mr Quinlan did not mention it. We were told that if we did not sell it immediately we would be bankrupted because of the superannuation liability. We remember those debates and we remember the overwhelming outrage from the Canberra community at the prospect that its major asset would be sold.

At that stage, as a result of that enormous outcry and response from the community, ACTEW was not sold. Of course, not to be deterred, we then had mark 2, the calling of tenders, and then the ignoring of the process and the single selection of the ACTEW/AGL merger that we now have. There was a single selection process, and no determination to ensure that we are dealing with the actual issue, namely, the risk in the retail market.

I see that the *Canberra Times*, even today, is still basically running the furphy, without explanation or understanding, that the issue that we were facing from the outset and which everybody acknowledged was the risk in the retailing of electricity. What proportion of the business of ACTEW is that, and what value of that proportion of the electricity business is the retail arm? I think Fay Richwhite identified it as a risk of three per cent of the retail arm and 10 per cent of ACTEW's overall business. That is what we were looking at. That is how this all started. The evil that we were seeking to address was the risk to the retailing of electricity in the ACT—a risk identified by Fay Richwhite, the government's own consultants—of three per cent, and 10 per cent of the overall business.

This is what we have been led to. We have flogged off half the business, against the wishes of the people of the ACT, and in the face of the promise by the Chief Minister that she had no intention, going into the last election, of affecting the ownership arrangements of ACTEW. This is a major defeat and it is a major loss. It is a major loss to the people of the ACT. They have lost half of the value, or half of this asset, in what can only be regarded as a problematic deal. It is very problematic in terms of the shifting of the debt onto the people of the ACT and the grabbing of the asset by AGL. We all know what the long-term consequences and implications of this deal will be, and they are not to the benefit of the people of the ACT.

**MR KAINE** (11.25): Mr Speaker, I move:

> That the debate be adjourned.

I seek leave to make a short statement in explanation of that motion.

Leave granted.

**MR KAINE**: Thank you, Mr Speaker, and thank you, members. I think this is an important issue that every member of this place ought to be fully informed upon. I have received two very significant and voluminous documents within the last 24 hours. I have received the documents that the Chief Minister has just tabled, and only yesterday I received that document from ACTEW as a submission to the Finance and Public Administration Committee that has been oversighting this matter. I have had no time to read either.

I am personally convinced that what the government is proposing to do here, or has decided to do, is the right way to go. It has been a long and laborious process, but I do concede that some members of the Assembly have not been as well informed as I have. Having been a member of the finance committee and having had regular meetings with the people involved in this, I think I am pretty well informed, but there are other members of this place who have no information at all. It has been put on them now and the decision has been made.

The Assembly did endorse the action that the government has taken, but I think we all need to be aware of the circumstances and the detail of the arrangements that have been set in place. We cannot debate it fully this morning, and if we do not adjourn the debate there will be no future opportunity to do so. I am suggesting, Mr Speaker, that an adjournment of the debate will allow those people who have not seen any of this information before, except perhaps a bit of information that has appeared in the media from time to time, an opportunity to fully inform themselves. If there is a resumption of the debate at some point in time they can at least know what the contents of these documents are, know fully what the arrangements are that the government has entered into, and can come to some conclusions about what they believe the ramification of those arrangements to be. Otherwise I think it is a pretty sterile debate.

For that reason, Mr Speaker, I have moved that the debate be adjourned and made an order of the day for some future day of sitting.

Question resolved in the affirmative.

## PETITION

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

By **Mr Smyth,** from 974 residents, requesting the Assembly to revoke variation 158 to the Territory Plan, concerning the Manuka redevelopment, so that local businesses can continue to place chairs and tables on Manuka lawns.

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

### Manuka Lawns

*The petition read as follows*:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:

The petition of certain residents of Australian Capital Territory draws to the attention of the Assembly: That the usage of the Manuka Lawns is to be changed as part of the Manuka redevelopment.

Your petitioners therefore request the Assembly to: Revoke the variation to the Territory Plan 158, so that chairs and tables belonging to local business can still be placed on the lawns, and next to the windows.

## JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
## Scrutiny Report No 11 of 2000 and Statement

**MR OSBORNE**: I present the following report:

Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 11 of 2000, dated 28 August 2000.

I seek leave to make a short statement.

Leave granted.

**MR OSBORNE**: *Scrutiny Report No 11 of 2000* contains the committee's comments on nine bills, 60 subordinate laws and five government responses. The report contains information on DNA sampling that I think all members should look at. The legal adviser raised a number of issues I would encourage members to look at.

I am pleased to announce that the committee and the Attorney-General will be meeting, hopefully, next week to come to final resolution on taxes and how taxes are enforced. We had some trouble with the Henry VIII clause. Hopefully, the minister and the committee can resolve it, because it has been a constant irritant, for want of a better term, to us. I commend the report to the Assembly.

## PLANNING AND URBAN SERVICES—STANDING COMMITTEE
## Report on Utilities Bill 2000 and Utilities (Consequential Amendments) Bill 2000

**MR HIRD** (11.25): I present the following report:

Planning and Urban Services—Standing Committee—Report No 51—Utilities Bill 2000, Utilities (Consequential Provisions) Bill 2000, together with a copy of the extracts of the minutes of proceedings.

This report was provided to you, Mr Speaker, for circulation, printing and publication on Friday, 14 July this year, pursuant to the resolution of the parliament on 27 June 2000. I move:

That the report be noted.

Mr Speaker, in light of the statement earlier this day by the Chief Minister in respect of the proposed ACTEW/AGL partnership, I am delighted that my committee, the Standing Committee on Planning and Urban Services, has produced a unanimous report recommending that the parliament proceed with Australia's first regime to deal with electricity, gas, water and sewerage under one piece of legislation.

All of the evidence the committee examined pointed to overall support amongst utilities and interest groups for the broad intention of the government's legislation. The legislation will require utilities to have operating licences for specific services that they provide and will contain a number of specific conditions that will be enforceable by a regulatory commission or by the minister.

Consumers will be protected by legally enforceable standards to be specified in all contracts, and the legislation package will provide for a consumer protection code. Specific legal rights of utilities are set out in the legislation as well as rights of access to, and ownership of, assets and infrastructure.

The legislation also sets out the responsibilities of three oversighting bodies: the Independent Competition and Regulatory Commission (ICRC), the Essential Services Consumer Council (ESCC), and the chief executive of Urban Services, as the technical regulator.

The legislation package the committee examined is well over 500 pages long, with two bills and some 22 related supporting documents, including various codes and licences. The package is extremely complex and in parts highly technical. We are delighted that a unanimous position on the issue has been achieved. I think this was largely due to the quality of the legislation and the hard work the government put into the producing it since first releasing its statement of regulatory intent in November 1998. Committee members were of the view that it is a very thorough and comprehensive package. For that, I feel that the government and officers from the joint development task force should be congratulated for their achievements to date.

The committee has recommended to the parliament that the package should proceed and has made a number of other recommendations. We were keen to see that consumer protection and access to the information were of the highest level, and accordingly we made specific recommendations on these matters. These additional recommendations included broadening the membership of the Independent Competition and Regulatory Commission to include expertise in consumer issues, increasing the rights of consumers and utilities to appeal decisions of the ICRC, and introducing a process of issuing draft decisions of the ICRC for public comment.

This legislation will have far-reaching implications for the framework under which utilities will operate and deliver services to the ACT community. Consequently, the committee also recommended that after the legislation is implemented it be monitored by this parliament and that after a period of 18 months has elapsed the government advise the Assembly how it is working.

Mr Speaker, on behalf of my colleagues I thank those who assisted the committee in its inquiry. I would in particular like to thank the inquiry secretary—Mr David James, who was seconded from the department—for his expertise, his thoroughness and the way he

professionally assisted the committee in its deliberations. I would also like to thank my colleagues Mr Rugendyke and Mr Corbell as well as our hard-working secretary, Mr Rod Power. I commend the report to the house.

**MR SMYTH** (Minister for Urban Services) (11.30): Mr Speaker, I thank the Planning and Urban Services Committee for this report. They get through a large amount of work. The government will consider its response and report back to the Assembly.

Question resolved in the affirmative.

## PLANNING AND URBAN SERVICES—STANDING COMMITTEE
## Report on Draft Variation to the Territory Plan No 139

**MR HIRD** (11.31): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 52—Draft Variation (No 139) to the Territory Plan: Proposed Additional Uses in B11(North Canberra), together with a copy of the extracts of the minutes of proceedings.

This report was provided to you, Mr Speaker, for circulation, printing and publication on Tuesday, 25 July this year, pursuant to the resolution of appointment. I move:

> That the report be noted.

This report deals with draft variation to the Territory Plan No 139, which would permit a limited range of commercial activities in B11 areas of North Canberra. The committee took into account the submissions lodged with both the committee and PALM, and we held a number of public hearings in July this year. We saw no reason to delay or amend the variation and hence recommended that it be endorsed.

I thank those who assisted us in our task. This is a unanimous report and I commend it to members of the house.

Question resolved in the affirmative.

## PLANNING AND URBAN SERVICES—STANDING COMMITTEE
## Report on Parliamentary Public Works and Environment Committees Conference, Darwin

**MR HIRD** (11.33): Mr Speaker, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 53—Conference of Parliamentary Public Works and Environment Committees at Parliament House, Darwin, July 2000, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, I am delighted to table this report on behalf of my committee, the Standing Committee on Planning and Urban Services. It informs members about the conference last month in Darwin attended by members of the public works committees and environment committees from all Australian states and territories.

The conference is an annual event which provides members with an opportunity to discuss ideas with fellow parliamentarians and learn from what they are doing in their jurisdictions. In return, we give an outline of our performance as a committee and how the important issues of public works and the environment are affecting the ACT and being handled by the ACT. This year we reported on the committee's many activities, and we took great delight in bringing forward one of the major items before the committee—that is, John Dedman Drive, now known as Gungahlin Drive. We reported to the various environmental committees throughout Australia on this issue.

As we have done each year, we produce this report to the parliament so that we can share our insights with all members of this house as well as demonstrate our accountability for the use of public funds. In the report I have tabled today, we have highlighted four particularly interesting aspects of the conference. The first is the Northern Territory parliamentary building, which was the venue for the conference. We comment on the inclusive nature of the Northern Territory parliament compared to our own building, and we mention some aspects of their committee rooms.

Second, we comment on the way our parliamentary committees manage their workloads, and we give some examples of interesting parliamentary inquiries across the nation. Third, we provide a brief update on the way that committees are dealing with the increasing involvement of the private sector in providing public works.

Fourth, we outline our favourable impressions of the Northern Territory land information system. We note that in our report on last year's national conference we drew attention to the advantages of the Tasmanian land information system and. After hearing about both the Northern Territory and the Tasmanian systems, we concluded that the ACT needs to hasten the development of its own land information system. I know that the Chief Minister and her officers are working to bring the various departments together to achieve this end, and it is hoped that my committee can assist in that regard. The committee has resolved to conduct an inquiry into a comprehensive, usable, publicly accessible and central land information system in the ACT. I will formally inform the house of this development in these sittings.

Mr Speaker, it would be remiss of me not to mention the generous and thoroughly delightful hospitality of the Northern Territory parliament, especially of the Speaker, your colleague, the Hon T McCarthy MLA, and the chair of the Sessional Committee on the Environment, Dr Richard Lim MLA, who hosted the conference.

To indicate the high regard in which the ACT is held at national meetings such as this, I close by mentioning that for the first time ever the ACT was honoured to be asked to chair the conference session in which each participating committee reported on its activities in the past year.

I heard the chair of another committee, Mr Osborne, say on radio on Friday that his committee, the Standing Committee on Justice and Community Safety, which I am a member of, had a heavy workload and that they had brought down more reports. I brought Mr Osborne's attention to the heavy workload of my committee has in conducting public inquiries into draft variations to the Territory Plan. He acknowledged that and said that he did not intend to put down the hard work of my committee. For that, I commend him. I would say it was a misunderstanding at the time. However, I will leave it to Mr Osborne to take the matter up at a later time if he wishes. I can assure the house the workload of my committee makes it an onerous task for all members of the committee. However, we are working very actively not only to achieve good outcomes for the ACT but also to keep pace with best practice which is being developed throughout Australia. I commend the report to the house.

Question resolved in the affirmative.

## GOVERNMENT CONTRACTING AND PROCUREMENT PROCESSES—SELECT COMMITTEE

**MR STANHOPE** (Leader of the Opposition) (11.39): Mr Speaker, I present the following report:

> Government Contracting and Procurement Processes—Select Committee—Report on government contracting and procurement processes in the Australian Capital Territory, dated 26 July 2000, together with a copy of the minutes proceedings.

I move:

> That the report be noted.

When I moved on 6 May 1999 for the Assembly to establish the Select Committee on Government Contracting and Procurement Processes, I referred to the Bruce Stadium redevelopment project as a good example of the range of issues that needed to be examined. The previous day the Assembly had debated at length a motion calling on the government to release a raft of papers dealing with the redevelopment project. The government resisted the motion, but the Assembly eventually resolved in favour of it.

The debate reflected a growing concern, not only in the minds of members of this Assembly but in the broader community, that the manner in which the redevelopment project was being managed did not provide the kind of transparency that the expenditure of large amounts of public demands. And that, of course, is the nub of the matter. The government are charged with managing public affairs on behalf of the community that elects them. That is the responsibility of government.

Necessarily, that process involves the expenditure of public money and, necessarily, I would contend, governments have an obligation to reveal and explain how they go about that. The procurement process is one of the most fundamental of government undertakings. It follows that the need to disclose how a government goes about its procurement is one of its most fundamental obligations.

At the time the Assembly considered my proposal to establish this committee, the Bruce redevelopment was an issue that was very much a major focus of our attention. It still is, of course, as we await the report of the Auditor-General. But the stadium redevelopment was not the only driving force behind the Assembly's decision to establish the committee. As the Minister for Urban Services said in the course of the debate, his department's register of contracts at the time reported current contracts with a total value of some $141 million, an indication of the key role ACT government purchasing plays in the local economy. That is also an indication of the importance of making sure that the processes involved in letting and managing those contracts is efficient, fair and open.

Mr Smyth said in the debate that 86 per cent of the contracts on the department's register were supplied from within the Canberra region—another indication of the importance of ACT government purchasing to the local economy. There was a great deal of interest from local businesses of all sizes in how the government undertakes it procurement.

My office would not be the only one that receives complaints from time to time from unsuccessful tenderers who feel the system has worked unfairly against them. The sheer volume of government purchasing demands that the process be efficient, fair and open and that it be perceived to be so. That demand was another driver behind the move to establish the committee.

The committee was already established when another important issue that related to its work emerged. On 4 November 1999 the coroner brought down his findings on the Canberra Hospital implosion inquest. A central theme of the coroner's report is the manner in which contracts to do with the implosion were let and managed.

The coroner noted that the Assembly had a committee that conducted a review of the tendering contract system of government authorities and agencies, and the coroner suggested that "so much of the advertisement, tender selection and expression of interest phase of the [implosion] project be revisited so as to invoke in the long term procedures that are more open to critical public scrutiny and accountability". The committee had already decided to include the hospital demolition as one of its case studies but had delayed advertising its intention until the coroner's findings were released.

Mr Speaker, the terms of reference of the committee were quite broad: to inquire into and report on the government's contracting and procurement processes. In meeting its terms of reference, the committee decided to focus on three aspects of the contracting process:

1. the degree to which contracts entered into by the territory are open to public scrutiny;

2. the fairness of the processes by which government agencies select and manage consultants and contractors; and

3. the extent to which contracting offers value for money to local residents.

The committee believes that full public scrutiny is a benchmark for accountability. As I mentioned before, the committee believes governments have an obligation to ensure processes as fundamental as purchasing are undertaken in an efficient, fair and open

manner and that they are seen to be thus. Much of the committee's inquiry into this aspect of government procurement focused on commercial-in-confidence aspects of contracts between government agencies and the private sector and the apparent use of the confidentiality classification as a shield.

The government has a policy to cover commercial-in-confidence relationships, written in its *Principles and Guidelines for the Treatment of Commercial Information Held by ACT Government Agencies.* Unfortunately, in the committee's view, too often government agencies do not seem to be complying strictly with the policy.

The increasing push towards outsourced provision of works and services also causes the committee concern in this regard. The committee believes, for instance, that the ACT Ombudsman's role and jurisdiction could be compromised by an increasing use of private sector suppliers. It is also concerned that outsourcing to the private sector may have made it more difficult for citizens to complain—as is their right—about the provision of government works and services.

Mr Speaker, the committee believes that the fundamental starting point for ensuring fairness in government contracting is the use of open or public tender. This is the method of contracting by which open and effective competition is most likely to occur and, importantly, be seen to occur.

The committee received submissions and heard evidence of complaints about the lack of openness in purchasing methods when public tender is not used. In the committee's view, when select tender is chosen as a contracting method, it should be justified, and be seen to be justified. Procurement methods should be publicly listed and justified when the choice is not public tender. While the committee understands that there are times when tenders need to be reissued to satisfy probity requirements, decisions to reissue should be carefully made and justified.

In submissions and evidence before the committee one issue that generated a great deal of interest was the prequalification system. Many witnesses were disturbed by the apparent inconsistent application of the system and the perceived benefit large national companies drew from the system, to the detriment of small and medium local businesses. The committee believes the prequalification system should be reviewed to ensure it does not have adverse and unintended effects.

The committee is of the view that many of the problems that emerge or are perceived to exist in the procurement process can be avoided if government agencies are informed buyers. This means that the government needs to ensure the maintenance of contract and technical expertise within the public service, and the committee believes consideration should be given to the re-establishment of a cell of expertise within the Department of Urban Services.

A key issue of fairness emerged in evidence given to the committee of confusion and concern over the status of Totalcare Industries in its roles as project director and contractor. This concern led the committee to a more general recommendation that companies and corporations taking the role of project director for, or agent of, the territory should not also bid for other contracts within the same project. In terms of

fairness, the committee is concerned that the government has still not established the office of probity adviser it foreshadowed last December.

The committee acknowledges that ensuring that value for money is achieved is one of the most difficult tasks in the tender and contract process. Nevertheless, it is also one of the most important tasks of that process. The committee does not believe ACT government agencies are meeting the requirement to achieve value for money, nor do they have any method of assessing whether the value for money objective is achieved.

The committee heard claims that there is a widespread belief in the private sector that the lowest priced tender is too often judged to represent value for money. This situation is directly relevant to the committee's view that government agencies need to be informed buyers. The committee recommends that a two-envelope tendering system be developed to ensure that price does not outweigh other important factors in the judgment of tenders.

Mr Speaker, the committee believes that there is an essential need for change in the way in which the ACT government and its agencies undertake contracting and procurement. It has made 27 recommendations arising out of its inquiries. We believe they point the way to the development of a better procurement process within the ACT government and, just as importantly, that their adoption will also promote the development of a purchasing culture that delivers efficiency, fairness and openness.

It is particularly pleasing to report that the work of the committee has already been a catalyst for change. For instance, in the government's response to the committee's issues paper, the Minister for Urban Services acknowledged the need to ensure access to purchasing expertise. He foreshadowed initiatives to establish a system of accreditation of procurement competencies among relevant government officers.

Through the minister's response, the government has also given in-principle support for the creation of a government procurement board, an initiative the committee welcomes, subject to the proviso that the membership of such a board should be drawn from senior representatives of government departments and agencies. The committee recognises that change is ongoing and looks forward to further positive responses to its recommendations.

I acknowledge concerns about the Bruce Stadium redevelopment as an important factor in the establishment of the committee. The redevelopment project was a critical case study undertaken by the committee and one that consumed much of our deliberations. Issues around the consideration and eventual public release of hirer agreements between the government and major tenants of the stadium were central to a consideration of openness and the role of commercial confidentiality in government contracting.

The committee decided to release the agreements after careful consideration of the views of the parties and various legal advice. Notwithstanding representations to the committee by parties seeking to maintain the confidential nature of the agreements, the committee was of the view that those arguments were overridden by the principles of transparent and accountable government. In the event, the committee has not been made aware of any adverse outcomes for the parties involved following release of the contracts.

As I said earlier, the Assembly is awaiting the report of the Auditor-General on the redevelopment project. It is the committee's view that after the Assembly receives the Auditor's report it should consider whether further action is required with regard to the government's contracting and procurement processes for the Bruce Stadium redevelopment and associated projects.

Mr Speaker, I also referred earlier to the suggestion of the coroner that the committee, as part of its work, inquire into aspects of the contracting and tendering processes involved in the demolition of the old Canberra Hospital. The coroner, in his report, commented on the lack of proper process in some of the arrangements. He said some of the dealings had "all the hallmarks of a sham arrangement". He also referred to the fact that other arrangements were not kept at arms length from the responsible minister, the Chief Minister.

The government responded to this aspect of the coroner's report in two ways. It appointed Mr Tom Sherman to asses its response and to ensure that, where appropriate, the coroner's recommendations where addressed in current practices and procedures. Secondly, Totalcare industries, which was the project director for the demolition, engaged Mr John Harmer to undertake a detailed review of its project management procedures and guidelines. The committee believes that its report deals with what it see as a central theme of Mr Sherman's report: the challenge for public administration to ensure that procedures and guidelines are observed.

In relation to its inquiries into the hospital demolition, the committee feels that it cannot do justice to the coroner's recommendation or to the public interest if it cannot examine the Harmer report and public officials in an open forum and in an accountable fashion. However, the committee accepted the argument of Totalcare that the Harmer report should not be made available without significant restriction, given the existence of current criminal and civil legal actions in relation to the demolition.

The committee believes that it is unable to carry out the review suggested by the coroner without the benefit of being able to examine Mr Harmer's report on its own terms and of being able to undertake inquiries that it feels may be justified and to examine witnesses. The committee has therefore recommended that the Assembly consider referring the investigation of those aspects relating to the hospital demolition suggested by the coroner to the Standing Committee on Finance and Public Administration or to a re-formed select committee once the Harmer report is made available without restriction.

Mr Speaker, two major themes of the committee's inquiry were the gap the committee perceived between the theory and the practice of the government's contracting and procurement processes and the apparent threat to the publicly espoused values of accountability and fairness posed by devolution and decentralisation of responsibility for government procurement.

The committee acknowledges that there has been a progressive release of guidelines to assist agencies to achieve the government's required procurement outcomes. However, the committee believes the guidelines lack the necessary status and strength to ensure that efficiencies are not achieved at the expense of accountability and fairness. As the Governor-General, Sir William Deane, has observed:

> Incorruptibility, accountability and fairness are basic values underlying public administration. They are in no way inconsistent with the process of desirable change in the search for greater efficiency.

The committee remains concerned that the efficiencies and savings promised by the greater reliance on the private sector will break the chain of ministerial and public service accountability, undermine fairness and prevent the achievement of true value for money outcomes unless the government takes steps to reinforce these basic principles in the procedures it requires its public service to follow, and be seen to follow.

In closing, Mr Speaker, I would like to take the opportunity of acknowledging my fellow committee members—you, Mr Speaker, and Mr Osborne—and your contributions to the inquiry. I also acknowledge and thank all those members of the ACT public service who gave very generously and patiently of their time, also members of the private sector and local community who made submissions and appeared before the committee to give evidence. The committee is also deeply indebted to its secretaries, in particular Mr James Catchpole and Ms Laura Rayner.

**MR OSBORNE** (11.53): Of the many inquiries that have been undertaken by committees of this Assembly, this inquiry could have been used by any member of the committee as a political football, given that the select committee was set up in the shadows of Bruce stadium redevelopment and the hospital implosion. Yet the committee, which includes a member of the government, presented a unanimous report. All of the recommendations are very good ones. A lot of credit should go to Mr Stanhope for the way he handled this very sensitive issue. The inquiry was an eye-opener for me on a number of issues. I enjoyed being made aware of what happens. I must admit I did come away a little bit more reassured, but obviously there are some deficiencies in the process. The one of greatest concern to me was the one Mr Stanhope mentioned: the issue of prequalification.

Overall, I think the inquiry was a very worthwhile process, one that was handled very well by different parties on the committee. I too would like to thank the three members of the secretariat for the great work they did.

**MS TUCKER** (11.55): I have not had time to read the whole report but, having had a look at the recommendations, I believe this inquiry was probably a very useful process and that the recommendations in this report, if accepted by government, will go a long way towards increasing accountability and fairness in procurement processes.

We must not lose sight of the fact that there may well still be another debate, one about whether or not we want to continue to outsource so much of the activities of government. The federal Auditor-General has made comments about costs and benefits, criticising the lack of analysis of cost effectiveness by governments of various persuasions that have pursued the path of contracting, outsourcing and so on. In the Estimates Committee when I was first elected, I asked our Auditor-General whether a cost-benefit analysis had been done of the purchase/provider split and the general concept of outsourcing then being considered by the government, and his answer was: "No, there has not, but it is a good question and there should be such an analysis." The federal Auditor-General is now questioning whether outsourcing is effective as governments are claiming.

When you look at this report and what it will require to ensure there is a reasonable standard of fairness and accountability to do this properly, I think it will open up the discussion again. What are we winning and what are we losing here? What will be the costs to the taxpayer of ensuring that this is done in an accountable and fair way? When we have that information, we can make a decision about whether or not we want to continue the enthusiastic commitment to reducing the functions of government. I understand there is a protest today by the CSIRO about outsourcing of their IT.

We need to keep the bigger question in mind as well and not just these sorts of reports, important as they are to ensuring that this work is done properly. Let us also be prepared to look at whether or not it is worth it.

Question resolved in the affirmative.

## LOW-ALCOHOL LIQUOR SUBSIDIES BILL 2000

**Mr Humphries**, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.49): I move:

> That this bill be agreed to in principle.

This bill seeks to reintroduce the payment of subsidies to liquor wholesalers on the sale of low-alcohol beers and wine to licensees in the ACT. On 25 May 2000 this Assembly passed the Subsidies (Liquor and Diesel) Repeal Bill 2000 to remove the subsidies on diesel and low-alcohol products, with effect from 1 July this year.

The subsidy was removed as a consequence of the possible cross-border impacts of New South Wales removing its subsidy. However, on 4 July 2000 the New South Wales Treasurer, Mr Michael Egan, announced that New South Wales would continue to subsidise low-alcohol beer until 30 June 2001, in line with an agreement reached with the Commonwealth Treasurer, Mr Costello. For the information of members, the Commonwealth and the states and territories are to meet before 30 June 2001 and negotiate a uniform Commonwealth excise providing a concession for low-alcohol beer. As a result of the decision by New South Wales, the ACT has announced its intention to follow New South Wales and reintroduce subsidies for low-alcohol beer and wine in line with New South Wales subsidies scheme for 2000-01.

As in New South Wales, the subsidy for low-alcohol beer and wine products would be at the rate of 12 per cent of the wholesale value, including the new excise duty but excluding GST, for beer products 3.5 per cent alcohol per volume or less and for low-alcohol undiluted or unadulterated wine of 6.5 per cent alcohol per volume or less. The ACT Revenue Office will pay the subsidy to wholesalers who can demonstrate to the Commissioner for ACT Revenue that the amount of the subsidy has been passed on to retailers operating in the ACT.

Mr Speaker, this Bill provides for a small but very important change from the previous scheme. The subsidy for low-alcohol wine products will now be payable only on low-alcohol wine 6.5 per cent alcohol per volume or less where the wine product is undiluted or unadulterated. The previous ACT low-alcohol subsidy scheme did not indicate that the wine subsidy was based on undiluted or unadulterated wine, which inadvertently allowed a number of "trendy" mixed wine drinks to fall within the subsidy scheme.

**Mr Quinlan**: Ban them all.

**MR HUMPHRIES**: I would ban them all too. I think they are revolting things. There is no accounting for taste.

Mr Speaker, funding for the subsidy was authorised by the Legislative Assembly through an amendment to the Appropriation Bill on 10 July 2000, and since then a majority of members have formally agreed to the reintroduction of the subsidy under administrative arrangements until this bill is passed.

In conclusion, this bill will provide a legislative framework for the payment and administration of liquor subsidies for low-alcohol beer and wine to ensure ACT consumers of these products are not disadvantaged in comparison with those in New South Wales. As I indicated, this arrangement may be temporary, pending the agreement being reached between the states and territories and the Commonwealth on the provision of a Commonwealth excise providing for a concession for low-alcohol beer.

I commend the bill to the house.

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

## ELECTORAL AMENDMENT BILL 2000

**Mr Humphries**, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.02 ): I move:

> That this bill be agreed to in principle.

This bill amends the Electoral Act 1992 to provide that independent members of the Legislative Assembly are required to disclose in their annual returns only gifts given solely or substantially for a purpose related to an MLA's position rather than all amounts received by them during the financial year.

Presently, the Electoral Act requires that all amounts received by parties and independent MLAs be included in annual returns lodged with the ACT Electoral Commission and that details of amounts over $1,500 need to be disclosed. The only exemption to the reporting of amounts received by independent MLAs provided in the Electoral Act is that gifts received by an MLA in a personal capacity, which are not used solely or substantially for

a purpose related to his or her position as an MLA, need not be reported. In the case of independent MLAs, this means that all personal income, such as salary and income from shares and property, needs to be disclosed in their annual return.

As the Electoral Act stands, only independent MLAs are required to disclose personal income. Party MLAs are not required to disclose these details. This situation is inequitable and outside the intended scope of the legislation. This bill is intended to bring the disclosure of obligations of independent MLAs more in line with those imposed on registered political parties. The bill will alter the requirements for independent MLAs' annual returns for the 1999-2000 financial year, which are due for lodgment by 23 October 2000. Much as I would like to be able to peruse the details of members' personal affairs, I think that is out of the scope of appropriate electoral legislation. I therefore commend the bill to the house.

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

## POISONS AND DRUGS AMENDMENT BILL 2000

**Mr Moore**, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR MOORE** (Minister for Health and Community Care) (12.05): I move:

> That this bill be agreed to in principle.

This bill amends the Poisons and Drugs Act 1978. The approach of the Sydney 2000 Olympic Games has led to calls for stronger restrictions on anabolic steroids. Anabolic steroids are used as performance and image-enhancing drugs. Anabolic steroids are hormones and include, or are derivatives of, testosterone. They help to build muscle and assist athletes in recovery from training and injury. Testosterone is found naturally in large amounts in males and in smaller amounts in females.

Anabolic steroids are legally available only on prescription, and some are specifically intended for veterinary use only. Widespread illicit anabolic steroid use by athletes to improve performance and by non-sport users such as bodybuilders to alter physique has been widely reported. There are substantial difficulties in estimating the extent of illicit use of anabolic steroids in Australia. However, data from a variety of sources suggest that such use is increasing.

Most users report both positive and negative side effects of anabolic steroid use, the majority of which are reversible on cessation of use. The serious health risks involved in the use of anabolic steroids are now well recognised. Although the level of serious adverse effects of anabolic steroids among users is remarkably low, these effects should not be trivialised. The short-term effects include acne, hair loss, changes in breast tissue and genitalia, sterility, nausea and mood changes, including aggression. Long-term effects can include cancer, heart disease, liver disease and bone pain.

In addition, the use of injectable anabolic steroids carries all the risks of injecting drug use, including transmission of blood-borne disease, although studies of users suggest that the prevalence of needle sharing is very low compared with other drug users. The sharing of vials and ampoules also poses risks of disease transmission.

The issues surrounding illicit use and abuse of anabolic steroids are currently under review by many bodies, including the Ministerial Council on Drug Strategy, the Intergovernmental Committee on Drugs, the National Expert Advisory Committee on Illicit Drugs, the Model Criminal Code Officers Committee, the Police Ministers Council and the Standing Committee of Attorneys-General.

Offences relating to the illegal supply of anabolic steroids apply in all states and territories. However, the penalties are different in each, ranging from six months imprisonment in the ACT to 25 years imprisonment in Western Australia. Recently, the Commonwealth enacted an amendment to the Customs Act 1901 so that the illegal importation of anabolic steroids carries a penalty of up to five years imprisonment. The five-year penalty applies to traffickers, with a fine applying to those carrying anabolic steroids for personal use only.

The territory has specific and excellent legislation relating to anabolic steroids. The Poisons and Drugs Act 1978 makes it an offence for a person, without reasonable excuse, to prescribe, dispense or sell anabolic steroids, including substandard and veterinary preparations, for human use. However, the penalty of imprisonment for six months for an offence in the territory is too low relative to other states and to the Commonwealth. Accordingly, this bill proposes an increase in penalty for the unauthorised supply of anabolic steroids in the territory from six months imprisonment to five years imprisonment and a commensurate increase in fine from $5,000 to $50,000. In addition, because the range of anabolic steroids available has grown rapidly in recent years, it is time to update the list of anabolic steroids in schedule 1 to the act in line with those listed in the current Standard for the Uniform Scheduling of Drugs and Poisons.

Amending the act will ensure that the territory's poisons legislation, including the list of anabolic steroids in the act, is up to date prior to the 2000 Olympics. I commend the legislation to the Assembly.

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

## LAND (PLANNING AND ENVIRONMENT) AMENDMENT BILL 2000 (NO 4)

**Mr Smyth**, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR SMYTH** (Minister for Urban Services) (12.09): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Land (Planning and Environment) Amendment Bill 2000 (No 4) repeals sections 184B and 187B of the land act. The effect of these repeals is that the current rate of change of use charge will continue at 75 per cent of added value. Sections 184B and 187B are sunset clauses that affect the formula prescribed to calculate the change of use charge. The sections were inserted into the act during the Assembly's 1996 debate of the major amendments that followed the Stein inquiry.

The change of use charge formula in the act currently provides for the change to be calculated at 75 per cent of any added value that results from the variation of a lease or the consolidation or subdivision of land. That rate was decided on as the appropriate rate in accordance with the recommendation of the Stein report. The sunset clauses provide for the change to be calculated at 100 per cent of added value from 30 September 2000.

Mr Speaker, as members of the Assembly would be aware, the government introduced into the Assembly in mid-1999 a bill to reduce the rate of change of use charge from 75 per cent to 50 per cent. That bill followed recommendations of the Nicholls report, which was referred to the Planning and Urban Services Committee on 1 July 1999. That bill was defeated in the Assembly on 9 May 2000. As a result, the rate of change of use charge will become 100 per cent on 30 September 2000 unless the act is amended.

Mr Speaker, I wish to point out to the members of the Assembly—and I know that I am not the first to do so—that the methodology for assessing betterment, or the change of use charge, remained the same from the 1971 to 1990. It has changed seven times since then. The Nicholls report made several significant recommendations about reviewing the current system. I should point out that this Assembly wholeheartedly endorsed the appointment of Professor Nicholls to review betterment. The majority of the Planning and Urban Services Committee endorsed the report's recommendations. Indeed, Mr Corbell, in his dissenting report, also recommended that possible changes be examined.

The amendments will give the government adequate time to undertake a comprehensive and lasting review of this system. It must involve a detailed examination of the rationale for the system, its connection with other elements of the leasehold and land use planning policy, and its economic and administrative sustainability.

The process of examination has already begun. I intend to prepare within the next few months a paper outlining a range of options for the review of the current system. The objective of the review will be to eliminate, as far as possible, the complexity and cost involved in securing what we must all acknowledge to be a relatively small amount of income for the territory. In fact, change of use receipts from 1992-93 to 1997-98 represent only 3.1 per cent of the total revenue over that period from change of use charge, land tax, land rents and rates. You can find that information at table 1 in the Nicholls report.

In his report, Professor Nicholls espoused the benefits of a system that would give certainty for all. In that respect, he found the New South Wales section 94 contributions scheme to provide the benefits of known contributions in advance, which proponents could factor into their whole-of-development calculations. In contrast, the current change of use charge calculations are undertaken by the AVO after an approval is given, when a thorough determination of any increase in value can be made. The assessment is then

provided to the lessee, who has a right of appeal against the determination. This is time consuming and results in uncertainty. Any options identified in revision of the system must deal most thoroughly with these issues. The introduction of a system that allows payments to be easily identified in advance would remove that uncertainty. If the Assembly maintains that it is appropriate to levy a change of use charge at some level, then a more effective system is warranted. Such a system could also help the ACT achieve specific policy objectives.

Whilst we already have in the land regulations a number of targeted remissions of the change of use charge, such as those for the Commissioner of Housing and Civic revitalisation, there is an opportunity to extend the range of remissions to achieve other targeted objectives. For example, remissions could apply to accessible and adaptable housing developments that demonstrate a high level of quality design and sustainability or proposals that attract employment to centres such as Tuggeranong, Belconnen or Gungahlin, where recent master planning work has been undertaken for the government by the Planning and Land Management Group. In each case it would be necessary to meet specific criteria in order to qualify for the remission.

Earlier this year members of the Assembly indicated their support for this kind of approach. Indeed, when the Planning and Urban Services Committee reported on the issue, Mr Corbell in his dissenting report said:

> … the only way to encourage high quality development is to either require 100% CUC on all development proposals which involve a lease variation, and then provide a subsidy to achieve these aims in terms of design of materials the Government believes is appropriate, or allow a remission of betterment only where specific criteria are met.

The signals given by our planning system must promote excellence and give incentive to the strategic needs of the territory. I believe the advantages of the New South Wales system could be incorporated into the change of use charge system without also adopting its inherent disadvantages. The development of such a system would provide far greater certainty, not only for the government and the general community but also for investors who need to estimate the charge when deciding to purchase a lease or flesh out a proposal for redevelopment. The system would also offer administrative savings and reduce appeals to the AAT.

I think we would like to see this issue dealt with properly and finally. Of course, any system should be scrutinised and reviewed on a regular basis. However, to allow the rate of change to move up to 100 per cent at this stage would be simply to insert one more bump into the erratic curve of the ACT's development charging policy history.

May I also make the observation that merely postponing the sunset provisions is not an effective way to deal with the problem. We have done that several times before, the only result being uncertainty and disruption to the process of consideration of the Nicholls report.

I call upon members of the Assembly to take this opportunity to deal with this very important issue in the most thoughtful and responsible manner. The government is fully committed to an open process of consultation and examination of all reasonable options. The process of developing a range of options is already under way, and I invite all of you

to be involved in the discussions that are to come. I firmly believe that it is only through such an approach that we will eventually reach a position that is broadly acceptable and capable of long-term sustainability.

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

## VOCATIONAL EDUCATION AND TRAINING AMENDMENT BILL 2000

**Mr Stefaniak**, by leave, presented the bill and its explanatory memorandum.

Title read by Clerk.

**MR STEFANIAK** (Minister for Education) (12.33): I move:

> That this bill be agreed to in principle.

I am presenting this bill as a matter of some urgency. It will prevent unauthorised persons from advertising courses conferring higher education awards that have not been accredited by a proper authority, that is, by the ACT Accreditation and Registration Council. Higher education courses provided by non-university providers in the ACT are normally accredited by the ACT Accreditation and Registration Council, established under the Vocational Education and Training Act 1995. However, Mr Speaker, there is currently no legislation requiring this to happen. The false advertising of vocational education and training courses is prohibited, but not false advertising referring to higher education courses. This provides a loophole that does not exist in other eastern seaboard jurisdictions. Queensland, New South Wales, Victoria and Tasmania all have legislation prohibiting the advertising or offering of unaccredited courses purporting to lead to a higher education award. We have no similar legislation in the ACT.

Mr Speaker, the provisions in this bill will close this loophole. We do not want in the ACT something like Greenwich University, which is an unauthorised institution operating from Norfolk Island, and which offers, for a fee, degrees and doctorates all around the world by distance education. None of these degrees or doctorates are officially accredited or recognised.

At present there is no separate higher education legislation in the ACT, and the Vocational Education and Training Act 1995 makes only limited reference to the regulation of higher education courses in the ACT. However, since 1995 the number of higher education courses provided by non-university providers in the ACT has increased significantly. It has become apparent that the provisions of the Vocational Education and Training Act 2000 do not adequately cover higher education provision. At present higher education regulation is incorporated in the Vocational Education and Training Act 2000 but in a general rather than a specific way.

The deficiencies in higher education regulation will be addressed in the next 12 months in the context of achieving national consistency in vocational education and training and in higher education. Following national consultation on approaches to achieving regulatory consistency, I will propose further legislation to ensure that nationally consistent higher education regulation has an adequate legislative basis in the ACT. In

the meantime, Mr Speaker, to ensure that there is the required level of expertise in higher education on the Accreditation and Registration Council, I am proposing that up to two additional members with expertise in higher education be appointed to the council.

It is fortunate that the present chair of the council, Dr John Grant, has considerable expertise in higher education. However, it is now apparent that, with the increased amount of higher education business before the council, the incorporation of members with expertise in higher education should be formalised, and formalised sooner rather than later.

I will discuss this issue with members of this Assembly, and I would hope that this bill will receive the full support of members. I think we agree, Mr Speaker, that there is a substantial loophole in our higher education legislation. I am confident that all members view the matter as one of considerable urgency and importance and agree that we should move quickly to close this loophole, which puts at risk the very good name of education and training in the ACT. We have some excellent major public institutions, such as the ANU and Canberra University, and several other higher education institutions that offer quality degrees. We do not want to see the fly-by-nighters come in. That has the potential to rip off unwitting potential students and downgrade the reputation for excellence that ACT education has at the highest level. It is a matter of considerable urgency and importance that we close this loophole, which put at risk the good name of education in the ACT. Mr Speaker, I commend the bill to members.

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

**Sitting suspended from 12.28 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Very Fast Train

**MR STANHOPE**: Mr Speaker, my question is to the Chief Minister. Recent media reports, in particular in the *Bulletin* of 8 August, have indicated that the government commissioned a report from Macquarie Bank that dramatically lowered the estimate of the cost to government of the very fast train. The *Bulletin* unfortunately characterised the Macquarie Bank estimates as remarkably optimistic and widely regarded as unachievable.

Can the Chief Minister confirm the reports that the ACT government commissioned such a report and can she say if the new cost estimate has had any impact on the federal government's consideration of final approval for the project? How much did this latest consultancy cost, why did the government feel it was necessary and will the Chief Minister table a copy of the report?

**MS CARNELL**: Mr Speaker, we have been quite open that yes, we did, I think, commission the Macquarie Bank report. I have answered those questions on media and in other places before. Why did we do it? Because, Mr Speaker, we believe that the Westpac report that had previously been commissioned was wrong in a number of places

and dramatically overestimated the prices, the cost of the project. We believe that another approach was essential if we were to do everything we could to ensure that the very fast train project got up between Canberra and Sydney. I would certainly hope that those opposite would do exactly the same.

We believe that a number of the approaches that were used in the Westpac report were looking at the absolute worst case scenario—looking at discount rates that were simply not in line with market expectations and so on. So we got the Macquarie Bank to have another look at the whole thing. It does present a quite significantly different picture for the federal government.

Mr Speaker, I was asked, I think in question No 22 from Mr Stanhope, whether I was willing to make some comments on whether that has changed the views of the federal government. I will not in any way second-guess federal cabinet. I believe that we have at least a fighting chance of getting the project over the line, but who knows. One thing I can guarantee is that nobody can say we have not done everything we can. The cost of the report was $70,000.

**MR STANHOPE**: Mr Speaker, I ask a supplementary question. Can the Chief Minister confirm that the figures in the Macquarie Bank report have been officially dismissed as unsustainable by relevant Commonwealth officials? Can she say if the bank has indicated to her or the ACT or Commonwealth governments—officially or unofficially—any revision of its estimates, or changes to the basis on which they were made?

**MS CARNELL**: In the discussions I have had with various federal ministers—and that is almost all of them—they have not made any comments along those lines whatsoever. In fact, the Macquarie Bank report has been accepted very well by various ministers and departmental officials. I cannot understand why Mr Stanhope would try to undermine this approach. Surely he would agree that we as an Assembly should be doing everything we can to get this project over the line.

Macquarie Bank has done a large number of transport proposals, reports or consultancies both for Labor and Liberal governments in Australia. It has had a lot of experience with rail networks. So we believe that it is appropriate to continue to work hard. Those opposite would obviously sit on their hands and say, “Oh dear, the report that is on the table does not agree with what we would like to happen.” Well, I have to say that if you do that, nothing will ever happen—absolutely nothing and certainly not very fast train projects.

At this stage I believe that our chances are pretty good in getting the project through to its next stage. But it is a very major project, there is a lot of money involved and there are a huge number of issues. To assume that all information, that all fact, exists in one particular company would be particularly stupid. So we went out and got another company to have a look at it.

## Kingston Foreshore Development

**MR QUINLAN**: My question to the Chief Minister relates to the Kingston foreshore development. I have to say that as things stand the suburb of Kingston, with a larger number of relatively small high and medium-density developments, each with its own engaging style but which seem to aggregate into something that is less than perfect, is no advertisement for town planning. Also, many local developers cannot undertake large projects that would bring with them some degree of innovation in urban design and uniformity of quality and level of presentability.

Some concern has been expressed around town that the method of release of blocks will be such as to advantage very large-scale developers and possibly very large merchant banks, squeezing out the locals. What process does the government intend to adopt to balance the competing strategies of large projects to allow better planning and design versus small projects that permit maximum local participation in the overall project?

**MR HUMPRIES**: Mr Speaker, I am happy to take this question as the minister responsible for the Kingston Foreshore Development Authority. Mr Quinlan has raised a very important point about the way in which large developments have occurred in the past in the ACT. I can indicate that this very issue has had some ventilation in Kingston Foreshore Development Authority meetings. It was in fact raised in a recent meeting that the Chief Minister and I had with the authority, where we talked about the way in which the development of that site would be progressed. It is the intention of the authority to manage the development of the foreshore area in stages, to make each stage small enough and discrete enough to be able to be attractive to local as well as interstate developers.

Engineering particular results is always very dangerous in these circumstances and the government would not wish to do that or be seen to do that. But it is certainly our view, and I can say the Kingston Foreshore Development Authority's view, that the development should be handled in such a way as to provide that chance for competition by local developers as well.

The sequencing and the mechanism to be used have not as yet been finalised. There are a number of issues which the authority is currently dealing with for its program of release of the blocks. I believe that the issue Mr Quinlan has raised is certainly one that the foreshore authority is aware of and it will be taken up as the development plan is actually implemented.

**MR QUINLAN**: I ask a supplementary question. I thank the minister for the answer. In fact, he has pretty well answered my supplementary other than the following: can he give us any indication when the Assembly and particularly the building industry, post-Olympics, post-GST boom, will be advised as to the program of release?

**MR HUMPHRIES**: At this stage the best estimate for release of the first stages in the staged development of the foreshores is the last quarter of this calendar year. There are a number of issues which the authority has raised with me with respect to contamination of the site and working through issues about removing contamination on the site. Assuming that they do not hold up the progress in the matter, it should certainly be the last quarter of this year or, if that is a problem, then the first quarter of next year.

## Crime Statistics

**MR HIRD**: Mr Speaker, my question is to the Minister for Justice and Community Safety, Mr Humphries. I was interested to hear the Leader of the Opposition's recent comments about the ACT's crime rates.

**Mr Stanhope**: Gee they must have stung you, Gary. I have never seen such a hysterical response.

**Mr Humphries**: Not as much as they are going to sting you, Mr Stanhope.

**MR SPEAKER**: Order, please! Mr Hird has the call.

**MR HIRD**: I might be down but I am not out yet, Mr Speaker. If those gentlemen over there had been awake, I know that in anticipation—

*Mr Stanhope interjecting—*

**MR SPEAKER**: Just ask the question, please.

**MR HIRD**: They keep interjecting, Mr Speaker.

**MR SPEAKER**: I will deal with that.

**MR HIRD**: Yes, well I wish you would, sir, and I know you will at the appropriate time. Mr Speaker, I suppose I should repeat my question.

**MR SPEAKER**: Please do.

**MR HIRD**: Thank you, Mr Speaker. The question is to the Minister for Justice and Community Safety, Mr Humphries. I know that the Leader of the Opposition, Mr Stanhope, has taken a great deal of interest in this matter. I was interested to hear the recent comments of the Leader of the Opposition about the ACT crime rates. Minister, is the Leader of the Opposition—that is, Mr Stanhope at this moment—correct when he suggests crime is out of control within the territory?

**MR HUMPHRIES**: I thank Mr Hird for that question. It is a good question, given what has been said about crime in this community in the last little while.

**Mr Stanhope**: Sixty seconds and they are gone.

**MR SPEAKER**: Somebody will get a three-hour suspension sentence very shortly if they are not careful.

**MR HUMPHRIES**: It could take less than 60 seconds for Mr Stanhope to be gone is what you are saying, Mr Speaker. Perhaps he is commenting on his leadership—60 seconds and he is gone in a party room coup. That could be quite possible, too.

Obviously we take part in debate in this place about crime. Obviously we are going to have robust debate about how much crime is taking place and how we have to fix the problem of crime in our community. It does not behove any of us in this place to create an impression in the minds of our citizens that crime has reached a certain stage where people have reason to be unnecessarily afraid, to scaremonger about crime. I am happy any day to take on Mr Stanhope and Mr Hargreaves, or anybody else in the opposition, on questions about levels of crime, on what the government and the police are doing about crime—on all those related issues. What I am not prepared to do is engage in a debate where the security and wellbeing of citizens in this community are at risk because of the perception of crime in the community.

Believe it or not, strange as it may seem, there are people out there who actually listen to what members of this place say and apparently some of them take seriously what is said about things like crime levels in our community. Some people believe comments such as "there is a crime wave in the ACT" and "people are not safe in their beds at night". I think it behoves all of us to speak on the basis of hard cold facts in this debate and not on the basis of what members might like to think is a good issue to beat up.

The facts are that the latest figures from the Australian Bureau of Statistics indicate that the ACT ranks lowest in the country in the incidence of things like unlawful entry. Some of the categories listed are unlawful entry, manslaughter and sexual assault. We rank second last in the country in crimes like murder and third last in the country in crimes like assault, driving causing death, and attempted murder. In fact, if you take the 15 categories of crime surveyed by the Australian Bureau of Statistics in its most recent set of figures, the ACT ranks lower than the national average in 11 of those 15 categories, most notably in personal and violent crimes, including assault. On radio just a week ago Mr Stanhope alluded to that fact when he said, "I have to say that we don't have the rates of personal crime or assaults that some other cities have, and I think it's important for us not to beat that up."

**Mr Stanhope**: Absolutely. How responsible was I.

**MR HUMPHRIES**: I agree, Mr Stanhope. You are absolutely right—not to beat it up. So can you explain this headline in the *Southside Chronicle*: "Crime scare—Woden workers scared for their safety".

**Mr Stanhope**: They are. Who has hired security guards before?

**MR SPEAKER**: Order, please!

**Mr Kaine**: On a point of order, Mr Speaker: is the minister asserting that some member of the opposition is on the editorial staff of the—

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

**MR HUMPHRIES**: Mr Kaine has asked a question and I will answer that one as well. I do not know about being on the editorial staff but I do note that the picture in the newspaper shows Mr Hargreaves speaking apparently on this issue with Mr Jim Mallett. If I am not mistaken, Mr Mallett might have been Mr Hargreaves' campaign manager at the last ACT election. The ordinary citizen plucked from the offices at Woden turns out

to be Mr Hargreaves' campaign manager. What a coincidence. Well, well! It turns out that he is very much afraid for his safety.

**Mr Moore**: I wonder what *Media Watch* would do with this.

**MR HUMPHRIES**: I wonder what *Media Watch* would make of something like this.

**Mr Berry**: Mr Speaker, on a point of order: is it necessary for the minister to respond so loud and long just because he is stinging?

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

**Mr Hird**: On that point of order, Mr Speaker: would you ask those honourable gentlemen opposite to be honourable and to stop interjecting while I am trying to hear the minister's response to my question.

**MR HUMPHRIES**: The fact is that those opposite cannot get their act together when it comes to dealing with issues relating to crime in this community. We have one thing from the Leader of the Opposition and another thing from the opposition spokesman on police. We have Mr Hargreaves, for example, in this article in the *Southside Chronicle*, calling for the installation of security cameras in Woden. If I am not mistaken, I thought the opposition were opposed to any security cameras being installed around our city until there is a trial of security cameras in the Civic area of our city.

**Mr Hargreaves**: Which is supposed to be over by now, and it has not started.

**MR HUMPHRIES**: Mr Speaker, I am really having difficulty in making myself heard.

**MR SPEAKER**: Order, please! Silence.

**MR HUMPHRIES**: Thank you, Mr Speaker. The fact is that Mr Stanhope says he does not want cameras until there has been an assessment of the trial in Civic. Mr Hargreaves says, "Where are the cameras? I want cameras now. I want them all over the ACT. I want them in buses, I want them in the Woden interchange, I want them all over Woden."

**Mr Hargreaves**: No, I did not.

**MR HUMPHRIES**: Well you tell me how—

**Mr Hargreaves**: You read it. Go to school and learn to read.

**MR HUMPHRIES**: Then tell me, Mr Hargreaves, how this is consistent with a claim not to beat up facts on crime in this community, not to beat up scare on crime in this community? The fact is that crime in the Woden region is falling, including crimes of the kind that you have drawn attention to in this article.

**Mr Hargreaves**: Is that right?

**MR HUMPHRIES**: That is what I said—those crimes are falling. Yet those people opposite, who in their time in office cut police resources and cut police numbers, have the audacity to tell us that they are concerned about crime. I know you have done opinion polling, and it has come to you as an almighty shock. "Good heavens, people are concerned about crime and about safety issues in the community. Gee, we have got this slight embarrassment that we voted against the government's budget that included $10 million more for policing in the territory and we voted against tougher sentencing legislation in the Assembly a couple of years ago—

**Mr Stanhope**: We would have given $20 million—that is the difference. Why do you think we voted against it?

**MR HUMPHRIES**: Just a couple of years ago you voted against tougher sentencing legislation. Do you remember that, Mr Stanhope?

**Mr Stanhope**: Quite rightly so. Scandalous legislation.

**MR HUMPHRIES**: They were concerned about those things enough to block those provisions when they came forward, but now they are concerned about crime. Well, Mr Speaker, I do not think I believe that. I think that the concern of the opposition is poll generated, and nothing more. They are divided and confused about these issues. They are split over the impact of personal crime in the community, with one member of the ALP beating up crime figures in the local media and the other urging calm.

I think we should take the facts as they are. Commander McDevitt from the Australian Federal Police has indicated very accurately in the last few days what exactly is happening with crime in categories like motor vehicle theft and home burglary. The fact is there have been significant reductions in both those areas of crime. The average number of stolen motor vehicles has fallen from 79 a week in April to 41 now—almost a halving of motor vehicle theft. Burglary rates have fallen from 184 a week to 121, and I believe there is evidence that those rates could fall further still.

We have demonstrated a capacity to attack those issues without, at the same time, attacking the Federal Police, which is more than I can say for the opposition.

**Mr Stanhope**: What garbage.

**MR HUMPHRIES**: Attacking the Federal Police.

**Mr Stanhope**: Do you want the burglar thing? You are in charge.

**MR HUMPHRIES**: Do you want me to quote you? Mr Stanhope questions whether he has attacked the Federal Police.

**MR SPEAKER**: Order, please! I do not want interjections. We are in question time.

**MR HUMPHRIES**: Let me tell you what he told Mr Gilbert's program on 2CC recently, in response to a discussion about the Al-Ghamdi murder investigation:

> Without pointing the finger—

says Mr Stanhope—without pointing the finger: there is an irony for you

> we do need to look, I think, at the police investigation in a broad and non-judgmental way—

the clear implication of that being that there was some deficiency in the police investigation that led to the failure of the prosecution against those accused of the murder of Mr Al-Ghamdi.

*Opposition members interjecting—*

**MR HUMPHRIES**: Mr Speaker, if those opposite could stop blathering long enough—

**Mr Stanhope**: The coppers must have been outraged by that.

**MR SPEAKER**: Order! The constant interjections are only prolonging the answer.

**MR HUMPHRIES**: If those opposite would stop and listen they would realise that nobody recently observing that case could say for one instant, in my view, that the police investigation of the matter was anything other than excellent and any criticism implied or direct on the part of the opposition—

**Mr Stanhope**: Read the quote again.

**MR HUMPHRIES**: I will read it again, quite happily:

> Without pointing the finger we do need to look, I think, at the police investigation in a broad and non-judgmental way.

Why look at the police investigation, Mr Stanhope? What question marks do you have about that investigation? What concern do you have about the investigation.

**Mr Berry**: When does the time run out here?

**MR SPEAKER**: Order! This answer has been going on for 10 minutes at least and I suggest we wind up.

**MR HUMPHRIES**: Mr Speaker, we have also had an attack on the efficiency of the task forces investigating home burglary and motor vehicle theft. The task forces have reduced the number of burglaries from 150 to 130 a week. In other words, we have managed to get it down from every twelfth house to every tenth house. He goes on to criticise the way in which those task forces have worked. I want to put on record, in conclusion, that I think the Australian Federal Police have done an excellent job in these last few months.

*Opposition members interjecting—*

**MR HUMPHRIES**: Mr Speaker, I really find it hard to give any kind of answer.

**MR SPEAKER**: Order!

**MR HUMPHRIES**: The AFP have done an excellent job in the last few months and they deserve the unqualified support of every member of this house, including those opposite, in their efforts. In particular, they deserve no criticism at all on the Al-Ghamdi investigation. I think, as Mr Stanhope—

**Mr Stanhope**: Like the support you gave Bill Stoll.

**MR SPEAKER**: Order! Mr Stanhope, if you persist in interjecting, I will deal with you.

**MR HUMPHRIES**: When Mr Stanhope rises to make his inevitable personal explanation at the end of question time, he might use the opportunity to apologise to the AFP, particularly those involved in the Al-Ghamdi investigation.

**MR HIRD**: Mr Speaker, I ask a supplementary question. Minister, would it be fair to say that, if the ALP, through its leader Mr Stanhope, had passed the budget when it was before the house, the figures that you have stated would have fallen more dramatically?

**MR SPEAKER**: I am afraid that that is a rhetorical question and I will have to rule it out of order. I call Mr Kaine.

## ACTEW/AGL Joint Venture

**MR KAINE**: Thank you, Mr Speaker. I will wait until Harold gets his third answer, if you like. My question to the Chief Minister relates to the ACTEW/AGL joint venture that was announced this morning. Chief Minister, I note from the media that Macquarie Bank has been involved in the financing arrangements for this project. I note also that Mr John Walker, formerly the head of your department, and Mr Mick Lilley, until recently head of the Department of Treasury and Infrastructure, both of whom would have had extensive internal knowledge of the government's business, both now are employees of Macquarie Bank. Chief Minister, can you assure the Assembly that neither of these gentlemen, with their inside knowledge of the government's business, were involved in the financing arrangements which are an important part of the deal between AGL and ACTEW?

**MS CARNELL**: Yes, I can.

## Ovals Redevelopment Scheme

**MR CORBELL**: My question is to the Treasurer. Treasurer, in your response of 23 June this year to a request from the Select Committee on Estimates for all papers relating to the government's ovals redevelopment scheme, you provided one document with an attachment. Subsequently, Treasurer, an FOI request generated by me revealed a folio list containing 10 documents that should have been made available to the Estimates Committee. Will you explain to the Assembly why you withheld this information from the estimates when it was requested?

**MR HUMPHRIES**: Mr Speaker, I suggest that Mr Corbell go back and read the FOI Act. The requests for FOI documentation to be released are customarily progressed by the departments concerned, not by the minister concerned. I did not see Mr Corbell's request and I did not see, with one exception, the documents that Mr Corbell either has obtained or not obtained under his FOI request. I suggest he put his request to the department concerned. If he wants me—

**Mr Corbell**: On a point of order Mr Speaker: the question is quite clear, and I will attempt to clarify it for the Treasurer so he can give an accurate answer to the Assembly.

**Mr Hird**: Is this a supplementary?

**MR HUMPHRIES**: Is this another question, Mr Speaker?

**Ms Carnell**: Mr Speaker, it is either a supplementary or it is not.

**Mr Corbell**: It is a point of order. I am clarifying the question because clearly the Treasurer has misunderstood it, Mr Speaker. I can ask my supplementary if you like, but I believe the Treasurer has misunderstood the question.

**Ms Carnell**: There is no such thing as a standing order that does that.

**Mr Corbell**: Perhaps the Speaker can draw on that, Chief Minister.

**MR SPEAKER**: Well ask your supplementary then.

**MR CORBELL**: I will ask my supplementary. The Treasure in providing information to the Estimates Committee provided one document. Subsequently, a freedom of information request that I made indicated that there were actually 10 documents available at the time of the Estimates Committee request which were not provided. I would like to know why.

**MR HUMPHRIES**: Mr Speaker, I have answered the first part of that question.

**Mr Corbell**: No you haven't.

**MR HUMPHRIES**: I have. It is not my decision. I do not answer FOI requests. My department answers FOI requests.

**Mr Corbell**: Look, the documents were available.

**MR HUMPHRIES**: I know Mr Corbell is not satisfied. I know he would like—

**Mr Corbell**: The documents were there in your departmental files and you did not provide them. It is that simple.

**MR HUMPHRIES**: I did not have a decision about providing.

**Mr Corbell**: You signed the letter to the Estimates Committee.

**MR SPEAKER**: The Treasurer is explaining, Mr Corbell. Stop interjecting.

**MR HUMPHRIES**: If Mr Corbell would like me to bypass the FOI Act and make inquiries—

**Mr Corbell**: No, I am not saying that.

**MR HUMPHRIES**: Well the act contains a clear and explicit—

**Mr Berry**: No, have a look at what the committee request was.

**MR SPEAKER**: Order Mr Berry! It is not your question, and you may not have a chance to ask one if you keep that up either.

**Mr Stanhope**: On a point of order, Mr Speaker: quite honestly, the Attorney either deliberately or otherwise did not listen to the question. He was asked why he withheld documents from the Estimates Committee.

**MR SPEAKER**: I am sorry, Mr Stanhope. There is no point of order and he was not asked that question. He was asked why he produced one document and there were a number of others. The Treasurer is explaining why this happened.

**MR HUMPHRIES**: Mr Corbell has actioned his request under the auspices of the Freedom of Information Act—

**Mr Corbell**: No.

**MR HUMPHRIES**: He has.

**Mr Corbell**: Are you misunderstanding me? You are deliberately avoiding this question.

**MR HUMPHRIES**: Well I have not seen it but I am told—perhaps I am being misled by my department; some person—

**Mr Corbell**: You are deliberately avoiding it. You have been caught out. You have been caught out not providing documents to the Assembly.

**MR SPEAKER**: Order! Mr Corbell, I will deal with you too if you keep interjecting.

**Mr Corbell**: Well, will you ask the minister to answer the question appropriately.

**MR HUMPHRIES**: Clearly, Mr Speaker, some individual in my department with a warped sense of humour has told me that Mr Corbell has made an FOI request.

**Mr Berry**: On a point of order, Mr Speaker: can I draw your attention to standing order 118(a), which states that the answer to a question without notice:

> shall be concise and confined to the subject matter …

The subject matter of the question is why Mr Humphries did not provide the documents to—

**MR SPEAKER**: There is no point of order, and I do not uphold your reference in terms of being concise.

**MR HUMPHRIES**: I will take on notice from Mr Corbell the question of why my department did not release the information he sought under his FOI request.

## Northbourne Flats

**MS TUCKER**: My question to the Minister for Urban Services, Mr Smyth, relates to maintenance work conducted by Totalcare for ACT Housing at Northbourne flats from March to November last year. As a result of the process of communication with tenants regarding the manner in which that work was conducted, a tenant sought redress through the Residential Tenancies Tribunal. In its decision handed down on 31 July, the Residential Tenancies Tribunal found:

> … the manner in which ACT Housing/Totalcare gave notice to the residents in Northbourne Flats was very far from adequate. The conduct of ACT Housing is evidence of a high degree of disregard for the needs and feelings of the ACT Housing tenants, or, evidence of an incompetent administration. Perhaps it is of both.

Minister, my office has received other complaints from tenants who feel they are regarded as an irrelevance or nuisance to ACT Housing and its contractors. In light of the damming analysis from the Residential Tenancies Tribunal of ACT Housing's regard for tenants in this case, can you advise the Assembly of the procedures presently in place, or that you will put into place, to assure that tenants are treated with consideration and respect when work on or around their homes is found necessary?

**MR SMYTH**: We deal with an enormous number of tenants every year and, of course, there may be cases where we do not do as best we can. I always insist that we look after our tenants and all our customers, and the government insists on the highest level of quality across all the things that we do.

Ms Tucker clearly refers to section 55 of the Retail Tenancies Act. We are working to make sure that we maintain our properties as best we can. What we do know is that we have a large number of properties that are now old or out of date. To make sure that the $30 million a year that we spend on maintenance is best spent and goes as far as we can make it go, we are moving towards total facilities management, which will be a totally integrated program instead of an ad hoc approach to facilities management. We believe we will get better value for our money out of the $30 million, that it will go further and that it will achieve better results. But at the same time we will also insist on better service from those that provide that service.

**MS TUCKER**: Mr Speaker, I ask a supplementary question. Minister, have you written, or will you now undertake to write, to the tenants of Northbourne flats and apologise for the uncaring and disrespectful manner in which the work was undertaken?

**MR SMYTH**: Mr Speaker, I would have to refresh myself on the details of what happened there. If anything that we do is not appropriate or is not the best that we could have done, I often write and apologise for the staff not delivering a service as well as it could have been delivered. If there is something there that I should apologise for, I would have no hesitation at all in saying we got it wrong. I will have to look at it and get back to the Assembly.

## Junction Youth Centre

**MR WOOD**: My question to Mr Moore, in his capacity as minister for youth, is about the Junction Youth Centre. This centre provides a good service. I would like to know, and others would like to know, why it has closed this week. I understand that Anglicare is to take it on. I would like to know when will that be, and really was it necessary for it to be closed down for a week or more.

**MR MOORE**: This matter is my responsibility and I thank Mr Wood for the question. Mr Rugendyke was at the Junction the other day when we celebrated one of the tasks it had undertaken, which was the production of a poster encouraging young women to have Pap smears. Although the ACT has the highest percentage of women in Australia who have Pap smears, only 49 per cent of women between the ages of 22 and 24 have them and the Junction had produced a poster that encouraged young women to do that.

I use that little anecdote as an illustration of the sort of work that has been done by the Junction over the last few years. It has provided an integrated youth health service—an extraordinarily positive thing. The Youth Coalition of the ACT has run the service since its inception in 1998. The service was set up by—it is unusual for me to mention names but I think it is appropriate in this case—Miss Simone Dilkara. She delivered a fantastic and brilliant service as the manager under the auspices of the Youth Coalition of the ACT.

The Youth Coalition of the ACT is a peak body and, as such, it is my understanding that they were not keen to continue running the service themselves. They set the service up on a trial basis. Basically, it not only survived the trial but we recognised what an excellent service it was. Therefore, we went to a tender process to determine what would be the best way to continue this service. In fact, you are quite right in that Anglicare won that service.

The transfer of the service from the Youth Coalition of the ACT to Anglicare is happening, I think, next week. Indeed, I think it has closed down this week. It is closing down for just one week—an extraordinarily short time to hand over a service like this. I have to say I am delighted that the health service is only closing down for such a very limited amount of time.

I have given one specific example of the services that are provided. Of course, there are a wide range of other services, particularly those involved in drug and alcohol and a range of other issues. There were two or three applicants for the role in the tender process that we went through and Anglicare came out in front in that process.

**MR WOOD**: I have a supplementary question. I contest the need to close for a week. I would not think that would be the case every time we change a contract somewhere, because they often change. Minister, do you have any information in your brief about where the centre is to be located? Is it to stay where it is or will it go somewhere else?

**MR MOORE**: I do not have any information in my brief on that, Mr Wood, but I understand it is going to be located with the youth centre in Civic. My department and Mr Stefaniak's department have been working together to try to ensure that we can get the best possible outcome as part of this government's social capital approach to things—to work with the community, to work with different sectors of the government, to try to involve people in what we are doing. So this has involved Anglicare, the Youth Coalition of the ACT, Mr Stefaniak's department and my department.

Of course, we have a specific social capital project associated with this one as well, and that is the youth counsellor at the Junction that was provided for in the budget. So, it is an excellent example of the fact that we are interested in involving the community in what we are doing and ensuring that we work with them to get the best possible health outcome for our young people.

## Australian Federal Police—Olympic Security

**MR HARGREAVES**: My question is to the Minister for Justice and Community Safety. Can the minister tell the Assembly how many AFP police officers will be redeployed from normal ACT policing duties to take part in Olympic security work? Will redeployed AFP officers work solely on Olympic security in Canberra or will some police officers be required to work in Sydney; and if that is the case, how many?

**MR HUMPHRIES**: I hesitate to give Mr Hargreaves information about police numbers because I am not sure what will end up happening to it in the form of local publications in the ACT. In the interests of other members who I hope will handle the information a little more responsibly, let me say in respect of the second question: a clear undertaking has been made to us that no Federal Police will be deployed to Sydney or other parts of New South Wales for the purposes of the hosting of the Olympic Games. That certainly affects ACT regional police. There may be some movement of national police based in the ACT, but they are people not customarily performing policing duties on the streets of Canberra. I would not quibble about them moving some of those people. There are a couple of police who will be in Sydney for other training purposes during the Olympics, and I understand that there are only two in that category.

As to the deployment of police in Canberra during the Olympic Games, there will be minimal disruption to normal policing patrols during the torch relay and the Olympic football matches. Additional police will be rostered to carry out Olympic-related duties. No police stations will be closed during the period 5-24 September 2000. During each day of the torch relay approximately 150 police officers will be used as escorts for the runners and security at the many venues the torch will visit. On Olympic football days, approximately 250 police will be utilised for Olympic duties.

Police officers on Olympic duties will be multitasked, so that during quiet times—non-football days—they can be redeployed to community policing patrols if required. Increased numbers of police and others carrying out Olympic duties at various locations

around Canberra during this busy period will, I think, provide the community with a sense of security. It will be a very visible and very high profile policing activity during that period.

I might comment in relation to the debate that will take place later today on the Olympic Events Security Bill that it follows, of course, that the more we are able to share the task of providing policing-type duties, including bag searches and other security matters among trained staff at the Olympic venues like Bruce, the more we will relieve the need to have police at Bruce as opposed to being out in the streets of Canberra. Mr Speaker, I hope that is a matter that members will take into account in the debate later on tonight.

**MR HARGREAVES**: Mr Speaker, I have a supplementary question. The subject, of course, is policing services in Canberra. If these officers are to be redeployed, can the minister say why it was that in his vitriolic attack on the Leader of the Opposition and me earlier on he chose in fact to be vicious about a member of the public who, on behalf of eight other employees of the Woden area, drew attention to the matter, instead of merely telling the people of the ACT what had changed as a result of that article?

**MR HUMPHRIES**: Mr Speaker, I am not sure what the relationship is to the earlier question, frankly. But I think when you get a mate to do a story for you, to tell the public what terrible things the government is doing to the community, it does behove you to put in there somewhere the proviso "by the way, Mr X happens to be a close friend and my former campaign manager".

**Mr Hargreaves**: Say it outside the chamber.

**MR HUMPHRIES**: That is a matter of disclosure, Mr Hargreaves—disclosure.

**Mr Hargreaves**: Say it outside. You will not say it outside, will you?

**MR HUMPHRIES**: Then it would be entirely appropriate. Perhaps your friend, Mr Mallett, is quite genuinely concerned about crime in the ACT.

**Mr Hargreaves**: And he is. Why attack him here?

**MR HUMPHRIES**: Perhaps he is quite genuinely concerned about that. It would be helpful if you had disclosed to the *Southside Chronicle* your interest in this matter and Mr Mallett's interest in the matter at the same time.

**Mr Hargreaves**: You would not say it outside here, though, would you?

**MR HUMPHRIES**: Yes I would.

**Mr Hargreaves**: No, you would not. If you would, do it.

**MR HUMPHRIES**: I might just do that.

## Bruce Stadium—Olympic Football

**MR SPEAKER**: I call Mr Berry.

**MR BERRY**: Thank you, Mr Speaker. What about that person you set up to knock Harold off? My question is to the Chief Minister. Why did the government allow the hirers of Bruce Stadium to breach the period the stadium would be required for the purposes of Olympic soccer, resulting now in additional wasteful expense of $400,000 in relation to the tropical grass that has been imported to add to the expenditure of the stadium project—up to around about $70 million if you include the Olympics—and at the same time risking the loss of Olympic soccer? Why did you do this?

**Ms Carnell**: I cannot quite understand the question.

**MR BERRY**: Why did you put soccer at risk? Why did you allow the hirers of the Bruce Stadium to breach the period the stadium would be required for the purposes of Olympic soccer? It is pretty simple.

**MS CARNELL**: So that the Raiders could play their semi-final in Canberra.

**MR SPEAKER**: Mr Berry, do you have a supplementary?

**MR BERRY**: Yes, I do have a supplementary.

**Ms Carnell**: Would you have sent them to Sydney, Wayne? Would you have said, "No, Raiders, go to Sydney"?

**Mr Stanhope**: That is what you said in the contract.

**MR SPEAKER**: Order! Mr Berry is asking a supplementary.

**MR BERRY**: Is the Chief Minister the only one in Canberra who has not noticed that in the wintertime the grass takes a little bit longer to grow? Or is she just longing, as the song goes, for the green, green grass of home—the good old Queensland grass? Or did we buy the grass in Cairns because it grows more quickly up there? Or was it just true that there was a simple typo in the scheme of things—somebody typed "Cairnsturf" instead of "Canturf"?

**MR SPEAKER**: Four questions have been asked and three of them are out of order.

**MS CARNELL**: The decision to play the Raiders' semi-final in Canberra was not a difficult one. I am fascinated to know that Mr Berry and those opposite would have suggested that the Raiders play a semi-final somewhere else. It seems like an amazing approach.

**Mr Stanhope**: No, you did. You did when you signed the contract. It is your contract.

**MS CARNELL**: Oh, Mr Speaker. They have been interjecting the whole time.

**MR SPEAKER**: Order! The Chief Minister is answering a question.

**MS CARNELL**: With regard to the turf, I have to say I am not a turf expert, and I suspect Mr Berry is not either. I have enough trouble growing any grass at the front of my home let alone knowing what is appropriate or not appropriate for Bruce Stadium. So I can guarantee to those opposite that I did not, I promise, have anything to do with choosing which turf we might use; and I put money on it, Mr Speaker, nor did anybody else in this Assembly unless we have a turf expert, a grass expert, in our midst. I suspect that is not the case.

The decision to go ahead and play the Raiders' semi-final in Canberra was done in consultation with SOCOG. They were in agreement with that approach. They accepted that there was no need to start relaying turf at Bruce Stadium until after the Raiders' semi-final. The Raiders' semi-final actually made no difference whatsoever to the need for laying the turf. The turf was fairly badly damaged at Bruce Stadium over a fairly heavy usage season, with both the Brumbies and the Raiders doing very nicely and staying in the competition, which was great. We had a particularly bad weekend when the Raiders played in snow, and we had the Brumbies' semi-final which caused significant damage to the turf. From that moment on there was, I have to say, probably no doubt at all that the whole stadium would have to be relaid.

It is important to put this into context. The MCG will totally relay their surface after their grand final on Saturday. Stadium Australia will completely relay after the opening—

**Mr Berry**: Are they using Cairns grass?

**MS CARNELL**: Mr Speaker, I do not think this is acceptable.

**MR SPEAKER**: Please continue. I am listening.

**MS CARNELL**: Stadium Australia will completely relay after the opening ceremony and before the athletics five days later. The agreement to relay after the Raiders' semi-final was agreed to by SOCOG as being a reasonable approach. On that basis, that is the approach we took.

## Schools—Thefts of Bikes

**MR OSBORNE**: My question is to the Minister for Education, Mr Stefaniak. Minister, as you are probably aware, there have been a number of complaints to my office regarding bikes locked in school bike racks being stolen.

**Mr Stanhope**: Scaremongerer. That is scaremongering.

**MR OSBORNE**: I will have to ask my campaign manager to get it on the front page of the *Chronicle* this week. Minister, could you inform me what options are open to these families to be reimbursed for the property stolen from school grounds? Does the government have insurance for this type of theft; and if not, why not?

**MR STEFANIAK**: Basically the education department and the schools take as much care as they possibly can. We have had a few incidents where, in fact, one of the thieves used bolt cutters to get in and take kids' bikes.

Might I say, Mr Speaker, that taking children's bikes, especially from schools and especially from primary schools, is a low, mongrel act. Schools do their best to ensure that places are padlocked. Teachers, of course, do playground duty. But I suppose our schools are open places. It is like anything else, Mr Speaker: you cannot completely counter the actions of determined thieves.

We have passed the thefts that have been reported—and in particular, the thefts at the schools that you have referred to, Mr Osborne—onto the police. I understand they are doing increased patrols and the schools are taking extra steps where they can. I think it would be unrealistic, though, and unreasonable, to expect the schools to compensate people for every item that is stolen. Regrettably, from time to time items will be stolen and I think it is up to schools to take every reasonable step they can, and I am certainly happy that that is in fact occurring.

It is very difficult, however, to have someone looking at all areas of a school, at all hours of the day. I think, regrettably, despite the very best efforts, determined thieves with bolt cutters may on occasions get through. However, we have informed the police and certainly they are well aware of that. I am aware that extra patrols and extra vigilance are being provided in an attempt to stop this occurring and, hopefully, the thieves will be caught if they try it again.

**MR SPEAKER**: Mr Osborne, do you have a supplementary question?

**MR OSBORNE**: Yes. There is the issue of whether or not the government has insurance for this type of theft. Have you pursued it? Would it be too costly? Could you answer that?

**MR STEFANIAK**: It may well be too costly. The government, of course, self-insures as a matter of course. The government is looking at some aspects of insurance in certain areas, which might in fact be a less costly option for government than traditional forms of self-insurance. My initial reaction to that is that probably that type of insurance may well be too costly. It is regrettable that, given the sort of society we live in, another option might be parents taking out insurance for things like bikes being stolen. But we are looking at areas where government might take out insurance. I am happy to have a look at that but I do not know that the end result will be of any benefit to the people concerned. It strikes me it may well be too costly an option, but I am certainly happy to have a look at that.

**Section 56, Civic—Queensland Investment Corporation**

**MR RUGENDYKE**: My question to the Chief Minister, Mrs Carnell, relates to the government's commitment to local businesses, such as we have seen with the Bruce Stadium turf issue! Members are obviously aware that the turf provider for Bruce is the same turf provider from Melbourne that was contracted to Colonial Stadium. I am sure everyone is familiar with the surface debacle at Colonial this year—

**Mr Osborne**: And the Olympic stadium.

**MR RUGENDYKE**: And the Olympic stadium, Mr Osborne reminds me. But I digress, Mr Speaker. Another project that was originally planned to be completed in time for the Olympics was section 56 in Civic. The government has also nominated another interstate company—in fact, another Queensland company—Queensland Investment Corporation, as the preferred tenderer. This was announced approximately a year ago and was scheduled for finalisation in February. Why is the government still negotiating with QIC some six months after the deadline?

**MS CARNELL**: Mr Speaker, this is actually Mr Humphries' area. But he was talking when the question was being asked, so I will answer it.

**Mr Humphries**: Sorry, what was the question?

**MS CARNELL**: It is about section 56, and where it is up to. Mr Speaker, with regard to section 56, as Mr Rugendyke would know, we went to tender and looked for a whole range of different options for the area. That tender was won in a fair process on a level playing field by the Queensland Investment Corporation. It is true that it is a Queensland company. It just also happens, though, to have significant and important investments in Canberra.

The section 56 development has been negotiated since then, looking at the best possible way to go ahead. And remember, Mr Rugendyke, one of the requirements for QIC, Queensland Investment Corporation, is that they use, wherever possible, local trades people, local builders, local contractors. That is an absolutely essential part of the approach that we have taken with them. So we are very hopeful that we will quite quickly end up with an announcement.

One of the things we have not done is push this whole approach too quickly. I agree that sometimes that is very frustrating. But this is an extraordinarily important part of the Civic area, and it is important we get it right. It is important that the continuing discussions that have occurred between the Griffin Centre and others continue, so that, when we are ready to go and when we do have the finances and the plans right for the future, it will be appropriate for Canberra.

One of the good things, of course, is the economy and vacancy rates are now lots lower than they were 12 months ago, so the actual finances of section 56 are significantly better than they would have been in making this whole project work or come together some 12 months ago.

**MR SPEAKER**: Supplementary?

**MR RUGENDYKE**: Thank you, Mr Speaker. QIC operates the Canberra Centre and has a monopoly of retail space in the city heart, taking its profits out of Canberra back to Queensland. When will the government draw the line and cease these prolonged negotiations with QIC so it can assess the merit of other tenderers in this important project?

**MS CARNELL**: Mr Speaker, I am fascinated that Mr Rugendyke would ask that question today, taking into account that Mr Stanhope tabled a paper in the Assembly this morning about contracting and made a whole range of recommendations with regard to

transparency, level playing fields, making sure the process was open in the public arena—all of those sorts of things—which is exactly what has happened with 56. What happened is that QIC won the tender on a level playing field. If you remember, that was quite a long tender process with the tender plans and so on being put out for public consultation, with people being able to have input and so on.

I would be very concerned if Mr Rugendyke was suggesting that the government superimposed itself on a public tender and consultation process. What has happened at this stage is they won it fair and square. As Mr Rugendyke would be aware, the government has no capacity under the Australian Constitution and also agreements between states to favour local businesses over and above national businesses. If we did—and boy it is really tempting to do it sometimes—we would be the losers because our companies export more than they import. The net downside for Canberra businesses would be extreme the moment our companies were excluded from business in Queensland because we excluded Queensland companies from the ACT. This would similarly apply to New South Wales or Victoria.

The fact is that our businesses are doing a much bigger percentage of their business interstate than we are importing. On that basis we simply cannot afford under any circumstances to favour our businesses unfairly over businesses from interstate, because at the end of the day we would be the losers.

Mr Speaker, I ask that further questions be placed on the notice paper.

## Youth in the City

**MR MOORE**: Mr Wood asked me a question during question time. I have a little bit more information for him. This week when the Junction is closed down young people will be referred to Youth in the City. For the next three months the Junction will remain at QEII and then it will be, as I correctly indicated, at the Anglicare city location.

## CRIME STATISTICS

**MR BERRY**: Mr Speaker, I seek leave to draw attention to a couple of media reports on crime statistics and to table them in the Assembly.

**Mr Humphries**: Mr Speaker, on a point of order: is this a personal explanation under the standing orders?

**MR BERRY**: No. I have sought leave to draw attention to a couple of media reports in relation to crime statistics, and I will table them.

Leave granted.

**MR BERRY**: Thank you, Mr Speaker. I will draw attention to these. “No go area—Terror stalks Civic after dark”. Instigator, Kate Carnell. I table that. I also draw attention to “Cuts put women at greater risk of attack, says Carnell”. I table the following papers:

Police staff cuts—Copies of newspaper articles—
*Cuts put women at greater risk of attack, says Carnell—The Canberra Times,* dated February 5 1993, page 5.
*No go area—Terror stalks Civic after dark—Community Times,* dated February 10, 1993, page 1.

*Mr Stanhope interjecting—*

**MR SPEAKER**: I warn you, Mr Stanhope.

## PRESENTATION OF PAPERS

**Mr Speaker** presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—Authority to broadcast proceedings concerning public hearings, of:
The Standing Committee on Education, Community Services and Recreation on 20 July and 17 August 2000 in relation to its inquiry into adolescents and young people at risk of not achieving satisfactory education and training outcomes, dated 18 and 24 July 2000, respectively.
The Standing Committee on Health and Community Care in relation to its inquiry on 2 and 22 August 2000 into cannabis use, dated 20 July and 21 August 2000, respectively.
The Standing Committee on Planning and Urban Services in relation to its inquiry on 4 and 11 August 2000 into the Motor Traffic (Amendment) Bill (No 3), dated 2 August 2000.

Death of Sir William Keys—Condolence motion—Letter of appreciation from Sir William's widow, Dulcie Keys, dated 13 July 2000.

Mandatory sentencing laws, the stolen generation and reconciliation—Assembly resolution of 24 May 2000—Letter from Chair, ACT Aboriginal and Torres Strait Islander Consultative Council, Chief Minister's Department, dated 10 August 2000, acknowledging the resolution.

Study trips—Reports by—
Mr Wood, MLA—Jersey, the United Kingdom, 9-13 April 2000.
Mr Cornwell, MLA—Northern Territory Legislative Assembly, 2-5 July 2000.

Financial Management Act, Pursuant to section 25A—Legislative Assembly for the Australian Capital Territory—Performance report for the June Quarter 1999-2000.

## DEATH OF SIR WILLIAM KEYS AC Kt Cr OBE MC

**MR SPEAKER**: Members will recall that, on 10 May 2000, the Assembly passed a motion of condolence on the death of Sir William Keys. Sir William Keys' widow, Dulcie Keys, has forwarded to me a letter of appreciation to members, which I have presented. Members will note from the letter that Sir William died at home, rather than in a hospice.

## MANDATORY SENTENCING LAWS

**MR SPEAKER**: Members will also recall that, on 24 May 2000, the Assembly passed a resolution regarding mandatory sentencing laws, the stolen generation and reconciliation. I have presented that paper for members' information:

## PRESENTATION OF PAPERS

**Ms Carnell** presented the following papers:

Administrative Arrangements (Gazette S32, dated 29 June 2000).

Ministerial Travel Report—1 April to 30 June 2000.

Spring 2000 Legislation Program.

## SPRING LEGISLATION PROGRAM
### Ministerial Statement

**MS CARNELL** (Chief Minister): I ask for leave to make a brief statement in relation to the spring legislation program.

Leave granted.

**MS CARNELL**: I am pleased to present this government's sixth legislation program. The focus of this program has moved from being primarily concerned with financial and business matters to continuing the government's drive for administrative reform and responsible management of the territory. This program is also responsive to community concerns.

I intend to comment only on a few items that are a priority for the government. Time does not allow for comment on all the proposed legislation, even though some items may be of particular interest to members.

At the end of 1999 the Assembly put in place interim arrangements to extend the application of the now repealed Commonwealth Merit Protection Act review processes until 31 December 2000. The Public Sector Management Amendment Bill 2000, which was tabled as an exposure draft during the last sitting week in June, will be introduced to amend the Public Sector Management Act 1994, and the Fire Brigade (Administration) Act 1977. The bill will provide a new legislative framework for discipline, inefficiency and review arrangements for staff employed under these acts.

Several legislation items will be of particular interest to Assembly members. The government will seek the Assembly's agreement to amend the Legislative Assembly (Members' Staff) Act 1989, to clarify conditions for the staff of Assembly members. This bill replaces the interim arrangements extending the application of the now repealed Merit Protection Act review processes mentioned earlier, as they relate to Assembly staff.

The proposed amendments to the Superannuation (Legislative Assembly Members) Act 1991 will include a choice of superannuation fund for Assembly members, and clarify the administration of the government superannuation surcharge.

Two bills will be introduced to amend the Electoral Act 1992. The first bill will give effect to recommendations made by the ACT Electoral Commission in its review of the act following the 1998 elections. Measures in the bill will include an increase in the number of versions of ballot papers to be printed to remove the "luck of the draw" element in the current system. It will introduce changes to the political party registration scheme to require all parties registered for Assembly elections to have at least 100 members entitled to vote in the ACT. The second bill will amend the legislation to allow for the possibility of electronic voting at the next ACT Legislative Assembly election.

On 25 May 2000, the Assembly passed the Subsidies (Liquor and Diesel) Repeal Bill 2000 to remove the subsidies for diesel and low-alcohol products, with effect from 1 July this year. The subsidy was removed to counter any potential cross-border effect that might be caused by its removal in New South Wales. Subsequently, on 4 July, the New South Wales Treasurer, Mr Michael Egan, announced that New South Wales will continue to subsidise low-alcohol beer until 30 June 2001, in line with an agreement reached with the Commonwealth Treasurer, Mr Peter Costello.

The Commonwealth and the states and territories will meet before 30 June 2001 to negotiate a uniform Commonwealth excise providing a concession for low-alcohol beer, which will remove the need for a separate ACT scheme. Again, the ACT is left with little option but to follow New South Wales and reintroduce subsidies for low-alcohol beer and wine. Members will be aware that Mr Humphries actually tabled that piece of legislation this morning.

My government is keen to address issues raised currently by the courts. Several items on the legislative program will address these matters. A number of recent decisions in the Supreme Court concerning restraining orders have highlighted the need to clarify provisions relating to the making and serving of applications and orders. The current provisions dealing with restraining orders and protection orders are problematic, with the result that the validity of many orders is questionable. The government will be proposing amendments to ensure that there is adequate protection for those applying for orders, especially in domestic violence cases.

The proposed amendments to the Proceeds of Crime Act 1997 will implement a number of recommendations made by the Australian Law Reform Commission in its review into the proceeds of crime legislation. It will prevent criminals from deriving profits from the sale of their life stories, or information relating to their crimes, and will introduce a civil forfeiture scheme based on the successful New South Wales scheme.

The Leases (Commercial and Retail) Bill 2000 builds on the 1998 draft exposure bill and is the result of extensive consultation processes. The bill proposes a number of technical changes to ensure that ACT legislation better reflects market practice. The bill will

encourage and assist the resolution of disputes, while giving the Magistrates Court the capacity to tailor procedural rules to fit the wide range of complex matters within its jurisdiction.

The forthcoming 2000 Olympic Games have highlighted the need to increase the penalty for trafficking in anabolic steroids to more closely reflect the penalties for trafficking in illicit drugs. The amendment to the Poisons and Drugs Act 1978 proposes to increase the penalties for this whole approach to at least five years. As members would know, it was tabled this morning.

The Domestic Animals Bill amalgamates and significantly improves the Dog Control Act 1975 and the Animal Nuisance Control Act 1975. The bill is included in the package of initiatives within the strategic companion animals management package (SCAMP), which was released for consultation on 21 October 1999. As part of the SCAMP package, the government also proposes to amend the Animal Welfare Act 1992 to ban the practice of docking dogs' tails, except where a therapeutic need has been identified by a veterinarian.

The first stage of the government's commitment to reforming purchasing will be implemented through the Government Purchasing Bill. The legislation will establish an ACT government purchasing board to oversee a system of training and accreditation of purchasing officers and contract managers. The board will recommend strategies by which the territory may take full advantage of options in electronic commerce and other advances in procurement.

The archives legislation will be known as the Government Records Bill. It will establish the position of Director of Government Records and the ACT Government Records Advisory Council and provide for the preservation of government records. This legislation is the outcome of a feasibility study into the establishment of an ACT archive undertaken in response to my government's 1998 election commitment. The legislation will also incorporate a number of the "access to records" initiatives contained in the ACT government response to *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*.

In the lead-up to the 1998 election, my government gave a commitment to review the ACT's education legislation. After much consultation with the ACT community, this major review has now been completed and the committee has reported to the government. We intend to introduce a bill before the end of the year that consolidates current education legislation into one act.

A number of amending bills will be introduced to implement recommendations of the legislation reviews undertaken in response to our commitment to the national competition policy agreement. Amendments to the Bookmakers Act 1985, the Veterinary Surgeons Act 1965, the Health Professional Bill and the accompanying amendment of the Community and Health Services Complaints Act 1993 and the Cemeteries and Crematoria Administration Bill are in this category.

This is a diverse and interesting legislation program. In tabling the spring 2000 legislation program, the government is once again indicating to members the legislative items it considers are important. I seek the cooperation of members in the timely

consideration of these bills and I am pleased to present a legislation program that continues to build on the legislative achievements of the government. I make the point, again, that I think it would aid the workings of this house if members of the opposition did the same. I commend the spring 2000 legislation program to the Assembly.

## PRESENTATION OF PAPERS

**Mr Humphries** presented the following papers:

**Subordinate legislation (including explanatory statements, unless otherwise stated) and commencement provisions**

Adoption Act—
Adoption Regulations—Determination of fees—Instrument No 198 of 2000 (No 26, dated 29 June 2000).
Determination of fees—Instrument No 214 of 2000 (S27, dated 27 June 2000).

*Agents Amendment Act 2000*—Notice of commencement (10 August 2000) of section 9 (No 32, dated 10 August 2000).

Agents Act, Consumer Credit (Administration) Act, Liquor Act, Sale of Motor Vehicles Act, Trade Measurement (Administration) Act and Trade Measurement (Weighbridges) Regulations—Determination of fees incorporating explanatory statement—Instrument No 194 of 2000 (No 26, dated 29 June 2000).

Associations Incorporation Act—Determination of fees—Instrument No 202 of 2000 (No 26, dated 29 June 2000).

Births, Deaths and Marriages Registration Act—Determination of fees—Instrument No 199 of 2000 (No 26, dated 29 June 2000).

Bookmakers Act—
Determination of fees for standing bookmakers—Instrument No 206 of 2000 (No 26, dated 29 June 2000).
Determination of fees for sports betting licences—Instrument No 207 of 2000 (No 26, dated 29 June 2000).

Building Act—
Revocation and adoption of the Building Code and the Australian Capital Territory Appendix—Instrument No 212 of 2000 (No 27, dated 6 July 2000).
Revocation and determination of fees—Instrument No 231 of 2000 (S29, dated 30 June 2000).

Business Names Act—Determination of fees—Instrument No 204 of 2000 (No 26, dated 29 June 2000).

Casino Control Act—
Determination of Commission-Based Player Tax—Instrument No 222 of 2000 (S31, dated 29 June 2000).
Determination of fees—Instrument No 210 of 2000 (No 26, dated 29 June 2000).
Determination of general tax—Instrument No 224 of 2000 (S31, dated 29 June 2000).

Chiropractors and Osteopaths Act—Determination of fees—Instrument No 270 of 2000 (No 31, dated 3 August 2000).

Community and Health Services Complaints Act—Appointments to the Community and Health Rights Advisory Council—
Chairperson—Instrument No 258 of 2000 (No 31, dated 3 August 2000).
Members—Instruments No 259–265 of 2000 (inclusive) (No 31, dated 3 August 2000).

Dental Technicians and Dental Prosthetists Registration Act—Determination of fees—Instrument No 247 of 2000 (No 29, dated 20 July 2000).

Dentists Act—Appointment of member of the Dental Board of the ACT—Instrument No 275 of 2000 (No 33, dated 17 August 2000).

Education Services for Overseas Students (Registration and Regulation of Providers) Act—Determination of fees—Instrument No 215 of 2000 (S27, dated 27 June 2000).

Electoral Act—Determination of fees incorporating explanatory statements—Instrument No 249 of 2000 (No 29, dated 20 July 2000).

Emergency Management Act—Determination of fees incorporating explanatory statements—Instrument No 209 of 2000 (No 26, dated 29 June 2000).

Energy and Water Act—Revocation and determination of fees—Instrument No 230 of 2000 (S29, dated 30 June 2000).

Environment Protection Act—
Determination of fees—Instrument No 248 of 2000 (No 29, dated 20 July 2000).
Environment Protection (Prescribed Activities) Regulations 2000—Subordinate Law 2000 No 31 (No 29, dated 20 July 2000).

Financial Management Act—Financial Management Guidelines 2000—Instrument No 243 of 2000 (S36, dated 12 July 2000).

Food Act—
Food Regulations Amendment—Subordinate Law 2000 No 29 (S35, dated 4 July 2000).
Food Regulations Amendment—Subordinate Law 2000 No 26 (No 27, dated 6 July 2000).

Gaming Machine Act—
Determination of fees—Instrument No 211 of 2000 (No 26, dated 29 June 2000).
Determination of GST credit and refund—Instrument No 232 of 2000 (S29, dated 30 June 2000).

Goods and Services Tax (Temporary Transitional Provisions) Act—Goods and Services Tax Consequential Regulations 2000—Subordinate Law 2000 No 34 (S42, dated 7 August 2000).

Health and Community Care Services Act—
Appointments to the Health and Community Care Service Board—
Deputy Chair—Instrument No 268 of 2000 (No 31, dated 3 August 2000).
Member—Instrument No 269 of 2000 (No 31, dated 3 August 2000).

Determination of fees and charges—Instrument No 213 of 2000 (S27, dated 27 June 2000).

Health Professions Boards (Procedures) Act and Medical Practitioners Act—Appointments to the Medical Board of the ACT—
Chairperson—Instrument No 218 of 2000 (No 27, dated 6 July 2000).
Members—Instruments Nos 217, 219 and 220 of 2000 (No 27, dated 6 July 2000).

Housing Assistance Act—Variation to Public Rental Housing Assistance Program—Instrument No 229 of 2000 (S34, dated 30 June 2000).

Instruments Act—Determination of fees—Instrument No 201 of 2000 (No 26, dated 29 June 2000).

Interactive Gambling Act—
Interactive Gambling Regulations Amendment—Subordinate Law 2000 No 27 (S34, dated 30 June 2000).
Revocation and determination of fees—Instrument No 228 of 2000 (S31, dated 29 June 2000).

Kingston Foreshore Development Authority Act—Appointments to the Kingston Foreshore Development Authority (KFDA) Board—
Public servant member—Instrument No 225 of 2000 (No 27, dated 6 July 2000).
Chairperson—Instrument No 226 of 2000 (No 27, dated 6 July 2000).
Members—Instrument No 227 of 2000 (No 27, dated 6 July 2000).

Land (Planning and Environment) Act 2000 (No 3)—Notice of commencement (24 July 2000) (S39, dated 24 July 2000).

Land Titles Act—Determination of fees—Instrument No 203 of 2000 (No 26, dated 29 June 2000).

Legal Aid Act—Appointment of part-time Commissioner of the Legal Aid Commission (ACT)—Instrument No 250 of 2000 (No 30, dated 27 July 2000).

Legislative Assembly (Members' Staff) Act—
Arrangements for the employment of staff of Members, pursuant to subsection 10 (2)—Instrument No 239 of 2000 (No 28, dated 13 July 2000).
Arrangements for the employment of staff of the Speaker, pursuant to subsection 5 (2)—Instrument No 240 of 2000 (No 28, dated 13 July 2000).

Long Service Leave (Cleaning, Building and Property Services) Act—Appointments to Long Service Leave (Cleaning, Building and Property Services) Board—
Chairperson—Instrument No 251 of 2000 (No 30, dated 27 July 2000).
Members—Instruments No 252 and 255 of 2000 (No 30, dated 27 July 2000).
Acting members—Instruments No 253 and 254 of 2000 (No 30, dated 27 July 2000).

Magistrates Court Act—
Determination of fees and charges applicable in the lower courts and tribunals incorporating explanatory statements—Instrument No 195 of 2000 (No 26, dated 29 June 2000).

Supplementary determination of fees and charges applicable in the lower courts and tribunals incorporating explanatory statements—Instrument No 208 of 2000 (No 26, dated 29 June 2000).

Occupational Health and Safety Act—Appointment of Occupational Health and Safety Commissioner—Instrument No 221 of 2000 (No 27, dated 6 July 2000).

Optometrists Act—Determination of fees—Instrument No 242 of 2000 (No 29, dated 20 July 2000).

Parole Act—Appointment of Chairperson of the Parole Board of the ACT—Instrument No 273 of 2000 (No 32, dated 10 August 2000).

Pharmacy Act—Determination of fees—Instrument No 271 of 2000 (No 31, dated 3 August 2000).

Poisons Act—Declaration of restricted substances—Instrument No 276 of 2000 (No 33, dated 17 August 2000).

Public Health Act—Public Health Risk (Boarding Houses) (No 2) Declaration 2000—Instrument No 272 of 2000 (No 31, dated 3 August 2000).

Public Health (Miscellaneous Provisions) Act 1997—Notice of commencement (28 August 2000) of PART II (No 33, dated 17 August 2000).

Public Place Names Act—
Determination of public place nomenclature—Campbell—Instrument No 241 of 2000 (No 28, dated 13 July 2000).
Determination of street nomenclature—Russell—Instrument No 256 of 2000 (No 30, dated 27 July 2000).
Determination of street nomenclature—Pialligo—Instrument No 257 of 2000 (No 30, dated 27 July 2000).
Determination of street nomenclature—Nicholls—Instrument No 266 of 2000 (No 31, dated 3 August 2000).
Determination of street nomenclature—Gordon—Instrument No 267 of 2000 (No 31, dated 3 August 2000).

Public Trustee Act—Determination of fees—Instrument No 197 of 2000 (No 26, dated 29 June 2000).

Rates and Land Rent (Relief) Act—Notice fixing rates of interest—Instrument No 245 of 2000 (S37, dated 13 July 2000).

Rates and Land Tax Act—Determinations of interest rates—Instruments Nos 244 and 246 of 2000 (S37, dated 13 July 2000).

Registration of Deeds Act—Determination of fees—Instrument No 200 of 2000 (No 26, dated 29 June 2000).

Road Transport (Driver Licensing) Act and Road Transport (General) Act—Road Transport Legislation Regulations Amendment—Subordinate Law 2000 No 32 (S40, dated 1 August 2000).

Road Transport (General) Act—
Declarations—Road transport legislation not to apply to certain roads and road related areas—
Instrument No 238 of 2000 (S30, dated 30 June 2000).
Instrument No 274 of 2000 (S43, dated 10 August 2000).
Driver Licences—Revocation and determination of fees—Instrument No 185 of 2000 (S25, dated 20 June 2000).
Maximum taxi fares—Revocation and determination of fees—Instrument No 223 of 2000 (S31, dated 29 June 2000).
Parking tickets—Revocation and determination of fees—Instrument No 186 of 2000 (S25, dated 20 June 2000).
Parking permits—Revocation and determination of fees—Instrument No 192 of 2000 (S25, dated 20 June 2000).
Registration of motor vehicles and trailers—Revocation and determination of fees—Instrument No 184 of 2000 (S25, dated 20 June 2000).

Road Transport (Offences) Regulations Amendment—Subordinate Law 2000 No 28 (S30, dated 30 June 2000).

Road Transport (General) Act and Road Transport (Safety and Traffic Management) Act—Road Transport Legislation Regulations Amendment—Subordinate Law 2000 No 33 (S41, dated 2 August 2000).

Smoke-free Areas (Enclosed Public Places) Act—Smoke-free Areas (Enclosed Public Places) Regulations Amendment—Subordinate Law 2000 No 30 (No 29, dated 20 July 2000).

Stadiums Authority Act—Appointments to the Board of the Stadiums Authority—
Members—Instruments Nos 233 to 235 of 2000 (inclusive) (S29, dated 30 June 2000).
Chairman—Instrument No 236 of 2000 (S29, dated 30 June 2000).

Supreme Court Act—Determination of fees and charges applicable in the Supreme Court incorporating explanatory statements—Instrument No 196 of 2000 (No 26, dated 29 June 2000).

Taxation Administration Act—
Market rate component of interest payable—Instrument No 193 of 2000 (No 26, dated 29 June 2000).
Payroll tax returns—Instrument No 205 of 2000 (No 26, dated 29 June 2000).

Tobacco Act—Determination of fees—Instrument No 277 of 2000 (S44, dated 15 August 2000).

Vocational Education and Training Act—Determination of fees—Instrument No 216 of 2000 (S27, dated 27 June 2000).

**Performance reports**

Financial Management Act, pursuant to section 25A—Quarterly departmental performance reports for the June quarter 1999-2000 for the:
Chief Minister's Department.
Department of Education and Community Services.
Department of Health and Community Care.
Department of Justice and Community Safety.

Department of Treasury and Infrastructure.
Urban Services.

**Miscellaneous papers**

Financial Management Act, pursuant to section 26—Consolidated Financial Management Report for the month and financial year to date ending 30 June 2000.

1999-2000 Capital Works Program—Progress report—June Quarter.

## CAPITAL WORKS PROGRAM
## Ministerial Statement

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety): I ask for leave to make a brief statement concerning the capital works program.

Leave granted.

**MR HUMPHRIES**: I have just presented the quarterly report and full year report for the 1999-2000 capital works program. It is the final progress report, of course, for last financial year's program. The June quarterly capital works report provides detailed information on the progress of expenditure and the full-year result in the current capital works program, with particular focus on individual projects.

During 1999-2000, reform and improvement to the capital works program has continued. Continuation of quarterly reporting has allowed the government to closely monitor the progress and funding of departmental programs. It has made it possible for substitution of projects and deferral of funding to occur in the event of project delays.

This report incorporates quarterly and full-year expenditure information on all projects included in the 1999-2000 capital works program. It also identifies all significant variations to the 1999-2000 program and presents all information at the project level according to departmental responsibility.

The final quarter for the year saw an acceleration in expenditure within the capital works program. Territory departments incurred expenditure on capital works of $31.636 million in the June quarter, in comparison with $17.3 million in the March quarter. This figure represents 34 per cent of the value of budget-funded capital works projects. Full-year expenditure for the 1999-2000 program is $76.036 million, which represents 82 per cent of the original annual budget, or 96.4 per cent of the revised budget, including deferrals. The Department of Urban Services was the largest contributor to the capital works program expenditure in the final quarter, with $16.431 million.

The new works program has progressed well during the year, with 60.1 per cent of the value of the new works program completed at the end of the year against a budget of 69 per cent. This compares favourably with previous years' expenditure on new works, with 33.2 per cent of new works completed at the end of 1998–99. In the past, a completion level of 28 per cent to 35 per cent of the value for the full year has been attained.

An underspend of $16.730 million has been recorded for the financial year. This underspend is attributable to a number of projects that have experienced delays in construction commencement. It should be recognised that delays have occurred during the year owing to unforeseen circumstances. The government has addressed part of this through a range of measures that include introducing new priority projects, advancing projects from the 2000-2001 program to construction commitment in the current year, and accelerating projects in the 1999-2000 program. These variations were necessary to ensure the delivery of high-priority projects and to maintain program expenditure and financing for the year.

Where project substitution or advancement was not possible, the projected underspent amount has been deferred to 2000-2001. Details of these variations are outlined in the report and are also reflected in the 2000-2001 budget papers. In addition, the call tender schedule has been prepared for the 2000-2001 program, providing information on the likely tender and construction dates for all new works projects identified in the 2000-2001 budget papers. This will be circulated to Assembly members and issued to local key industry bodies separately.

I commend the 1999-2000 capital works program full-year report to the Assembly.

## HEALTH AND COMMUNITY CARE—STANDING COMMITTEE
## Report on Respite Care Services—
## Government Response

**MR MOORE** (Minister for Health and Community Care) (3.48): For the information of members I present the following paper:

> Health and Community Care—Standing Committee—Report No 5—Respite care services in the ACT *(presented 2 March 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

The government thanks the Standing Committee on Health and Community Care for its work on this report. Let me say from the outset that the government is fully committed to achieving respite care services that provide positive and meaningful outcomes for all people requiring care and for their carers. It is in this context, and in keeping with the spirit of building social capital, that the government responds to the 21 recommendations of the standing committee.

On the whole, the government agrees with the committee's recommendations, especially with the need to substantially increase the amount of respite care available. Respite care has been identified as a priority in the department's 2000 purchasing strategy for seniors health, and the need to focus on the young and people with disabilities, as well as the aged, is receiving renewed attention. Proof of the seriousness with which we approach this can be found in the significant increase in respite care funding over the last three years, from $1.9 million in 1997-98 to over $2.6 million in 1999-2000.

The ACT is on the verge of purchasing additional respite care through the 2000 home and community care program and for the ACT-controlled Burrangiri Centre. As well, negotiations for increases in respite care allocations will be included in the forthcoming purchase contracts process.

As those in this place would know, the major financial responsibility for respite care in the ACT falls to the Commonwealth, and we will continue to strongly lobby our federal counterparts to maximise resources for all ACT citizens affected by disability.

The committee also expressed the need to develop uniform reporting mechanisms for service brokers, social workers, case workers and other service providers to give feedback to government on unmet needs. I am pleased to say that the development of uniform reporting has been a consideration in the review and standardisation of the ACT government's service purchasing contract. From 1 July there is provision within this contract for providers to supply information on new or unmet needs, service gaps and innovations in service delivery.

Not only will such a process help in the day-to-day administration of respite care, it also brings my department closer to its aim of becoming a knowledge-based organisation that uses evidence and information to best effect in the planning, purchasing and delivery of services. We also acknowledge the crucial need to consult with stakeholders, and to take our information out into the community and share it with our customers.

Two advisory committees have been established during this government's current term for community consultation purposes. The Aged Health Care Advisory Committee and the Disability Advisory Committee both represent the relevant stakeholders, and provide government with a quantitative understanding of the breadth of carer needs.

The ACT Office of Commonwealth Health and Aged Care has also recently reinstated the Aged Care Program Advisory Committee. At this committee's initial 2000 meeting, it was recommended that its membership include consumer groups representing the aged, as well as the Carers Association of the ACT and the older persons mental health team. I think you will agree, Mr Speaker, that this is strong evidence of the robust respite care consultative networks we have in place here in the ACT.

As I have said, the report contains 21 recommendations to which this government has responded, and it is not my intention to detail each response at this juncture. Many issues surrounding the provision of respite care have been covered by the committee, including dementia care, young carers, assessment and training and skill development. The government's response to each recommendation is thorough, considered and informed.

Over the course of the committee's inquiry, the Department of Health and Community Care and the Department of Education and Community Services have been addressing the increasing demand for respite care. I am confident we are on the right track with respite care provision and that the best quality outcomes for those providing and requiring care are being pursued.

Respite care is very much an issue of social capital, and we want to promote this concept actively. To ensure the quality of life of every Canberran, we continue to strengthen alliances between the community, business and government and to encourage the active participation of individuals.

Mr Speaker, once again I thank the committee for its efforts and commend the government's response to the house.

**MR WOOD** (3.56): I will briefly respond. I thank the minister for his positive response to an important issue, an issue we all understand as being of high priority and of considerable importance to many people who receive and who give respite care. I expect that, arising out of the report and the minister's positive response, we will see further gains in the way respite care is provided and the extent of its coverage.

I think, even then, there would still be a considerable shortfall and, as both the committee and the minister agree, we look to the Commonwealth government to do a good deal more in this area. I said before in this Assembly that, with the committee, we took a very responsible approach. It was possible—and it would have been justified—for us to come back with a long list of priorities, with costs listed against them, and seek funding for quite a range of specific areas. That approach would certainly have been justified, but we know the circumstances of government and we did not proceed down that path.

In fact, in my view our most important recommendation was number three, which reads:

> The Committee recommends that the Government accepts that a substantial increase in respite care is of the highest priority.

That is a general recognition of the importance of respite care to many people.

We do need more resources, and there are some areas in particular where that is urgent. As well as that, the report looked at, and the government has responded to, improving systems. For example, we had comments from people that they were being assessed several times when applications were made. This happened because one group does not provide funding in an area, but another group does, and there would be multiple assessments. I am pleased that this matter is being examined to ensure that there is no duplication.

I thank the minister for submitting this report out of session. I do not know if it is the first time it has happened—it may be that it is—but I did appreciate that, as soon as it was available, it was made known to members of the Assembly.

I will make a brief final point about young carers. There is quite a deal of focus on that issue, and properly so, because it has been an area that is easily overlooked. Perhaps the extent of difficulty in that area has not been well understood or appreciated. I am pleased the minister is examining views of that legislation that people from Marymead, for example, have presented in Canberra. It was something I looked at, but I think the minister's resources are a good deal better than mine and I am pleased that he is examining that issue as one of importance.

With the committee, I do look forward to further gains in the future in attending to the needs of those receiving respite care and those providing it.

Question resolved in the affirmative.

## PLANNING AND URBAN SERVICES—STANDING COMMITTEE
## Report on Tree Management and Protection Policy—
## Government Response

**MR SMYTH** (Minister for Urban Services) (3.57): Mr Speaker, for the information of members I present:

> Planning and Urban Services—Standing Committee—Report No 44—An appropriate tree management and protection policy for the ACT *(presented 9 May 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

The statement being tabled today is the government's response to the Standing Committee on Planning and Urban Services report No 44, *An Appropriate Tree Management and Protection Policy for the ACT*.

Members will recall that a tree management task force was convened by the Department of Urban Services in January 1998 in response to concerns by the community about the removal of mature trees from several urban leases in 1997. The task force prepared a discussion paper that identified priority issues requiring attention by government.

In July 1998 the paper was referred to the Standing Committee on Planning and Urban Services for consideration and a report. The committee released its report on 2 May 2000. The government welcomes the committee's report and supports the general thrust of its 27 recommendations, the main one of which is that the government prepare a comprehensive trees policy for the management and protection of trees in the ACT.

The key elements of the government's response are as follows: over the coming six months, Environment ACT will prepare a comprehensive tree management and protection policy for the ACT. The trees policy will bring together existing policies in one document, identifying policy and coordination gaps and priority actions to be implemented.

A central element of the trees policy will be a significant tree register for the ACT. Criteria for inclusion of a tree or group of trees on the register, and the extent of its coverage, will be developed over the next three months for consultation with the community. There will be improved coordination between ACT government agencies on the management of trees through the establishment of a tree management network, which will be chaired by Environment ACT and include major ACT government stakeholder agencies.

As well, expert community representatives will be invited to join. The role of the tree management network will include coordinating implementation of the trees policy to ensure a consistent approach to tree management across all agencies of government in the ACT.

The network will also: consider applications for inclusion of trees on the register of significant trees; apply best-practice standards, notably as found in the Australian standard for the pruning of amenity trees and the draft Australian standard for protection of trees on construction sites; develop standard form contracts for the maintenance of trees on public land; identify community education material considered necessary for achieving policy objectives; and foster the development of partnerships with the community and business, including appropriate incentives to increase commercial awareness of good tree management.

Standard tender and contract specifications will be used by ACT government purchasers of tree maintenance services to ensure that tree surgeons working on public trees are properly trained and industry accredited.

The performance criteria of the revised ACT Code for Residential Development (ACTCode 2), which will soon be released as a draft variation to the Territory Plan, have been strengthened to address committee concerns regarding the protection of trees during development, and the provision of adequate space for trees to grow.

The Environment ACT information desk and helpline will act as a "one-stop shop" for the public on all issues relating to the management of trees in the ACT.

Overall, I believe that, in its response to the committee's report, the government has moved to ensure that the community can be confident the territory's trees are protected for future generations, and that ACT government agencies are managing those trees in accordance with the highest standards of best practice.

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

## WORKERS' COMPENSATION SYSTEM—SELECT COMMITTEE
### Report—Government Response

**MR SMYTH** (Minister for Urban Services) (4.01): For the information of members, I present the following paper:

> Workers Compensation System—Select Committee—Report—Workers Compensation System in the ACT *(presented 25 May 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

I present, for the information of members, the government's response to the work of the select committee. In preparing the government's response to the select committee report, I have also sought the views of the Workers Compensation Monitoring Committee.

The government plans to introduce a bill to amend the Workers' Compensation Act 1951 later this year. This bill will substantially incorporate the intent and direction of not only the select committee report, but also the report of the Workers Compensation Monitoring Committee.

The attached response details the government's position in relation to each of the recommendations of the select committee's report.

Question resolved in the affirmative.

## LAND (PLANNING AND ENVIRONMENT) ACT—VARIATION (NO 110) TO THE TERRITORY PLAN—HERITAGE PLACES REGISTER
### Papers and Ministerial Statement

**MR SMYTH** (Minister for Urban Services): For the information of members, I present:

> Land (Planning and Environment) Act, pursuant to section 29—Variation (No 110) to the Territory Plan relating to the Heritage Places Register, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a statement.

Leave granted.

**MR SMYTH**: Variation No 110 to the Territory Plan proposes to enter a further three places onto the Heritage Places Register as part of the Territory Plan. Those three places are the Northbourne oval in Braddon, the Ainslie primary and public schools at Braddon, and the Ginninderra village complex at Nicholls. In response to the issues raised during the consultation process, a number of revisions have been made to the original draft variation.

In particular, in response to concerns expressed by the community about the reference to educational use in the conservation policy for the Ainslie primary and public schools, the policy was revised as follows:

> The features intrinsic to the heritage significance of the place are to be conserved, maintained and used, consistent with the heritage significance of the place and reflecting its role in the educational and cultural history of Canberra.

The Standing Committee on Planning and Urban Services considered the revised draft variation and released report No 46 of April 2000. In its report, the committee recommended that draft variation No 110 to the Territory Plan re Heritage Places Register be endorsed, with a further amendment to the conservation policy for Ainslie school. The report recommends that the conservation policy be amended to include a reference that states that "the site's conservation is best achieved through continued use

of the site for educational purposes". The conservation policy has been amended to respond to the committee's recommendation.

At the same time, a reference to the cultural purpose has been added to the policy to ensure that there is no suggestion that other appropriate uses are excluded. This change will allow for compatible and related uses such as a library, an art gallery or a museum. The conservation policy now states:

> The features intrinsic to the heritage significance of the place are to be conserved, maintained and used consistent with the heritage significance of the place and reflecting its role in the educational and cultural history of Canberra. This is best achieved through continued use of the place for educational and/or cultural purposes.

I now table variation 110 to the Territory Plan for the Heritage Places Register.

## LAND (PLANNING AND ENVIRONMENT) ACT—LEASES
## Paper and Ministerial Statement

**MR SMYTH** (Minister for Urban Services): Mr Temporary Deputy Speaker, for the information of members, I present the following paper:

> Land (Planning and Environment) Act—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 April 2000 to 30 June 2000.

I ask for leave to make a short statement.

Leave granted.

**MR SMYTH**: Section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly outlining details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value, and leases granted over public land. The schedule I now table covers leases granted for the period 1 April 2000 to 30 June 2000. I am also tabling two other schedules relating to variations approved and change of use charges for the same period.

In September 1997, my colleague, Mr Humphries, the then Minister for the Environment, Land and Planning, tabled a disallowable instrument (No 228 of 1997) for the direct grant of land for any or all of commercial, residential, industrial and tourism purposes. In the tabling statement, Mr Humphries indicated that a copy of the lease, and a statement setting out why the lease was granted, would be tabled in the Assembly.

I wish to table for the benefit of members copies of two leases granted under disallowable instrument No 228 of 1997. The first lease was granted to Prime Television for part of block 6, section 64, Watson, to enable an extension of the existing communications facilities on block 5, section 64, Watson. The consolidated parcel is now known as block 8.

The federal government has released a policy on digital broadcasting that requires capital city networks to broadcast digital television services by 2001. Prime, and other regional broadcasters, are required to upgrade by 2004. Because a large part of Prime's market overlaps with capital city broadcasters in the urban fringe area, Prime has to work to the capital city timetable if it is not to lose market share. The land is being sold to Prime at market value. The Australian Valuation Office has determined the value of the land at $50,000.

The second lease was granted to a partnership of company directors, the company secretary and the service manager of Modernfold (Australia) Pty Ltd over block 61, section 5, of Hume. The lease will enable Modernfold to develop a purpose-built factory to expand its manufacturing capabilities. Modernfold specialises in the manufacture and installation of operable and accordion walls for the building industry.

Since Modernfold was established in the ACT in 1996, in rented premises in Hume, the company has grown from having three full-time employees to having 27, and its sales revenue has trebled in less than three years. There is no room for expansion in the existing rental premises.

Recently Modernfold developed a specialised storage system that has worldwide application in art galleries, museums, archives or any institution that needs to securely store artwork or historical documents. The company has secured a $1.9 million contract with the National Gallery of Victoria to provide an artwork storage system that has attracted the attention of similar institutions around Australia and overseas. The purpose-built factory in Hume is expected to generate employment growth of another 45 positions over the next three years.

The grant of the lease forms part of a business incentive scheme package approved by the government that will ensure the retention of Modernfold in the ACT, and the establishment of a new unique manufacturing industry with demonstrated potential for export earnings. There is no similar competing organisation currently in the ACT or the region. The land is being sold to Modernfold at market value. The Australian Valuation Office has determined the value of the land at $185,000.

As I have outlined, I believe that there will be significant benefits to the territory in supporting both the Prime and the Modernfold developments here, and that these justify a direct grant of the land to enable the expansion of the companies' existing facilities.

## EARTH CHARTER CAMPAIGN
## Paper

**MR SMYTH** (Minister for Urban Services) (4.09): Mr Temporary Deputy Speaker, for the information of members, I present the following paper:

> Earth Charter—Promoting a people's earth charter for the 21st century and beyond.

I move:

> That the Assembly takes note of the paper.

Mr Temporary Deputy Speaker, I am pleased to present the Earth Charter. The Earth Charter is a declaration of interdependence and responsibility, and will serve as a universal code of conduct to guide people and nations towards sustainable development. The basic premise of the Earth Charter is that our environmental, social, and economic problems are interconnected, and demand integrated solutions.

The Earth Charter was drafted as a layered document, with a preamble, 16 main principles, various supporting statements, and a conclusion. The principles themselves are divided into four groups: respect and care for the community of life; ecological integrity; social and economic justice; and democracy, non-violence and peace.

On a global scale, the Earth Charter encourages respect for nature, universal human rights, economic justice, and a culture of peace. Locally, it encourages community participation in government decision-making, respect for other cultures, and the promotion of lifelong learning.

The concept of an international Earth Charter was first discussed at the Rio Earth Summit in 1992. It was taken up by a group of non-government organisations, and a worldwide consultation process was initiated to ensure broad consensus and wide support for the charter. It is anticipated that the Earth Charter will be presented to the United Nations in 2002.

Dr Brendan Mackey from the ANU is the president of the Australian National Committee for the Earth Charter. The committee was established to provide opportunities for Australians to participate in the Earth Charter consultation process. The committee gathered and documented community views, including those of the ACT, and has channelled them into the international consultation process. Three consultation forums were held in the ACT during 1999, each of which was sponsored by this government.

The first component of the consultation was the Earth Charter forum held in February 1999. The Deputy Chief Minister, Mr Gary Humphries, Ms Kerrie Tucker and I participated in the forum, which was attended by business and non-government organisations. The objective of the forum was to explore the full potential significance and relevance of the draft Earth Charter for Australia.

Then the Australian Capital Region Earth Charter Consultation Forum was held in August 1999, hosted by the Conservation Council of the South East Region and Canberra. This forum explained how the Earth Charter deals with the three dimensions of sustainable development: environmental protection, economic goals and social aspirations.

The third and final consultation forum was held on 3 December 1999. Ms Tucker, Mr Simon Corbell and I were invited to respond to the forum proceedings. It was at this forum that we agreed to take the Earth Charter to this Assembly, when it was finalised by the international secretariat.

The international Earth Charter secretariat, located in Costa Rica, considered comments from the Australian and other national committees prior to finalising each "benchmark", or major draft, of the Earth Charter. Benchmark III was released in March 2000.

The Earth Charter Commission aims to have the charter tabled in the United Nations General Assembly in 2002, to coincide with the planned 10-year review of the Rio Earth Summit. Since it takes two years for such a document to pass through the United Nation's committee system, the charter has to be passed in to the United Nations this year.

While the charter is not being finalised until 2002, it is hoped that organisations will use the Earth Charter to guide their strategic planning and their day-to-day operations. In addition, an action plan for trialling the Australian youth program for the Earth Charter 2001 in ACT schools has been prepared and agreed to by the Department of Education and Community Services and the ACT Earth Charter Committee. The Earth Charter youth project provides curriculum material and work sheets, based on the principles of the Earth Charter, for use in ACT primary and secondary schools.

By using the primary and secondary schools Earth Charter manuals, students have the opportunity to learn more about this document in all of their subject areas, ranging from English and studies of society and the environment, through to mathematics and the arts.

By accepting the long-term objectives of this international voluntary agreement, the ACT is again cementing its reputation as the clean, green capital. I ask that my colleagues Ms Tucker and Mr Corbell join with me in encouraging the Assembly to accept the long-term objectives of the Earth Charter and embrace its principles in our daily lives.

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

## MENTAL HEALTH (TREATMENT AND CARE) AMENDMENT BILL 2000

Debate resumed from 25 May 2000, on motion by **Mr Moore:**

> That this bill be agreed to in principle.

**MR WOOD** (4.16): The opposition will be agreeing with this bill. As soon as we saw the provision there that says that someone may be detained, we looked carefully at it, as did the scrutiny of bills committee. My understanding of the bill is that it allows a person who presents voluntarily to be detained in accordance with all the very strict guidelines that operate. They could be detained in a facility, just as they could be detained outside that facility. That was not the case before. There seems to have been a bit of a error there when the original legislation was drafted. On the basis that it gives all the rights and all the requirements that are already well laid out in legislation, this bill is an appropriate measure and has our support.

**MR MOORE** (Minister for Health and Community Care) (4.17), in reply: I appreciate the support for this bill. There was an anomaly in the act and we had the situation where persons who voluntarily signed themselves in thereby avoided any possibility that they could be detained, with all the protections that apply to that. Mr Wood, I assure you that

those protections are still in there and will apply in this case. I thank you and the other members who have indicated support for this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## OLYMPIC EVENTS SECURITY BILL 1999

Debate resumed from 25 March 1999, on motion by **Mr Humphries:**

That this bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (4.18): This bill has quite a genesis. In a press release dated 16 February 1999, the Attorney-General said that the ACT government would be taking security at Olympic events seriously, with legislation being introduced during the first half of 1999 to give police powers to deal with illegal crowd behaviour at Olympic soccer matches to be held in Canberra in September 2000.

I have to say that it is of concern that, whilst the bill was introduced on 25 March, 1999, as promised by the Attorney, it has been ignored until today, until it is almost too late to carry out the necessary administrative tasks to implement the legislation. I think it is of some concern, too, that the Attorney has effectively ignored the criticism of the legislation by the scrutiny of bills committee for, in the words of that committee, its draconian approach.

For this legislation to be implemented, it must be gazetted, and then the legislation empowers the minister to declare a sporting or other event that is part of or associated with the Sydney 2000 Olympics or the Paralympic Games to be an Olympic event. The minister must be satisfied that a declaration is reasonable and necessary for the safety of persons attending the event and for the avoidance of disruptions to the event. Notice of the making of any declaration must be published in a daily ACT newspaper and the *Gazette* at least seven days before the date of the event affected, but failure to publish the notice in the newspaper does not invalidate the declaration.

We really are beginning to run very close to the bone here. For instance, if the bill is passed today, it and the declarations must be gazetted before 6 September, as the first event is to be held on 13 September. Given that Mr Humphries, regrettably, has not answered letters that I wrote to him on this matter on 13 March and 9 August, one does worry whether this timetable will be met. I think the Attorney is making a mockery of the implication of the initial media statement that people will be given sufficient notice of what they can and cannot take into the venues, of what the prohibited items will be. I think that it is of real concern at this stage, as we are debating this legislation, that we do not know what the prohibited items are that might be contained in the declaration.

I think it is also significant that, whilst the declaration of those items is a disallowable instrument, the timing of this debate prevents any scrutiny of that declaration before the Olympics commence. If the instrument is disallowed after an event, I do acknowledge that clause 17 of the bill allows the undoing of any offences that were committed at the event; but, of course, the horse will have bolted. It is a point that we have had 18 months in which to debate this bill.

In the letters which I did write to the Attorney on this matter and to which he did not respond, I indicated that the Labor Party did want a bipartisan approach to this bill, that we were prepared to work with the Attorney; we just wanted more information. We realise that security at any event is important and that Canberrans attending Olympic events are entitled to expect them to be conducted in a safe environment. We are happy for the police to have the necessary and reasonable powers to ensure that people do not have access to weapons or prohibited items at an Olympic venue. But it has been very difficult in the context of the way that this process has ensued to get the necessary assurances about the appropriateness of the range of powers and the sorts of items that will be prohibited.

I note in relation to the bill that in any declaration the minister may make in relation to the Olympics he may make it a condition of entry to the event that persons seeking to enter the venue submit to a search of their personal property and, if requested by an authorised person, submit to a frisk search of their person. An authorised person is a police officer or any other person authorised by the minister or his delegate under clause 16 of the bill. If the demand for police officers outstrips the supply, Olympic volunteers from the bushfire and emergency services, plus the contracted security service, may be appointed as authorised persons. Under the bill, these authorised persons could conduct frisk searches.

There is no limitation in the bill on the authorised person's authority to select persons for frisk searching, nor is there any requirement in the bill for that frisk search be conducted by an authorised person of the same sex as the person being searched. Clause 10(2) of the bill makes it an offence for any person without reasonable excuse to refuse to permit an authorised person to carry out a frisk search of their person. In the context of those powers, we are asked by the Attorney to rely on the good judgment and the discretion of the authorised person to do the right thing.

I indicate now that the Labor Party will be seeking some simple amendments to the bill to ameliorate those two aspects of the bill. In the view of the Labor Party searches, whether of property or the person, should be performed only if the authorised person has a reasonable belief that the person being searched has in their possession a prohibited item—as I indicated before, at this stage we do not even know what the prohibited items will be—and a frisk search should be carried out only by an authorised person who is a police officer of the same sex as the person being searched. I have circulated some amendments that give effect to that sentiment.

I should also indicate now that the Labor Party has considered some amendments circulated by Mr Rugendyke to this bill. Whilst we understand that Mr Rugendyke shares the view of all of us, we are of the view that the people of Canberra have a right to enjoy the Olympics in peace and security, to the extent that one looks for peace and security at a vigorously conducted and competitive soccer match; but in that context one has a right

to feel safe and to be safe, as do the soccer players and officials of each of the competing nations.

We understand that to be Mr Rugendyke's sentiment and we share that. However, in a context in which the scrutiny of bills committee, a committee chaired by Mr Osborne, has described some of the powers within this legislation as draconian, it is our concern that the extent to which Mr Rugendyke seeks to add to those powers really does exacerbate that description. We think that the provisions the Attorney has provided in relation to police powers to control behaviour are sufficient and we would be more inclined to rely on the judgment and discretion of the police officers in those circumstances where they believe action needs to be taken and that the prescriptive and articulated list of offences contained within Mr Rugendyke's amendments simply is not necessary.

As I indicated, Mr Temporary Deputy Speaker, I do have a couple of amendments. I will move them at the appropriate time.

**MS TUCKER** (4.26): The Greens also have some concerns about this legislation. We also believe that we do need to ensure that there are no serious breaches of security at these sorts of events, so it is about looking at achieving a balance between security concerns and civil liberties.

Obviously, the Olympic Games will be a huge event, attracting international attention and it is the case that there are groups and individuals in Australia and overseas who would like to use the focus on the Olympics to bring their own particular causes to the attention of the public. The Olympics may also attract people who take barracking for their own country to extremes or who just want to have as much fun as possible.

These activities, where they do not impact on the rights of others to enjoy the events, are all fine up to a point and add to the excitement and character of the Olympics. Unfortunately, such activities can turn nasty and even violent and need to be controlled; so we do think that it is reasonable for Olympics organisers to want to ensure that athletes and spectators are able to participate in the games in a safe and secure manner. But, as I said, a balance has to be drawn between the need to have laws and police powers to ensure public safety versus the need to check the civil liberties of people attending the games. I think that this bill errs too much on the side of police powers and not enough on the side of civil liberties.

The bill is quite general in a number of areas and gives the minister and his agents, such as the police and authorised security guards, much discretion in how they handle security threats. The definitions of an Olympic event and Olympic venue to which this bill applies are very vague. The minister can make a declaration that a sporting event or any other event associated with the Olympic Games is covered by the bill.

The venue at which an Olympic event is being held also is not clearly defined. An Olympic venue includes not only the place stated in the declaration as the location of the event, but also any place incidental to the holding of the event. I assume the police will decide for themselves which areas are incidental places, but I think the public has a right to know beforehand which areas this legislation will apply to. I think members of this

Assembly also should have been given this information to enable them to give the matter due consideration.

As Mr Stanhope said, this legislation has been around for over a year. I understand that some details will be given. Yesterday I spoke to Mr Castles, who said that a list was being drawn up and there would be more definite details around the venues as well, but that is not good enough; we should have had an opportunity to look at that beforehand and clarify our views.

I note that a declaration about Olympic venues and the conditions of entry is disallowable; but, given the lateness of the debate on this bill, the Olympics are sure to be over by the time the Assembly could meet again to disallow any dubious declarations. The minister can also declare that a person cannot take a prohibited item into an Olympic venue; but, to my knowledge, such items have not been defined by the minister for us to look at today and could be anything. As I said, I understand that a list is being prepared by the police; but, again, I am concerned about the lateness of the hour at which the Assembly is being told about it and how, in practice, the Assembly will have no say in it.

I am particularly concerned about the offences created by the bill which draw a $1,000 fine. There are offences for entering or remaining in an Olympic venue without consent or without paying, not allowing a frisk search or a search of personal property even before a person has entered a venue, taking a prohibited item into a venue, interfering with an event, entering a restricted area of a venue without consent, and not providing a name and address.

An authorised person, being a police officer or someone authorised by the police, such as a private security guard, can refuse a person entry to a venue or direct them to leave the venue merely on the ground of believing the person may commit an offence. People will be presumed guilty before they have done anything.

There is nothing in the legislation about people being given warnings, so there will be no second chances and no chance for people to explain their actions with a reasonable excuse. These offences seem quite draconian and out of proportion to what is the key action that needs to be taken in such instances, which is merely to refuse entry to the venue or direct a troublemaker to leave the venue.

The minister, in his response to the report of the scrutiny of bills committee which, as Mr Stanhope has already outlined, did raise some quite serious concerns, said that the penalties are needed as a deterrent. Surely a sufficient deterrent would be to exclude people from the event, rather than fining them $1,000. The minister has not adequately explained why we need to go beyond existing common law rights by which operators of venues can set conditions of entry and exclude people who do not abide by such conditions.

The charging of people from interstate and overseas with such offences will be very impractical. Will it be necessary to lock these people up in the remand centre until their trial comes up because of the likelihood that they will disappear after the event? Has any assessment been done of whether our court system will be able to cope with an influx of cases during the Olympics?

I am also concerned about the ability of the minister to authorise anyone, including volunteers, to have the powers allowed under the bill. I note particularly that authorised persons are also authorised to use such force as is necessary to apprehend and detain a person and to remove a person from a venue. I would be interested to know how the minister will make sure that these authorised people will have the necessary skill and experience in crowd control and arresting. Is this just an attempt to outsource police powers? We have already had some very unacceptable incidents involving people being authorised to use force in various situations, such as crowd control, and not being skilled to do so. The consequences of that have been very unfortunate.

In conclusion, I remain to be convinced that the powers contained in this bill are really necessary, given the range of existing police powers. I am also concerned, as I said, about the lateness of the hour at which this bill is being debated, just two weeks from the first event in Canberra, making its passage almost a fait accompli.

**MR MOORE** (Minister for Health and Community Care) (4.33): I rise to support this piece of legislation. Of course there are some liberties issues associated with the bill and it is draconian in some respects, but we are dealing with a very special event. In this sense, I share with Mr Stanhope the comment that we are dealing with a particular set of circumstances requiring consideration being given to providing special powers to the police for a very short period.

I am very pleased that there is a sunset clause in this legislation, which is entirely appropriate for an event of this type and this kind. We have seen what has happened with some soccer situations in particular in other parts of the world, particularly in Europe, where it is quite clear that appropriate police powers are needed. These are not the sorts of powers that I would normally agree to, but there will be special circumstances in which it will be entirely appropriate for these sorts of powers to be handed to police. I think it is entirely appropriate to do so. I am certainly prepared and keen to support the legislation.

The scrutiny of bills committee drew our attention to the fact that this legislation is draconian. I think there is a message in there about whether we should consider extending it other than in similar specific circumstances which have the potential of bringing to the ACT people whom Ms Tucker described as following a particular form of extremism in their own country. We know from experience that this has been the case in previous Olympic situations. It is entirely appropriate, therefore, that we use some draconian legislation to handle such a circumstance. There may even be another circumstance in the future where an Assembly wants to consider imposing similar legislation for a very limited period for a specific purpose.

In spite of the fact that the legislation is draconian, it is acceptable to me. I note that Mr Rugendyke has circulated some amendments that would make it even more draconian. I will speak to those in more detail later. Members may note that I have circulated some amendments to Mr Rugendyke's amendments. Mr Rugendyke's first amendment is excellent and ought to be supported. It is about providing penalties for people who, for example, race on to an oval or soccer field and act inappropriately when a game finishes. The penalty there is appropriate. But I have some concerns about the rest of Mr Rugendyke's amendments and I have prepared amendments accordingly.

This legislation is important. It has been on the table for some time and it is now time for us to deal with it and be ready for the Olympics.

**MR KAINE** (4.36): From listening to Ms Tucker a few minutes ago, I must say that she really expressed my thoughts about this bill. It ought to be a matter of concern whenever we seek to impose constraints on what our citizens can do. Here we are considering a bill which says that any Australian citizen who chooses to go to the Olympic Games immediately becomes susceptible to—and I think Mr Moore used these words—draconian measures.

I understand the need for security, but the security system should take care of that. I do not think that I can accept the proposition that every citizen who goes to the Olympic Games is a potential terrorist, nor should they be treated as though they are. So I have some concerns about giving people who are not police officers powers to frisk search somebody or to ask for their name and address when they are simply attending a sporting event and, if they do not give them, then to be subject to arrest, essentially.

I think that some of the things that we are doing here are over the top. I have grave reservations about the necessity for them. Ms Tucker has said that quite well and I do not need to repeat it. But there is one point that I want to make. I want to draw Mr Moore's attention to something. Mr Moore is saying that this legislation is draconian, but it is necessary. I think that is the thrust of what he said.

**Mr Moore**: For a very short period.

**MR KAINE**: It is draconian, but it is necessary. I simply refer to the following statement made by Mr Moore in this place only last year:

> Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

That is what Mr Moore said only a year ago in discussing another piece of legislation that was nowhere near as draconian as this piece. It is interesting to see how Mr Moore's views change when he is sitting over there and not sitting somewhere else. I would urge Mr Moore to take heed of his own words and his own advice when he is voting on this matter.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.39), in reply: I think the bill is going to pass, so I thank members for their support for the legislation, although it is obviously layered with a number of criticisms. I want to address some of those criticisms. First of all, I want to pick up and address the point about the legislation being exceptional, of its being draconian, as some members have described it. It is exceptional legislation.

**Mr Moore**: The scrutiny of bills committee said that.

**MR HUMPHRIES:** The scrutiny of bills committee, I recall, has also made that point. It is exceptional legislation. It is legislation that I would not feel comfortable about applying in every one of its present manifestations or with all its present attributes to ordinary sporting events held in the ACT; I make that quite clear. But this legislation is

here because we are part of not just a national but an international movement which is hosting Olympic events in this city for the first time in history and the requirements on us in doing so are that we impose a number of restrictions on the way in which these sorts of events are conducted at our sporting arena, namely, Bruce Stadium, which we would not normally—

**Mr Kaine**: Rubbish! We are imposing these conditions, not SOCOG. This is our legislation, not SOCOG's legislation.

**MR HUMPHRIES**: I will come back to that issue in a moment. The fact is that we have to make compromises for the fact that we are hosting an Olympic event here. This is not an event that the ACT is putting on because we think it is a good idea to host a number of soccer matches in the ACT and have teams from China, Cameroon, Japan, the United States and a number of other countries come and play soccer matches in this city. That is not the case.

We are here because we have successfully competed with other Australian cities to host Olympic football events in this city and the events being held here are events being held on the basis of our being part of that national—indeed, international—movement, so we have an obligation to fit within the requirements of other people, and in particular of the Sydney Organising Committee for the Olympic Games.

I want to quote from an article which has been taken off the net—in fact, I think it is from the official Olympic site—which describes some of the issues pertaining to security at the Sydney venues for the Olympic Games. It makes clear, for example, that police and local government rangers authorised by the OCA— I forget exactly what the acronym stands for; it has something to do with the Olympic events legislation—can throw out spectators and ban from the Homebush Bay stadium for up to 12 months those who run onto playing fields, as well as take photos of alleged offenders and demand names and addresses.

Drivers parked illegally last weekend in Olympic designated zones could be fined up to $348, five times the usual fine for unauthorised parking in special event zones. Parking in the new Olympic lanes will incur a $300 fine plus $126 for having had your vehicle towed away.

**Mr Kaine**: Are we going to do that, too?

**MR HUMPHRIES**: Not as far as I am aware. A number of other restrictions are also in place in respect of the games here. The government in New South Wales has been defending the provisions there, which certainly go a very long way. As far as I can tell, they very closely replicate what is contained in the ACT legislation before the house today. I am not aware of any substantial difference between what has been passed as law in New South Wales and what is proposed to be passed by the Assembly today. I am also told that similar provisions are in place in South Australia, Victoria and Queensland, where other Olympic events are taking place.

Mr Kaine raised the question whether this is actually our requirement or SOCOG's requirement. It is quite true, of course, that there has been some lack of clarity about that matter. Members will be aware that in February this year I wrote to the Olympics

minister, Mr Michael Knight, seeking some clarification as to what SOCOG's requirements were with respect to security legislation. I wrote to Mr Knight on 16 February. A reply came back to me dated 13 March, but it was not received by me until 21 March. I have to say that a very unhelpful reply was given in which he said:

> Both OSCC and SOCOG advise that the passing of this bill—

the ACT's bill—

> is not critical to the implementation of the Olympic events security arrangements and legislation of a similar nature has not been sought by police in New South Wales or the other Olympic jurisdictions of Victoria, Queensland and South Australia.

He goes on to suggest that I should contact Commander Paul McKinnon of the Olympic Security Command Centre—that is what OSCC stands for, by the way—to get better advice on exactly what is required. My understanding is that discussions with police in New South Wales have indicated a requirement to have legislation of the kind which the government has in fact put on the table.

**Ms Tucker**: With penalties to this detail?

**MR HUMPHRIES**: I do not know. The New South Wales people were not specific about the extent of penalties, as far as I am aware, but the New South Wales authorities pointed to the fact that they have similar provisions in their own legislation. So when Mr Knight says that legislation of a similar nature has not been sought by police in New South Wales, strictly he is right because it is already there. They already have legislation in place of that kind and, as far as I am aware, they have it of a similar kind in Victoria, Queensland and South Australia.

Not surprisingly, I was not much enlightened by Mr Knight's reply and I have taken further advice from the Australian Federal Police to ascertain just what is the requirement in the ACT. The legislation before the house today accords with the advice I have received from the security coordinator for the Olympic Games events being hosted in the ACT. I have put it to the house on that basis and asked the house to support it on that basis.

The provisions in this legislation are not exceptional as far as Olympic venues are concerned around Australia, and they are certainly not exceptional as far as Olympic events are concerned around the world. I doubt that any Olympic venue in the last two or three decades would have been without legislation of this kind applying to those venues and providing for the sorts of security provisions which appear in this legislation.

I will finish on the previous point by saying that I would not like to see this kind of provision in place customarily in ACT legislation for ordinary sporting events, but these are not ordinary sporting events and it behoves us in the most unlikely event that something disastrous in the way of a security breach occurs to have backed up with appropriate legislation those people out in the field who will have to deal with this situation. It is not fair for us to leave them to deal with a crisis at an Olympic venue without the appropriate legislative power to deal with it as they need to. That is why I think that we should pass this legislation.

I have heard the criticism about this bill coming forward for debate very late. I remind members of the request of members to clarify what it was that SOCOG actually required of the ACT and the difficulty I have had in obtaining from SOCOG, including the SOCOG minister, Mr Knight, a clear indication of SOCOG's requirements. In fact, to this day I have not had a clear indication from the SOCOG minister of what is required.

I would point out that members expressed considerable concern about these matters, necessitating further discussion and consultations with Olympic security operators in Sydney. Also, I remind members that when this matter was last put down for debate in the Assembly, in the June sittings, there were a number of intervening matters in the course of that sitting fortnight, including the deliberation on and non-passing of the government's budget at the time, which I think members would agree was of a higher order of priority than the Olympic Events Security Bill.

I would like to have seen this bill dealt with some time ago, but if members had been a little clearer about their intentions to support it and had indicated that they would agree to support it, it would have been easier to deal with the bill on that basis.

**Mr Stanhope**: It would have been easier if you had answered my letter.

**MR HUMPHRIES**: I will come to that point now, Mr Stanhope. I did not catch the dates for which Mr Stanhope said that he had unanswered correspondence. I do have on my file here a letter from Mr Stanhope dated 28 January in which he said:

> ... I wrote to you expressing some concerns that I had with aspects of the Olympic Events Security Bill 1999. To date, I have had no reply to my letter.

I would like to table a copy of a reply which I wrote to Mr Stanhope on 16 February, less than a month after he wrote to me. I will quote the first two paragraphs of my letter:

> I refer to your letter dated 28 January 2000 seeking a reply to your earlier letter dated 23 April 1999 concerning the Olympic Events Security Bill 1999.
>
> My letter to you dated 3 June 1999 was in reply to your earlier letter. While I took the opportunity to raise a number of issues likely to arise at the June 1999 meeting of the Australian Police Ministers Council, I also addressed issues relating to the Olympic Events Security Bill 1999 that you raised in your earlier letter. A copy of that letter is attached.

I went on to discuss a number of matters relating to clarifying what it was that SOCOG was requiring of us in the ACT. I table the following documents:

> Olympic Events Security Bill 1999—
> Letter from Mr Stanhope MLA (Leader of the Opposition) to Mr Gary Humphries MLA (Attorney-General), dated 28 January.
> Copy of letter from Gary Humphries MLA, Minister for Justice and Community Safety, to Mr Jon Stanhope MLA, Leader of the Opposition, dated 16 February 2000.

**Mr Stanhope**: Table the other matters you referred to in relation to the Police Ministers Council. Just let me know how much they clarified the issue. It was derisory.

**MR HUMPHRIES**: Mr Stanhope says that the information was derisory. If he considered that it was derisory, he should have written back to me and said that he wanted more information.

**Mr Stanhope**: I did.

**MR HUMPHRIES**: I have no copy of your letter, Mr Stanhope. You wrote to me after 13 February, did you?

**Mr Stanhope**: I certainly did, twice.

**MR HUMPHRIES**: Twice after that? So you wrote a total of four letters, did you?

**Mr Stanhope**: I would say most certainly yes, I think that is possibly right.

**MR HUMPHRIES**: I am sorry, Mr Stanhope, but I do not have any copies—

**Mr Stanhope**: They disappear into a void. When something goes to your office, Attorney, often it never sees the light of day.

**MR HUMPHRIES**: I have tabled my correspondence to you. Will you now table in this place your correspondence to me?

**Mr Stanhope**: I do not have it here.

**MR HUMPHRIES**: You will have plenty of time. This debate will go on for some time. I suggest that you go and get it.

**Mr Stanhope**: We could adjourn it for a week, perhaps, to see whether we have actually got a pitch out at Bruce.

**MR HUMPHRIES**: You can change the subject if you want to, Mr Stanhope.

**MR SPEAKER:** Order, please! Would the two of you stop scrapping.

**MR HUMPHRIES**: Mr Speaker, I have received letters from Mr Stanhope and I have replied twice to Mr Stanhope to those letters. If Mr Stanhope says that there are further letters that he has written to me since February of this year, I would ask him to table those further letters. I do not have any record of any further letters from Mr Stanhope, but I am willing to see him table those letters and prove me wrong in that matter. I believe that I have replied fully to all the things Mr Stanhope has raised with me.

On the issue of the area that the legislation will cover, I am happy to indicate to members that I have a copy of a map which indicates with a yellow line which area will be covered by the legislation at Bruce Stadium. I will not table this map or incorporate it in *Hansard*, but I invite members to peruse it if they wish to have further information about that.

As far as prohibited items are concerned and the dates that the declaration under clause 4 of the bill will cover, I am happy to table draft versions—I emphasise that they are draft versions—of both of those matters. The dates of the events, of course, are the dates of particular matches being held in Canberra. I table the following documents:

> Olympic Events Security Act 2000, draft declarations pursuant to section 4—
> Schedule A—Description of events.
> Schedule B—Prohibited items.

I will read the items which are proposed to be declared prohibited items: glass items other than optical lenses; bottles, whether made of glass or otherwise, and cans; prohibited weapons and prohibited articles under the Prohibited Weapons Act 1996; knives including knives under the Crimes Act 1900; firearms under the Firearms Act 1996; flares, fireworks, explosives, smoke bombs, petrol and dangerous goods under the Dangerous Goods Act 1984; drugs of dependence and prohibited substances under the Drugs of Dependence Act 1989; liquor within the meaning of the Liquor Act 1975; poles other than poles less than 1.8 metres in length with flags attached; any political, religious or race-related materials; flags of non-participating countries; and balls, frisbees and similar projectiles.

I make one observation about the list of prohibited items. That list is the requirement—

**Mr Berry**: That rules out the Aboriginal flag, by the way.

**MR HUMPHRIES**: Let me tell you something, Mr Berry. If you listen for a moment and stop jabbering, you might hear something. If it does exclude the Aboriginal flag, it is the requirement of SOCOG, which is chaired by your Labor Party minister, Mr Michael Knight. SOCOG has insisted on those things being prohibited. I know that he is from the wrong faction to you, but the fact is—

**Mr Hargreaves**: You have ruled it out.

**MR HUMPHRIES**: No, we have not ruled it out. How many times do I have to say this before I turn blue? These are not our requirements. This is what SOCOG have said we must have prohibited in respect of events held in the ACT. That is the requirement of SOCOG. *(Extension of time granted)* I remind members that SOCOG is chaired by Mr Michael Knight, who is a minister in the Carr Labor government. If members are not happy with that list of prohibited items, I suggest that they take it up with Mr Michael Knight.

**Mr Hargreaves**: That is your job.

**MR HUMPHRIES**: I am happy with the list, to be perfectly frank. I am perfectly happy with the list and I am happy to work within the framework of a national sporting event, namely, the Olympic Games, and the requirements of the Sydney Organising Committee for the Olympic Games.

I think the legislation is sensible. I think that Mr Stanhope's proposed amendments are silly and I will come to speak about those when we reach the detail stage. I think that the government has behaved appropriately with respect to this legislation in negotiating and

carefully consulting about the legislation. If members do not like that, I suspect that they really have a beef not with the ACT government but with the Sydney Organising Committee for the Olympic Games.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 to 8, by leave, taken together and agreed to.

Clause 9.

**MR STANHOPE** (Leader of the Opposition) (4.56): I move:

> No 1—
> Page 5, line 12, subclause (1), after "personal property", insert "if the authorised person has reasonable grounds for believing that the person possesses a prohibited item".

This is amendment No 1 circulated in my name. My amendments No 1 and No 2 insert a provision that a search of property or person cannot occur unless the authorised person conducting the search has reasonable grounds for believing that the person being searched is in possession of a prohibited item. In discussions my office held with Superintendent Alan Castle, the officer in charge of Olympic security, he indicated that he had no objection to this amendment.

It is a reasonable amendment that ensures that an authorised officer cannot conduct searches on a whim. As has been indicated in the course of the debate, we are debating quite significant and serious powers that we are vesting in authorised officers. I have already expressed the view that I believe these powers should be exercised only by a police officer. I believe police officers have the appropriate and necessary training and experience to recognise when it is appropriate to search a person, and they know how to conduct that search.

We are also talking about a frisk search, a body search. As I have indicated, I think it reasonable that that sort of potentially invasive search should be conducted only by police officers, people we provide with specific training and who have specific expertise in dealing with people, searching people and conducting searches in an appropriate way. It is accepted that other officers will assist the police in these duties, but when it comes to the need to identify a person that in anybody's opinion should be searched to see whether or not they have on their person a prohibited item, it seems to me that the only person we should entrust with that power and that judgment in a member of the police force. A member of the police force needs to identify the person and a member of the police force needs to exercise reasonable judgment about whether or not a search should be undertaken.

That is all this amendment does. It says, "Entrust this serious and significant power—namely, the power to identify a particular person you are concerned about entering Bruce Stadium for the purpose of watching Olympic soccer—to a member of the police force. Acknowledge that there will be other people assisting the police in their duties simply because of the magnitude of the task, but when it comes to this significant and potentially invasive process—a process which carries significant legal consequences, particularly if it is not conducted appropriately—entrust that role to a member of the police force."

The amendment does not say you cannot conduct a search. It does not say you cannot conduct a frisk or body search. What it says is that if you are going to conduct a body search on an individual going to a soccer game then let the police do it. It does not detract from the range of powers that will be available. It does not lessen in any way our potential to ensure the security of the games at Bruce Stadium.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.58): I think the Assembly should oppose this amendment the next amendment Mr Stanhope proposes to move. They are closely related. This amendment requires that, in effect, a search of personal property should occur only if an authorised person has reasonable grounds for believing the person to be searched possesses a prohibited item. I ask members to think about that for one instant. How will an officer, an Olympic volunteer or a trained security person who is in the business of providing security at the Olympic venue, say at an entry point to the stadium, have a basis for a reasonable suspicion that someone has something in their bag, say a prohibited weapon?

**Mr Moore**: They have a beard.

**MR HUMPHRIES**: They have a beard perhaps or look Middle Eastern or something of that kind, members opposite might suggest.

**Mr Kaine**: Having a beard would be a good reason.

**MR HUMPHRIES**: You probably believe that, Mr Kaine. Mr Speaker, the proposal from the Federal Police is to search everybody going into the Olympic venue. If this amendment of Mr Stanhope's passes, that cannot occur. Under his amendment, you can search people only if you have reasonable grounds for believing they might be carrying a prohibited item.

**Mr Hargreaves**: Why not?

**MR HUMPHRIES**: Because it means you cannot have random searches.

*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 HUMPHRIES**: Mr Speaker, when people go to the airport, their bags are X-rayed, and if the X-ray machine exposes something, the bags are also searched. Not just some people, not just suspicious looking people but everybody who goes to fly on a plane or

enters an airport restricted area has to have that search. The security will not be as effective at an airport if police or security officers are not able to conduct a search unless they believe, on reasonable grounds, an objective test—

**Mr Hargreaves**: It is only a random check by Customs.

**MR HUMPHRIES**: No. Everybody entering an airport security area has to be searched. Their property certainly is searched, and metal is detected when people walk through a metal detector or have a magnometer passed over their body. That is not in the case of suspicion; that is in the case of every person who enters the area.

The effect of Mr Stanhope's amendments Nos 1 and 2 will be that such searches cannot be conducted unless there is a reasonable grounds for believing that they should be conducted. Pass this amendment and you dramatically affect the capacity of the police and others responsible for security at Bruce Stadium to be able to conduct searches of goods passing into the venue. I do not think you people realise what you are proposing here. You cannot have the random searches which are integral to providing for the safe and effective provision of security at the Olympic venue.

It might seem sensible to try to put some provision in place which limits the amount of searching going on, but that is not going to be in the interests of safety and security at the venue. You people have had a lot to say about safety and security in recent days. This is a measure about ensuring the safety and security of people at Olympic venues, including visitors to our city. I do not think it behoves you to start watering those provisions down, particularly in this little-thought-through way. You cannot have an effective search regime if people do not have the power to search randomly. Your amendment prevents that from taking place. Think again.

**MR HARGREAVES** (5.05): The Attorney-General has quite deftly flipped the issues. He missed the point completely, which does not surprise me, given his preoccupation with silly things all day. The issue at the heart of the amendment proposed by Mr Stanhope is that only police do it.

**Mr Humphries**: I take a point of order Mr Speaker.

**MR HARGREAVES**: Mr Speaker—

**Mr Humphries**: I am taking a point of order.

**MR HARGREAVES**: I cannot sit down. Go on.

**Mr Humphries**: I will explain the point of order if you sit down.

**MR HARGREAVES**: I can't. Are you deaf?

**Mr Humphries**: You cannot sit down?

**MR HARGREAVES**: Correct.

**MR SPEAKER**: Stay standing, Mr Hargreaves. It is all right.

**Mr Humphries**: All right. Sorry. Tell me about it, Mr Hargreaves. I draw Mr Hargreaves' attention to the wording of the insertion Mr Stanhope proposes to this clause: "if the authorised person has reasonable grounds for believing that the person possesses a prohibited item". And in clause 10 he proposes to insert: "if the authorised person has reasonable grounds for believing that the person possesses a prohibited item". It is not the police; it is the authorised person.

**MR HARGREAVES**: If the Minister wants to empower the police to do the same as they do at the airports and if he is concerned that it is not possible to do random searches, then amend it. The thing that concerns me is the possibility that a person unskilled in dealing with people in a search will be doing it. Our police are trained not only in doing it but also in talking to people before and after. Authorised people will not. I understand what Mr Humphries is saying in one of his points. We have to be careful and ensure that the police can do random searches. I understand that.

**Mr Humphries**: It is not about the police; it is about authorised people.

**MR HARGREAVES**: If it has nothing to do with the random one, Mr Speaker, I wonder what on earth the Attorney-General was babbling on about for the entirety of his speech. He said, "This stuff from Mr Stanhope is no good because it eliminates random searches." He went on and on about it. Well, fix it. I have to voice my concern that police officers may not be the only people conducting searches. I do not see any guarantee anywhere in this legislation from the Attorney-General that prevents that. I am not happy about that.

**MS TUCKER** (5.08): I will risk supporting the amendment from Labor. I am concerned about what the Attorney-General has just said, though. As I understand it, there is going to be a metal detector. That is normally what occurs at an airport. There is not a definition of search in the legislation. We have a definition of frisk search, which means a search of a person conducted by quickly running the hands over the person's outer garments, et cetera.

As I understand it, everybody will go through a metal detector. The legislation is unclear. Search of personal property is something other than using a metal detector. If Mr Humphries is talking about using a metal detector, that is a different issue. The legislation implies some other kind of personal property search. It does not mention a metal detector, so it is not very well drafted. If you go through a metal detector—this is what happens in an airport—and metal is detected, then there can be a random search of the person's property or body.

It seems to me that there are three ways in which you are trying to see what goes on to the venue. There is the metal detector, there is the possibility of a personal property search and there is the possibility of a frisk search. What Labor is saying, as I understand it, is that a personal property search and a frisk search should not happen unless there is reasonable grounds to think that they should occur. That seems a very reasonable response to the concerns about the draconian or more extreme elements of this legislation.

I am concerned about Mr Humphries' story about SOCOG. I have sympathy with him if it is unclear what we are supposed to be doing in different states and territories. He said that other places have similar legislation. As I understand it, nobody in this place is saying that we should not do something. Everybody agrees that we should do something. When I interjected and asked, "Has everyone got this level of detail?" he said no. He seems to have had a genuine problem finding out exactly what we are required to do. This government has chosen to produce this particular piece of legislation, which some members in this place, including me, have concerns about elements of. We are not debating whether or not we should have this kind of legislation; we are debating how extreme it is.

I am also unclear from Mr Humphries' statements what items on the list of prohibited items he decided and what items SOCOG decided. Mr Humphries said that we had no choice; that the political slogans came from SOCOG. Then we were told that this is a draft letter and they are still working on the list. I guess that means that there are two elements to the list of prohibited items. There are some things which have been clearly required from SOCOG and there are other items which Mr Humphries and his officers are working out.

**Mr Humphries**: That is not true.

**MS TUCKER**: It is not true, Mr Humphries says.

**Mr Humphries**: It is all required by SOCOG.

**MS TUCKER**: The definition of prohibited items has been given to you by SOCOG? Is that what you are saying?

**Mr Humphries**: As I understand it. I will confirm that. As I understand it, that is the case.

**MS TUCKER**: Clarify that, please, because I am not clear on that.

**Mr Kaine**: Where is the list?

**MS TUCKER**: The list has been tabled, but I do not think it has been circulated. I am interested to know how much of it is being required by SOCOG. Mr Humphries is checking that. I am sorry we have not had a chance to see this list in advance. If the items on the list are required by SOCOG, I do not understand why the list is so late in arriving here. I heard Mr Humphries say it was hard to get responses, that it is vague and that the Federal Police were the people who informed him. I do not understand the structure of SOCOG at all, if that is the case. I find it interesting that the Federal Police will be dictating to members of parliaments around this country what we put in our legislation. The whole thing is quite concerning.

Mr Humphries is still conferring. I do not have anything else to say, except that from what I have heard so far in the debate I think that what Labor is doing is perfectly reasonable, and we will be supporting it.

**MR MOORE** (Minister for Health and Community Care) (5.13): This is specific legislation about Olympic venues only. It is not about anything else. Mr Stanhope spoke about authorised people and said that police officers were the appropriate people to take certain action. Mr Stanhope, at question time today, raised a concern about keeping police on the streets and stopping burglaries. Requiring police to conduct searches at Olympic venues will create a huge vacuum that sucks police over to those venues. I think it is appropriate for us to retain the notion of the authorised person so that we can keep our police officers on the streets. That is the most important thing. That comment applies to the last three amendments Mr Stanhope proposes to move.

My arguments on the amendment before us apply also to the next amendment Mr Stanhope will move, so I do not intend to stand up a second time. By introducing a requirement that a person must have reasonable grounds for believing that a person is carrying a prohibited item, you are eliminating the ability to have a broad search. If reliable information comes to hand that a particular group is planning a particular action, then officials have to have the power to do a fairly widespread search of people. As I read it, that would not require reasonable grounds for believing that a particular person was carrying a prohibited item, the limitation that Mr Stanhope seeks to put in the legislation.

With almost any other piece of legislation of this kind, I would be rushing to support Mr Stanhope's amendment. Mr Kaine reminded me of that in reading out what I had said about necessity. I am trying to remember the person I was quoting, whose name I gave at the time. It seems to me that we have the responsibility to provide a level of security that we would not provide anywhere else. We only have to think back to some of the appalling events associated with past Olympics. They have brought about loss of life of elite athletes and others. The ACT should not be seen as a weak link. As an Olympic venue, it will receive worldwide coverage. If something goes wrong here, there is no doubt that it will receive a huge amount of coverage.

We have to provide this kind of power for a very limited time for a specific purpose at a specific place. That is what this legislation does. We ought to resist this amendment.

**MR RUGENDYKE** (5.16): There is a large degree of confusion over this amendment and the next one Mr Stanhope proposes to move. I apologise for trying to bring a degree of commonsense to this debate, but let us ponder for a moment a scenario that will show the failure of these amendments. Let us assume a busload of people from the tattooed classes of Mr Osborne's electorate wish to come to the Olympic soccer and a fine upstanding citizen says, "I saw a bloke get on that bus with a bag full of flares." Once the bus arrived at the venue, who would be able to work out which person on the bus had the flares? If there was a need to have reasonable grounds for believing a person possessed a prohibited item, how would they determine whom to search? It might be the case that the whole busload needs to be searched or frisked. I will not be supporting these two amendments.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.19): Let me come back to what I see as the nub of this debate. It is about whether it is possible to have searches conducted other than in circumstances where the police have a reasonable ground for believing that a person possesses a prohibited item. If we want to impose that condition, we have to be quite clear that we

will not be conducting searches except in a very small number of cases. It is not reasonable to expect that we can search people randomly and at the same time have a reasonable suspicion that they are in possession of prohibited items.

It has nothing to do with police versus authorised persons. This applies to authorised people. It has nothing to do with whether the police exercise power or not. It is a question of whether authorised people, whether they are police or not police, can conduct a search except where they believe there is a prohibited item on a person's body or in a person's possession. If we have the power as amended by Mr Stanhope, we will not see many searches conducted, and the present plans to search all people who enter the premises will have to be radically rethought.

Ms Tucker has pointed out that people pass through a metal detector. That is quite true. If a person passing through the metal detector causes it to beep, then there is a reasonable suspicion, I suppose—I am not sure whether it is necessarily the case but you might argue that it is—for believing that the person possesses a prohibited item. I do not know whether that necessarily follows, but presumably you could tenuously make a connection there.

As members have already heard, there are lots of prohibited items which are not metal and will not show up on a metal detector. The only way of detecting those items is by doing a search of a bag. Without this power, a bag will not be able to be searched unless there is a reasonable suspicion that someone is carrying a prohibited item. Mr Speaker, that will be a very rare occurrence. Let us be clear. If we pass amendments Nos 1 and 2, we will effectively prevent random searches of people entering the Olympic venue. That is a very serious step down from the level of security which it has been planned, up until now, to provide at the Olympic venue.

**MR KAINE** (5.21): Mr Speaker, I am not certain that the minister has justified the government's position on this issue. I do not know how a police officer determines whom he is going to search and whom he is not, and I do not really care much. But whatever method he uses, I do not believe he or she ought to be allowed to body search somebody without reasonable excuse—just pick someone out of the crowd and say, "Hey, you" and then be allowed to ask them their name and address. For "ask" read "demand", because they will then become subject to a fine of $500 if, without reasonable excuse, they do not give somebody their name and address.

Somebody wearing civilian clothes steps out of a crowd and says, "Hey, you. I want to have a look at your bags" or "I want to search your body." The bloke says, "Hang on a bit. I'm just Joe Blow with my sambo in my bag. I'm just here to see the games." Regardless of that, the plain clothes person says, "Do you refuse to allow me to search? What is your name and address?" The bloke says, "Don't want to tell you, mate." For that he is going to be fined $500? Is this reasonable? Is anybody in this room going to tell me that that is reasonable? Is the minister going to tell me that that is reasonable? I do not think it is.

It is up to the security people to determine how they are going to deal with this situation. They have to deal with it within the context of the legislation we are prepared to pass, not what SOCOG says we must have. I am not interested in what SOCOG says. They are not the government of the territory. Whatever legislation we pass, in whatever form we

pass it, the police and the people they designate as authorised persons—and they do this under delegation from the minister—have to act in accordance with the legislation. If they find that a bit hard, I am afraid it is not our problem.

I am not going to impose on the citizens of this place this arbitrary search, this arbitrary fine, because they will not give me their name and address. They have committed no offence, except an offence of simply saying, "I'm just Joe Blow. I'm here to see the games, and I don't want to give you my name and address just because I have been picked out of the crowd for a random search." That is not reasonable in any context, and I would be interested in the minister's explanation for demanding it, other than to say that SOCOG says we have to do it. I am not impressed.

I support what Mr Stanhope is proposing here. If a police officer or an authorised officer wants to search somebody, do a body search or demand their name and address—it says "ask" but it means "demand", because there is a penalty for not doing so—they have to have some reasonable reason for wanting to do that. There has to be some reasonable concern that there is a problem before you do that to any citizen, Olympic Games notwithstanding.

**MS TUCKER** (5.25): The list has been circulated by Mr Humphries, but I hope he will speak again to define which of these items SOCOG have declared we have to have and which the ACT has decided.

**Mr Kaine**: That is a list I do not have.

**MS TUCKER**: It was just circulated to me. Mr Kaine does not have one, apparently. I am still concerned about the discussion we have just had. Mr Humphries has said it would happen rarely, so I am assuming that it would rare that there would be a search because there was a reason.

**Mr Humphries**: No. It will happen to every person entering the venue. Every person entering the venue will be searched. Their bags, at least, will be searched.

**MS TUCKER**: Okay. What is going to happen rarely? The body search? The frisk? You were saying it would be unusual.

**Mr Humphries**: There are no body searches at all. There are frisk searches.

**MS TUCKER**: I thought that is what that was.

**Mr Humphries**: In less common circumstances, as I understand it.

**MS TUCKER**: In less common circumstances? I am assuming that you would not have a frisk search unless you had reasonable grounds. You are saying it would not happen very often, so I imagine that you do not just pick someone. Or is it as Mr Rugendyke, a person experienced in the police force, has tried to tell us and that people with tattoos who come in a bus from Tuggeranong are suspect? This does not make me feel confident about how they will decide whom they search.

**MR STANHOPE** (Leader of the Opposition) (5.26): I feel I need to clarify my correspondence to the Attorney. I now have my papers here. The Attorney insisted that I had not written to him subsequent to February of this year.

**Mr Humphries**: You have written once more.

**MR STANHOPE**: He has now had an opportunity to speak to his staff and he now suggests I have written once more. We might just go to the three letters I have written to the Attorney since his letter to me in February. I notice the Attorney now most ungraciously acknowledges that he was wrong before when he said that I had not written since February.

Having consulted his staff, he has now acknowledged that I have written once. I will read the three letters I have written since then. They are all of the same tenor. My letter of 13 March says:

> I refer to your letter of 16 February concerning the *Olympic Events Security Bill 1999*.
>
> I cannot agree that your letter dated 3 June 1999 was a reply to my earlier letter. Your letter dated 3 June canvasses issues to be raised at the Australasian Police Ministers' Council. The mention of the *Olympic Events Security Bill* in that letter is peripheral and, in any event, does not canvass the issues I have raised.
>
> I repeat that I am supportive of the need to have Olympic events proceed smoothly but need your comments on the issues I raised on 23 April 1999 so that I can adequately consult my colleagues. I look forward to your substantive reply.

There was my letter of April 1999, the one that was not responded to. My letter of 9 August reads:

> Dear Attorney,
>
> I have written to you on a number of occasions about the *Olympic Events Security Bill 1999*. My most recent letter was dated 13 March.
>
> As stated in my previous correspondence, I am prepared to offer bipartisan support, provided a number of serious issues are clarified. Notwithstanding your response to the Scrutiny of Bills Committee (which described the Bill as 'draconic' in its effect), I would welcome a more specific response to the queries that I raised in April 1999.
>
> I would appreciate a substantive response to my correspondence and a briefing from the Australian Federal Police officer in charge of Olympic security ...

I note also the Attorney's suggestions about the difficulties he had with SOCOG. I also wrote to SOCOG and the responsible minister. It is interesting that Mr Knight, in his response to me, advised me that the minister for justice had also written to him and he had asked the minister for justice to consult with Commander Paul McKinnon of the Olympic Security Command Centre to resolve the issues of concern. The Attorney is now telling us that he has not been able to get any sensible response. I presume what he is suggesting is that Commander McKinnon was completely unhelpful, could not help

him at all in relation to the SOCOG provisions. Talk about demeaning the role of the police and undermining police officers and the police service!

As the debate develops, we understand more and more of what is being proposed here. I suppose it is of some interest to us to learn that a unilateral decision or declaration has been made that every single person who enters Bruce Stadium will be searched; that their bags will be searched. That is what we now understand. It is not even a random search. The proposal is that everybody will be searched; that the bags of every single person who enters will be searched. This puts a different complexion on the debate, I guess. The government is now suggesting to us that they propose to search the bag or bags of every single person who enters Bruce Stadium.

I do not think the government has been all that up front about that. The government does not say in this legislation that every person that wishes to attend Olympic football at Bruce Stadium will be subjected to a search of their bags or of their property.

**Mr Moore**: May be subjected.

**Mr Humphries**: No. It is most likely everyone will be searched.

**MR STANHOPE**: The Attorney's proposal is that they will all be searched. There is no randomness about it. It is a total search that is being suggested here. The government is saying, "We cannot accept a reasonable proposal in relation to a reasonable belief, because we do not need a reasonable belief. We are searching everybody."

The debate we are having is about whether or not that is appropriate and about who makes that judgment. Or is that what we are doing? Is this parliament about to make a judgment that we should assume that everybody who goes to Bruce Stadium is potentially carrying one of the prohibited items? As the Attorney has said, it is a very wide list. It includes glass items, other than optical lenses; bottles, whether made of glass or otherwise, and cans; and political, religious or race-related materials. I presume that does not include crucifixes. I am not quite sure what that goes to.

What is religious material? I wonder whether it goes to a copy of the Lord's Prayer that one might carry around in one's wallet, a crucifix or rosary beads? It is a pity that we did not have made available to us this list of prohibited items. It goes to baby bottles. Anybody taking a baby that is on the bottle is going to be in strife. You cannot take a bottle, whether glass, plastic or otherwise. I presume nobody who is feeding a baby—

**Ms Tucker**: Only breastfeeding mothers.

**MR STANHOPE**: Only breastfeeding mothers may go.

**Ms Tucker**: It is a campaign for breastfeeding.

**MR STANHOPE**: Yes, it is a campaign for breastfeeding. I am not quite sure whether or not the list bears close scrutiny.

The suggestion that has been made in my amendments, particularly amendment No 1, which goes to the search of property, is that the authorised person, the person making the search, should have a reasonable ground for believing that the person may be in possession of a prohibited item.

I hear the government's argument, which I am sorry they did not make before, that the proposal is that they will search every bag. Some honesty and some up-frontness in relation to exactly what the security proposals were might have been helpful. Hence my frustration with the fact that the government chose to ignore my letters, and ignore them repeatedly. In all the time I was corresponding, they did not give me any semblance of a substantive answer to any of my questions.

In relation to searches of property and the person, I am proposing that there be a reasonable belief in the mind of the person making the search.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.34): Mr Speaker, I want to make a couple of brief further comments. On the question of correspondence, Mr Stanhope has written to me three times now. I can see that there were three letters. You did say before that there were four letters. I was wrong and I concede, and I hope you will also make a similar concession. You wrote to me three times. In reply to the first two letters, you received a letter from me. In reply to the third letter, the one on the 9th of this month, I organised a briefing of you and your staff by officers responsible for this legislation. If that is not an adequate response to the issues you have raised, I am sorry. I think I have done the best I can.

On the issue of the list, members seem to forget that the list of prohibited items is a disallowable instrument.

**Mr Stanhope**: It is a bit late.

**MR HUMPHRIES**: No, it is not a bit late at all. The list will be tabled in this place by next week, in time for members to be able to disallow it, if they wish, or amend it. What members have seen is a draft of the list. Every one of those items comes from SOCOG's list of items that they wish us to prohibit in the ACT. There are other items which SOCOG has requested that we prohibit but which we have not proposed in this early draft to prohibit. I will mention what some of those items are: bicycles, trumpets, flyers, scooters, vulgar signs and animals.

We have included in our list items which it has been represented to us as mandatory or items which we believe go to security at the venue. That is the basis on which that draft list has been prepared. However, that draft list is not the matter for debate today. There will be opportunities for the Assembly to debate that next week.

**Ms Tucker**: Which are mandatory? Can you tell us that?

**MR HUMPHRIES**: I cannot tell you off the top of my head, but it is not the matter that is relevant to today's debate. We are not debating the prohibited items. I assume we all agree there have to be some prohibited items. I assume we do not want people to carry in Reugers, daggers and things of that kind. The question is: what gets prohibited and what does not?

Our legislation simply allows items to be prohibited. What is to be prohibited will be before the Assembly next week, for it to consider and decide whether it wants to disallow or amend or does not wish to disallow or amend. To some extent, that is off the point. I come back to the fact that in this legislation we are seeking the same power which exists if you enter a supermarket, where there is a provision that your bags can be searched, if that is the wish, without reasonable excuse, by the proprietors or the agents of the proprietors of that supermarket, or if you wish to enter the restricted area of an airport. We are seeking the same powers in respect of the international Olympic venue in the ACT for a space of less than 14 days.

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.

Clause 9 agreed to.

Clause 10.

**MR SPEAKER**: Mr Stanhope, are you proceeding with your amendment No 2? It is similar to your No 1.

**MR STANHOPE** (Leader of the Opposition) (5.42): Yes, I will, because I think it is an important proposition. In a way, amendment No 2 is more important than No 1, which we have just debated, insofar as amendment No 2 relates to the searching of a person's person rather than their property. I will not say anything more. We have had the debate, but I would persist with the amendment. I move:

> No 2—
> Page 5, line 23, subclause (1), after "his or her person", insert "if the authorised person has reasonable grounds for believing that the person possesses a prohibited item".

Amendment negatived.

**MR STANHOPE** (Leader of the Opposition) (5.43): I move:

> No 3—
> Page 5, line 24, subclause (2), omit the subclause, substitute the following subclauses:
> "**(1A)** A frisk search under this section must be conducted by a police officer of the same sex as the person being searched.
> **(2)** A person who has been asked under subsection (1) to permit a frisk search of his or her person must not, without reasonable excuse, refuse to permit a police officer to frisk search his or her person.
> Maximum penalty: 10 penalty units.".

We also discussed this amendment in the broad. I think this is a proposition that should be supported. This amendment provides that a search of a person, namely a frisk search, needs to be conducted by an authorised officer of the opposite sex to the person being searched.

**Mr Hargreaves**: The same sex.

**MR STANHOPE**: Of the same sex. I am sorry. It requires that the search be by an authorised officer not of the opposite but of the same sex. The amendment is designed to ensure that a police officer responsible for the search will ensure that the appropriate police regulations and guidelines governing searches apply. I think I did raise and talk to this point when I spoke to the amendments more broadly earlier. I believe that a frisk search of a person entering a sporting venue should not be undertaken lightly. That is why I think this is a significant and invasive process we are legislating here.

A frisk search is invasive and should be undertaken only on the basis of a reasonable belief of its necessity. It should be undertaken only by a police officer or a police officer should be responsible and should accept responsibility for the search and the way in which it is conducted. As I said before, if people are to be searched in this way at the soccer, then it is only appropriate that a person of the same gender conduct the search.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.45): It is the government's view that frisk searches should be conducted by people of the same sex as the person being searched. I am told that the police, as a matter of standard practice, conduct such searches only in that way, and I am told that Olympic volunteers, police and others involved in this exercise have been strictly trained in those terms.

We come back to this issue about whether it is police or authorised persons. That is the other change being made by this amendment. For the reasons I have already indicated, I oppose that change. Although I do not support putting this amendment in place, it will certainly be honoured with respect to ensuring that only a person of the same sex as a person being searched conducts a search.

Amendment negatived.

Clause 10 agreed to.

Clauses 11 and 12, by leave, taken together and agreed to.

Clause 13.

**MR STANHOPE** (Leader of the Opposition) (5.47): I seek leave to move amendments Nos 4 and 5 together.

Leave granted.

**MR STANHOPE**: I move:

> No 4—
> Page 6, line 27, subclause (2), omit "an authorised person" (second mention), substitute a "police officer".
>
> No 5—
> Page 6, line 32, subclause (3), omit "An authorised person", substitute "A police officer".

Once again, Mr Speaker, I think these are important amendments. They go to the separation of responsibility between the police and authorised officers. I contend that the ejection of one of our citizens from Bruce Stadium for some perceived wrongdoing at the stadium is something that should be carried out only by a member of the police force. If one of our constituents, a resident of Canberra, goes to the soccer and behaves in a way that offends the police or an authorised officer—we are talking here of circumstances in which the behaviour is offensive to an authorised officer—the bill as it stands allows an authorised officer to eject that person from the stadium. That is a level of power in relation to this Olympic event that I think is too great to vest in an authorised officer.

I have no difficulty with that power being vested in the police. The police have the appropriate training in relation to the restraint of individuals and those processes that I am sure from time to time are very difficult. They are dealing with people who, for whatever reason, may not behave in a particularly orderly way. That process can be carried out by an authorised officer who has not had the appropriate training and does not know how to conduct the ejection in a way that is safe for their person, other patrons or the person being ejected.

I think this is a reasonable amendment. If, heaven forbid, there is a need to eject anybody from Bruce Stadium during the Olympics, that ejection should be on the basis of a judgment made by a member of the police force, and the ejection should be carried out by a member of the police force, or at least under the close supervision of a member of the police force, so that the police will take and accept responsibility for that action.

It is a serious matter to manhandle somebody out of a sporting stadium and out of a public place. It is a serious thing to contemplate. It is a serious power to vest in somebody who does not have the requisite training, both in the detection of behaviour in relation to which it is appropriate that a person be ejected and in the actual physical ejection of a person.

I commend these amendments. I think they are reasonable. It is only reasonable that this range of powers be vested in the police and that the police accept responsibility for the carrying out of these important and difficult tasks.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.51): There are many circumstances in ordinary civilian life in the ACT where civilians—that is, proprietors of premises or agents of proprietors of premises—may exclude individuals from premises lawfully and even on occasions with the power to back that direction up with the use of force.

You can be lawfully directed to leave a supermarket, a shop, a cinema, a restaurant—all sorts of venues—in this community by the person who is in charge of that venue. Indeed, if you are in a nightclub or drinking establishment, you can not only be directed to leave but also be physically and forcibly removed by the bouncer at those premises, and that occurs with the full protection of the law, provided it is done within reasonable limits.

**Mr Stanhope**: And it is often not done within reasonable limits.

**MR HUMPHRIES**: indeed, it is not, but the question here is what level of training is provided to the people to exercise the power. The people who are exercising this power fall into three categories. They are police officers who are trained to a high level of expertise in the use of such powers; they are fully employed, trained security staff, who have to be registered under the relevant code of practice for crowd marshals which the ACT now has in place and also have to be trained; or they are Olympic volunteers and policing, who have spent the last several months training intensively for this exercise and who have, I believe, training at a high degree to ensure that that exercise these powers responsibly. Each one of those volunteers is, in their spare time, a member of a bush fire brigade or an emergency service brigade in the ACT. They are people used to being able to deal, under discipline, with particular situations which involve contact with the public. Mr Speaker, I have no hesitation in saying that these people are very likely to be able to exercise these powers with considerable care and with great diligence.

What sort of situation might this power be required in? Take a situation where a fight breaks out. Last year at a soccer match in Sydney, there was some major brawling going on and police were engaged in fairly heavy fighting with people involved in the brawl. The police themselves would be fully occupied in the physical restraint of those people who are engaged in fighting. Olympic volunteers, for example, and other authorised staff might be trying to cordon off the area and prevent the situation escalating. People trying to enter that area would be given directions under section 13 to leave the venue and told, "Go away. Do not come into this area."

That is the kind of power which they need to be able to exercise in support generally of the powers that the police exercise, and it is not reasonable to say that they should not have that power. Without that power, they are not able effectively to help the police prevent an event such as the one I have described from escalating.

The Federal Police have indicated to me most strongly that they believe this power should be retained in its present form, and I would urge members not to support the amendments.

Amendments negatived.

Clause 13 agreed to.

Clause 14 agreed to.

Proposed new clause 14A.

**MR RUGENDYKE** (5.55): I move:

> No 1—
> Page 7, line 8, insert the following new clause:
> "**14A Unauthorised entry to event arena**
> A person must not enter or remain in the part of an Olympic venue in which an Olympic event is to be, is being or has just been conducted without the consent or other authorisation of the occupier.
> *Example of part of an Olympic venue in which an Olympic event is conducted*
> The playing field for a soccer game.
> Maximum penalty: 10 penalty units.".

I will speak to my amendment No 1 and to the bill as a whole, if I may. The amendments that I have formulated simply draw out some specific provisions I see as being necessary to clearly and unambiguously let people know some of the things that would constitute unacceptable behaviour.

To put this in context, we cannot afford to be complacent in our preparations for crowd control and security for the Olympics. There is no doubt that the Olympics is the biggest sporting event in the world, and it is an unfortunate reality that the international sporting arena has a history of incidents. The two rugby codes, which are the major hirers of Bruce Stadium, have a relatively trouble-free record with crowds. However, with the Olympics, we are expecting a mix of people who are passionate about their sport, possibly some soccer hooligans and others coming to a sport that we all know has a long list of commotions at an international level over the years.

This is not a statement made to degrade soccer, but a simple fact that we cannot underestimate. I am aware that there have been examples at Cosmos home games where problems have occurred with certain supporter groups, particularly with the use of flares. We all know that the Cosmos have small crowds, much smaller than those we expect to be in Canberra for the Olympic soccer, and it would be prudent for us to remove the open-ended nature of the definitions for interference and disruption of an event, so offences are clearly defined and police can clearly stamp on potential blow-ups.

It is also an unfortunate reality that the Olympics is not just the stage for athletes. It also provides the window of opportunity for political statements or protests, and it is our responsibility to do whatever we can to ensure that the stage is preserved for the athletes. We have to protect the athletes. This is one of the reasons it is imperative that this bill clearly specify unauthorised entry or, as it is commonly known, pitch invasion. The sporting world lost its innocence when champion tennis player Monica Seles was stabbed by a spectator in the early 1990s, so we do have to be prepared for the worst case scenario.

**MR SPEAKER**: Mr Rugendyke, please try to confine yourself to the amendment that you are moving. We are drifting over into tennis at this point.

**MR RUGENDYKE**: I beg your pardon, Mr Speaker. Am I able to continue to address the bill as a whole?

**MR SPEAKER**: No.

**MR RUGENDYKE**: Okay. In reference to my amendment No 1 then, Mr Speaker—

**Mr Moore**: Mr Speaker, I raise a point of order on your ruling. I hate to take Mr Rugendyke's side, but the point he was making was that pitch invasion is something we have to guard against, and he used the example of Monica Seles.

**MR SPEAKER**: Mr Moore, I have been following Mr Rugendyke's comments. He was in order up until he started talking about tennis, but he then asked me whether he could address the bill as a whole, and the answer to that is that he cannot. He can address the amendment that he is moving.

**MR RUGENDYKE**: I do apologise, Mr Speaker. My amendment No 1 identifies pitch invasion. We are familiar with the incident when a pitch invader disrupted the Socceroos' World Cup qualifier against Israel a few years ago. He ran onto the field at a crucial time, dismantled the net and held up the game for a considerable period. This was the same person who strolled onto the Flemington racetrack during the Melbourne Cup. We have to be prepared for similar antics in Canberra.

I use these two examples—Monica Seles and the clown from the World Cup qualifier—to indicate the need for my amendment No 1, which creates the specific offence of what is known as pitch invasion, and I would encourage members to support it.

Proposed new clause agreed to.

Clause 15.

**MR RUGENDYKE** (6.00): Mr Speaker, I move:

No 2—
Page 7, line 9, omit the clause, substitute the following clause:
"**15 Interference with an event**
A person must not, in an Olympic venue—
(a) behave in a way reasonably likely to cause serious alarm, affront or embarrassment to someone else; or
(b) use indecent, offensive, insulting or threatening language; or
(c) behave in an offensive, insulting, intimidating or harassing manner; or
(d) injure or damage a person or property; or
(e) engage in violent behaviour; or
(f) disrupt, interfere with, delay or obstruct the conduct of an Olympic event, or an activity associated with the event, by throwing anything; or
(g) in any other way—
(i) disrupt, interfere with, delay or obstruct the conduct of an Olympic event or an activity associated with the event; or

(ii) interfere with the reasonable enjoyment of an Olympic event, or an activity associated with the event, by someone else.
Maximum penalty: 10 penalty units.".

It is in all our interests to promote a peaceful event that discourages soccer hooligans or violent behaviour. That is the purpose of my amendment No 2. I think it is appropriate to flesh out specific offences, to give people a clear and unambiguous indication of what unacceptable behaviour is. For example, to behave in a way that is likely to cause serious alarm is a common offence in New South Wales and other places. It is an offence to affront people, to embarrass people. To disrupt matches in this way would create the offences outlined in paragraph (a) of my amendment.

To use indecent, offensive, insulting or threatening language would also be an offence. The key word here is "threatening". I note Mr Moore's proposed amendment to take out the reference to language. I accept that. My amendment talks about threatening language. That is the sort of behaviour we do not want to see at Bruce Stadium, on the world stage.

Why should people be able to damage people or property? Why should people be able to engage in violent behaviour? These are the sorts of offences that I have drawn out as generic offences, to give an indication of things are unacceptable behaviour at our Olympic Games.

I encourage members to support this amendment. I note that Mr Moore proposes to move some amendments to it.

**MR MOORE** (Minister for Health and Community Care) (6.03): I seek leave to move two amendments to Mr Rugendyke's amendment together.

Leave granted.

**MR MOORE**: I move:

No 1—
Proposed paragraphs 15 (a) and (b), omit the paragraphs.

No 2—
Proposed paragraph 15 (c), omit the words "offensive, insulting,".

I am reminded of the scrutiny of bills committee report on Mr Rugendyke's Adult Entertainment and Restricted Material Bill. You might recall that that had five pages of comment on ambiguity of language and the restriction that imposed on free speech. There are some similarities here. I quote from page 3 of that report:

> Are the definitions too vague to be acceptable as a standard for the application of the criminal law?

It went on to talk about those definitions. The scrutiny of bills committee has not had a chance to look at Mr Rugendyke's amendments, because they only became available today, and they have not had a chance to look at my amendments, because I have only just drawn them up as well.

I think it is important to know why I oppose paragraphs (a) and (b) and part of paragraph (c). Paragraph (a) provides that a person must not, in an Olympic venue, behave in a way reasonably likely to cause serious alarm, affront or embarrassment. Let me use embarrassment as an example. If I was there with three or four of my mates, I could turn around and point at Mr Rugendyke and begin laughing, although Mr Rugendyke is probably difficult to embarrass. All we would have to do is point and laugh at somebody, and we would have contravened this amendment. I am sure that is not the intention of Mr Rugendyke's amendment, but it shows that this is not an appropriate provision to have in the legislation.

Paragraph (b) is about the use of indecent, offensive, insulting or threatening language. Let us take out the word "threatening", which Mr Rugendyke spoke about. To support this paragraph, I think I would have to be a hypocrite. I recall my mother always saying to me and to her other children, "Don't you dare say 'bloody'. You can say it is a 'bleeding' thing." The word "bloody" was totally unacceptable to her. She would consider it offensive and indecent if we used the word "bloody". I do not know whether she has finally got used to it or not. I must ask her. Language is offensive to some people and not offensive to others.

Mr Rugendyke, you might find the word "fartcate" offensive. In fact, it is not. It means to fill something and not have anything left over. But I can understand that somebody might find that offensive or misunderstand it. Language is interesting. When I saw this amendment this morning, I read a little bit of *The Miller's Tale* by Chaucer. Some people would have found some of the language in that quite offensive. I do not. What we find offensive changes from time to time. Paragraph (b) is an inappropriate paragraph.

My amendment to paragraph (c) deletes the words "offensive, insulting", leaving the words "behave in an intimidating or harassing manner". That covers threatening, intimidating and harassing. You do not need a reference to threatening language in paragraph (b), because paragraph (c) covers behaving in an intimidating and harassing manner, and using threatening language is behaving in an intimidating or harassing manner. My amendment leaves that in.

My amendments improve what Mr Rugendyke is trying to do. It takes out the words that perhaps you and I would have a difference of opinion on. As you know, I am the wild left wing anarchist; you are the hard Right wowser. By meeting halfway we might get what is reasonable.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.07): The Liberal Party view is that it is helpful to have enumerated, as Mr Rugendyke has done, the things which constitute disruptive behaviour. Members have complained already in the debate today about things being ambiguous and not specific. Mr Rugendyke has made them specific. It is quite clear that any of the things that are referred to in paragraphs (a) to (f) could constitute an act which disrupts, interferes with, delays or obstructs the conduct of an Olympic event. It is important to be able to spell out clearly for people's benefit what it is that constitutes that kind of behaviour.

I can well see circumstances where the use of certain language can lead to a serious breakdown in security. I suspect that many of the security incidents which have broken out at sporting events in recent years have resulted from the use of language, not initially from behaviour of any sort—

**Mr Moore**: "Get stuffed!"

**MR HUMPHRIES**: Now, listen, shagface, I am telling you this is the case.

**Mr Moore**: That is bloody well intimidating.

**MR HUMPHRIES**: Once I get you outside, you will see what is intimidating. I think that what Mr Rugendyke proposes is appropriate. The Liberal Party does not support Mr Moore's amendment to Mr Rugendyke's amendment. We think it is appropriate to spell out what it is that this provision about disruptive behaviour means, and that is what Mr Rugendyke's amendment does.

**MR STANHOPE** (Leader of the Opposition) (6.09): As I indicated earlier, the Labor Party does not support this amendment. We do support Mr Moore's attempt to bring more certainty to the issue, but we would prefer to see this amendment not proceeded with.

I think the bill as drafted by the Attorney provides the authorities with the necessary range of powers. I do not think it is clever law-making to seek to enumerate a range of issues that an authorised officer or a police officer needs to take into account when coming to a decision as to whether or not, under the legislation, certain behaviour might create the disruption that we are all concerned to ensure does not occur.

I agree very much with what Mr Moore said. His amendments go to paragraphs (a), (b) and (c). To some extent, those paragraphs of Mr Rugendyke's amendment cause me the most disquiet. To legislate that an authorised officer at a sporting event can take certain action in relation to the behaviour of a person that that authorised officer believes is embarrassing is an extreme abuse of legislative power. To expect an authorised officer at a game of soccer being viewed, let us hope, by 25,000 people to take action against a person behaving in a way that that authorised officer or police person thinks is embarrassing is inappropriate and wrong.

What is embarrassing to Mr Rugendyke will very likely not be embarrassing to me. What is embarrassing to a police officer may very well not be embarrassing to me. Behaviour that I engage in that is embarrassing to lots of other people is probably not embarrassing to my family or to those who might love me or forgive me or understand my foibles or eccentricities.

It is very dangerous and serious to suggest that we should legislate to allow an authorised officer or a police officer to take certain actions and to subject a resident of Canberra, one of our constituents, to a criminal penalty for acting in an embarrassing way, in a way to be determined on the judgment of that authorised officer or that policeman. That is incredibly dangerous and wrong. It simply cannot be supported.

It is now to be a criminal offence to be embarrassing. How do we define "embarrassing"? How embarrassing something is is very much in the eye of the beholder. It is an entirely subjective concept. We cannot seriously legislate against embarrassment.

**MR SPEAKER**: Mr Stanhope, you will not be legislating against anything if you speak with your back to that microphone. Hansard cannot pick you up. You will have to turn around a little bit, please.

**MR STANHOPE**: I think it is serious. It should not be dismissed because of the lateness of the hour or crushed through on the numbers. We cannot as a legislature accept this sort of law-making. We cannot expand the powers of our police and those who enforce the laws to render criminal behaviour that is embarrassing.

Mr Moore spoke about offensive or insulting language. I thought we had the debate about the application of offensive and insulting language legislation years ago and that it was accepted. The courts have been very harsh in their condemnation of some of the actions that have been brought before them by police charging certain individuals with offensive, insulting or threatening language. It is a concept in relation to which these days we rely on the good sense of the police. What is offensive to one person is simply not offensive to a range of other people.

It is such a subjective concept that we should not be legislating to make criminal the use of language that a police officer or an authorised officer regards as unacceptable. The notion is so seriously flawed that it should be dropped altogether. We would support Mr Moore's amendments, but only in a determination to ensure that this provision does not infringe to the extent that it otherwise would.

Mr Rugendyke's amendment is unnecessary. As a legislature, we should not be flexing our muscles and beating our chests to see who can be the toughest. We have enough of this law and order nonsense. We do not need members beating their chests to show just how tough they are.

**MR STEFANIAK** (Minister for Education) (6.16): There used to be a number of offences like this that the police very capably dealt with in the ACT for many years. I do not think anyone would dispute the fact that we have a well-trained police force well regarded in the community and quite capable of exercising sensible discretion. That is surely something that they would do in relation to Mr Rugendyke's amendment. Some of the things mentioned in the amendment, especially threatening language and threatening behaviour, are very sensible things to have in legislation such as this.

**MS TUCKER** (6.17): The Greens support Mr Moore's amendments, as Mr Stanhope said, with some reluctance. It is important to support Mr Moore's amendments because they will reduce the impact of Mr Rugendyke's amendment. Mr Rugendyke's previous amendment was about authorised entry to an event arena. That overlaps with the existing powers under clause 15, relating to interference with an event, and clause 8, relating to entry to restricted areas. The proposed new clause 15, relating to interference with an event, prohibits just about anything apart from sitting on your seats.

An offence of behaving in a way likely to cause serious alarm and embarrassment to someone else could cover any behaviour at all. What does embarrassment mean? Which people are going to be designated as the thought police to decide on what behaviours are embarrassing?

There are issues here which have quite serious implications. There are obviously going to be some groups in civil society who because of the international spotlight during the Olympics want to raise issues around particular causes they are committed to. I have recently been working with people who have been intimidated and victimised by the regime in China.

I know that when the Falun Gong group meditate outside the Chinese Embassy it is seen to be an embarrassment to China. China is extremely sensitive about that and they would like to stop it. Fortunately, we live in a free country and these people are able to practise their meditation, even though there is a growing number of reports of attempts by Chinese officials intimidate these people, even though they live in Australia.

Because of this element of community action associated with the Olympics, we have to understand that legislation like this will have an impact on it. I am very unhappy with Mr Humphries waving around at the last minute a map which I could not see from here. He tells me I can look at it, but this is another example of how poor this process is.

We would like to know exactly what areas are being designated around the Olympic venue. That will be a place where people could choose to make their point on particular issues. This law is going to cover whatever is designated around Olympic venues. We will have to look at that map afterwards. I do not know whether the map is a disallowable instrument. It may be. However, we can have that debate when we look at the prohibited items.

We have concerns about the government's legislation, although we recognise attempts need to be made to ensure the safety of people in Olympic events. There are unanswered questions. The legislation is vague. In respect of search of personal property, the legislation says an authorised person "may" ask. Mr Humphries told us today that everybody is going to have a personal property search. It is unclear about the metal detector. That is not covered in the legislation. The prohibited items we are going to debate about next week.

All in all, it is not a satisfactory process. I believe that this legislation is more extreme than it needs to be. We do not know which items have been declared prohibited items by SOCOG and which items the ACT minister's officials have decided should be prohibited items. I look forward to knowing that. I am quite concerned about some of those prohibited items in terms of civil liberties issues, but we can have that debate next week.

**MR BERRY** (6.21): I want to speak about a particular group of people who could be affected by Mr Rugendyke's amendment. Mr Stanhope and others in this place have raised weighty issues in relation to civil liberties and attempts to categorise all of the offences that might be committed at an Olympic event. The proposed offences include causing serious alarm, affront or embarrassment and using indecent, offensive, insulting or threatening language. I wonder how the police might pick up a bit of German or one of the Chinese dialects. A German person visiting the Olympic games might refer to the

referee as a Dummkopf. The referee might be extremely offended by that. An Australian might say, "You bloody dummy." It all gets to be a little bit silly. What about insulting or threatening language in Mandarin, for example? Is there going to be somebody out there to work this all out. This is getting a bit out of hand.

Other proposed offences are behaving in an offensive, insulting, intimidating or harassing manner; injuring or damaging a person or property; engaging in violent behaviour; and disrupting interfering with, delaying or obstructing the conduct of an Olympic event or an activity associated with the event. There is one significant group that seems to be included and that is the players. It is not going to be much of a game if they have to adhere to these sorts of rules. It seems to me that a fair bit of confrontation and enthusiasm go into the sport. At games of all codes of football I have sat on the sideline for, some of the language might cause the players to be thrown out of the place.

**Mr Hird**: You did not know what it was, Wayne.

**MR BERRY**: I did not know what it meant, so it did not bother me much. I do not think Mr Rugendyke's amendment has been well thought out. It might be well meaning, and I am sure Mr Rugendyke wants to make it a happy day for everybody. But when you try to proscribe all sort of activity in a subjective way, you run into the dead end of law which becomes so draconian that it is almost offensive. I have raised the issue of the players and the way they will behave on the day and the way people in the crowd may behave towards the referee or each other in a lighthearted way or otherwise. It seems to me that many offences could be committed.

Nobody is saying that the police will not act judiciously and carefully. But when you write laws like this you are asking for trouble. Happily, it will not be around for long. It might not be around at all if the news on the television is any indication. Things are not going too well at Bruce Stadium, I understand. There could be a sale of turf tomorrow, or a lot of material for the garden. Happily, it will not be around forever.

We seem to be setting a precedent for proscribing all sorts of crimes and offences at some future time. I do not regard this as a precedent. I think it is a dangerous move and one that we should avoid at all costs.

Amendments (**Mr Moore's**) to **Mr Rugendyke's** amendment agreed to.

Question put:

> That the amendment (**Mr Rugendyke's**), as amended, be agreed to.

*A vote having been called for and the bells being rung—*

**Mr Hird**: Mr Speaker, I would like to draw your attention to the fact that the minister walked in front of you, contrary to standing order 41, something he has brought my attention to on another occasion.

**MR SPEAKER**: I uphold the point of order.

**Mr Moore**: Mr Hird has misinterpreted standing order 41. It would have to be between somebody who was speaking and you.

**MR SPEAKER**: Order! The bells are ringing.

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.

Clause 15, as amended, agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Bill, as amended, agreed to.

## SMOKING PRODUCTS LEGISLATION AMENDMENT BILL 2000

Debate resumed from 11 May 2000, on motion by **Mr Moore**.

That this bill be agreed to in principle.

**MR STANHOPE** (Leader of the Opposition) (6.27): Mr Speaker, the minister's presentation speech on 11 May pointed out that this bill amends the Tobacco Act 1927 and the Smoke-free Areas (Enclosed Public Places Act) 1994, principally to bring herbal cigarettes within the scope of those acts. This means that herbal products will be treated the same as tobacco products, with the legislation limiting sale outlets to tobacco-licensed premises and machines, restricting the sale to persons over 18 years, limiting public display of products for sale, prohibiting advertising and promotion of the products, and prohibiting their smoking in places where tobacco smoking is prohibited. The bill also makes technical drafting and consequential amendments.

The scrutiny of bills committee commented that the new definition of smoke is very broad and may apply to persons who hold or control an ignited substance with no intention of inhaling or puffing the substance. For example, they may simply be removing or disposing of the substance. I understand that the minister will be making

some amendments to address this criticism. The Labor Party has no objection to the bill, and we are happy to support it.

**MR MOORE** (Minister for Health and Community Care) (6.29), in reply: Mr Rugendyke raised with me publicly the smoking of products other than tobacco. The amendments I have circulated address the issues raised in the scrutiny of bills committee. The government's amendments also provide for a daily penalty for retail tobacco merchants who refuse to remove prohibited tobacco advertising in accordance with a notice issued by an authorised officer. Those amendments are entirely appropriate.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Bill, by leave, taken as a whole.

**MR MOORE** (Minister for Health and Community Care) (6.30): I present a supplementary explanatory memorandum and move:

> No 1—
> Clause 2, page 2, line 1, omit the clause, substitute the following clause:
> "**2 Commencement**
> **(1)** This Act (other than sections 9 and 10) commences on the day this Act is notified in the Gazette.
> **(2)** Sections 9 and 10 commence immediately after the commencement of section 13 of the *Tobacco (Amendment) Act 1999*.
> *Note* Section 13 of the *Tobacco (Amendment) Act 1999* commences on 11 November 2000 (see s 2 (4) of that Act and the *Interpretation Act 1967*, s 10E).".

In speaking to the bill at the in-principle stage, I think I covered the issue we are talking about here.

**MR RUGENDYKE** (6.31): I thank Mr Moore for considering the matter that I brought to his attention as health minister. It is an indication of how well we are able to work together on many issues. It is appropriate that this amendment has come forth to put herbal cigarettes and look-alike cigarettes in the same category as tobacco products, thereby sending the right message to our young people that smoking is dangerous and injurious to health. I thank Mr Moore for considering my concerns in this way.

Amendment agreed to.

**MR MOORE** (Minister for Health and Community Care) (6.32): Mr Speaker, I seek leave to move amendments Nos 2 to 4 circulated in my name together.

Leave granted.

**MR MOORE**: I move:

No 2—
Schedule 1, Item [1.28], page 14, line 26, omit the item, substitute the following item:
"**[1.28] Subsections 24 (1B) and (1C)—**
Omit the subsections, substitute the following subsection:
"**(1B)** A person commits an offence in relation to each day during any part of which the person contravenes a notice under subsection (1).
Maximum penalty: 5 penalty units.".

No 3—
Schedule 2, Item [2.4], page 24, line 14, omit the item, substitute the following item:
"**[2.4] Section 13—**
Omit the section, substitute the following section:
"**13 Offences by smokers**
"**(1)** A person must not smoke in an enclosed public place if smoking in the place is prohibited by subsection 5 (1) or (2).
Maximum penalty units: 5 penalty units.
"**(2)** It is a defence to a prosecution under subsection (1) if the defendant establishes that he or she held or had control of an ignited substance prepared for human consumption for the purpose only of extinguishing or removing it from the enclosed public place (or, if smoking is prohibited in a part of the enclosed public place, removing it from that part of the place).
"**(3)** A person who is contravening subsection (1) must not, without reasonable excuse, fail to comply with a direction to cease the contravention given by—
(a) an inspector; or
(b) an occupier of the enclosed public place, or the part of such a place, where the contravention is occurring; or
(c) an employee or agent of such an occupier.
Maximum penalty (for subsection (3)): 5 penalty units.".

No 4—
Schedule 2, page 24, line 19, after item [2.5], insert the following new items:
"**[2.5A] Subparagraph 14 (2) (b) (ii)—**
Add at the end ', or'.
**[2.5B] New paragraph 14 (2) (c)—**
After subparagraph 14 (2) (b) (ii), insert the following paragraph:
(c) the person who contravened subsection 13 (1) held or had control of the ignited substance prepared for human consumption for the purpose only of extinguishing or removing it from the enclosed public place (or, if smoking is prohibited in a part of the enclosed public place, removing it from that part of the place).".

I spoke to these amendments earlier. I do not need to say any more.

Amendments agreed to.

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

Bill, as amended, agreed to.

## TRANSPLANTATION AND ANATOMY AMENDMENT BILL 2000

Debate resumed from 11 May 2000, on motion by **Mr Moore**:

> That this bill be agreed to in principle.

**MR WOOD** (6.33): Mr Speaker, we are told that this bill is necessary because the blood bank is finding it difficult to get donors, and that is unfortunate. The requirements are becoming more stringent all the time, with new problems and new testing devices. It has been the custom that minors need a signed note from their parents before giving blood. I do not think that was too cumbersome, but in order to facilitate the pretty simple procedure of going along and giving blood—it is not a problematic procedure—the opposition agrees with the proposal.

**MR MOORE** (Minister for Health and Community Care) (6.33), in reply: I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## ADJOURNMENT

### Chief Minister

**MR MOORE** (Minister for Health and Community Care) (6.34): I move:

> That the Assembly do now adjourn.

Members may not be aware that today is an interesting anniversary for the Chief Minister. It is her 2000th day, or bimillennium, as Chief Minister. I congratulate her on that.

Question resolved in the affirmative.

**Assembly adjourned at 6.34 pm**