DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

31 August 2000

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Thursday, 31 August 2000

The Assembly met at 10.30 am.

(Quorum formed.)

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

VISITORS

MR SPEAKER: I would like to recognise the presence in the gallery of year 6 students from Torrens Primary School who are here to study local government. Welcome to your Assembly.

DEATH OF SIR MARCUS OLIPHANT

MS CARNELL (Chief Minister): I move:

> That this Assembly expresses its deep regret at the death of Canberra resident Sir Mark Oliphant who will be remembered for his contribution to science nationally and internationally, and tenders its profound sympathies to his family.

Mr Speaker, I felt a great sense of loss on learning of the death of Sir Mark Oliphant on 14 July 2000 at the age of 98. Sir Mark Oliphant was one of the great scientists of the 20th century and his life spanned the first 100 years of Australian nationhood. Born in Adelaide in 1901, his first schooling was at a one-teacher establishment in the Adelaide hills. He matriculated in 1918 and entered the University of Adelaide, despite problems with his sight and being almost totally deaf in one ear. After graduating with an honors degree in science, he married Rosa in 1925.

Sir Mark was awarded his doctorate in 1929. Early in his career he worked with the famous experimental physicist Lord Rutherford and his team at the Cavendish Laboratory at Cambridge University. The group succeeded in 1932 in splitting the atom. In 1936, Sir Mark was appointed to the University of Birmingham's Poynting Chair of Physics.

With the onset of war, Oliphant was heavily involved in the development of radar. However, it was the experience of the Manhattan Project, a joint American/British venture, and the detonation of nuclear devices at Hiroshima at the end of the Second World War that led Sir Mark to a deeply held personal conviction against nuclear deterrents.

After the war, Sir Mark came to live permanently in Canberra. He was both director of the Research School of Physical Sciences and head of its particle physics department. He spent over a decade constructing a proton synchrotron. Sir Mark was also a founder and inaugural president of the Academy of Science and was Australia's leading statesman of science in the post-war period.

Following his retirement, Sir Mark's public career was far from over. In 1971 he became the Governor of South Australia, a position he held until 1976. Sir Mark was a world-class physicist who made a significant contribution to the causes of nuclear disarmament, conservation of the environment and alternative energy sources.

Sir Mark's distinguished career at home and overseas highlighted his contribution to this nation. He may have been controversial at times, but he could lay claim to being one of Australia's great scientists. His death at the age of 98 marked the passing of a truly great Australian.

I am sure all members will join me in acknowledging Sir Mark's great contribution to Australia as a scientist, a physicist and a public figure and in expressing our sympathy to Sir Mark's family.

MR STANHOPE (Leader of the Opposition): I would like to join the Chief Minister in this condolence motion on the death of Sir Mark Oliphant. As the Chief Minister has said, Sir Mark Oliphant was a great Australian, a scientist who possessed both incredible skill and an unfailing conscience.

Sir Mark, the eldest of five sons, was born in 1901 in Kent Town, near Adelaide in South Australia. He was interested in pursuing a career in medicine or chemistry and in 1919 began studying at the University of Adelaide. However, his physics teacher at the time, Dr Roy Burdon, showed him, in the words of Sir Mark, "the extraordinary exhilaration there was in even minor discoveries in the field of physics".

Sir Mark made his most significant personal contributions to science during his time at the Cavendish Laboratory at Cambridge University in England. He started research in the field of nuclear physics, working on the artificial disintegration of the atomic nucleus and positive ions. During this period, many exciting discoveries were being made at the Cavendish Laboratory and the field of nuclear physics was rapidly expanding. Sir Mark discovered new forms of hydrogen and helium. He also designed and built complicated particle accelerators, in particular a positive ion accelerator. All this work laid the foundation for the development of nuclear weapons.

Sir Mark also played a major role in developing microwave radar and, during the Second World War, he led a team of British physicists who were collaborating with American scientists on the development of the atomic bomb. However, Sir Mark publicly opposed the development of atomic weapons as a misuse of atomic power. I think that members would be aware that, following the bombing of Hiroshima, Sir Mark became an outspoken opponent of the use of nuclear weapons, a position he maintained throughout his life.

Sir Mark acted as a scientific adviser to Australia's Foreign Minister, HV Evatt, at the initial meeting of the United Nations Atomic Energy Commission in 1946. He returned to Australia in 1950 to become the first director of the Research School of Physical Sciences at the Australian National University. He was for that time, of course, a resident of the ACT, a Canberra citizen. He was instrumental in establishing the Australian Academy of Science and became its first president in 1954. He retired from the ANU in 1967 and became the Governor of South Australia in 1971.

Throughout his life, Sir Mark Oliphant enthusiastically promoted science and technology and showed great dedication to fostering the growth and development of Australian science. Sir Mark, a resident of the ACT for 20 years, will be remembered by all Australians, especially by those who knew him here in Canberra, as a brilliant scientist and a man of impeccable principle and conscience.

MS TUCKER: The Greens also join in this condolence motion for Sir Mark Oliphant. Sir Mark Oliphant had a very long and very distinguished life. He was a great scientist, including his work on nuclear physics at the Cavendish Laboratory in England and as director of the Research School of Physical Sciences at the ANU in the 1950s and 1960s. He was also Governor of South Australia after his retirement from science.

However, what attracted my attention about Sir mark was his passionate opposition to the insanity of the nuclear arms race, based on personal experience in working on the development of the atomic bomb during the Second World War. It has been said that the atomic bomb that devastated Hiroshima would not have been developed without his contribution as part of the British scientific contingent in the Manhattan Project.

Therefore, it must have taken much courage for Sir Mark to realise that the development of nuclear weapons had opened a Pandora's box of horror and to renounce this work at personal cost. I understand that he was labelled a security threat after the war and denied a visa to the United States and observer status at the British nuclear tests in Australia.

Sir Mark's deeply-felt and persistent commitment to nuclear disarmament for the rest of his life was quite inspiring to me and inspired many people within the Australian peace movement. Sir Mark must have been one of the longest living of the persons who had an integral involvement in the development of nuclear weapons and saw at first hand the incredible destruction caused by these weapons. He certainly could not be accused of not knowing what he was talking about.

I hope that the memory of Sir Mark's life will stay with us for many more years as a reminder that, while we may not be able to put nuclear weapons back into Pandora's box, governments must take collective responsibility for keeping on working towards nuclear disarmament for the sake of humanity's future.

MR MOORE (Minister for Health and Community Care): Mr Speaker, other members have spoken generally about the contribution Sir Mark Oliphant made to society. Whilst I support those things, I would like to add a few words. Many of us met Sir Mark over the last few years and realised what a warm and interesting human being he was. I was fortunate enough to meet him first when he was Governor of South Australia, albeit briefly at that time, and then a number of times over the last 10 years.

I think it is worth remembering that, although there was the side to the great man that we have just heard, there was also a very warm, human side that many of us had the opportunity to encounter. I think it worth including that in our condolence motion as we extend our sympathies to his family and I think that the community generally shares those sympathies.

Question resolved in the affirmative, members standing in their places.

DEATH OF AD HOPE

MS CARNELL (Chief Minister): Mr Speaker, I move:

> That this Assembly expresses its deep regret at the death of Canberra resident and distinguished poet Alec Derwent Hope, known more widely as AD Hope, and tenders it profound sympathies to his family.

Mr Speaker, it was with much sadness, I am sure, that all Australians learned of the death of AD Hope in Canberra on 13 July 2000. Alec Derwent Hope was a major poet, critic, academic and teacher, regarded by many as one of the great Australian poets of the 20th century. He was 92 years of age when he died and was still writing and publishing well into his 80s.

AD Hope was born in Cooma in 1907 and was educated at Sydney and Oxford universities. He lectured at the University of Melbourne from 1945 to 1950, when he moved to Canberra, where he was foundation professor of English at Canberra University College, later to become the Australian National University, until 1969. He was instrumental in launching the first full university course in Australian literature.

At the age of eight he wrote his first poem for his mother's birthday. His first collection of poems, *The Wandering Islands*, was published in 1955. He went on to produce more than a dozen volumes each of poetry and criticism, winning many literature prizes and honours in Australia and, as his reputation grew, internationally. He was awarded an OBE in 1972, was made an AO in 1981 and was awarded four honorary degrees by Australian universities.

Many considered AD Hope to have been an often controversial figure who used an erudite mind and a wicked wit to devastating effect as a critic. Critics of his work, however, found a romantic and passionate impulse within the formal constraints of some of his poetry. David Brooks, who edited AD Hope's most recent edition of poetry, considered that some of his poems were among the strongest poems ever written by an Australian—real praise indeed.

When AD Hope retired from the Australian National University in 1969, the university gave him a fellowship and a room to allow him to get on with his writing, which he did, producing numerous poems, critical essays and plays. AD Hope soldiered on alone for many years after the loss of his wife Penelope in 1988, but eventually moved into a nursing home where he suffered a series of very debilitating strokes.

He was an inspiration to both his contemporaries and younger poets with his charming manner and essential gentleness as well as savage wit. I am sure that all members will join me in acknowledging the great contribution of AD Hope to Australia, to Canberra and to literature, and in expressing sympathy to his family, especially his sons Andrew and Geoffrey. He will be sadly missed.

MR STANHOPE (Leader of the Opposition): Mr Speaker, I would like to join the Chief Minister in this condolence motion. AD Hope had a long and significant connection to the Canberra region. He was born in Cooma and spent nearly 20 years, from 1950 to 1969, as professor of English at the Canberra University College, later the ANU.

AD Hope was born in 1907 and died in Canberra on 14 July 2000, a week before his 93rd birthday. He was a poet and academic. The recipient of many awards for poetry, he was awarded an OBE in 1972.

Hope was one of Australia's best known poets internationally and produced a remarkable body of poetry throughout his career. His first collection, *The Wandering Islands*, was regarded at the time of its publication as one of the most confronting volumes of poetry written by an Australian. His poetry was highly provocative and loaded with faultless satire and social commentary. Neither politics nor religion was safe. He was also acknowledged for his descriptions of physical intimacy and human relationship.

During a recent interview on ABC radio, noted Canberra poet Alan Gould said of AD Hope:

> Alec...was a marvellous human being. A marvellous gentleman and a marvellous friend and a marvellous support to anyone who practised the art of literature generally and poetry in particular.

When he was nearing 70 years of age, AD Hope wrote in a poem called *Spatlese*:

> Old men should be adventurous.
> On the whole I think that's what old age is really for...

In his writing life he lived up to this philosophy in what should be an inspiration to those of us who do ponder the passing of time in that Hope did not publish his first book of verse until he was almost 50 years old. He was still writing and publishing up until the last few years before his death. As the Chief Minister has indicated, AD Hope will be remembered as a great, talented and insightful Australian poet whose work will continue to inspire and as a person who contributed much to the life of Australia and Canberra.

MR MOORE (Minister for Health and Community Care): Only a couple of months ago we passed a condolence motion for another great Australian poet, Judith Wright, and at that stage I chose to read some of her poetry into the record as part of the condolence motion. I would like to do the same with regard to AD Hope. I have chosen two poems. The first one is about Australia and the second one touches on the savage criticism of which he was capable. I will start with the one on Australia, which is called *Australia*:

A Nation of trees, drab green and desolate grey
In the field uniform of modern wars,
Darkens her hills, those endless, outstretched paws
Of Sphinx demolished or stone lion worn away.

They call her a young country, but they lie:
She is the last of lands, the emptiest,
A woman beyond her change of life, a breast
Still tender but within the womb is dry.

Without songs, architecture, history:
The emotions and superstitions of younger lands,
Her rivers of water drown among inland sands,
The river of her immense stupidity

Floods her monotonous tribes from Cairns to Perth.
In them at last the ultimate men arrive
Whose boast is not: 'We live' but 'we survive',
A type who will inhabit the dying earth.

Turning to *Standardisation*, I think there is a great message in there for some of the journalists who write about what we do. I am just going to quote the first stanza, but it does show his ability to criticise:

When, darkly brooding on this Modern Age,
the journalist with his marketable woes
fills up once more the inevitable page
of fatuous, flatulent, Sunday-paper prose;

Mr Speaker, I think that we must remember him for his achievements as well as for his wit and for his personality.

Ms Carnell: And insight.

MR MOORE: And insight.

MS TUCKER: AD Hope was one of the great Australian poets of the 20th century. He was still writing and publishing in his 80s and a new edition of his selected poetry and prose, edited by David Brooks, came out just a few months ago.

AD Hope was born on 21 July 1907, the same year as WH Auden, in Cooma. He was educated at Sydney and Oxford universities, where he was awarded third class honours, which would be of comfort to us all, and was inspired by the teaching of CS Lewis and Tolkein. AD Hope lectured at the University of Melbourne from 1945 to 1950 and then moved to Canberra, where he was professor of English at Canberra University College. In 1960, Hope was appointed foundation professor of English at the ANU, where he was one of the first people to teach Australian literature as a full university course.

AD Hope made a substantial contribution to Australian literature and English language culture worldwide. He played Anthony Inkwell on the ABC radio children's program *Argonauts*, and was a school teacher around the same time as his second book, *Poems*, was published in 1960 to worldwide critical acclaim.

Hope was one of the important group of literate and intellectual figures of Canberra of the 1950s and 1960s. Along with Judith Wright, Manning Clarke and Sir Mark Oliphant, Hope was a key part of a very different Canberra which centred on an academic and cultural community that created a notion of Australian identity afraid neither of intellect nor of passion. Geoff Page, a highly regarded Australian poet who was also a Canberra school teacher, said of AD Hope:

> He showed that poetry in the discursive mode was a valid art form in Australia. You could talk about things that were important in a leisurely and well-structured manner. His poetry wasn't particularly lyrical; it was talkative and thoughtful and investigative.

Described by poet Robert Gray as "the verbal equivalent of Norman Lindsay", Hope's poetry was also often highly erotic and satirical. His great interest in the traditional poetic forms of poets such as Pope and Dryden and the consequent discipline of expressing his big ideas in a tight form gave his writing extraordinary energy. AD Hope's contribution to Canberra, to poetry and to Australia's cultural identity was profound.

Question resolved in the affirmative, members standing in their places.

JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
Reference—Defamation Bill 1999

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

> That the Standing Committee on Justice and Community Safety inquire into and report by the last sitting day in December 2000 on the Defamation Bill 1999 with particular reference to:
>
> (1) whether the ACT should return to the common law formulation of the defence of truth (section 16);
>
> (2) whether the ACT should adopt a defence based on negligence (section 23); and
>
> (3) whether, under the proposed offer of amends provision (section 6), a plaintiff should be able to claim, not only recompense for expenses but also compensation for the damage done to a victim's reputation and business.

Mr Speaker, the Defamation Bill was introduced into this place on 9 December last year. It is a very significant piece of legislation. It is certainly the most significant package of reform of the ACT's defamation laws that has yet been presented and, as far as I am aware, the most significant change to defamation law in any Australian state or territory. Perhaps partly as a result of the size and the diversity of the reforms within this legislation, there has been some degree to which people have been nonplussed by the range of issues that the bill presents.

There has been some debate in the broader community. Members will be aware that there was a forum hosted by the Press Council in the ACT, which I spoke at and others spoke at, to discuss the legislation. It is a matter of some significant comment and it is a matter which I believe the Assembly will need to come to grips with in a meaningful way in the space of the next 12 months.

Mr Speaker, I think that a bill of this magnitude deserves to be treated carefully and considered carefully and to be the subject of public debate and consultation. I have to point out, of course, that the previous versions of this legislation—discussion papers and so on which led to the Defamation Bill—were, in fact, provided to the community and were the subject of some debate over the last two or three years.

In fact, the issue of defamation law reform has been on the table in the ACT for at least 10 years. Members might also be aware that there has been an even longer debate at the national level about the direction of defamation reform, culminating a couple of years ago in a decision by the Standing Committee of Attorneys-General to remove the item from its agenda on the basis that some 20 years of debate on reforming the law of defamation had failed to reach any substantial conclusion about the direction such reform should take.

That is a matter of sadness, Mr Speaker. I think that it is appropriate in a country like Australia where much of the media is national in focus for there to be a national set of laws on defamation, so that what one says in Sydney should have the same consequences when it is reported in Hobart, Perth, Canberra or Darwin. That is not to be, at least not in the immediate future, because of the disagreement between different jurisdictions in Australia about this issue.

I think therefore that, in the absence of uniform defamation laws in this country, we should have excellent defamation laws in this territory. It is my hope that what is before the Assembly is legislation that fits that requirement. However, it is a matter which does need further ventilation, if only to allow members of this place a chance to be able to assess the direction that the reforms take. For that reason, I have moved that this bill be referred to the Standing Committee on Justice and Community Safety, as the appropriate standing committee of the Assembly, to consider the issues that the bill gives rise to.

The motion makes reference to a couple of matters which are central to the bill's direction: the question of the defence of truth, for example, and the issue of a negligence-based defence to a claim of defamation. Mr Speaker, those are significant issues which will require some careful thought on the part of the justice committee, but I believe that it is a matter which is appropriately now before that committee so that we can advance this issue.

I hope that we can return the issue to the Assembly in the first half of next year. It is certainly the government's intention that the matter be considered by the Assembly before the next election. Defamation reform has been on the agenda for a very long time and I have to express a strong personal desire not to see the issue simply lapse at the time of the next election because perhaps we find it difficult to make a decision about some of these significant issues.

I hope that members will accept the need to properly ventilate these issues in the committee context. I look forward to making a submission to that committee and to being part of that debate. I commend my motion to the house.

MR OSBORNE (11.01): I welcome this move by Mr Humphries to refer this legislation to the Standing Committee on Justice and Community Safety. Of concern to me was that I did not think enough work or consultation had been done by this Assembly for us to be in a position to pass the legislation, so I look forward to working with other members on this issue.

I am quite happy to attempt to have the report completed by the date that Mr Humphries has set down, which is, I think, the last sitting day in December, but a lot will depend on whether we actually get a government submission within the next six to nine months. We have had problems in the past with receiving submissions from the government, but I hope that this little shot across the bow will get some results. I look forward to the inquiry. Hopefully, with some assistance from the government in regard to that submission, we will get it finished in time.

MR HARGREAVES (11.02): Mr Speaker, I also want to make a point about the period our committees actually take to delivery reports to the chamber. That is dependent largely upon the receipt of submissions. I want the record to show that, in fact, the submission from the government about the prison was six months late and delayed the reporting process quite unnecessarily, in our view. Also, we are still waiting for the government's submission on the police inquiry. It was due early in May of this year. I have to record my lack of confidence in the government having the wherewithal to do it.

The Attorney-General accuses the committee system of not working properly. It is very difficult for a committee system to work without having the government's submission. In fact, I have my doubts that we can achieve the date of 9 December, which I think is the last sitting day this year. I may be a week out, but I think the last sitting day is 9 December.

I would imagine that the body of expertise in this town which addresses issues such as defamation is not that thick on the ground, so we will not have any difficulty with receiving submissions from the Law Society, civil liberty groups and, no doubt, Rural Press, but I have serious doubts as to whether the government will actually get off its tail and do something, so I want the record to show my fears about that.

The other point I would like to make is that I am quite looking forward to seeing the government's submission on this subject because of the third point that the government is asking us to look into, which reads:

> whether, under the proposed offer of amends provision (section 6), a plaintiff should be able to claim, not only recompense for expenses but also compensation for the damage done to a victim's reputation and business.

I will be very interested in seeing whether the government's approach to compensation for damage to reputation mirrors its position when it changed the criminal injuries compensation legislation to eliminate the chances of most of our citizens of getting just

compensation by actually moving to differentiate between a bank teller and a police officer being injured being by the same person in committing the same crime. I will be very interested in seeing the government's position on that. Let us see whether the government's position is any different.

The fundamental difference for me is that the criminal injuries compensation legislation is legislation which affects the government's hip-pocket nerve, whereas the defamation legislation actually talks about hitting the hip-pocket nerve of other people. I suspect that we are going to have a completely different approach from this government on that.

Mr Speaker, I am delighted to support the chairman of the committee in receiving this reference. I doubt whether we will be able to meet the deadline. I would like to take a little bet that we will not even receive the government's submission until a week before the deadline, which is the usual case. I would make the point that the government introduced the legislation on 9 December 1999. How curious is that? The Attorney-General wants to have a timeframe of exactly 12 months—9 December 1999 to 9 December 2000. That is neat, is it not?

The Attorney-General introduced the legislation on 9 December 1999, 9 months ago—nine is a magic figure here, is it not?—and he wants us to conduct public inquiries, go into the deliberation phase and come up with a recommendation to the Assembly by 9 December. I have to say that, had he actually referred it to the standing committee a few months ago, that timetable may have been a bit more realistic and we would not have had to rush the inquiry.

Let me put the government on notice, as the government would have noticed in the past, that the Standing Committee on Justice and Community Safety will not be rushed. If the government's submission is not received in sufficient time to enable a comparison between it and other submissions to occur appropriately, we will be back into this chamber telling a sorry story and seeking an extension.

I would encourage the government to do it reasonably quickly. After all, it did all the preparatory work for this legislation during 1999, I would hope, and it has been sitting on the legislation for nine months; so it should not take too long to stitch it all together in the form of a submission. But, Mr Speaker, only time will tell.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.08), in reply: I thank members for their support for the inquiry. I think that it is appropriate that we have that kind of inquiry and I welcome the fact that members are prepared to put in the effort to make sure that the inquiry is achieved and it examines the issues in a timely way.

I note Mr Hargreaves' comments about the timeframe and the need to ensure that the bill receives adequate ventilation. Mr Speaker, I tabled the legislation last December. Since then I have sounded members out about their views on the legislation. It became clear in the last few months that members were not comfortable with simply debating the legislation without some further committee process. Therefore, it seemed to me that the only logical solution was to refer it to a committee.

I am not sure about the timeframe that Mr Hargreaves has griped about. He says that the committee might not be able to complete this inquiry in the time available. I suppose that is quite possible, Mr Speaker, if members of the committee feel the need to engage in fairly extensive travel to somehow satisfy their desire to find lots of knowledge about the issue of defamation.

Mr Hargreaves: Mr Kaine, did you hear that?

MR HUMPHRIES: Of course, defamation is a matter which is experienced in all Westminster-based systems. There are plenty of opportunities there for—

Mr Hargreaves: He has found out all your faults.

MR HUMPHRIES: I know that you are a bit sensitive, Mr Hargreaves, and I apologise for raising it. I know that it is a bit inappropriate of me.

Mr Hargreaves: I am not sensitive.

MR HUMPHRIES: I know that those plane seats are very comfortable when you snuggle into them and put on the in-flight movie as you take off into the air, but I am sure that you will find plenty of opportunities to visit other jurisdictions to discuss their defamation proceedings with them and have a nice time travelling around the place. I look forward to seeing the result of this inquiry and seeing that we do deal adequately and appropriately with the issue of defamation reform, a matter which has been much in demand in the last few years, Mr Speaker. Wherever our thoughts on this subject might fly to, we do need to make sure—

Mr Hargreaves: Why did Mr Smyth need to travel to see the prisons? Why did Mr Moore need to go to see the prisons?

MR HUMPHRIES: I know that it is a bit of a touchy subject, Mr Hargreaves. I know that it is very sensitive. Mr Speaker, I think we all need to buckle up and get ready to deal with this issue in an appropriate way.

Question resolved in the affirmative.

HEALTH AND COMMUNITY CARE—STANDING COMMITTEE
Proposed Inquiry—Disability Services—Standard of Care

MR RUGENDYKE (11.10): I move:

> That the Standing Committee on Health and Community Care inquire into and report on the standard of care and complaints mechanisms in disability services with particular reference to:
>
> (1) training, supervision, evaluation and support of staff;
>
> (2) the tendering process for disability support services;

(3) the efficacy of complaints reporting, complaints processing and complaints reviews;

(4) the role of the Community and Health Services Complaints Commissioner;

(5) the role of the Community Advocate; and

(6) any other matter.

This motion, circulated in my name this week, has certainly created a division of opinion. Whilst the Assembly appears to be united in wanting to deal with the issues relating to the standard of care and complaints mechanisms in disability services, I believe that it is also important that we be united in how we go about it.

Confidential information that I have received, and I am sure other members have received, since coming to office indicates that there is dissatisfaction among and problems areas for disabled people and carers working in the sector. This anecdotal evidence is, of course, second-hand and I have encouraged all informants with first-hand knowledge to pursue these matters through the appropriate channels. I certainly do not intend to breach this privilege by identifying specific cases.

All members are aware of recent tragic events in disability care which have really brought a range of concerned people out of the woodwork. I am sure that fellow members can attest to similar responses in their offices to what I have received in mine. I am worried about the degree of abuse that allegedly has been levelled at both people requiring care and their carers. It is important that we get to the bottom of this issue and obtain an outcome that weeds out the problems and enhances the sector.

I spoke about this matter with Ms Tucker yesterday afternoon and she put a case for having an independent inquiry. I have seriously considered that option. Having spoken to other members this morning, I have come to the conclusion that it could be more conducive to having a positive outcome if the crossbenchers in particular were not divided on the approach.

Initially, I had thought that the health committee was the appropriate forum to investigate this issue, but I think it is in the best interests of all concerned that we have a cooperative approach. In this instance, I am sure that that can be achieved with further discussion and consultation. The bottom line for me is that we have the highest possible scrutiny on this issue. If this is to be achieved through a cooperative effort and the united will of the Assembly, I am happy if this occurs following consultation with other members.

I have agreed to discuss this matter further over the next week with Ms Tucker and others, and together perhaps draw up terms of reference that are suitable to all parties. In the meantime, I will be happy for debate on this motion today to be adjourned after a while and a revised one brought back for the Assembly to consider at a later date. I sincerely thank Ms Tucker for her discussions, her passion, her interest and her cooperation in working through this extremely serious issue.

MS TUCKER (11.14): I will be brief in speaking to this motion. I have explained to Mr Rugendyke and others the reason that I am concerned about the health committee looking at this matter. In February 1997, as Chair of the Social Policy Committee, I tabled the report of the committee's inquiry into the Commonwealth/territory disability agreement. In the course of that committee inquiry we were contacted by a number of people with serious allegations around incidents in the service.

It became quite clear that an Assembly committee was not able to deal with those sorts of issues at that time; so we referred them to the health complaints commissioner, who produced two reports. One report looked at general issues, systemic issues, which was something that we addressed to some degree in our inquiry. The health complaints commissioner also made a confidential report on the individual allegations of abuse and so on.

My fundamental concern is that we had this process and we got a response from government at the time—I have heard Mr Szwarcbord say since, "Yes, the service was a basket case at that time, but we have worked on it and we have gone through these reforms and it is now okay"—but the evidence that has come to me and other members of this place consistently is that it is not okay, that people who need to be supported are not being supported to such a degree and that we have actually had deaths and other serious incidents, more than have come out publicly, in the last month.

For that reason, as members of parliament, I think that we need to be outraged and we need to say quite clearly, "Yes, we all agree that people who have a disability are very vulnerable members of our community and a responsible government would ensure that those people are adequately supported." That has not been the case for the time that I have been in this Assembly—in fact, since 1995—and I have had a chance to look at the issues.

I understand that Mr Moore is concerned. Mr Moore says that he also wants to see an improvement in this service area—I am sure he does—and that he would like to see it happen through the health committee because he is concerned about the expense. My response to that is: we have seen this parliament willing to put money into an independent commission of inquiry on issues of planning and land management and on issues related to ACTTAB. What does it say to our community if we indicate that we are not prepared to spend that sort of money on an issue involving looking at support for people with a disability? I do not agree with that position at all. This government is also prepared to spend millions of dollars on a V8 car race and other such events as well as Bruce Stadium.

It is a statement of value that we are making as a parliament if we say that we believe that this issue needs a proper independent inquiry. Why does it need a proper independent inquiry? For the reasons I have outlined. There is also the issue of the perception throughout the community of carers and parents and of people with a disability themselves that they are not free to complain. Whether that is a perception or the reality is not the point. The point is that it is felt.

Another reason that I believe an independent commission of inquiry would be more preferable is that there can be a guarantee of confidentiality which cannot be given for an Assembly committee. It removes the politics totally from the process. Removing the

politics from this investigation is a fundamental reason for having inquiry conducted by an independent commission of inquiry. I cannot stress that enough. We must remove it. We must have an independent look at these issues.

The Australian community generally is very upset about what has happened in aged care. There is a growing concern in the Australian community that governments are good at the spin, at the rhetoric, at giving out public service awards, at producing glossy brochures and so on, but they are not good at delivering services on the ground. If you look at the issues around staffing in disability group houses, you will find that they are the same as the issues that came to my committee five years ago. That is not good enough. We need to be seeing this issue dealt with in a very thorough and rigorous manner.

Mr Rugendyke has said that he will move a motion changing the form of the inquiry. I am very grateful for that and acknowledge Mr Rugendyke's openness on the issues here. Obviously, we need time to look at development of the terms of reference. There is also an issue around who is to be appointed to be the commissioner. Obviously, that has to be someone whom the majority of the members of this Assembly are comfortable with, otherwise we will have undermined the credibility of any such inquiry before we even start.

I am sure that the government would agree with that. If the majority of the members of this Assembly do believe that we need this level of inquiry, then I am sure that the government would want to see its having as high a level of credibility as possible. I look forward to having cooperation from the government on the appointment of a commissioner.

MR MOORE (Minister for Health and Community Care) (11.21): Mr Speaker, I rise with pleasure to welcome the motion of Mr Rugendyke and to strongly resist the move for a further independent inquiry. Ms Tucker, your approach is effectively a vote of no confidence in the health complaints commissioner and a vote of no confidence in yourself. The question for you is: have you taken the complaints or the concerns that you have raised to the health complaints commissioner? That is why he is there. Only relatively recently—

Ms Tucker: I did. We produced a whole report, Mr Moore.

MR MOORE: You produced a whole report, indeed, and he responded to that report.

Ms Tucker: And what has changed? Nothing has changed.

MR MOORE: I will explain what has changed, because a huge amount has changed. I will come back to that. Mr Speaker, there are already independent inquiries into the issues Ms Tucker has raised. A very unfortunate death occurred, and we are all very concerned when a death occurs.

What has been done about that? The coroner is going to conduct a coronial inquiry. That is appropriate. Is that an independent inquiry, Mr Rugendyke and Ms Tucker? Of course it is. I have only to point to the coronial inquiry into the demolition of the Royal

Canberra Hospital to indicate how independent those inquiries can be and the extent to which they can go.

But these are extraordinarily complex issues. Only last week I ran into the Chief Magistrate in the car park here and we had a discussion about the particular issue. He has, of course, been the coroner in a number of cases. He said to me, "The most difficult thing always is balancing the wish that is common amongst many parents, particularly parents of children with disabilities, to wrap their children in cotton wool and doing a risk assessment against the fact that what we are trying to do is to improve their quality of life." If you wrap somebody in cotton wool, the result is that they have a poorer quality of life and the easiest way to wrap people in cotton wool effectively is to keep them in institutions.

That leads me to another factor. Within the last few months the ACT finally has completely deinstitutionalised. We now have all the people with disabilities operating out of homes in an environment which every one of the parents that I speak to and all the young people who are involved with these homes are indicating is a much better way for them to live.

Compare that with New South Wales. At the recent disability ministers conference, the minister for disabilities in New South Wales, Fay Lo Po, very proudly announced that New South Wales is beginning a 10-year program of deinstitutionalisation. Do not forget that they had a much more difficult starting point. Nobody is missing the fact that they had a much more disappointing starting point.

If you were to insist on there being an independent inquiry, the appropriate person to do a further independent inquiry would be the health complaints commissioner. He is there all the time to do an independent inquiry on a specific issue or on broader issues. I refer all the complaints that come into my office. We always say to people, "Of course, you always have the option of going to the health complaints commissioner," and the normal format of the letters that I write to people who complain include his address and how to reach him.

Ms Tucker says that the government is not prepared to do it for disability services, but it has been prepared to do it in other areas—for example, the leasehold system and VITAB. Those independent inquiries were finally appointed after a huge amount of evidence had come out of things that were going wrong—a huge amount of evidence. We have not seen such a huge amount of evidence in the area of disability services. Things are not perfect there. I am not for one second suggesting that they are. In fact, I have been very open in saying that we do not have enough money for them. I have been very open about that. I will come back to that.

When Mr Rugendyke announced that there would be an inquiry by the Assembly committee, I welcomed that. I thought that it was an excellent idea and that it would assess the level of concern and what were the sorts of problems. I have to say to you, Ms Tucker, that it would be a different story if that committee had spent two or three months taking evidence and said, "This is beyond us. It does require an independent inquiry because of this reason and that reason."

Ms Tucker: That is already obvious.

MR MOORE: It might be obvious to you, Ms Tucker, but it is certainly not obvious to me, having sat in this seat for quite a long time.

Mr Speaker, it seems to me that what we have proposed here by Mr Rugendyke is a very sensible motion for beginning an inquiry to show where things are at, because there has been a huge amount of change since Ms Tucker did her inquiry. Since Mr Ken Patterson did his inquiry as health complaints commissioner there has been a huge amount of change. A whole series of recommendations that came out of that were incorporated into the disability services plan and also into what happens. I would like to go through some of those things.

I think it is worth reminding members of the Assembly that all of us are committed to improving the lot of people with disabilities in the ACT, to improving disability services in the ACT, and I think that a inquiry by the Health and Community Care Committee would assist us in that regard. I have said in the past that people with disabilities make many valuable contributions as citizens of our community, and I think that is most important. It is also important that the community, in return, provides services and support to maximise their quality of life and their contributions.

I would hope that the inquiry that is provided for in the motion before us now will be conducted and that the committee will take the approach of the glass being half full, rather than Ms Tucker's approach of the glass being half empty. Over the past few years the ACT government has been working very hard to improve the range of services available to disability clients and has substantially increased funding and services in this area.

It should be remembered that that happened at a time when we were trying to bring the budget into surplus. We have done that, but we were trying to increase funding at a time when we had a deficit budget. For example, an additional $1 million was provided for disability services last financial year, and this year over $1.5 million has been provided for disability services in the areas of respite care for aged carers who have been caring for more than 30 years, special therapies for children, special needs transport and supported accommodation. That has taken expenditure on disability services in the health area alone to the highest ever at around $30 million per annum.

This year there has been a real focus by the government on building up social capital. That has been particularly relevant in the health area and in the disability services sector, where partnerships with community-based health services are integral to servicing the needs of clients with disabilities. The majority of the support for people with disabilities is provided by their families. Individuals and families are assisted to varying degrees by friends, by neighbours, by communities and, most importantly from our perspective, by governments.

Formal services to people with disabilities are provided primarily by over 40 non-government agencies as well as government agencies, of which ACT Community Care is the largest provider of services. That is, a range of alternative support options are available through providers who can offer quality and value for money, and indeed they do. That enables individuals to access models which meet their support needs. A national policy direction to move clients with special needs from institutions to the community

has been seen as a very positive step in helping clients with a disability to improve their lifestyles and integration within the community.

Members may recall that last year I released a document entitled *Strategic Plan For Disability Services in the ACT*, which provided the framework and a guide for taking action—they are all in there, Ms Tucker—to improve the quality and availability of disability services. Together with the community, we are implementing that plan. Nearly 300 individuals are formally supported by the government in the community. The level of support required varies enormously. Some are able to live independently with assistance on a daily drop-in basis, whilst others require 24-hour care. A huge number of hours of care goes into nearly 300 people.

Within such arrangements, government funding per person varies from $10,000 to $180,000 for people with severe intellectual and physical disabilities who require 24-hour support. *(Extension of time granted.)* I do need to run through some of the details. The government provides over $4 million per annum for clients who have very special needs and these are provided for through individual support packages. Other services are also provided by the government to support its disability clients, such as accommodation support, including home cleaning and maintenance, house management, personal care, supervision for safety and life skill development.

The funds allocated for accommodation support total approximately $20 million. A further $6 million is provided for services to improve community access for disabled clients, integrated day programs and employment options, respite care, leisure activities, transport, support for advocacy and special interest groups, special therapies for children in schools, and information and referral.

In addition to the health services I have just described there is a significant contribution to disability services and funding through the departments of Education and Community Services, Justice and Community Safety and Urban Services. Members may recall that we announced in the last budget additional funds to target areas of particular need, such as $250,000 for disability services for children with complex behavioural and support issues, in particular for children with autism spectrum disorder and cerebral palsy, and special therapies in schools provided by Health, with a further $50,000 being provided by DECS; $845,000 for respite for aged carers of people with disabilities; $200,000 for supported accommodation for clients with dual diagnosis; and an additional $200,000 for special transport needs.

I would like to focus specifically on the six areas of Mr Rugendyke's motion. The first area is training, supervision, evaluation and support of staff. These areas have come out of the various reports.

Training: It is important to note that ACT Community Care is a registered training organisation with three-year accreditation to deliver certificates III and IV and an advanced diploma in community services for disability work.

This comprehensive training program includes a three-week induction course for all new direct care disability support officers, so a great deal of work is done there. Clinical and administrative staff also undertake orientation. ACT Community Care also provides certificate III training in community services for disability work to trainees and

permanent staff. It is a nationally recognised, one-year, certificate-level course based on a national competency framework. ACT Community Care provides ongoing training in all aspects of disability support, allied health discipline specific skills and knowledge, administration and management. Training is responsive to staff needs identified through the performance management approach.

Supervision: ACT Community Care's disability programs provide support to their staff at both an individual and a team level. Trainee disability support officers are rostered on shift with an experienced staff member. Where staff work in isolation, a team-based, quality-monitoring approach monitors outcomes. Quality audits are being introduced to ensure a full and consistent implementation of program-quality systems and procedures. I have to say that the introduction of those quality audits illustrates that work is constantly being done on trying to improve the way we do things.

Mr Speaker, I can talk about the tendering process, but I am conscious of the time. I would like to talk about complaints handling. I touched on it before in terms of the Community and Health Services Complaints Commissioner, but he is at the third level. All complaints are dealt with initially at the local level, where possible, to promote speedy resolution. If resolution cannot be achieved, they are then investigated by a senior officer and a report of the investigation is provided to the complainant to try to resolve the issue.

If that is not satisfactory, they go to the health complaints commissioner. By the way, anybody can always go directly to the Community and Health Services Complaints Commissioner. Since the establishment of the process in December 1997, the ACT Community Care disability program has managed 28 formal complaints, on average just over nine a year. The commissioner noted in his last annual report that the number of complaints in disability services was relatively low and that many of these complaints were related to gaps in service provision. I have conceded that there are gaps in service provision. That is what we are seeking to overcome and that is a matter for government and for the budget.

There is also the Office of the Community Advocate, whose role under its act is to foster the provision of services and facilities for persons with disability, to promote the protection of such persons from abuse and exploitation and to protect the rights of such persons. So we have two separate systems in place to try to deal with the issues that Mr Rugendyke is concerned about.

Mr Speaker, it seems to me that we do have the systems in place for constant improvement and we do have the systems in place to deal with complaints. What I would be very keen to do is to have Mr Rugendyke's motion passed now by the Assembly. If further concerns come out of this committee inquiry, let us talk then about having an independent inquiry.

MR WOOD (11.36): I am going to extend the debate just a little from what has been said today just to explain something. In the space of one week I have been damned when I did and damned when I did not. That was compounded when what I was supposed to do and not do did not represent what I did. If you find that a bit confusing, so do I because that is how I am today. I do welcome the low-key approach that has been taken today and I will maintain that. I wish it had been maintained in the media as well. But

I will take the debate just a little further because I think my good colleague Mr Rugendyke did not accurately represent my position.

In a media statement Mr Rugendyke said that an inquiry into this matter that he had argued for earlier had been denied support by me. Certainly, Mr Rugendyke raised the issue, but I do not believe that I denied support at any time. As committees do, we raise issues that we might look at and we talk around them and develop our priorities. That is what we did. According to standing orders, I am not supposed to indicate what minutes say. Mr Speaker, I wonder whether I could have the leave of the Assembly to read something from the minutes.

Leave granted.

MR WOOD: I will just read one little bit. In the minutes of the meeting of 25 January, under item 9, Mr Rugendyke indicated that the committee might wish to consider conducting an inquiry into the abuse of people with disabilities in care at some stage in the future. Fair enough; that was done. I do not think that that means that it was crossed off the list. Mr Rugendyke could always come back to it, but he did not come back to it. Indeed, between then and now he came back and brought a different inquiry to the committee, one which we are about to switch onto quite heavily. So I think that Mr Rugendyke needs to look at his own priorities.

I might say that as chairman of the committee I am enormously tolerant. The standing orders of this place indicate that in commenting on internal committee discussions my colleague has breached standing orders, and he is a law and order man. The standing orders indicate that only the presiding member of a committee should comment publicly on internal committee matters until after any reports have been presented to the Assembly. All of the material that goes to a committee is confidential and is not to be published or divulged until a report has been presented to the Assembly. I think that I have been misrepresented in the approach that I have taken, but I am delighted with the low-key approach today and look forward to continued harmony in that committee.

There has been some debate about how this inquiry into disability services should proceed. I note Mr Moore's angst about the way we have opted to go, but that is the way it seems that the Assembly is now set upon and I would support it. I want to say at this point, as I have said on any number of occasions, that I have great respect for the people who work attending to the needs of the disabled. There are a large number of disabled people in our community and a larger number of people who give them dedicated care; there is no doubt about that. I have observed people in this area over many years, not just in Canberra, and I give them great respect.

I have to say also that I believe that there was attention to those needs at the departmental level, and I have said that publicly. Perhaps the gap between what is happening and what is expected to happen is wider than some people think, so there is scope for further investigation. That is the path we are now engaged on or an outside person or body will be engaged on. The gap is wider than I think Mr Moore realises.

Mr Moore: Do your inquiry and let us find out.

MR WOOD: We could, but the Assembly is now going down another road. In order for the Assembly committee, my committee, to look at this issue, we would have had to acquire additional staff and additional resources; so additional resources are going to be needed one way or the other. This is now the path we are going along and we will all need to work to see that this inquiry is set up in the best possible manner.

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

ASSEMBLY BUSINESS

It being 45 minutes after the commencement of Assembly business, it was ordered that Assembly business be extended by 30 minutes.

FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE
Report on Implementation of Service Purchasing—
Government Response

Debate resumed from 2 March 2000, on motion by **Ms Carnell**:

> That the Assembly takes note of the paper.

MR QUINLAN (11.42): We have had for some time the government's response to the report on the implementation of service purchasing arrangements in the ACT. It has been on the business paper a number of times but has not quite made it to debate level. It is a pity. I think this a very important report. Whether you like the content or not; whether you like the form or not, the actual subject is very important, but I have to observe that the nature and tenor of the government's response to some extent degrade the committee and inquiry process.

It is one of those almost flippant responses where we say, "We agree with much of what you say." We read the thing very selectively and we write phrases like "the government is pleased by the assessment of the committee that" and "the government is heartened by the positive aspects of community organisations' submissions".

Now I have to advise the government that the only positive aspects of community organisations' submissions that it could select were those things that said, "Yes, we do accept that there needs to be accountability in service delivery within the community sector, but," or "We do accept that there needs to be reasonable reporting, but," or "We do accept that these services must provide value for money, but." That is because the submissions received by this inquiry were overwhelmingly critical of government.

I think that it needs to be placed on record, again, that a number of organisations that wanted to make submissions to this inquiry, and a number of organisations that wanted to appear before this inquiry would not do so unless they were in heard in camera, for fear of retribution by the government and its administration as a result of their speaking up.

The government, in its response, has been through a number of the recommendations and given us that reply "agreed in principle". "Agreed in principle" is code for "Look, we agree with what you've said but we are going to do absolutely nothing about it. We are going to ignore it, and we are going to continue upon our merry way".

There are important messages in this particular report. The first message is that community organisations do fear retribution within the system if they are outspoken in any way about their dissatisfaction with how the government or its department acts.

There is quite clearly hostility among the organisations about the way in which this particular process has been implemented, and there is certainly a grave degree of mistrust held within community organisations as to the real commitment to the implementation of the purchaser/provider process within the ACT. All the organisations that came before this committee wanted to know from government: "What do you want from us? There is a need for information. We need to know what this is about."

The government has used, in its rhetoric, terms like "consumer sovereignty". The committee challenged the government to define what it wanted, what it meant by consumer sovereignty and how it intended to facilitate the actual implementation of consumer sovereignty—the input of consumer needs.

The response to that was virtually zero in terms of what it intended to do. Yes, the community organisations asked the government, "What do you want from us? Because you have claimed that the purchaser/provider model will provide economies, tell us where those economies are expected. Tell us how to behave. Tell us how to react."

But, no, the government does not agree with those recommendations. The government had the Rogan Johnston report upon which it relied to implement purchaser/provider arrangements in the ACT. That recommended a mapping exercise to map what level of contestability should be permitted to govern the letting of contracts and the granting of funds to community organisations. And so the committee quite naturally recommended that the government complete this mapping exercise, which is integral to the implementation of purchaser/provider arrangements.

The answer? Not accepted. What the government has said in this reply is: "We intend to implement contracting. We intend to make community organisations more accountable. We're not really going to tell them what they're accountable for. We do not intend to take a great deal of notice of what they particularly want taken into account." As well as the quantifiable measures that are involved in these contracts, they want the quality of service to become a measure.

I recently attended a meeting of the North Canberra Community Council at which the chief executive of ACT Disability Services gave a presentation on the introduction of quality in service delivery. I took the opportunity to ask him for his impression as to how quality was being implemented into the contracting and grants process. I have to say that he was less than happy that I put him in that particular spot, and I do apologise to him now. But I have to say that, immediately following that event, quite a number of representatives of community organisations went out of their way to say, "Good point. Can you do something about it?"

In recent days, one community organisation has availed itself of the services of Michael Kendrick, an international expert on the delivery of disability services—a Canadian now domiciled in the United States who is a quite regular visitor to Canberra. He is an expert who has provided services to some of the community organisations in the ACT, and has provided consulting services and documentation to the ACT government about how disability services should be delivered and how people that suffer disabilities should be regarded and empowered and allowed to have their participation in the community maximised without necessarily being controlled.

It is a very enlightened approach, which must go hand in glove with any commercially oriented process. This is anecdotal but, with due apology, this is the way it was related to me. Mr Kendrick's assessment was that the implementation of purchaser/provider within the ACT was immature, partial and only divided responsibilities, without providing any discernible policy direction.

Now what this report tried to communicate to government was that there are people out there who need to be listened to. I am afraid to say that they also communicated that they were not satisfied with the consulting arrangements that were made, and many indicated that they did not really feel that they were being directly represented through the government's association with ACTOSS, given that ACTOSS had seemed to be building a very close association with government, to the extent of receiving various funding grants to conduct one study or another.

So the organisations out there do not believe that government is listening to them. They do not believe that the government has even defined what it really wants in terms of quality of service. They really believe that the government has not even defined what economies it wants to draw from this process, or how they should behave or adapt. It is all ex post stuff. Every now and then a grant is changed, and a rationalisation is written and the organisation is then told why it did not get it. But they have never been given the courtesy of forward advice.

This report is an indictment of how that process has been introduced. It is an insult to the committee process. The committee process has come under some comment in recent times. Here is a report, and here is the government's response—and I commend it to everybody in this place to read. It is the most bureaucratic, *Yes, Minister*-esque response that you could possibly receive—agreed in principle, not agreed. Anything essential, anything like giving information to the community organisation—not agreed.

It says generally, "Lift your game in terms of trying to bring those people who work at the interface, in the administration, to the point where they are themselves equipped to appreciate where the community organisations are coming from and what they are crying out for in terms of understanding or communication from the government." The government says, "Yes, we agree in principle, but we are probably already doing something like that—near enough."

It really is dismissive. I have to say I am totally disappointed, on behalf of the committee—the members, you, Mr Speaker, and Mr Kaine—and all the community organisations that bothered to contribute. I have a white box in my hall containing the submissions that were made. People thought that there was some prospect in this inquiry

for them to have a say, and to have the government react positively in this particular process.

Let everybody in this Assembly know that the majority of community organisations out there are totally dissatisfied with the way this is being implemented, and are somewhat bewildered as to what the government wants and why it finds itself unable, through its administration, to communicate what it wants or develop any empathetic relationship with them.

Mr Speaker, I record in this place that I am totally dissatisfied with this particular report. It does no service to the community organisations that have used the facilities of this Assembly to try to communicate to government, and have been so roundly dismissed out of hand. Thank you.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.57): Mr Speaker, I do not want to speak for long on this matter. I just want to make a couple of comments about Mr Quinlan's contribution. Mr Quinlan is obviously disappointed that the government has not picked up the recommendations of his inquiry. I understand that, but I also have to reiterate to the Assembly that the government did carefully consider the recommendations made and cannot agree to many of the comments made in the committee's report.

Mr Quinlan makes a very bold and sweeping statement that a majority of community organisations receiving funding from government are dissatisfied with the present arrangements. The report of the committee discloses that a majority of community organisations did not make submissions to the committee and, I doubt whether, even if Mr Quinlan and other members of the committee had spoken to those organisations, he would have been able to get to a majority of such organisations.

It is worth remembering that in community grants programs there is always a high degree of contention about the way those programs are administered. There always has been. There certainly was in the days that Labor sat on the treasury benches. It is very easy for people to make hay out of the fact that there is dissatisfaction by those, for example, who believe that their grants have not been large enough, who believe their reporting requirements are excessive, or who miss out altogether. Many people come and complain about that, as we have seen in recent days with organisations such as CARE Credit and Debit Counselling Service. It is one thing to make those complaints. It is another to say that the system is wrong, it is unsatisfactory, it is all a sham and it should all be replaced with something entirely different.

I make one other comment, Mr Speaker. Mr Quinlan has repeated this comment about there being a degree of intimidation, or implied intimidation, of community organisations who wish to criticise the government's handling of any of these matters. Many community organisations already make comments and criticisms of government directly to the government. People come and see ministers, and they make those comments. People make comments to bureaucrats about the way in which programs are administered. It happens all the time.

If we were going to target community organisations that criticised the way government programs are administered, we would not have very many community organisations that we actually had to deal with. Everybody has some concerns at some point or other, and we are big enough to be able to take those comments and criticisms and disagreements in our stride. The fact remains that the only case of an organisation being threatened with de-funding by a government of the ACT, where the organisation was actually named, was a case that related to the former Labor government when it threatened to de-fund the AIDS Action Council of the ACT if it took a public position in support of legislation which Mr Moore, as an Independent, had introduced into this place in relation to cannabis. That is the only occasion where anyone has been able to name an organisation which was supposed to have been threatened with its funding.

Mr Kaine: You have a short memory, Minister.

Mr Stanhope: You have a short memory, old son, and a self-serving one. We have been Gary-ed again.

Mr Quinlan: Of all the people in the place to be making these statements!

MR HUMPHRIES: I am open to correction. The debate will continue. I am open to correction on that. Tell me the other organisations that I have overlooked.

Mr Kaine: In one case the chief executive officer resigned to remove the problem for the organisation. It was a threat that your government made that led to that CEO's resignation.

MR HUMPHRIES: Which organisation, Mr Kaine?

Mr Berry: I will be up in a minute, and I will tell you.

MR HUMPHRIES: Well, name it.

Mr Kaine: I am not going to name the organisation any more than you are. But you have a very short memory when you say there is only one case.

Mr Stanhope: Everybody in Canberra knows that.

MR HUMPHRIES: I repeat my comment, and I invite someone to tell me where this is inaccurate. Only one organisation, in this place or publicly, has been named.

Mr Kaine: Wrong.

MR HUMPHRIES: Which organisation was it, Mr Kaine? Which organisation was it?

Mr Kaine: If you do not know, then you are deficient and defective in your duty.

MR HUMPHRIES: If it has been named already in this place, why not name it again now? I am sorry, my memory is deficient; I cannot recall that organisation being named. I invite someone to tell me which organisation it was.

Mr Stanhope: It was reported in the newspapers.

MR HUMPHRIES: Okay. Which one was it? I must not have read the newspaper that day.

Mr Berry: I will say it on the record, Gary. Just wait.

MR HUMPHRIES: Again, this is the situation. People who are prepared to say these things quietly, without going public about them—

Mr Quinlan: He says he is waiting for you to sit down.

Mr Berry: I am waiting for you to sit down, then I will put it on the record.

MR HUMPHRIES: Why won't you tell me now, so I can respond?

MR SPEAKER: Order! It will not happen now. I will not take any more interjections.

Mr Berry: Well done.

MR SPEAKER: If you wish to debate this, get on your feet and do it.

MR HUMPHRIES: Members obviously have a great reluctance to go on the record about these things, and I am not surprised because I believe these assertions are without foundation. I am certain that no minister in this government has made those sorts of threats. I am quite confident that no public servants have made these sorts of threats on behalf of the government. I look forward to Mr Berry, or somebody, naming which organisations have actually been so threatened.

Mr Speaker, I stand by the assertion that the government is not in that business.

Mr Quinlan: Many of those people do not want to be named because they fear the retribution. It is circular, Mr Humphries.

MR SPEAKER: Mr Quinlan, stop interjecting please. It is a matter of put up or shut up, frankly.

MR HUMPHRIES: The fact is that you people put your hands on your hearts and say, "This is a terrible thing to have happen." The fact is that it has happened when you were in office.

Mr Quinlan: Read it.

MR HUMPHRIES: I have read it, Mr Quinlan. Have you noticed what has been said about what happened when you were in office? Apparently not, because you fall silent on the subject.

Mr Speaker, I have nothing to apologise for in respect of this government's performance. I think it has been appropriate. I look forward to someone adding some flesh to the accusations that they make about the government's supposedly intimidating organisations that dare to criticise the government's performance.

MR BERRY (12.04): I will start off with ACTCOSS.

Mr Quinlan: That is the one.

MR BERRY: Yes, that is the one. ACTCOSS was highly critical of the government's performance on social issues. It made a point of it. The then executive director of ACTCOSS fell on his sword because this government told ACTCOSS that if it did not get rid of him its funding was in doubt. That is what happened.

Mr Kaine: Absolutely.

Mr Stanhope: That is what everybody knows.

MR BERRY: Everybody knows it. What about the Civic Youth Centre, which was also treated with the same sort of vitriol? One of its long-serving critics of the government departed the scene. What about that one? Are you denying that you had anything to do with that?

Mr Humphries: Absolutely.

MR BERRY: Of course you would deny it. What about the Woden Youth Centre? One of its senior officers departed the scene because of threats by this government to its funding.

Mr Humphries: Rubbish.

MR BERRY: Of course you will deny it.

Mr Humphries: Where is the statement from these people to say that?

MR BERRY: And we will cap it off with the Women's Legal Service. They lost out on funding too because they disagreed with the government.

Mr Humphries: But they have moved off. Why will they not give a statement now?

MR SPEAKER: Order, please. Mr Berry has the floor.

MR BERRY: So do not give me any of that; we know and the community knows that you challenge these organisations with threats against their funding if they do not toe the line. So the points that have been made in respect of that are quite fair ones, and there is concern out there in community organisations about the thuggish way this government behaves.

Mr Speaker, there is no doubt that the community would be better served if this government changed its attitude to the way it treats community organisations. At least let them independently represent the community interests that they were set up to serve. The government has set out from the day that it came into office to undermine the authority that these people had as representatives of community wishes in terms of social outcomes.

Undoubtedly, Mr Speaker, there is more than a little concern amongst these community organisations about the arrogance and thuggish behaviour which we have come to know exists with the Carnell government. There is no use in denying it any further.

MS TUCKER (12.06): On that issue, I would also support the concerns that have been raised by Labor. I have been communicating recently with two organisations on a particular issue—and I will not name them. They have said to me that, while they were supportive of the issue I was raising, it would not be in their interests to take a political position on it at that point in time because they had a perception that this would impact on the likelihood of their being funded. I certainly would not name them. Obviously you do not name them. So, if Mr Humphries is implying that I am not truthful here because I will not name them, then he can say that, but this is what I was told by two organisations in the last month.

I would also like to comment on what Mr Humphries said in his response to Mr Quinlan at one point, "What do you expect? Organisations like to ask for more money; they do not think they got enough." There is actually a really serious issue here about fair pricing of services. If Mr Humphries were to think back a little bit he will remember a report—I think it was *More than the sum of its parts; f*rom memory, it was an ACTCOSS/government joint report, but maybe not—in which an analysis was done on how you deal with the quantitative issues of services when you are developing contracts. It is about specification of services. The issue of fair pricing was a major item in that and in the follow-up document as well.

So what Mr Quinlan is referring to is the issue of fair pricing of services, and that is related to the issue of quality and service provision. And that is related to the fundamental question about how you write contracts for services, and that is related to the fundamental issue of the purchaser/provider split and the concerns that have come out in terms of how well this has been thought through by this government.

To its credit, the government has actually acknowledged that there are issues and there needs to be development in this area, and they have actually undertaken some work to look at it. So it is an inadequate response from Mr Humphries to just glibly say they always want more money, because there are some really serious issues here, which this government actually has acknowledged. I just want to remind members that this work has been done and it is an ongoing issue; the issue of fair pricing has not been resolved.

Question resolved in the affirmative.

EXECUTIVE BUSINESS—PRECEDENCE

Ordered that Executive business be called on.

PERSONAL EXPLANATION

MS TUCKER: I seek leave to make a personal explanation arising from Assembly business.

MR SPEAKER: Proceed.

MS TUCKER: I just want to clarify something. In the debate about the disability services inquiry, Mr Moore suggested that I was in some way criticising the health complaints commissioner. I would just like to clarify that that was not what I was doing. I said that there was an inquiry for particular issues that the committee could not deal with when the Standing Committee on Social Policy inquired into the Commonwealth/territory disability agreement. A number of people in the community came to our committee with allegations which clearly it was not within the brief of our committee or appropriate for our committee to look at, and these were referred to the health complaints commissioner.

I just want to make it clear, too, that there are privilege issues there. I am not saying that we actually referred evidence that was given to the committee to the health complaints commissioner because clearly that would not have been appropriate either. What we did was: when some people came to us with particular issues, we suggested they go to the health complaints commissioner.

He produced two reports: a general report on systemic issues and a confidential report on the allegations. What I was saying was that, while that work was done, I still have not seen an adequate response from government to the issues that were raised. So I was not criticising the health complaints commissioner; I was talking about inaction by government since then.

ARTIFICIAL CONCEPTION AMENDMENT BILL 2000

Debate resumed from 11 May 2000, on motion by **Ms Carnell**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (12.12): Mr Speaker, the Labor Party will be supporting the Artificial Conception Amendment Bill, despite our misgivings about some of the surrounding issues and processes. One of those misgivings is that the ACT is going it alone with a bill which is similar to the one that was presented in the Assembly and rejected in 1996.

Mr Connolly's 1994 act outlawed commercial surrogacy and discouraged non-commercial surrogacy to the point that it was not possible. This was done by making it an offence for medical professionals to facilitate pregnancy in surrogacy cases.

Mr Humphries: Should it be the other way around—discouraged commercial surrogacy and allowed non-commercial surrogacy?

MR STANHOPE: No, it did not initially. Mr Connolly did that but then Mrs Carnell moved amendments that removed the offence. Her amendment was supported, albeit reluctantly—

Mr Humphries: It is wrong.

MR STANHOPE: It is not; well, unless I—

Mr Humphries: He discouraged commercial surrogacy, but allowed non-commercial surrogacy.

MR STANHOPE: I will read it again for the record in case I misread it. What I said—and I believe it to be appropriate unless I misread it—was that Mr Connolly's 1994 act outlawed commercial surrogacy and discouraged non-commercial surrogacy to the point that it was not possible. This was done by making it an offence for medical professionals to facilitate pregnancy in surrogacy cases.

However, Mrs Carnell moved amendments that removed the offence. Her amendment was supported, albeit reluctantly, by the ALP on the basis that it is wrong in principle to create an offence of aiding and abetting non-commercial surrogacy when non-commercial surrogacy itself is not a criminal offence.

The problems raised in the debate in 1996 have not, however, been resolved. Mrs Carnell's current proposal is in conflict with a 1991 resolution of the Australian health and social welfare ministers to ban surrogacy in any form. Some recommendations of the Community Law Reform Committee, made in 1996, have not been adopted.

The Chief Minister's proposal raises, but does not resolve, the question of the tension between balancing the needs of the parents and the rights of the child. And the difficulty in reconciling these rights was noted in an article in the *British Medical Journal* as recently as April 2000. That journal reported on a conference which calls for more research on how to honour the commitment made by the British legislation to take into account the welfare of the child. Almost all the research to date has focused on the needs and dilemmas of the parents.

Even in non-commercial surrogacy there is potential for financial, emotional and psychological exploitation of all those involved.

Directed adoption is available only between close relatives. However, I think it is to be noted that the adoption division of the New South Wales Supreme Court recently made a decision permitting genetic parents to adopt the child from the surrogate parents. The court commented that it seems appropriate that special adoption rules should apply in such cases. There is no reason to suspect that the ACT court would make a different decision, and that option is open to genetic parents.

Mr Speaker, the community is obviously divided and undecided about the issues surrounding the whole area of artificial reproductive technology. What is of concern to me and the Labor Party is not the arrangements that people make to have babies, but the

ethical dilemmas that are created by legislating in response to emotional arguments rather than basing the legislation on empirical data or response to a reasoned community debate.

As the Legislative Assembly is being asked to consider this bill in the absence of both, I sought advice from bioethics institutes on the issues involved. That advice confirms to some extent what we already know—that we are in uncharted waters and, to some extent, running before the wind, to an unknown destination.

The advice I have received, not all of which I necessarily accept, Mr Speaker, has been summarised as follows.

- Surrogacy arrangements create dilemmas that would not have existed in the same form before IVF technology, some of which is morally problematic in its own right, became available. Resolution of the surrogacy dilemmas therefore cannot be reached without attention to the moral legitimacy of the combining of egg and sperm outside the human body.
- Passage of this bill establishing a procedure for the granting of "parentage orders" would be to grant moral, as well as legal, legitimacy to surrogacy arrangements in principle.
- Granting moral and legal legitimacy to surrogacy arrangements in this way makes it apparent that personal choice overrides the moral principles guiding some of these deep and valuable human activities.
- The bill proposed by the Chief Minister rests upon several assumptions, and one of these is that individuals are fully aware of the central issues arising from their decisions and are able to make free choices. The question of free choice in the most straightforward of cases is, of course, always problematic.
- The anguish felt by the genetic parents at not being the legal parents of the resulting child is only one of the potential problems arising from surrogacy arrangements. Remedying this one aspect by law will leave unattended other more complex issues which cannot be dealt with by law.
- A formal legal avenue for parentage orders to be issued to the genetic parents over the birth parents, even though agreed to by all adults involved, diminishes the meaning of in-utero development and the relationship between mother and developing child. The deliberate separation between nature and nurture cannot be without consequence.

That, Mr Speaker, is a summary of advice that I received. As I said at the outset, I do not necessarily accept the thrust of some of this summary, but it is a summary of the issues as presented to me and it does highlight the range of issues that have not been fully or appropriately considered in the ACT or in this Assembly in the context of debates that we have previously had about surrogacy and the surrogacy laws that apply here. So I mention that range of issues as encompassing the sorts of issues that I do not believe have been fully explored.

In addition to that advice, I note that the ethical guidelines on assisted reproductive technology issued by the National Health and Medical Research Council in 1996 state:

> the practice of Artificial Reproductive Technology involves social issues of eligibility, surrogacy, consent for posthumous use, genetic diagnosis and selection and gene therapy, and storage of gametes and embryos. These are issues beyond the remit of the Australian Health Ethics Committee in relation to medical research. The need for all States and Territories to introduce comprehensive legislation was recommended in a number of submissions. In revising these guidelines, the Committee resolved these social issues should be addressed by complementary legislation in all States and Territories.

Mr Speaker, the current bill is not complementary to legislation in all states and territories. We here in the ACT are essentially going it alone. The advice that I have received shows that the Chief Minister's decision to legislate in this area may have some social and ethical consequences that may not be intended or foreseen. It is therefore essential that any proposed legislation is independently scrutinised and subject to community debate.

The Attorney-General referred the question of the operation of assisted reproductive technology laws to the ACT Law Reform Committee some 20 months ago. The chairman of the committee advises me that any report is still more than 12 months away and that, essentially, it has not even commenced its work. That is work on a reference that was granted 20 months ago that has not yet commenced. Sources indicate that the delay is largely because the government has not given the committee any resources to do what the Attorney has asked of it.

I would prefer to wait for the outcome of that inquiry before legislating further in relation to surrogacy. But in the meantime there are a number of sets of parents—both genetic parents and birth parents—who have a very direct interest in addressing the issue of the parentage of children that have been born in the ACT as a result of surrogacy arrangements. In addition to those parents and their children, I understand that the Canberra Fertility Clinic has approved another 36 surrogacy arrangements and arranged another 25 embryo transplantations.

The Labor Party is prepared to simplify the arrangement for existing parents, but wishes to put on notice through the amendments which I will be moving and which the Chief Minister has accepted that any person considering entering or facilitating a surrogacy arrangement should be aware that the legislation may change in the future. Persons contemplating or actually entering surrogacy arrangements on the supposition that parentage orders under this act will be available into the future should be aware that the current proposal will, as a result of amendments to be moved today, be subject to a sunset clause.

Genetic and birth parents need to acknowledge the fact that they may have to pursue a directed adoption rather than count on parentage orders being available forever, subject to the outcome of the inquiry, which the Chief Minister assures me will now be pursued vigorously and will be now appropriately resourced. In relation to that, I have written to the Chief Minister asking her to provide those resources to the Law Reform Committee immediately. I have also asked that the terms of the reference to the Law Reform Committee be reviewed and, if necessary, revised to ensure that they are broad enough to encompass all aspects of surrogacy arrangements.

The amendments that I will be proposing to the bill, and to which our approval of the passage of this bill is subject, are as follows.

- It is to apply only to children conceived before 30 June 2002. I had proposed that it apply only to children born before 30 June 2002 but, following discussions with the Chief Minister today, the Labor Party is prepared to accept it applying only to children conceived before 30 June 2002.
- We propose that siblings resulting from a multiple birth as a result of a surrogacy arrangement not be able to be separated as a result of a parentage order.
- And we propose that there needs to be an assurance that the counselling service used by the birth and substitute parents contemplating a surrogacy arrangement is truly independent of the doctor or clinic performing the procedures.

Mr Rugendyke has also this morning circulated amendments that he proposes to Mrs Carnell's bill. There is one aspect in Mr Rugendyke's amendments that has caused us to seek a further amendment, and I therefore foreshadow an amendment to Mr Rugendyke's proposed amendments to reinsert in the legislation a requirement that the substitute parents in a surrogacy arrangement be resident in the ACT. I am concerned that, as a result of the removal of the requirement that the substitute parents be resident in the ACT, Canberra will become the de facto centre for surrogacy arrangements for the whole of Australia.

Mr Speaker, as I said at the outset, the Labor Party is happy to support Mrs Carnell's bill today, despite the reservations that we have about the process that has been pursued from the outset in relation to the development of surrogacy legislation and arrangements in Canberra. Our support is conditional on the amendments I have foreshadowed. Despite our concerns, we wish to bring some relief to existing genetic and birth parents and we are concerned that the best interests of the children that have been born here in the ACT are reflected through this legislation.

As I said, the Chief Minister has undertaken to address the concerns I have raised with her, by ensuring that the ACT Law Reform Committee is given the resources necessary to complete its work, and my amendments also address those concerns, particularly to the extent that we want a complete review of the legislation. Following the work of the Law Reform Committee into assisted or artificial reproductive technologies in the ACT, we would like to see a consolidated and reconstituted legislative approach to the whole issue, following on also from a detailed community debate and consultation on all issues in relation to surrogacy. Thank you, Mr Speaker.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

Sitting suspended from 12.25 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Bruce Stadium—Turf

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. Yesterday the Chief Minister told the media that she did not think the contractor who returfed Bruce Stadium had done the job properly and should not be paid. Can the Chief Minister confirm reports that the contractor, alarmed at these reports, has today refused to lift the failed turf? What action has the Chief Minister taken to rectify her reckless statement and further jeopardise the prospects of Bruce Stadium hosting Olympic soccer, and how long is the queue of litigious consultants or contractors that StrathAyr has now joined?

MS CARNELL: Mr Speaker, I understand that the StrathAyr people left the stadium this morning without any problems. I do not know what Mr Stanhope is talking about. Maybe he is making it up. I am interested that Mr Stanhope is suggesting that the government should pay people who do not actually deliver on contractual obligations.

Mr Corbell: Did he say that? I don't think he said that.

MS CARNELL: Quite seriously, that is exactly what he is saying. If a contractor or somebody else enters into an agreement with government or with anybody else to achieve a particular outcome, surely it is up to the government, the people who are in control of taxpayers' money, to ensure that we get the product that we contracted to pay for. If that product was not delivered then surely we should do exactly what we would do in our own private lives, I hope, and that is require the person to deliver or, alternatively, not pay. That is our responsibility. From my perspective, that is what ministerial responsibility is about—not paying for things that we do not get, Mr Speaker.

I am absolutely amazed that Mr Stanhope could say, as he did in his question, that somehow the ACT government should have paid StrathAyr for not delivering the outcome that they promised. I am absolutely amazed. It shows that those opposite can never be in government.

MR SPEAKER: Do you have a supplementary question?

MR STANHOPE: Yes, thank you, Mr Speaker. Just to confirm the Chief Minister's attitude to the turf at Bruce Stadium, I refer the Chief Minister to an answer she gave to Mr Kaine in the Assembly on 17 February 2000 in which she said to Mr Kaine:

> I am surprised that Mr Kaine would not be positive about allowing the Canberra community to have a look at Bruce Stadium, something that just this week the International Olympic Committee said had a surface equivalent to Wembley …

Can the Chief Minister confirm for the Assembly and the people of Canberra whether she meant Wembley Stadium or the Wembley Gasworks?

MS CARNELL: In smart-arse capacity, that was pretty high.

MR SPEAKER: I am sorry; that is a hypothetical question. It is out of order.

MS CARNELL: Look, Mr Speaker, I am sorry. What was out of order?

MR SPEAKER: Wembley Stadium has nothing to do with this Assembly.

MS CARNELL: Mr Speaker, the comment about Wembley was not mine; it was SOCOG's and FIFA's. The reality is that the—

MR SPEAKER: Well, they have not been very witty to date, so I do not suppose they will be witty in future.

MS CARNELL: Mr Speaker, the reality is that the surface of Bruce Stadium, according to those people, was as good as Wembley, but unfortunately it was a tough season. We did have snow and we did have very cold conditions. And guess what, Mr Speaker? That caused a problem. And guess what, Mr Speaker? We rectified it, and that is the job.

Bruce Stadium—Turf

MR QUINLAN: My question is also to the Chief Minister and it also relates to the returfing of Bruce Stadium. In a moment of inspiration somebody decided to paint some of the recently re-laid turf prior to the inspection by the Olympic officialdom. Sometimes out of adversity there comes some real positives, and we may have hit on something here. Could it now be possible that we could operate Floriade with plastic flowers, and thus reduce the cost and eliminate entry fees? Do we now need the real Roger Daltry for an ultimate rock concert, or would a cardboard cut-out and piped music suffice? Why don't we place a little sign on the futsal slab saying "grass"? On a more serious note, do you think we should have left it as it was and, as you have stated, got on with fixing the problem, not trying to hide it?

MS CARNELL: Mr Speaker, it's wonderful. The Labor Party has come up with a policy direction—plastic flowers at Floriade. Now the Labor Party has shown us how they will get rid of the entry fee—by having plastic flowers. Thank you, Mr Quinlan. No longer do those opposite want real people at rock concerts; they want cardboard cutouts.

Mr Stanhope: What shade of green paint was it? Was it lime green?

MR SPEAKER: Mr Stanhope, if you keep that up you will be a shade of yellow and you will be outside the door.

Mr Stanhope: Never, Mr Speaker.

MS CARNELL: Mr Speaker, if those opposite were really lucky they could get a cardboard cut-out woman so that they would have a woman on the opposite side of this Assembly. Then, you never know, they could achieve their equal opportunity approach, something that they have totally failed on.

MR SPEAKER: Order! There is far too much audible conversation. Let the Chief Minister answer the second part of the question because the first part is right out of order.

MS CARNELL: Mr Speaker, using a green spray on Bruce Stadium is something we do at almost every match, as Mr Osborne would know, just as do other stadiums. Other stadiums and the Bruce Stadium use that approach. My understanding is that the people who are looking after the turf decided to spray some of the ground with the sort of preparation that is regularly used for matches and left some of it in its natural state to show SOCOG what the contrast looked like. They told SOCOG that that was what they were doing. It is normal practice.

MR QUINLAN: I want to follow up by asking whether it was possible that we could have incurred any liability had this particular subterfuge worked?

MS CARNELL: Mr Speaker, I made the point that SOCOG were informed of what they had done, so there was no subterfuge.

Traffic Accidents

MR HIRD: Mr Speaker, my question is to the Minister for Urban Services, Mr Smyth. You will be interested in this, Mr Corbell. I refer the minister to the recent community debate about a 50 kilometres an hour speed limit. Can the minister tell the parliament what percentage of people are injured on residential streets compared with the main arterial roads within the territory?

MR SMYTH: Mr Speaker, I thank Mr Hird for his question because it—

Mr Corbell: What do you think about 50k, Harold?

MR SPEAKER: Order! Mr Smyth is answering the question. He is attempting to anyway.

MR SMYTH: All I did was stand up and they are interjecting, Mr Speaker.

Mr Berry: Mr Speaker, this will not make the grass grow at Bruce.

MR SPEAKER: Mr Berry, we have moved on from that question.

Mr Berry: Oh no, we haven't.

MR SPEAKER: We have, in fact. Mr Hird has asked another question. Apart from that, I do not want any interjections on grass or 50 kilometre speed limits or whatever. I just want the question answered by the minister, thank you.

MR SMYTH: Thank you, Mr Speaker.

Mr Osborne: I raise a point of order, Mr Speaker. I want to refer you to standing order 117(e)(ii) which says that questions shall not refer to proceedings in committee not reported in the Assembly. I understand that the Urban Services Committee is currently looking at the 50 kilometres per hour question.

Mr Hargreaves: Well done.

Mr Osborne: The first one in five years and it is a good one, Mr Speaker.

Mr Hird: On that point of order, Mr Speaker, when you are ready, gentlemen, I have taken advice. I understand that Mr Osborne is a bit slow in learning the standing orders. I am indebted to Mr Osborne for raising this point, but I understand that it is quite in order.

Mr Moore: Mr Speaker, perhaps I can assist Mr Hird.

Mr Osborne: I take a point of order, Mr Speaker. I don't mind being called slow by anyone in this Assembly except Mr Hird.

Mr Hird: Well, you have been referred to by your colleagues on your right as very slow. I just said you were slow, not very slow.

MR SPEAKER: Thank you. Order! The clerk advises that there is no point of order because Mr Hird has not referred in his question to proceedings in the committee.

Mr Hird: Nice try, Paul.

MR SPEAKER: Do not get too carried away, Mr Hird. He simply asked a question relating to the 50 kilometre speed limit. Had he referred to proceedings in committee that had not come before the Assembly, of course it would be out of order. You are quite right, Mr Hird.

MR SMYTH: Thank you for that ruling, Mr Speaker, and it is quite right. Yes, I have noted the community debate on the 50 kilometres per hour zones with interest, and in particular some of the glaring inconsistencies that have been offered from Labor's spokesman on this issue, Mr Hargreaves. Mr Hargreaves has essentially said that he supports slower speed limits in some local streets, excluding the main residential streets. Why? Because he said slowing down was the key to safer roads. You did. It is here in your press release, Mr Hargreaves. You should read your press release before you deny it.

Mr Hargreaves: Well, read it out.

MR SMYTH: He said it was something that was supported by most states in Australia. I quote Mr Hargreaves: "We should be as safety conscious as they are." That is a direct quote from his press release. Yet Mr Hargreaves, despite voting for their introduction in this place, has since complained continually and bitterly about speed cameras and has not supported their use. That is interesting, Mr Speaker.

Firstly, speed cameras have a demonstrated record of reducing speed and making roads safer, not just here in the ACT, and our data does support that, but across the country, and it is something that Mr Hargreaves denies. Secondly, the use of speed cameras is something that is supported by all other states in Australia, so surely we are being as safety conscious as they are. Yet Mr Hargreaves refuses to acknowledge that they improve road safety for Canberrans. However, he then goes on and uses the same reasoning, with less convincing data to support his reasons, to say that, yes, we must go down to 50 kilometres per hour in some streets because slowing people down must be

safer and all those states cannot be wrong. So at least he is consistent in his inconsistency.

But, Mr Speaker, where do the injuries and the deaths occur on our roads, and shouldn't we be targeting the most dangerous areas where the most trauma occurs? I asked my department to look at the last two years and further break down our injury crash data to street type. It paints an interesting picture. What we do know now is that more than 60 per cent of our injuries and fatal accidents occur on major arterials with mostly 80 kilometres or higher speeds.

Our speed camera program is targeting speed and it is slowing motorists down. How do we know that? Because after the first six months of operation, rather than just opinion, we have the data that says that at the speed camera sites there has been a 26 per cent reduction in the amount of speeding as well as a 15 per cent reduction in general across Canberra.

So, with the community debate on residential streets, I then wanted to break the data down further. I had the figures of the number of people injured or killed in crashes in the ACT broken down into three categories. The first is local streets. They are the wide residential streets in your street directory. Then there are the distributor roads, which are the yellow, main residential streets in the street directory. Then there are the arterial roads, which are the main roads, coloured yellow and with a red line through them, in the street directory, for those here who need colour coordination.

What did this show, Mr Speaker? It showed that last year, in 1999, there were 18 people killed on our roads, and all but two of those deaths occurred on arterial roads. There were also some 745 people injured. The total percentage of casualties on the local roads was 16.5 per cent. The percentage of casualties on the distributor roads, the main residential roads, was 19.5 per cent. The percentage of casualties on arterial roads was 64 per cent.

Mr Corbell: I raise a point of order, Mr Speaker. Is the Minister for Urban Services seriously suggesting that he does not want to achieve a 16.5 per cent reduction in injuries as a result of reducing the speed limit on local roads to 50 kilometres an hour? What an absurd suggestion. That is exactly what you are saying—that you do not want to achieve a 15 per cent reduction in casualties.

MR SMYTH: We always jump when we are stung, Mr Speaker, and Mr Corbell stings the easiest.

MR SPEAKER: Order! There is only one person speaking at the moment and that is the minister.

MR SMYTH: Mr Speaker, the results for 1998 were similar, 15.7 per cent on the local streets, 22.3 per cent of accidents on major arterial red streets, and 62 per cent on the arterials. So that shows that by far—

Mr Corbell: You don't want to achieve a 16 per cent reduction? Is that what you are saying? You are happy with the level of accidents?

MR SPEAKER: Mr Corbell, you will not get a chance to ask your question very shortly if you continue to interject.

MR SMYTH: That shows, Mr Speaker, that by far the arterials cause us more grief as a society, quite literally. When we look at the two types of residential streets, in both years the majority of injuries and fatalities occurred on the main residential streets where the speed limit would not be changed under Labor's proposal. In 1998 there were more than 50 casualties extra on those streets.

So it begs the question, Mr Speaker, and it is a very important and disturbing question: why is it that Labor only seems to support road safety measures on the roads that have the least road trauma? Why do they support measures to slow down cars on local streets but not on main residential or arterial roads? The figures show us where the problems lie and where we need to target our resources most, and that is what this government is doing, Mr Speaker. Arterial roads and the main residential streets account for almost 85 per cent of Canberrans hurt or injured in car accidents on our roads over the past two years, but Mr Hargreaves and the Labor Party will only support something which he says will have an impact on one in six of these casualties.

Mr Speaker, the speed camera program targets arterial roads and main residential streets. Yes, two weeks ago, due to the programs demonstrated success of slowing down motorists, the number of cameras was doubled and the number of streets significantly increased to include main residential streets. When we are developing road safety strategies it is vital that we do so based on scientific data, not emotion or political opportunism. The question of whether 50 kilometres an hour zones are a worthwhile road safety measure needs to be based on the same rigorous scientific assessment as was applied to the speed cameras. So, through you, Mr Speaker, to Mr Hargreaves: it is simply not good enough, when you are trying to improve people's lives and wellbeing through road safety measures, to guess, because, as you have shown so adequately, when you guess you can be wrong.

MR SPEAKER: Do you have a supplementary question?

Mr Hird: No, I will not ask a supplementary question. The answer was pretty detailed.

Ovals Redevelopment Scheme

MR CORBELL: My question is to the Treasurer. Treasurer, yesterday, in an answer to a question I asked in relation to documents you had failed to supply to the Estimates Committee relating to ovals redevelopment, you said, and I quote, "However, as I understand it, they were not documents which were at the time of their creation written documents, or rather documents on paper, because they were emails between various parts of the ACT government." They are the same sort of thing really. Will the minister explain to the Assembly the precedent he has just established in determining whether an email is a document for the purposes of an Assembly committee's deliberations, and what is his explanation for the written document I tabled yesterday which he also failed to supply to the Estimates Committee?

MR HUMPHRIES: Mr Speaker, if Mr Corbell was happy to wait until the end of question time he would get two answers today rather than just one. He would have the answer which I have on notice to give him and he would have another answer.

Mr Corbell: Answer it now.

MR HUMPHRIES: Obviously he is not patient enough to wait for that so he can only have one answer rather than two. I note in passing that Mr Corbell says that there is no difference between written documents and documents on paper. Well, a document appearing on a computer screen, of course, is a written document but not a document on paper, so there is a difference between those two things. I draw attention to that matter, Mr Speaker, not to rely upon that distinction to be able to avoid the tabling of the documents but rather to point out that there was potentially a reason why the documents were not supplied to the committee in the period that they were asked for. The committee asked for documents on 22 June to be supplied the following day, at 2 pm on 23 June, and officers in my department went off and searched the file, the written paper-based document, and did not find any of the documents that Mr Corbell has subsequently obtained under his freedom of information application. Now, had it been the intention of the officers concerned to conceal the information, one wonders why—

Mr Corbell: No, not their intention, yours, Mr Humphries.

MR HUMPHRIES: No. Okay. I can tell Mr Corbell—

Mr Corbell: Don't blame the public servant. Accept responsibility.

MR HUMPHRIES: If Mr Corbell would be quiet for a moment he might hear. I can tell Mr Corbell that I never looked at the file. I relied entirely on the information provided to me by my department. I don't think any minister does go away and search a file when we are asked to table particular documents relating to a particular subject. We simply don't have the time to do that. I dare say if you ever, by some miracle, make it onto this side of the chamber you will not have time to go and search the files personally yourself either.

I do know that Labor, when it was last in office, had a great mistrust of the public service and very often would call for the files to be brought over and would take them out of the hands of the public servants. Mr Speaker, I have never felt the need to do that because I have always felt the highest degree of confidence in the public servants who have served this government, at whatever level, whether they have been chief executives or ASO1s. I have always felt the greatest confidence in them to be able to provide competent and loyal service to the government of the day.

Mr Corbell: How about getting back to the substance of the question?

MR HUMPHRIES: Mr Speaker, I don't know why I bother. There is yack, yack, yack all the time.

Mr Hargreaves: You are not answering the question. You are just babbling on.

MR HUMPHRIES: I have answered the question completely. I have. Mr Speaker, what we have here—

Mr Corbell: No, you haven't. What about the 2 February document?

MR HUMPHRIES: I explained yesterday why Mr Corbell did not receive the documents, because the paper—

Mr Corbell: What about the 2 February document?

MR SPEAKER: I warn you, Mr Corbell.

MR HUMPHRIES: Mr Corbell, listen. Listen, for goodness sake. You have talked the whole time that I have been trying to give you an answer. Listen for an instant. The documents that you sought were searched for on the file, the physical file. They opened the file and looked in the file. There was one document there on the file.

Mr Corbell: No, there wasn't.

MR HUMPHRIES: Sorry.

Mr Berry: Yesterday another written document was produced. How do you explain that?

MR HUMPHRIES: Mr Speaker, as I recall the advice given to me, there was one document on the file. That document was provided to Mr Corbell. Subsequently there were nine other documents supplied to Mr Corbell under his FOI request, as I recall. Eight of those were emails. You say there were 10 emails. All right, my advice is there were eight emails and Mr Corbell says there were 10. Fair enough. There were 10 emails, so Mr Corbell tells me, plus there was a further document, the one that Mr Corbell tabled yesterday, which was not on the same file.

Mr Corbell: Oh, you didn't look in the right one.

MR HUMPHRIES: It was on a different file because it related to a different matter, Mr Speaker. It was a matter dealing with studies for infill sites. It was not on a file relating to ovals.

Mr Corbell: Oh, come on. You have to be joking.

MR HUMPHRIES: It was. Mr Speaker, I think I've got to deal with Mr Corbell. I don't think I will answer any more questions on this subject. I think Mr Corbell should go straight to the horse's mouth. Mr Corbell thinks that I am telling fibs when I tell him that (a) I did not look at the file, and (b) that there were no other documents on the file. He should go straight to the horse's mouth and get the members of the public service who dealt with those files before a committee that he is on, ask them those questions and judge for himself by the way that they respond to his questions as to whether they are telling lies or not. I have told this Assembly what they have told me. If Mr Corbell does not believe that he should get those public servants before a committee he sits on and ask those questions of them himself.

I am relaying to the Assembly what those public servants have told me and I believe them. The document that Mr Corbell refers to was not on the same file as the one that was dealt with. In fact, l will read the advice that has been provided to me. They, that is the department, have advised me that, like the other documents and emails not provided to the committee, it was due to an oversight at the time. It was on a departmental file not checked on 22 or 23 June due to the urgency in providing the requested information. The department accepts responsibility for this error and they suggest to me that I accept their advice on this matter. That is what they have written for me to say.

I wish to assure Mr Corbell and other members that there was no intention to withhold information from the Estimates Committee. Mr Speaker, if I had a public servant in any department I administered who deliberately withheld information from an estimates committee or any other committee of this Assembly I would sack them straightaway. I would sack them because I believe in accountability under the Westminster system, and I believe that we have an obligation to provide that accountability as appropriately as we can. That is the standard that this government is not afraid to state and to live by, Mr Speaker. The documents Mr Corbell refers to were not produced then because they were not in the place that the public servants looked in the short space of time available to them.

I might make one other observation, Mr Speaker. If it had been the intention of either the government or the public servants to keep Mr Corbell and his committee in the dark, you might ask the question, "Why did we provide the documents that were subsequently provided under an FOI request?"

Mr Corbell: Because you are incompetent.

Mr Stanhope: Because you were not involved.

MR HUMPHRIES: Okay. You have just answered the question. It's the old adage—if there's a choice between a conspiracy and a stuff-up, go for the stuff-up every time. Mr Speaker, as I have just conceded to members, that is exactly what happened in this case. There was an error on the part of the department.

Mr Corbell: So you admit it was incompetent?

MR HUMPHRIES: Yes, I admit that there was a mistake. I have said that. If you want to call what the department did incompetent, yes, it was, and they have apologised to me for that fact.

Mr Corbell: Okay.

Mr Hargreaves: And where is ministerial responsibility?

MR HUMPHRIES: Mr Speaker, if Hansard recorded every word they would have more words from those opposite than from me.

Mr Corbell: That is a hard ask.

Mr Hargreaves: I don't think so. Not in your wildest dreams.

MR SPEAKER: In fact, this siege is lasting longer than Tobruk.

MR HUMPHRIES: Yes, Mr Speaker, indeed. Mr Speaker, the information was not provided to me or to the committee because of an oversight, an error, incompetence, or whatever you want to put, and I regret that fact, but I do not think any public servant should be held too rigorously to account for that because the very short time frame provided for this information to be put on the record was such that a mistake of that kind was almost inevitable. The fact that the documents were provided subsequently indicates very clearly that there was no intention on the part of the government or the public service to deceive the committee in the non-disclosure of those documents.

MR CORBELL: I guess, Mr Speaker, you have to wonder whether the government would have told the Assembly that if I had not done the FOIs.

MR SPEAKER: Is this a supplementary question?

MR CORBELL: Mr Speaker, my supplementary question is this: Treasurer, how is it that the sale of ovals for redevelopment, which was the matter on which the Estimates Committee requested information from you, and the issue of urban infill does not correlate with your department? Surely they are the same thing?

MR HUMPHRIES: Well, surprising as it may appear, Mr Corbell, I do not go down and review the filing system used by the department.

Mr Corbell: It's pretty obvious, isn't it.

MR HUMPHRIES: It's terrible. I'm sorry. I just haven't got around to it, I'm sorry.

Mr Corbell: Urban infill and sale of ovals for redevelopment. It's the same thing.

MR HUMPHRIES: You know, I have been balancing these surpluses and dealing with extra police on the streets. I'm sorry that I have overlooked that obvious job of going down there and sorting out that damned filing system in DTI.

Mr Corbell: Well, it's pretty important.

MR HUMPHRIES: I know. Look, I'm really sorry about that. I probably should resign, shouldn't I, Chief Minister?

Ms Carnell: Yes, absolutely.

MR HUMPHRIES: Yes. Okay. I will get around to it one of these days, Mr Corbell. Perhaps you would like to come and help me sort out the filing system.

MS CARNELL: Mr Speaker, I would like to add a little bit of further information to Mr Humphries' comment.

MR SPEAKER: Yes.

MS CARNELL: We agree that the filing system right across government is really not up to modern standards, and that is the reason why we are out in the market at the moment for a new document management system that overcomes those problems. So we haven't accepted that scenario; we are fixing it.

MR SPEAKER: Thank you. I hope we deal with the phones as well.

Bruce Stadium—Olympic Football

MR KAINE: Mr Speaker, my question without notice is to the Chief Minister and it relates to the events that may or may not occur in Canberra within a couple of weeks time, the Olympics. Chief Minister, as minister responsible for tourism, you will know that many of our accommodation houses in Canberra have accepted large block bookings of accommodation as a result of the constant urgings of CTEC, for which you are responsible, and that has been on the basis that we are going to have this huge influx of people for the games. In doing so, of course, they have denied themselves other possible business opportunities.

As the minister responsible, you will also be aware, I am sure, that in the last couple of days there has been some real concern expressed by some of our accommodation houses because of reported significant cancellations of block bookings of accommodation. I am sure that you are as aware of that as I am. It is obvious why this has occurred. It is because of the utter fiasco that the Bruce Stadium has become under your management, and the real possibility that some or even all of the Olympic soccer matches planned for Bruce will be moved to Sydney or elsewhere. Whichever way you look at it, you cannot spray paint over that unpleasant fact.

Chief Minister, given that these local businesses stand to suffer commercially as a direct result of the incompetence of your government, will you give an undertaking that, just as you will refund the money that people have paid to get tickets, you will also compensate these business houses for the loss of business?

MR SPEAKER: This is a hypothetical question.

MR CARNELL: Mr Speaker, the Olympic soccer will be in Canberra, starting on 13 September.

MR KAINE: I take it from the short response that was completely un-thought through by the Chief Minister, which is quite typical—

MR SPEAKER: Do you have a supplementary question?

MR KAINE: I can take this as being yet another response in the saga of the progress of the Carnell clever, caring, government.

Mr Humphries: Is this a preamble, Mr Speaker?

MR SPEAKER: I said supplementary question. There is no question.

Bruce Stadium—Turf

MR WOOD: Mr Speaker, my question is to the Chief Minister. Chief Minister, on 23 September 1997, about three years ago, in answer to a question from Mr Osborne, you said that the government relied heavily on advice from consulting engineers Ray Young and Associates in awarding that original contract to lay the playing surface at the redeveloped Bruce Stadium. The company was expert in turf management and was engaged by SOCOG to evaluate and monitor playing surfaces for all Olympic venues, you said.

Yesterday, in answer to a question from Mr Quinlan, you read from a letter to the Olympic Unit from SOCOG's Director of Football in which the same company, Ray Young and Associates, warned that the Cairns option was not without risk. That company, Ray Young and Associates, recommended instead regeneration of the existing turf.

Ms Carnell: No, no, I didn't actually say that.

MR WOOD: Well, it was my hearing of it, Chief Minister, as distinct from what SOCOG said.

Ms Carnell: No. Ray Young works for SOCOG. They are their consultants.

MR WOOD: But what advice did Ray Young and Associates give to SOCOG? That is the question. What advice did Ray Young and Associates give to SOCOG?

MS CARNELL: My understanding is that Ray Young and—

MR SPEAKER: Are you in a position to answer that?

MS CARNELL: Ray Young and Associates are the consultants that are working for SOCOG as turf consultants, not just at Bruce, I understand, but Australia-wide. I think that is great because they are a Canberra-based company. They have done really well out of the Olympics generally, and are very competent. On the basis that SOCOG agreed to the approach that was taken by the Olympics Unit and Bruce Stadium to go ahead with the Cairns option, my understanding is that Ray Young and Associates did not disagree with that approach.

Mr Berry: They didn't say anything.

MS CARNELL: Well, they work for them, not us.

MR WOOD: SOCOG passed the buck back, but isn't it clearly the case that Ray Young and Associates were of a different view?

MS CARNELL: Mr Speaker, Ray Young and Associates do not work for the ACT government. They work for SOCOG. I certainly cannot be in a position to know what advice Ray Young and Associates gave to SOCOG. I am in a position to know that SOCOG agreed with the position and the approach that was taken by the Olympics Unit and Bruce Stadium. I read that letter into *Hansard* yesterday, Mr Speaker, to make that

extremely clear. If SOCOG did not accept the opinion of their consultant, and I have no idea whether they did or did not, surely that is no business of this Assembly?

Griffith Primary School Site

MS TUCKER: My question is directed to the Treasurer, Mr Humphries, and it relates to ovals or infill, an interchangeable classification.

Mr Corbell: No, they are different. They are a different file.

MS TUCKER: No, no, they are interchangeable, obviously.

MR SPEAKER: Allow Ms Tucker to ask her question, please, Mr Corbell.

MS TUCKER: In this week's *Southside Chronicle* there is an article about the government's plan to "do something more productive" with the former Griffith Primary School site which will see the Griffith Library and O'Connell Education Centre relocated and the buildings and oval redeveloped. The proposal has obviously generated concern from library users and local residents who wonder why this area needs to be developed when there is already much scope for similar style development in nearby Kingston. The article says that a consultant will soon begin a study to analyse the site, identify the opportunities and constraints, and determine the most appropriate future uses for the site. However, in your land release program, it is quite clear what the government's intentions are. It says that in 2001-2002 the site will be released for 200 dwellings.

Minister, is it the case that a decision already has been made that the land will be developed and the consultant is just working out the justifications for and fine detail of the decision? Are you prepared to consider not redeveloping this land and removing it from your land release program?

MR HUMPHRIES: Mr Speaker, yes, the government has announced that land at Griffith—I think it is section 78—has been identified for redevelopment and that it will accommodate something like 200 housing units, potentially at least, when the land is released. There is an important public consultation process under way, and that is to deal with a number of aspects of that proposal.

The government has put on the table its belief that that site, now that it is no longer required for a school, should be used for other things. Urban infill appears to the government to be an appropriate use for that site. For that reason the land has been put out there, with the government's belief expressed in the land release program.

Mr Speaker, the fact that there is that intention expressed in that way does not preclude, for one instant, the possibility of community consultation about the way in which that site may be handled. There is a whole host of issues to address with respect to the release of that land. One is density of development on the site. One is what green space, open space on that site, should be preserved and what should be used for housing. The interface with the shops is another important consideration. Those are important issues on which the community deserves to be consulted.

If Ms Tucker believes that the vision the government has in mind precludes all other considerations and means that there is no possibility of any different approach being taken, I have to say she has a very strange view about what consultation means.

Ms Tucker: I just asked a question. Are you prepared to not do it?

MR HUMPHRIES: We know what you think about consultation. You said yesterday, as I recall, that consultation does not mean you have to agree with somebody; you just have to listen to somebody else.

Ms Tucker: Why don't you answer the question? Will you consider not doing it?

MR HUMPHRIES: Presumably, on your own test, Ms Tucker, if we did listen to the people who lived in Griffith and decided we would make no changes at all to the approximate vision that we put forward to people, that would be quite acceptable and all right because you said yesterday that that was an acceptable way of handling public debate.

Ms Tucker: Just answer the question. It would be better if you just answered the question.

MR HUMPHRIES: You did say that, Ms Tucker. You should go back and read your words. I have to make this challenge to you, Ms Tucker.

Ms Tucker: No, don't bother. This is question time. You are supposed to be speaking through the chair. Mr Speaker, I take a point of order. Mr Humphries is supposed to be speaking through the chair. I am not interested in challenges from him. I would like you to call him to order.

MR SPEAKER: She is not interested in challenges, Minister.

MR HUMPHRIES: Okay. Mr Speaker, I will direct a challenge to no-one in particular, but to anyone who might like to take it up in this place. The question that has been asked of me is about redevelopment, urban infill in the ACT. Just suppose a party went to the 1995 ACT election promising that to preserve the environmental impact of urban expansion in the city they would support a program of urban infill in this city. What do you suppose people might say about such a party if, in the five or six years that they had representatives in this Assembly, they never ever supported an example of urban infill in the ACT? Not once; not ever. I look forward to an interjection from somebody telling me how this hypothetical party, which will not be named, might have supported some plan for urban infill.

MR SPEAKER: You will be not allowed to use the word against them, Minister, because "hypocritical" is out of order.

MR HUMPHRIES: Which word, Mr Speaker?

MR SPEAKER: "Hypocritical". It is out of order.

MR HUMPHRIES: Hypocritical. Oh, Mr Speaker, I would not dream of using the word "hypocritical"! That would be furthest from my mind. I can see that any party that promised to support urban infill and now finds itself unable to touch or even to approach an idea of urban infill at any stage in any place in the city must have obviously had a dramatic transformation in their ideological base, and no doubt will tell the Assembly at some stage why they have decided that

urban infill is now a very bad idea when they told the people of Canberra in 1995 that it was a very good idea.

MS TUCKER: I have a supplementary question. I will enjoy responding to that issue during the adjournment debate this evening, if Mr Humphries wants to hang around. My supplementary question is this: will you be initiating a variation to the Territory Plan if you want to proceed with this?

MR HUMPHRIES: Of course, Mr Speaker. Actually, no; we were going to do it in the middle of the night when no-one was watching. We were going to get the bulldozers lined up and then rush down the slope, knock all the buildings over, and build the houses really quickly so that no-one knew about it. Now, of course, Ms Tucker has exposed our plans, so we have to go back to a variation to the Territory Plan.

Bruce Stadium—Turf

MR BERRY: My question is to the Chief Minister in relation to her contribution to Canberra bashing. I would like her first of all to confirm or deny her knowledge, or otherwise, of the cancellation of block bookings which she refused to answer when Mr Kaine asked the question. She can confirm or deny her knowledge of that.

I should give you a little background before we get to the punchline. The functional design brief for the Bruce Stadium redevelopment specified a finished profile for the playing area that would conform to FIFA and SOCOG standards and was such that damaged areas could be removed and a new surface provided with 24 hours to allow for an international standard surface for any football code. The brief specified turf made up of 80 per cent fine leafed perennial rye grass and 20 per cent Kentucky blue grass which has proven to have been a successful sports turf in the Canberra region. That is not surprising. Anybody who has a garden in the ACT knows that that is a common mix for the garden.

Mr Rugendyke: Cold weather grass.

MR BERRY: Cold weather grass. Frost resistant. This turf was laid originally at Bruce at a cost of $109,482. Mr Speaker, we know that there are going to be two further layings at $400,000 a time. That is going to come out of the Olympic bucket. Who knows what is going to be cut as a result, but I will get back to the issue of the grass. Now we know, according to reports on comments from you, Chief Minister, that the turf chosen to resurface Bruce, supplied by Tropical Lawns of Cairns, is reportedly couch-based. Everybody who lives in Canberra and who has a lawn, if they look out their back window now, will see brown patches in it. That is couch.

Mr Humphries: Or they are just not watering it.

MR BERRY: Mr Speaker, that is couch, because it is frost tender. It is especially frost tender if it comes from Cairns. What mug agreed to couch-based turf for the Bruce Stadium from Cairns? Why on earth did your government ignore the specifications of your own design brief? Why did you ignore these specifications?

MS CARNELL: Mr Speaker, the design brief was for the initial redevelopment of Bruce Stadium and that is exactly what happened. That is what the grass looked like, Mr Speaker. With regard to the decision to go ahead with returfing at Bruce, surprising as this may seem I am not a turf expert, but obviously Mr Berry is.

Mr Corbell: Yes, but you are the Chief Minister.

MS CARNELL: Now, I know that that is probably a problem because the design brief for the Chief Minister just did not have in it that I had to actually—

Mr Humphries: Oh, no, Kate. You never told us.

MS CARNELL: I know, and now that my cabinet knows I know that they will feel very, very, very negative.

Mr Humphries: There will be a spill on now. That's it.

MS CARNELL: Mr Speaker, I know it is very hard to believe but when we decided to returf Bruce I did not sit down with our people and decide what grass to use. I know it is hard for anyone to believe that, but that is the reality.

Mr Stanhope: No, it is not. It is gross incompetence.

MR SPEAKER: Be quiet, please.

MS CARNELL: Mr Speaker, I am fascinated. It is gross incompetence for me not to choose the grass type at Bruce, according to Mr Stanhope. I find this a very, very interesting view from Mr Stanhope. Mr Speaker, I was briefed. I did take advice. In fact, Mr Speaker, one of the briefs that I got indicated the preferred position. In fact, I will read it. It says:

> Option 3. If the inspection at the end of July deems that most of the surface is still not of an acceptable standard a complete returfing program will immediately be undertaken.

It continues:

> For this program some of the turf will come from Sydney and the remainder from Cairns. 5,000 square metres of Legend Couch, which was laid some four weeks ago, will be available from Tropical Turf Farms in Cairns. This turf will be oversown with rye in mid July. We have been assured that the turf will be ready for use and can be transported to arrive at Bruce by 7 August.

Mr Speaker, I underlined that and said, "This will not work, it will burn off." As all of our members will know, the public service responds to comments we make on briefs. I got a brief back, Mr Speaker, and it said this:

> You annotated the last update brief with a note expressing your concern about bringing turf from Cairns to Canberra would not work because the grass would burn off. That concern was raised by others early in our planning for a turf replacement program. The issues around acclimatisation were put to a highly regarded turf horticulturist, Keith McIntyre, who we engaged to consult with us on the replacement program.
>
> He has advised that as long as the turf from Cairns comprises a base grass of couch oversown with a cold climate rye-grass, the issue of acclimatisation is overcome. This is because rye-grass can withstand quite large variations in temperature. It is a cool climate grass species. We have arranged for a very thick oversowing of the base with rye-grass so it will be this grass that provides the main cover and colour. The growing conditions at the moment in Cairns are not extreme, with quite cool night-time temperatures. The base couch grass will be well developed and it will provide the cushioning and feel of the surface.

Mr Corbell: What is the date of that, 1 April?

MS CARNELL: Mr Speaker, I understood that you had already warned Mr Corbell.

MR SPEAKER: Order, please! The Chief Minister is explaining a matter of some importance to the people of the ACT. I think the opposition can stop making a joke of the whole thing.

MS CARNELL: Mr Speaker, you have already warned Mr Corbell.

MR SPEAKER: I have already warned Mr Corbell. There will be a few other members over there who will be warned very shortly.

MS CARNELL: Mr Speaker, it is interesting because those opposite do not like the truth, obviously.

Mr Kaine: You can always spray-paint it green.

Mr Hargreaves: Somebody has grassed on us.

MR SPEAKER: Order! Chief Minister.

MS CARNELL: Thank you, Mr Speaker. The brief continues:

> Given the fact that the need for substantial replacement became apparent as late as June (following the snow in May) there was only one way to get the required turf to grow in time, that is in a warm climate. I wish to assure you that expert advice has been sought and the risks have been assessed. We will make the decisions concerning the extent of replacement to be undertaken at the end of this month.

Mr Speaker, we have talked about ministerial responsibility. I actually believe it is the role of the minister to question issues like turf from Cairns, which I did in the brief that was provided to me at the end of June, or before the end of June. Yes, that particular brief is about the end of June 2000. So, yes, Mr Speaker, I questioned it, and that is the response. That response is dated 21 July. That is ministerial responsibility—to question;

to make sure that expert advice has been given; to make sure that the department assures you that you have risk assessment. It is all there.

Now, it is true it did not work, and, guess what, Mr Speaker—sometimes things don't. But that will not be a problem for those opposite because if they, by any horrible chance, ever get to government they will not even be game to do anything, and if you do not do anything, guess what—nothing ever fails, but nothing ever happens.

MR BERRY: I have a supplementary question. How does the Chief Minister intend to take full responsibility for this imbroglio, or is there a hidden agenda? Is it your intention to have this national pastime of Canberra-bashing included as a demonstration sport at the Olympics and therefore blow it into a full international sport?

MR SPEAKER: There is no question. There is no answer.

Supreme Court—Appointment of Judge

MR OSBORNE: My question is to the Attorney-General. Minister, have you been able to find a replacement for the retired Justice Gallop? If not, when will you do so, and have there been any delays in the operation of the courts with only three judges in circulation?

MR HUMPHRIES: I am not required to announce government policy, Mr Speaker. I am not sure whether that covers appointments or not. If Mr Osborne is in his office tomorrow I am happy to go around to speak to him about the name which I intend to take to cabinet on Monday.

Mr Kaine: We would all like to know.

MR HUMPHRIES: I will also speak to other members of this place as well. Do not worry, you have not been overlooked. Mr Speaker, Justice Gallop retired about three or four weeks ago. The court regularly is operating on three judges. In fact, if you look at the calendar of the court, it is operating almost as often on three judges as it is on four, so I have no doubt at all that the court has coped quit adequately in the last four weeks with Justice Gallop having gone. I am sure it will be quickly up to full strength when a new appointment is announced shortly.

Bruce Stadium—The Ultimate Rock Symphony

MR HARGREAVES: My question is to the Chief Minister. The Chief Minister will recall the fiasco surrounding the cancellation of the Ultimate Rock Symphony at Bruce Stadium last March. In the days following the cancellation of the concert the Chief Minister revealed that insurance cover had been taken out by the concert promoters and it would cover any losses incurred by the territory. The joint venture agreement that the government entered with the concert promoter through Bruce Operations Pty Ltd required a reconciliation statement to be provided to BOPL within 21 days of the concert. Can the Chief Minister say whether this statement has been provided to the government, or is it still outstanding?

If the reconciliation statement has been provided, will the Chief Minister release it, as she released an interim reconciliation in response to a resolution of this Assembly? If the statement has not been provided, why not, and what steps is the government taking to ensure its joint venture partner, the International Touring Co, meets its obligations?

MS CARNELL: Mr Speaker, I will have to take that question on notice. Obviously, it is very complicated.

MR HARGREAVES: Thank you very much for the brevity of the answer, Chief Minister. This question may also need to be taken on notice. Can the Chief Minister say whether the territory has calculated its expenses on the venture, and, if so, what were they, and has the territory recovered them from the insurers?

MS CARNELL: Obviously, Mr Speaker, I shall have to take that on notice.

Land Development

MR RUGENDYKE: My question is to the Treasurer, Mr Humphries. Minister, is it mandatory for there to be a lease between the developer and the ACT government before a development on a parcel of land in the ACT can proceed?

MR HUMPHRIES: I think the answer is yes, Mr Rugendyke. I am not aware of cases. I cannot think of a case off the top of my head where a development has occurred without a lease, but you might surprise me with your supplementary question.

MR RUGENDYKE: Yes, there is a supplementary question, Minister. Is there a lease on the land for the Gold Creek Country Club? If so, could you table it today?

MR HUMPHRIES: Well, that is land that the government owns—you know, in inverted comas, "owns"—and, as far as I am aware, most of the land that the government has is also operating under leases. We have a lease to ourselves, as far as I am aware. I will ascertain the status of that, Mr Rugendyke, and if there is a lease I will attempt to provide it today.

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

PERSONAL EXPLANATIONS

MS TUCKER: Mr Speaker, I would like to make a personal explanation. I believe I have been misrepresented.

MR SPEAKER: You may.

MS TUCKER: During question time Mr Humphries talked about the Greens' policy on residential developments in a way that was misleading to the house. I am sure he did not mean to do that. He probably has been quite busy and has not read the full policy. But he did seriously misrepresent—

MR SPEAKER: Just explain where you have been misrepresented.

MS TUCKER: I am delighted to explain to Mr Humphries and enlighten the rest of the house what our policy actually is on residential development. The ACT Greens will:

> not support widespread changes to the character of existing suburbs by piecemeal urban consolidation;
>
> push for a major overhaul of the existing urban consolidation policies in the Territory Plan—

this is 1998 and it is very similar to 1995; in essence it is the same—

> e.g. the B1 zone, to reflect eco-village principles and ensure that they promote ecological sustainability and maintain community values regarding urban amenity;
>
> subject to community consultation, only support medium-density urban consolidation in specific concentrated areas around existing suburban shopping and commercial centres, and along the public transport corridors, to make use of the prior existence of public transport links and/or commercial and community facilities to facilitate the creation of eco-villages in these locations;
>
> redesign the existing town centres and group centres along eco-village principles, principally by the infusion of new medium-density residential development and expanded pedestrian space. For example, some of the existing open-air carparks would be redeveloped as groups of apartments and townhouses. Additional streets could also be converted into pedestrian malls;
>
> not allow urban consolidation in existing Canberra suburbs outside of designated redevelopment areas, except for strictly controlled dual occupancies where the existing blocks are sufficiently large;
>
> develop planning guidelines to ensure a high quality design of all medium-density housing in Canberra, e.g. provision of useable private courtyards or balconies for each residential unit; privacy, noise and solar access controls; waste and water recycling facilities; and provision of a minimum standard of communal facilities and open space within groups of residential units, including the provision of space for residents to establish individual or shared vegetable plots and composting facilities; and
>
> review the current residential design and siting policies to ensure that they adequately—

MR SPEAKER: Order! I think you have covered the area that we are concerned about.

MS TUCKER: I am not quite finished.

MR SPEAKER: No, I know. It is a very long-winded policy, isn't it. Nevertheless, I think you have covered what you wanted to say.

MS TUCKER: The point I am trying to make is that we were misrepresented. Obviously we have not been able to support this government's medium-density proposals because they are so poorly thought out.

MR SPEAKER: I thought you were just thinking about it.

Mr Humphries: Mr Speaker, if car parks are included for redevelopment in the Greens' policy, what about section 41?

Ms Carnell: They didn't like that one either.

Mr Humphries: It was a car park, and you opposed it tooth and nail.

MS TUCKER: Mr Speaker, if we are to engage in a debate, I am happy to do that.

MR SPEAKER: No we are not.

MS TUCKER: Well, you have just allowed Mr Humphries to ask a question.

MR SPEAKER: We are not. You have given a personal explanation. I am now calling on presentation of papers.

MR BERRY: Mr Speaker, can I make a personal explanation pursuant to standing orders.

MR SPEAKER: You can try.

MR BERRY: Thank you, Mr Speaker, I will do my best. Yesterday in question time I indicated that I was prepared to give the Chief Minister a present of a pot plant to remind her of what happens to frost affected—

MR SPEAKER: That is not a personal explanation.

MR BERRY: I just want to let the Assembly know that I intend to withdraw that offer.

MR SPEAKER: And you can sit down.

MR BERRY: I would not subject the plant to that because it might be painted.

MR SPEAKER: Sit down. This is not a personal explanation.

CANBERRA DELEGATION VISIT—BRUNEI—JULY 2000

Ms Carnell presented the following paper:

Canberra Delegation Visit to Brunei, 15 to 22 July 2000—report.

TRANS-TASMAN MUTUAL RECOGNITION ACT (COMMONWEALTH)— ENDORSEMENT OF PROPOSED REGULATIONS
Paper and Ministerial Statement

MS CARNELL (Chief Minister): I present the following paper:

> Trans-Tasman Mutual Recognition Act (Cwlth), pursuant to section 47—Endorsement of proposed Trans-Tasman Mutual Recognition (Temporary Exemptions) Regulations 2000, notified in Gazette S46, dated 25 August 2000.

This endorsement of regulations, published in *Gazette* No S46 of 25 August 2000, extends special and temporary exemptions under the Trans-Tasman Mutual Recognition Agreement. I ask for leave to make a short statement.

Leave granted.

MS CARNELL: As the designated person under subsection 5(4) of the ACT's Trans-Tasman Mutual Recognition Act 1997, I have endorsed the proposed regulations of the Commonwealth to extend the temporary exemption in place for offensive weapons and body armour described in sections 15 and 15A of the South Australian Summary Offences Act of 1953.

The Commonwealth act provides for the mutual recognition within Australia and New Zealand of regulatory standards regarding goods and occupations. It is legislation as contemplated by the Trans-Tasman Mutual Recognition Act, a non-treaty agreement signed in 1996 between the Commonwealth, state and territory governments of Australia and the government of New Zealand.

The tabled regulation is to provide a further 12 months to the existing temporary exemption in place that prohibits the sale and possession of weapons and body armour as stated in the South Australian Summary Offences Act. The South Australian legislation was not originally included as a permanent exemption in the Commonwealth legislation because of an oversight.

The temporary exemption was deemed to become a permanent exemption at the end of September. The consent of all jurisdictions is required for a permanent exemption. However, one state was unable to process the permanent exemption by the expiry date. The Commonwealth has therefore requested that the temporary exemption be extended for a further 12 months.

Under the Commonwealth act the Governor-General can make regulations continuing temporary exemptions with the endorsement of at least two-thirds of the participating jurisdictions to the agreement. An endorsement is made by a jurisdiction publishing a notice, endorsing the terms of the regulation, in its official gazette. I have been advised that the extension to the current temporary exemption has the agreement of two-thirds of the participating jurisdictions.

ESTIMATES 2000-2001—SELECT COMMITTEE
Reports on Appropriation Bill 2000-2001 and Appropriation Bill 1999-2000 (No 3)—Government Response

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.36): Mr Speaker, for the information of members, I present the following paper:

> Estimates 2000-2001—Select Committee—Reports—Appropriation Bill 2000-2001 and the Appropriation Bill 1999-2000 (No 3), dated June 2000, including a dissenting report and additional comments and a further dissenting report *(presented 27 June 2000)*—Government response.

I move:

> That the Assembly takes note of the paper.

I make it clear at the outset that the government is disappointed with many aspects of the reports of the Select Committee on Estimates, and in particular the committee's approach towards the draft budget process. Overall, I think, a very poor job.

The committee has criticised the draft budget process, even though the draft budget process was put in place because that is what the Assembly wanted. The committee has suggested that the government has somehow abrogated its responsibility for developing the budget, and has complained about the lack of time to undertake consultation with the community.

One can always rely on those opposite to whinge and complain but never offer anything constructive as an alternative. No ideas, no direction, no hope. This was the most comprehensive community consultation process that a government—not just in the ACT—has ever undertaken, and yet the committee has failed to recognise it.

The committee had 10 weeks to consider the draft budget and report back to the Assembly. This is more time than the Estimates Committee gets for consideration of the Appropriation Bill, and it is certainly more time than the government had to respond to the committee's reports and incorporate those in the final budget.

Ms Carnell: You mean a couple of days?

MR HUMPHRIES: Well, a lot longer than that last segment. The committee failed to recognise that a number of initiatives announced by the government in the final budget were the direct result of the consultation process. That is why the final budget was different from the draft. We listened and responded but still the opposition complained.

I would like to recall the shadow Treasurer's comments that this was a very good year to be Treasurer. Might I say then that this was also a good year to be shadow Treasurer. The government undertook the most inclusive approach ever towards its budget. Here was an opportunity for those opposite, and the shadow Treasurer in particular, to work cooperatively and address the issues the community wants us collectively to address. Here was an opportunity for those opposite to be part of the solutions.

Here was a rare opportunity for a shadow Treasurer to leave his mark, to actually make a significant difference in the direction of a government's budget. And what do we have, Mr Speaker? A baulking at the challenge that that entailed; complaints of less time; accusations of government abrogating its responsibilities; and grumblings about workload.

Mr Speaker, here lies the difference between this government and those opposite. The government sees an opportunity to improve things, to serve the community better, and the government grabs it. Those opposite are given an opportunity on a platter, and they drop it. As I said, no ideas and no hope.

I might take this opportunity to refer back to the 1999-2000 committee's report. That report had asserted that the territory is facing a "growing social deficit". The committee had attributed this to "the government's single focus on a balanced budget regardless of the social implications".

The results of that so-called "single focus" are there today for all to see. And while the government never agreed that there was a social deficit, now when the government makes an investment in social capital in the territory the committee fails to recognise it. This reflects the committee's narrow political agenda and its total failure to act in a way that actually contributes something positive to the broader community.

Notwithstanding the committee's failure to fulfil its role, the government has accepted 25 of the committee's 41 recommendations in full or in part—and that is quite an achievement, given the work of the committee—not because they offered anything new or better but mainly because they asked the government to do what it was already doing or planning to do.

In other cases we provided the information the committee had asked for. We have also provided comprehensive reasons why we reject the other 13 recommendations contained in the report. One recommendation had been responded to at the hearings and one is directed at the standing committee on urban services—to undertake an inquiry into the funding of an environmental budget. The government has, however, responded to this issue.

There are a number of other comments and observations in the report which the government has responded to, either to clarify a misconception or to provide the government's position on the issue. In particular, I point out to members the failure of the committee to address or even recognise the consequences of several recommendations. With no apparent thought to cost, the majority of the committee felt free to recommend increases in expenditure for: nursing staff, recommendation 18; the dental program, recommendation 22; the Blind Society, recommendation 23; the Down Syndrome Association, recommendation 24; Disability Services, recommendation 25; accommodation for young indigenous offenders, recommendation 28; Care Inc's legal service, recommendation 32; and PALM, recommendation 38.

Whilst individually each of these may be worthy causes, the committee failed to mention how they should be funded. Bear in mind, Mr Speaker, that the committee had a chance to find the money to fund each of these proposals, because members of the committee each sat on standing committees which reviewed the draft budget.

Mr Quinlan: The information we had on the progress for the year had nothing to do with the final result.

MR HUMPHRIES: The chance of that information—

Mr Quinlan: Why didn't your interim figures indicate how well we were doing? Because you didn't know.

MR SPEAKER: Order! You will have the chance to respond, Mr Quinlan.

MR HUMPHRIES: Mr Quinlan's interjection reveals that he believes the only way of funding new programs is through an addition to the bottom line through an improvement in the territory's budgetary position. What he overlooks is the fact that there is another way of being able to fund priorities in government, and that is by re-ordering the priorities you are already meeting. That was the point of the draft budget. That is the point of the continual criticism that the government gets every year about the way in which it is spending the public's money.

Mr Quinlan did not have guts to face up to that challenge and say, "Okay, you allocate funds in this way, we will give funds in a different way." That is not my fault, Mr Speaker. He had the chance and he did not have the bottle to carry through the challenge that that chance entailed.

As I was saying, the committee failed to mention how its recommended increases in expenditure should be funded. This failure typifies the attitude of the committee—that there was no sense of responsibility for implementing its recommendations. The committee, I believe, therefore failed to do its job of helping the territory as a whole—the territory community—improve on the way in which budgets are put together and the way in which they meet community expectations.

The committee had tabled a separate report on Appropriation Bill (No 3) 1999-2000, and I say "a separate report" in the kindest possible way. You do need to be very generous to regard the three paragraph effort as a report. The report essentially acknowledged that the committee had not considered the additional appropriation, and that it would be scrutinised by the respective portfolio committees in consideration of the annual reports. Apparently the committee forgot to examine the bill. This demonstrates the sloppiness in its approach to these matters and is a cipher for the way in which it did its work across the board. Given that there were no recommendations, for the sake of the record the government response also includes a response to the committee's report on Appropriation Bill (No 3) 1999-2000.

Mr Speaker, I commend the government's response to the Assembly and hope that members on all sides of the chamber have learnt valuable lessons about the way in which genuine, meaningful consultation needs to occur on budgets in the future. I hope a better effort will be made in this financial year to find a way of genuinely reflecting and picking up issues that the community might have to offer with respect to budgetary processes.

MR QUINLAN (3.45): Mr Speaker, I have not had time to read the government's response to the report of the Select Committee on Estimates. However, I would like to make a couple of comments.

I think I heard the Treasurer tell us that the penultimate Estimates Committee talked about social programs.

Mr Hargreaves: Social deficit.

MR QUINLAN: Yes, social deficit. The government denied that but has then taken some action with its building social capital program. This is a very Irish but typical explanation from Mr Humphries.

Mr Smyth: Excuse me, Mr Speaker. I take a point of order. My father is Irish and I resent the use of the word "Irish" in that context. The member should withdraw it.

MR SPEAKER: There is no point of order.

MR QUINLAN: You can cop it, sonny.

The only other comment I will make, Mr Speaker, is that the figures in the forward estimates that we got with the draft budget bear little relationship to the final outcome that has been heralded by the government. This would indicate that, despite the claims and posturing that we have just heard and seen, the Treasurer does not have a clue. If in fact the Assembly had been brought up to date and given effective information as to what was actually happening in the territory, I am sure that the members of this Assembly would have taken to the draft budget with far greater enthusiasm than they showed after receiving a document that had as a prelude a series of announcements that were designed to give the Treasurer media exposure right through the Christmas period and to create an illusion in the minds of some people that he actually knew what the portfolio was about.

I think it is a bit much to ask the members of the Assembly to take seriously a process which was quite obviously designed to allow a sequence of media opportunities for announcements to be made during an otherwise quiet time, and in particular the proscriptions that the government placed upon committees in relation to what they might or might not do within the confines of the budget.

I am very pleased that the government has at least responded to the Estimates Committee's report for the year 1999-2000. Maybe, if the government is around next year, it might start taking notice of the contents of this particular estimates report.

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

LAND (PLANNING AND ENVIRONMENT) ACT—RED HILL HOUSING PRECINCT—DIRECTION
Paper and Ministerial Statement

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

> Land (Planning and Environment) Act, pursuant to section 37—Direction in response to the resolution of the Assembly of 28 June 2000—Review of the Territory Plan is it relates to Variation 114 Heritage Places Register—Red Hill Housing Precinct to provide for a development intensity of not more than one dwelling on any block in the Red Hill Housing Precinct, dated 9 August 2000.

I seek leave to make a short statement.

Leave granted.

MR SMYTH: Mr Speaker, I now table a written direction in accordance with the Assembly's resolution of 28 June 2000, pursuant to section 37 of the Land (Planning and Environment) Act 1991. On 23 May 2000, variation No 114 to the Territory Plan, the Heritage Places Register—Red Hill Housing Precinct, was tabled in the Legislative Assembly.

On 28 June 2000, the Assembly passed a resolution recommending that the executive direct the Planning Authority to review the Territory Plan to provide for a development intensity of not more than one dwelling on any block in the Red Hill housing precinct. As variation 114 was not disallowed by the Assembly and there are no provisions in the land act for the variation to be amended once the disallowance period is complete, variation 114 has been gazetted and has effect from 24 August 2000.

Planning and Land Management will, during the course of the review, consider the Assembly's resolution and other relevant matters when assessing and determining any development application in the area. Depending on the outcome of the review, any revision of the provisions in variation 114 will require another draft variation to the Heritage Places Register in the Territory Plan. Any variation will be subject to the consultation and other statutory processes set out in the land act for varying the Territory Plan.

MR CORBELL: Mr Speaker, I seek leave to make brief statement in relation to the paper presented by the minister.

Leave granted.

MR CORBELL: I thank members. Mr Speaker, I would like to place on the record my thanks to the minister and indeed the government for agreeing to this direction. By resolution the Assembly requested that a direction be made to the notional—I should stress the word "notional"—ACT Planning Authority. I understand that this is the first time that the land act has been used in this way.

Nevertheless, I am pleased that the government has seen fit to make the direction in full, as requested by the Legislative Assembly. I look forward to the results of the review now being conducted by Planning and Land Management.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report on Draft Variation No 146 to the Territory Plan—Woden Town Centre

MR HIRD (3.52): Mr Speaker, as Chairman of the Standing Committee on Planning and Urban Services, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 54—Draft Variation (No 146) to the Territory Plan: Callam Street Realignment, Woden Town Centre, dated 25 August 2000, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

Mr Speaker, this report is another unanimous report by my committee. Members will see that the committee has endorsed the variation but, in the process, we have drawn attention to several important aspects of the change to the Territory Plan.

We all agree that it is appropriate to construct a new intersection at the intersection of Callam Street, Hindmarsh Drive and Athllon Drive. This will get rid of the existing dog-leg which has given rise to numerous problems for drivers and pedestrians over the years.

Our report also notes the following points:

- The final variation needs to accurately show the route of the proposed intertown public transport right of way on the northern side of the Woden Town Centre (at present, it does not do this);

- It is better if work on the road realignment commences in 2000-2001 rather than wait for several years to advance up DUS's list of road priority projects;

- The committee makes no comment on the appropriateness of the government's decision to dispose of the land by direct sale to the Southern Cross Club, a club in the Woden area, rather than by public auction;

- Existing small business operators in the area need to be considered, and the committee was assured that this is happening. We have asked to be kept informed of the discussions taking place between the minister's department and the traders about where these traders might be relocated.

On behalf of the committee, I thank the many witnesses who gave up their time to assist the committee in its deliberations. I would also like to thank the Minister for Urban Services for making his officers available, my colleagues and also the secretary to the committee. I commend the report to the house.

Question resolved in the affirmative.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Report on Draft Variation No 159 to the Territory Plan—Heritage Places Register—Albert Hall, Yarralumla

MR HIRD (3.54): As Chairman of the Standing Committee on Planning and Urban Services, I present the following report:

> Planning and Urban Services—Standing Committee—Report No 55—Draft Variation (No 159) to the Territory Plan: Heritage Places Register—Albert Hall Yarralumla, together with a copy of the extracts of the minutes of proceedings.

I move:

> That the report be noted.

I will be very brief. Albert Hall has made a significant contribution to the territory's history and in particular to the development of Canberra over many decades. The report speaks for itself. It surprised me personally that Albert Hall had not been placed on the register earlier. I commend the report to the house.

Question resolved in the affirmative.

PLANNING AND URBAN SERVICES—STANDING COMMITTEE
Inquiry—Proposed Land Administration Information System

MR HIRD: I ask for leave to make a statement on behalf of the Standing Committee on Planning and Urban Services concerning a new inquiry.

Leave granted.

MR HIRD: Mr Speaker, I wish to inform the Assembly that on 27 July 2000 the Standing Committee on Planning and Urban Services resolved to inquire into and report to the Assembly on the following:

> A comprehensive, useable (for multiple purposes), publicly accessible and central Land Administration Information System for the ACT, taking account of developments in other political jurisdictions in Australia and any related matter.

Mr Speaker, the committee firmly believes that the people in the ACT deserve to have an up-to-date and comprehensive land information system. Current technology should make it possible for any member of the public to be able, under a user pay system, to lock into

a land information system and gather whatever information is required. This access would be given having regard to privacy, and possibly pricing, issues, which would be spelt out up-front.

The roll-out of the TransACT system is possibly too good an opportunity to be missed in relation to public access to government held but publicly available information. The committee is concerned that the systems in other jurisdictions, in particular in Tasmania and the Northern Territory, are leaving the ACT behind. We have observed the Tasmanian and Northern Territory systems and have been most impressed by both. We feel that the ACT should be able to lead the field in this important area, and to do so we hope to develop policy directions to assist the government in areas such as:

- determining who owns (or has custody of) corporate land information;
- facilitating access to various different data sets; and
- determining the access arrangements—taking into account important pricing and privacy issues.

The committee has placed advertisements in the local media inviting public comment on the new inquiry and we have written to key groups and organisations asking them to consider lodging submissions. Naturally, we have also written to the minister seeking a whole-of-government submission. Submissions close on Friday, 6 October and we plan to hold at least one public hearing sometime after that date. I commend this inquiry to the house. Thank you, Mr Speaker.

ARTIFICIAL CONCEPTION AMENDMENT BILL 2000

Debate resumed.

MR MOORE (Minister for Health and Community Care) (3.58): Mr Speaker, I rise to support this legislation. My opinion on the legislation was adequately set out last time it was before the Assembly and I have not moved from that position.

MS CARNELL (Chief Minister) (3.58), in reply: Mr Speaker, I thank members for their support at the in-principle stage of the bill. I am pleased with the cooperation that has been shown by those opposite and members of the crossbench in coming up with a set of amendments on which I understand we have an agreed position.

Mr Speaker, this bill is important for a whole range of reasons, but predominantly to ensure that the children born into surrogacy arrangements in the ACT can go forward with confidence in terms of legal parenting arrangements. I know that their actual parenting arrangements are quite appropriate; but I think that it is up to this Assembly, as was said by the Supreme Court, to come up with legislation that actually reflects the situation in the ACT at the moment.

I thank members for their support. This bill is about a difficult area, but this debate does show that this Assembly can work together if it puts its mind to it.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes, 13	Noes, 2
Mr Berry	Mr Osborne
Ms Carnell	Ms Tucker
Mr Corbell	
Mr Cornwell	
Mr Hargreaves	
Mr Humphries	
Mr Kaine	
Mr Moore	
Mr Quinlan	
Mr Rugendyke	
Mr Smyth	
Mr Stanhope	
Mr Stefaniak	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 5, by leave, taken together, and agreed to.

Clause 6.

MR STANHOPE (Leader of the Opposition) (4.04): I move:

> Page 3, line 25, after the definition of ***birth relative*** insert the following new definition:
>
> "***birth sibling***, of a child, means a brother or sister of the child who is born as a result of the same pregnancy as the child.".

Mr Speaker, this amendment includes within the bill a definition of birth sibling.

Mr Humphries: Mr Speaker, I rise to a point of order. The amendments concerned have not been circulated, as far as I am aware. I have not seen them and they are not on the side tables.

MR SPEAKER: They are being circulated as you speak, Mr Humphries.

MR STANHOPE: I accept some responsibility for the delay in the circulation of those amendments. I was caught a little by surprise. I anticipated a much longer debate in principle.

Mr Speaker, the first of the amendments which are now being circulated introduces into the bill a definition of birth sibling as follows:

> "***birth sibling***, of a child, means a brother or sister of the child who is born as a result of the same pregnancy as the child.".

I have proposed this definition as a result of my proposed amendments Nos 3 and 4. In order to give effect to those proposed amendments, this definition is required. I will just mention briefly, to put the definition into context, that my proposed amendments Nos 3 and 4 actually go to the issue of the non-separation of brothers and sisters born from a surrogate arrangement where, obviously, there is a multiple birth. The Labor Party takes the view as a matter of policy that children born as a result of a surrogacy arrangement in which the birth is a multiple birth should not be separated and this definition facilitates that proposal, Mr Speaker.

MS TUCKER (4.07): I wish to speak to this amendment, Mr Speaker. I missed the in-principle stage. I did not realise that it would happen so fast. Therefore, as we move through the amendments, I will cover some of the issues and reasons why I am voting against this bill in principle.

I am concerned that, with this amendment, Mr Stanhope is suggesting that through legislation we are going to develop and focus on this particular aspect of policy. My understanding of the concerns that are shared by everybody in this place is that whatever decisions are made are based on the individual circumstances and with the welfare of the child in mind as well as according to the welfare, wishes and circumstances of the commissioning parents and the surrogate parents, so I am reluctant to focus on just one aspect in this way.

Mr Stanhope may want to argue further for the amendment, but I do not understand why he would choose to focus on this issue when there are so many complex issues related to this arrangement. For that reason, unless I hear more convincing arguments, I cannot support this amendment.

MR OSBORNE (4.08): I too missed the in-principle stage, so I wish to speak briefly to Mr Stanhope's amendment and the reasons behind it. I am concerned that we are rushing through pieces of legislation because of individual cases. As has been widely reported, the Law Reform Commission of the ACT currently has terms of reference for looking at this very issue. To rush through legislation of this nature when it is very clear that any changes to the law in regard to reproductive technology do have a flow-on effect is to be neglectful on the part of this parliament.

Mr Speaker, the terms of reference to the Law Reform Commission as released by the Attorney-General in December 1998 and January 1999 refer specifically, among other things, to measures implemented or proposed in other jurisdictions, the need for uniformity with those jurisdictions in matter requiring uniformity and the need for comprehensive legislation to regulate assisted reproductive technology in the ACT. The current legislation is directly opposed to the terms of reference announced by the Attorney-General.

Another point is that Commonwealth and international law both speak about the principle of the best interests of the child being paramount. The Family Law Act 1975 and the United Nations Convention on the Rights of the Child, to which Australia is a signatory, both contain this paramount principle. I think it is unclear whether—and if so, to what degree—these principles of the Commonwealth and international law have been considered in the preparation of the current legislation.

Mr Speaker, the current legislation proposal deals only with the end product of a contractual arrangement, either expressed or implied, namely, the production of a child. It does not address the concerns of the Attorney-General relating to the need for comprehensive legislation to regulate ART in the ACT. Surrogacy is not a treatment for infertility per se; rather it is an extraordinary and highly invasive medical treatment for childlessness. The causes of infertility remain undiagnosed, untreated or untreatable.

Prominent feminist writers such as Robyn Rowland also oppose surrogacy and its consequences. For example, Rowland says that money may not change hands, but when a women agrees to carry a child and to hand it to another person at birth she is contracting her body and herself.

Among many things not addressed by the current legislation are questions relating to liability for genetic screening and questions about sex selection and designer children. What happens in situations when the surrogate mother refuses to hand over the contracted child after his or her birth, what happens if the genetic mother refuses to accept the child after his or her birth, and what happens if, after the birth of the child, all parties refuse to accept the child? However strong the desire for children, they are not commodities. Surrogacy makes children commodities.

Mr Speaker, I think it is very clear that all of us in this place have had many sleepless nights over this issue. I still cannot accept that we are passing legislation, given that the Attorney-General in his press release of a little over 12 months ago referred the issue of ART to the Law Reform Commission. The fact that the Law Reform Commission has not had the staff or the resources to complete this inquiry really is an indictment of the government rather than anything else. I am just disappointed that the majority of members have agreed to support this legislation.

I have some amendments which I will speak to very briefly. Effectively, they seek to repeal the legislation until we can look at this issue more thoroughly and more professionally when the Law Reform Commission does come down with its findings. I look forward to moving those amendments.

MR STANHOPE (Leader of the Opposition) (4.13): I want to respond briefly to put the Labor Party's position in context and to explain the disquiet which we in the Labor Party also feel about the way in which surrogacy law was developed in the ACT. We have been quite explicit about that. We have also sought to explain the basis on which we are supporting this proposal today.

We accept that, as a result of the way the law stands, certain people have taken certain actions which have resulted in the birth of a number children. Those people acted in good faith on the basis of the law as it stood. The Labor Party believes that law was not as fulsome or as adequate as it might have been, that it did not cover the range of issues

which we now believe need to be fully thrashed out, argued and legislated for to the extent that they can be.

The Labor Party's position is one of acknowledgment that the law did change in the ACT a number of years ago, which allowed for non-commercial surrogacy in the ACT. Certain people have taken advantage of that law, as they were quite entitled to do, and as a result of that a number of children have been born. We are now being asked to deal with those circumstances through a further addition or amendment to the law. We are dealing with that here today.

We have accepted that it is appropriate that we deal with this one other issue in relation to which each of us has received representations, namely, the parentage of children who have been born as a result of surrogacy arrangements. In looking at that issue, however, and in again legislating today we do find that we have been confronted—each of us—as we have looked at this legislation, looked at these issues and looked at these proposals by a range of other issues and questions that we do not believe have been appropriately debated, considered or resolved in the ACT.

The Labor Party, in its consideration of the issue, resolved that it would be appropriate for the inquiry which the Attorney instituted 20 months ago to proceed now, that we should no longer legislate in this piecemeal fashion and that we should have an exhaustive inquiry. The mechanism is there. The Chief Minister now assures me that that inquiry will be adequately resourced to allow the work to continue. I have no doubt that that will now happen.

The chairman of the commission tells me that it will take him at least a year, and I want him to do a thorough job, to appropriately conclude that inquiry. We do need then to allow time for the government or the Assembly to consider and respond to that report. But there is an issue that we can deal with today, namely, the issue of parentage.

As I said, in my consideration of the issue I came across a couple of other matters which did cause me some immediate disquiet and which I felt could be legislated on today, subject to the agreement of the Assembly. One of the issues that occurred to me was: what if there were a multiple birth as a result of a surrogacy arrangement and what if it were the desire of either the biological parents or the surrogate parents to divide those children, so that there would be a parentage order sought in relation to one of a set of twins but not the other? Perhaps the biological parents only sought a son, but twins were born and one was a girl. Perhaps one of the children born to a multiple arrangement was deformed.

I took the view, and I take the view, that it would not be appropriate to pick and choose, that if there were a multiple birth the parentage order, when sought, would be in relation to all of the children. That is what this amendment does. It says that if there is a surrogacy arrangement and there are twins or triplets and a parentage order is sought by the biological parents, pursuant to the Chief Minister's proposals, then the parentage order will be sought in respect of all of the children of the birth. That is what this proposal is about.

My response to that issue is that it is simply not appropriate in these arrangements to say, "Yes, we did arrange a surrogacy and there was a multiple birth, but we really only ever wanted one child, so we are seeking a parentage order in relation to one of the children and not the others." The Labor Party is not prepared to countenance that. That is the purpose of this amendment.

That is one particular issue that I think we should imagine exists amongst a range of other issues that one could conceive, but I thought that this one was quite straightforward. There are a range of other issues in relation to which I am not sure that it is possible to legislate. Some of the other issues that I know are of concern to people as they consider assisted reproductive technology and surrogacy are issues in relation to which I am not sure that it is possible to legislate.

There are some aspects of human behaviour in relation to which one simply cannot legislate. But this is one in relation to which I think it is possible to legislate. I think that it is quite straightforward. I think that it is a reasonably simple principle that if there is a multiple birth, the children should not be separated as a result of the seeking of a parentage order by the biological parents of a child conceived and born through a surrogacy arrangement.

MS TUCKER (4.19): I would like to respond to Mr Stanhope. I still cannot agree. I am really concerned that you have decided that you are going to concentrate on one particular issue. As I have said, there are many other what-ifs. You have actually chosen one particular what-if and decided that you know that the overriding principle here is not to separate siblings. My concern about that is that every circumstance is individual and I would not want to be responsible for legislating to enforce that. What if we do force this onto commissioning parents and they do not want to have it?

Ms Carnell: If they do not agree, nothing happens.

MS TUCKER: Mrs Carnell is saying that if they do not agree, nothing happens. What are we creating? I am just not clear about what this legislation will actually result in. You need to be looking at the welfare of the child. I do not understand how it fits in there. Parentage orders occur only when all the parties are in agreement with what is happening.

Mr Stanhope's amendment is saying that within that arrangement you cannot separate the siblings. What will happen if someone does not want that? Where would that leave a child? I am just confused; I do not understand how it fits together. Maybe Mrs Carnell can explain it.

Ms Carnell: It is his amendment.

MS TUCKER: I know, but you seem to be understanding it better than I am. Maybe Mr Stanhope should explain it. I do not understand how that fits together. Nobody should be forced to take a child they do not want as that would not be in the interests of the child, I would have thought.

I found Mr Rugendyke's amendments under my door this morning. I have not had a lot of time to look at Labor's amendments, either. I understand that there is agreement on this amendment and that the numbers are there, which is fine, but I will not be able to support it. I need more time to look at some of these things.

MR RUGENDYKE (4.22): In speaking to Mr Stanhope's amendment, I believe that the situation will become clearer when I foreshadow the amendments that I will be putting to this chamber. The amendments that I will be proposing have, as a paramount consideration, the best interests and welfare of the child as non-negotiable, as a stand-out goal in this endeavour. I am sure that it is in the best interests of the children that multiple births be considered in the way that Mr Stanhope has put. I support this amendment.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.23): Mr Temporary Deputy Speaker, I also missed the in-principle stage of the debate and I want to put a few comments on record.

When I went back and researched the debate in 1997 on the earlier version of this bill I discovered that I had not spoken on it. I think the reason that I had not spoken on the earlier equivalent of this bill was that I had been seriously unsure as to which way I would vote.

This is a matter, as members are aware, on which the Liberal Party does not impose a party line. Each member can exercise a conscience vote on these issues and these matters do very much go to matters of conscience and therefore are matters to which I am sure all members of the Liberal Party have given deep thought in the last few months.

Therefore, it is a matter of concern, I have to say, to note that there are now at least six different pages of amendments before the house. On an issue such as this, amendments are a difficult matter because each member—at least each member on this side of the house—needs to examine those amendments individually and determine whether they are in a position to be able to support them.

I have to confess to being no fan of surrogacy arrangements. I acknowledge that surrogacy arrangements provide very important opportunities for some people in our community to obtain access to reproductive technology which allows them to conceive and raise children. That is certainly seen by many in the community as being a right of fundamental importance and I have no particular desire to stand in the way of those individuals who have that desire and who are able to make arrangements suitable for addressing their needs.

I also have great concern about the circumstances where surrogacy breaks down, where it may appear that arrangements which are simple and straightforward at their first conception, if I might use that word, subsequently break down, and how these arrangements in turn can create enormous problems and difficulties and lead potentially to decisions being made which are not in the interests of particular children.

The issue which Ms Tucker has raised in respect of the amendment before the house at the moment is an example of that. As I understand it, the answer to the question that Ms Tucker has raised would be that if there were two children born to a surrogacy arrangement and the genetic parents were willing to accept only one of the two children the parentage order could not be made in respect of either child in the absence of the genetic parents being prepared to accept both children.

That is an illustration of what can happen if a child is born, even a single child, to a birth mother and the genetic parents decide not to accept that child. That child becomes, in effect, without parents willing to take responsibility for that child. The genetic parents in those circumstances, should they arise—I am not sure whether it has arisen before or is likely to arise very often; I suppose it is not—have a legal right to refuse to accept the child that has been born.

The birth mother, I believe, assumes the primary responsibility for that child. The fact the child has been born of a different genetic makeup to the birth mother does not provide the birth mother with an automatic opportunity to say that the child is somebody else's responsibility. The child is the birth mother's responsibility. Of course, the birth mother is quite likely not to wish to retain the child since she has not carried the child for her own sake, presumably.

That gives rise to one example of the sorts of complications which the new technology will potentially afford us as it becomes more widespread and more accessible. I do not look forward to the day when as a community we are confronted increasingly with these sorts of dilemmas, with dilemmas surrounding different permutations on a particular set of circumstances given rise to by the things that science can now achieve.

There is a line in the *Hitchhiker's Guide to the Galaxy* where one character meets another character and says to a third character, "Yes, I'm related to this fellow. We shared four of the same mothers." That might have sounded very funny when it was first written but it is becoming, in a sense, eerily and scarily possible with the advance of technology that people may share the responsibility entailed in creating and carrying children in a womb because that foetus becomes a portable commodity and becomes capable of being moved from one set of responsibility into another. That is a possibility which frightens me, to be perfectly frank.

A moment ago I voted in favour of this legislation because I believe that if the technology is being used in this community to facilitate surrogacy arrangements it is appropriate to allow the path to be smoothed between the birth of a child to a birth mother and the moving of the child to the genetic parents. If the birth mother wishes to surrender the child and the genetic parents wish to receive the child, then it is appropriate for the law to put no impediments in that path other than to ascertain that that transfer is in the best interests of the child.

I assume that it almost always would be in the best interests of the child for the child to become the responsibility of the genetic parents; but I leave it open, as the legislation does, to a court to find otherwise. That is why I have supported this legislation. I think that we need to make parentage orders, which is the crux of this legislation, simpler and easier to deal with and fairer on the parties concerned. But I have to say that I am going to give the amendments to be moved in the house today very careful attention to see

whether they support that basic proposition or in other ways complicate and perhaps undermine the simple proposition I have stated to the house which is the reason for my support for this legislation.

I also give notice of the fact that I support the provision that I understand is in here to have a sunset clause in the legislation in order that the report of the Law Reform Commission which I commissioned some time ago can be prepared and presented for this Assembly's consideration. I also indicate that I will take that report into account in due course in determining whether the legislation should be made permanent with the removal of the sunset clause in a couple of years' time.

I think on balance it is appropriate to support Mr Stanhope's amendment because I think that it is appropriate for two or more children born in this arrangement to move together into the custody of genetic parents. If genetic parents wish to reject one child, they should reject both or all of the children. That is one judgment which I make in adopting the God-like position that one has to adopt in these circumstances of trying to make decisions about the life and welfare of such people in these circumstances, but other decisions may be more complicated and less easy to discern. I look forward to looking at the amendments in more detail to determine whether a similar view can be taken.

MS CARNELL (Chief Minister) (4.33): I think that it is important for me to make some comments right now because I suspect that my view on this matter may be somewhat different from that of everybody else in this Assembly. I do not find it extraordinarily worrying. I believe very strongly that the situations whereby couples enter into these sorts of arrangements ensure that the child born has much more chance than a child born under any other normal circumstance of being loved and wanted regularly not by just the genetic parents or just the birth parents but by everybody because everybody wants it to happen so much.

The fact is that we do not seem to go through the same moral dilemmas about young ladies going down to the pub on Friday night and then having a baby that they do not want. That is because it is just part of normal life. It is always difficult to come to grips with new technology. It was hard when we started to be able to transplant hearts. Very shortly we will have to deal with cloned organs. All sorts of things are changing, and they are changing for the better because they give us more opportunities as human beings to live our life to the fullest and to live our life healthily.

I believe that the situation whereby a woman is willing to bear a child for a couple who are otherwise unable to have children and who are genetically related to the child and willing to care for it is not necessarily unlike conception and birth by more conventional means; that is, it is based on love and it is on a natural inclination to have children. Knowing what these couples go through to get to the stage of producing a child, I know that it has to be based on love because of the difficulty. I know that it is significantly tougher and that more hurdles are put in place than would ever be the case with more natural methods of childbirth. The safeguards that are in place for that child are a thousand times greater than is the case for children born every day all round this world.

I think that we can get to be a little bit precious in terms of our approach to this matter. This legislation does have in it a number of safeguards, as does the whole in-vitro fertilisation program. The National Health and Medical Research Council guidelines are

followed to start with. People have to be appropriately counselled. They have to go through a procedure that only people who are doing it for love would go through. I think that these children have a million more safeguards built into the whole situation that their parents, both birth and genetic, have been through than just about any other kids that are born on this planet.

I will support Mr Stanhope's amendment with regard to twins although, I have to say, I do not believe that it is necessary. For the court to give a parentage order, it has to be confident that it is in the best interests of the child. I cannot comprehend a scenario where the court would perceive that it was in the best interest of a child to separate twins. Twins have been born through these procedures and I would have to say that this situation has never arisen.

The amendment does prevent the court from exercising any discretion that it may have; but again, on the basis that I just cannot imagine a situation where this would arise, I am happy to support Mr Stanhope's amendment.

MR STEFANIAK (Minister for Education) (4.37): I have a few comments to make in relation to this bill. We can all get worried about science as it is something that is very strange to us. Cloning and things such as that are of great concern to me. I fully appreciated the comments made by my colleague the Attorney-General and found a lot of common ground with them. Those sorts of things worry me greatly as well.

We are legislating for a unique situation. It is not something that would have been remotely possible 30 or 40 years ago. It is not natural in terms of what we understand to be natural.

Ms Carnell: Neither are antibiotics.

MR STEFANIAK: Neither are antibiotics, as the Chief Minister says. Yet it is something that on rare occasions occurs in our community and there are a number of factors which make it important to support legislation that will facilitate it.

The possibility of someone actually doing it for money was one of the big problems when this matter came before the Assembly some years ago. It is quite clear that no-one wants to have it actually happening for a fee.

Given that those problems have been sorted out, as I think they have, we are left with two couples who quite clearly are doing things for love, where the child actually will be wanted. Thing can go wrong. The birth mother might want to keep the child, might feel that she does not want to give it back to the genetic parents. Those things are catered for, as far as I can see, in this legislation. That is, perhaps, a very real and obvious concern.

It seems to me that this situation will arise occasionally, albeit rarely. Indeed, Mr Stanhope's amendment covers a situation which will be even more rare, but it is right and proper for him to move the amendment because it will arise. But when these things happen, the key factors there will be love and to the fact that the people desperately want to have a child or, in the case of twins, children; the child or children will be loved and wanted.

One of the tragedies throughout Australia and other parts of the world is that many children are born who are not really wanted and not really loved. The family services bureau of my department, Barnados and similar organisations see the human debris all too often. Mr Rugendyke, who used to be chair of the Foster Carers Association, would have seen it all too often. Indeed, as someone who has fostered some 25 kids—

Mr Rugendyke: Over 70.

MR STEFANIAK: Is that so? Clearly, Mr Rugendyke has seen situations where the natural parents of children did not care for them, did not love them or were too selfish for whatever reason, be it through their drug addiction or other personal problems, to do what parents should do for their children, that is, love them, want them, care for them, nurture them and assist them to grow up to be decent adults.

All too often in this community we see incompetent parents who probably never should have had children and we are left to pick up the flotsam and jetsam, with the children being the ones who suffer. But this situation is not like that. It is one in which, quite clearly, the intention is that the children will be loved and wanted.

Mr Stanhope's amendment is eminently sensible. If a birth parent, a surrogate parent, a genetic parent or whatever wants only one of, say, two children, I do not think that that person should have either. That is not what this is all about. If couples go into such an arrangement and twins or triplets are born, or there is an even rarer situation, the obvious intent would be for the result of the birth to go to the genetic parents. It would be their child to want, to nurture, to love and to care for; so I think that Mr Stanhope's amendment is eminently sensible and I will be supporting it.

I have to refresh my memory in terms of the substantive bill, for which I thank Mr Moore for giving me his copy, so that I can check out Mr Rugendyke's amendments, but on face value—I do not intend to speak again if this is the case—they seem to be eminently sensible, too. Being in the best interests of the child is completely consistent with the Children and Young People Act and there are very sensible proposals in terms of the age of the substitute parents, together with the general proviso enabling the court to take into consideration any other relevant matter. Subject to what is provided for in the act, that seems quite sensible to me at first glance.

If Mr Rugendyke's amendments improve Mrs Carnell's legislation or are not particularly inconsistent with it, I would be mindful of voting for them as well.

Question put:

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

The Assembly voted—

Ayes, 13	Noes, 2
Mr Berry	Mr Osborne
Ms Carnell	Ms Tucker
Mr Corbell	
Mr Hargreaves	
Mr Hird	
Mr Humphries	
Mr Kaine	
Mr Moore	
Mr Quinlan	
Mr Rugendyke	
Mr Smyth	
Mr Stanhope	
Mr Stefaniak	

Question so resolved in the affirmative.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clauses 7 and 8, by leave, taken together, and agreed to.

Clause 9.

MR STANHOPE (Leader of the Opposition) (4.48): I move:

> Page 6, line 12, proposed new section 9, omit "child born in the Territory", substitute "child conceived in the Territory before July 2002".

This amendment is designed as part of a process to ensure, in effect, that these laws are reviewed before July 2002. As has been discussed and mentioned by a number of speakers, we are now quite keen to see the fruits of the inquiry which the ACT Law Reform Commission will institute into all aspects of assisted reproductive technology in the ACT. The commission has very broad terms of reference. As the Attorney-General and I indicated before, they were presented to the commission some 20 months ago. I think that the terms of reference are quite good. They are very broad and, from my reading of them, they appear to go to the full range of issues that are relevant to an inquiry into assisted reproductive technology.

I have suggested that they should be reviewed in light of this debate and the fact that we are making this adjustment to the law in the ACT with a view to determining that the commission's inquiry is as broad as each of the members of this place would like it to be.

I think that those members of this place who have taken an interest in this matter and do accept it as a serious area of law do need to be assured and to assure themselves that the ACT Law Reform Commission is going to deal with all of the issues that they think are relevant to this debate.

The purpose of this amendment is to require that the laws which we are debating today remain in force and apply only to those children conceived between the implementation of the laws and July 2002. I might just indicate that in the amendments I prepared initially I had proposed that the laws apply only to children born in the territory before July 2002 but, in discussions with the Chief Minister and at the Chief Minister's suggestion, we resolved on children conceived before that date. I accept the sense of that. It is quite possible, conceivable even, that a child will have been conceived before that date but not born and it really would be anachronistic for this law not to apply to that child.

This amendment is, in effect, a sunset clause which allows time for the Law Reform Commission to undertake a full review of all aspects of assisted reproductive technology. It allows the government of the day and the Assembly fully to review the work of the commission, to respond to it and, I would hope as a result of that process, to develop an appropriate response, to the extent that the response is that this territory would continue to support surrogacy arrangements and that there would be a full and thorough review of the adequacy of the laws under which surrogacies are arranged in the ACT.

This amendment is a sunset clause which sends the signal that we have in our development of laws in this area approached the task perhaps not as rigorously as we might have, but there is a need for the very difficult and detailed social, moral, ethical and legal issues that confront a community dealing with surrogacy to be dealt with in that rigorous way, as well as all the other issues that are covered.

For instance, the desirability of a national approach to this issue is one of the terms of reference that the Attorney has charged the Law Reform Commission with approaching. I have to say that my inclination is that this is one of those areas of the law where there truly should be a national and a nationally consistent approach. This is an issue where state and territory boundaries really should not be all that relevant to the state of the law. One of the terms of reference that the commission has is that it should look to issues such as whether there is some potential for a national approach, which from the outset was the view of state and territory jurisdictions that initially discussed and considered these issues.

In short, this amendment is a signal to the Assembly and to the community that we anticipate that these arrangements will persist only for another two years and a bit, that in that time we will have a thorough review of all aspects of assisted reproductive technology, and that this Assembly, the government, and the government through this Assembly will respond to that review. If that is not all completed before the conception of children before July 2002, then this law will cease.

MR OSBORNE (4.54): I will be opposing this sunset clause because I think that, if the Labor Party was being fair dinkum, it would allow the legislation to be in place for those people affected at the moment and would then enact this sunset clause and allow the Australian Law Reform Commission to conduct an inquiry into this whole issue of reproductive technology.

One of the things that have disappointed me about this whole issue is that 18 months ago or even longer I started talking about the need for some legislation. In particular, the National Health and Medical Research Council has some guidelines for fertility clinics. However, these guidelines are not covered by any laws in any states or territories. After discussion with other members of this place I thought that, rather than going ahead with my own legislation, I would do the more sensible thing and send that legislation off to the Law Reform Commission because I could see that having legislation in place without the assistance of Justice Crispin's report would be silly.

Unfortunately, it appears that the advice I received in here from government members about this matter does not seem to apply to them. I think the more sensible thing for us to do is to accept that the legislation will be passed in some form and to repeal it so that those families that are affected now can do what they wish and then sit back and wait for the report from the Australian Law Reform Commission, rather than allowing the legislation to be up and running without knowing the full ramifications of what actually happens out there and coming back in two years' time.

I will be voting against this amendment. I have my own amendment seeking to repeal the legislation, which I will move should Mr Stanhope's fail. That would allow those families affected now to go through the process they wish to, but it would put a hold on any further ones, subject to the outcome of that review.

MR BERRY (4.57): I spoke on this matter before and I will try not to traverse ground that other speakers have dealt with. This amendment has arisen because of this government's failure to address this issue in a proper way. If it were not for this government's failure, we would be dealing with this matter in a proper way. If it had been to the Law Reform Commission, as proposed a long time ago, we would be dealing with this matter in a proper way, not in a roundabout way. We are doing it backwards; there is no doubt about that.

A whole heap of events have occurred with the encouragement of the Chief Minister and, in a sense, we have been placed in a corral over our concern for the community members who have been hooked up in this process as a result of the Chief Minister's enthusiasm for it. In the normal course of events I would be stridently opposed to this legislation going forward until it had received proper consideration by the Law Reform Commission and we were all better informed by its expert advice. But I have no doubts in my mind that we have to proceed with this legislation today, notwithstanding the culpable failures of the government on this score. That is an improper way to make laws.

I should say that in principle I have always formed the view that it is up to a woman to do what she wishes with her body. That raises another issue for me, that is, what does a surrogate mother do if she wants to get out of this arrangement? What is open to her?

Ms Carnell: She is the birth mother.

MR BERRY: I am talking about pre-birth.

Ms Carnell: She has the same rights as she would have with any other child.

MR BERRY: It is an issue that has not been discussed. The Chief Minister says that she has the same rights as any other person who might be pregnant. I am talking about the termination of a pregnancy where the criminal law in the ACT prohibits it. It has been regulated in this place as a result. That question really has not been addressed and it troubles me that we have not looked at the issue.

Mr Moore: Under the law any woman is entitled to a termination and she is, too.

MR BERRY: Not according to the criminal law, not according to the Crimes Act.

Mr Moore: As interpreted by the courts, yes.

MR BERRY: Mr Moore says as determined by courts.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! Mr Berry, address your remarks to the chair, please.

MR BERRY: Mr Temporary Deputy Speaker, you have got to stop them from provoking me. That issue has never entered this debate because it has been a bit of a taboo. I just think that it is one that needs to be resolved. It is not going to be resolved today, but I want to put it on the record so that the Law Reform Commission, in looking at the transcript of these proceedings, at least will see it as a point that has to be addressed. I think it is an important one. One can quite easily imagine a circumstance arising where someone who has agreed to a surrogacy arrangement changes her mind about it.

Ms Carnell: It happens naturally, too; people get pregnant and change their mind.

MR BERRY: Indeed. If I can quote Mrs Carnell's interjection, contrary to the standing orders, it happens naturally; if a women is pregnant, she can make these choices. It is quite different in a surrogacy arrangement because there are other parties involved and, of course, there is some considerable expense involved for the other parties. One would expect that there would also be an overriding commitment to the relationship.

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 BERRY: It is an issue that has not been properly thought through or debated. In some ways, I think the passage of this legislation strengthens the argument for decriminalising abortion in the ACT, because a surrogate mother should be entitled to a free choice in relation to this matter without having regard to the criminal law in the ACT.

Mr Humphries: But you people agreed to criminal sanctions for commercial surrogacy; it was in your legislation.

MR BERRY: I am not talking about commercial surrogacy. I am talking about somebody who chooses to terminate a pregnancy which is as a result of a surrogacy arrangement. That point has not been debated here and I think most people know it. It might be taboo in the scheme of things, but it is an extremely important issue for women generally and it cannot be ignored.

That is the only point I wish to make. A whole heap of other points have been made in the course of the debate which I would have no reason to be concerned about. I merely reiterate the point that the process has been quite appalling. Community members have been hooked up in this process in a completely unsatisfactory arrangement.

We should have been able to come in here fully informed, fully advised by the Law Reform Commission or anybody else for that matter, and sit down as legislators and make law which affects all territorians and probably set some precedents for people in other states. We are not as fully informed as we ought to be. Anybody in here who denies that is kidding himself.

There are also the issues about what happens in the rest of the country. It is fine for us to lead the country on a whole heap of issues. I have been involved in some of that over time. But, as I see it, there has not been much informed debate around the country about how we might have a nationally consistent approach on this issue. Those are matters which I do not think have been properly debated in the scheme of things. I reiterate the point about poor process. There are issues which have to be considered by this commission, which is the reason for having the sunset clause.

It is regrettable that we have to go about it in this way. I am happy that we will deal with the problems of some community members who have been involved in the process, but at the end of the day we have to have regard to our approach to making laws in this territory and what precedents we might set for the rest of the country in relation to these matters, complex as they are.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.05): Mr Temporary Deputy Speaker, I am going to support the Stanhope amendment. I see it as an alternative to Mr Osborne's amendment No 1. As I read these two amendments, the effect of Mr Stanhope's amendment is that it allows for further children to be conceived under these surrogacy arrangements with these parentage orders applying until June 2002, while Mr Osborne's amendment allows in effect for the sunset clause to cut in now and basically allow only those already born who are now seeking parentage orders to receive them, with those in the future who will come under similar arrangements not receiving the benefit of these new parentage orders.

It seems to me that, if a person born next month under the same arrangements was not entitled to a parentage order of the same kind which a person born last month was, that would be inherently unfair. And I see no reason why the commencement of this legislation should be the arbitrary date on which that right is determined.

So I support the idea of the sunset clause being set at some point in the future. I think June of 2002 is a reasonable time and I sincerely hope and believe that we will have a report from the Law Reform Commission by that time. Incidentally, I must correct members about the title of this body. It was known at one stage as the Community Law Reform Committee. It is now the Law Reform Commission of the ACT, just to be clear about what it is called.

I think that it is logical to provide for a reasonable period of time to operate these provisions while we consider our position and while we establish whether legislation needs to remain in this form on a permanent basis on our statute books or whether it should be replaced by something different.

MR TEMPORARY DEPUTY SPEAKER: Just to assist the Attorney, I understand it is July, not June.

MR HUMPHRIES: No, Mr Temporary Deputy Speaker, if I can correct you there. It applies to a child conceived in the territory before July 2002, so the effect is that it cuts out on 30 June 2002.

MR TEMPORARY DEPUTY SPEAKER: Good, thank you very much. So the house is clear on that amendment.

MS TUCKER (5.08): I agree with Mr Humphries in his response to Mr Osborne's proposal to have this sunset clause take effect much sooner. I support Mr Humphries' concerns about the unfairness of that. I am concerned about the sunset clause from Labor as well. I would like to go back again—I know Mr Berry did that. We have a situation in the ACT which is not satisfactory on a number of levels. It is obviously not satisfactory for those individuals who have borne children through this sort of technology and who feel that they do not have the rights that they need, so I have sympathy with those people in their situation.

As somebody who works in the Legislative Assembly as an elected representative, I do not believe it is satisfactory in terms of making law either. The more I have the opportunity to look at this, the more what-ifs, as Mr Stanhope called them, appear. This led me to look at what other places around the world were doing in response to assisted reproductive technology. It led me to look in detail at the reference to the Law Reform Commission and to the intention of Mr Osborne's proposed amendment to the legislation.

You can see a very common theme in all these responses. In the UK, a human fertilisation and embryology authority was set up in 1991. That authority basically ensures that all UK treatment clinics offering IVF or donor insemination or storing eggs, sperm or embryos conform to high medical and professional standards and are inspected regularly.

It collects comprehensive data about such treatments, and provides detailed advice and information to the public. It also licenses and monitors all human embryo research, supervising controlled research for the benefit of humankind, considering the ethical implications of a number of key issues and always taking account of the national debate which these often stimulate.

The reference that went to the Law Reform Commission was very broad. Mr Osborne has read out a couple of the terms of reference, but I would like to add a few more, just for the record. They include:

> Developments in assisted reproductive technology, including information on health outcomes for clients, donors and offspring;
>
> …..
>
> Whether the Australian Health Ethics Committee of the National Health and Medical Research Council of Australia *Ethical Guidelines on Assisted Reproductive Technology* are appropriate, and their role in any proposed legislative regime;
>
> Options for possible ACT legislation, including
> (a) oversight;
> (b) eligibility;
> (c) consent;
> (d) a right to information and counselling;
> (e) access to information;
> (f) record keeping;
> (g) reporting;
> (h) prohibited activities;
> (i) research;
> (j) monitoring, storage and use of reproductive material; and
> (k) licensing and/or accreditation.
>
> The appropriate limits of legislative action; and
>
> Any other related and/or consequential matters which the Commission may consider appropriate to bring to the Government's attention.

My point is: this is fundamental work that should have been done by now. This work has not been done. We have a law which was the result of a rather sloppy and hasty process in the Legislative Assembly.

By asking us to support today a further legitimisation of that bad law, without having done this basic work, I feel the government is not acknowledging—and I do not agree with Labor either on this—that it has an absolute responsibility to have done the work on developing a regulatory regime in which such law would work. This has not been done.

By adding the sunset clause I believe that we are reducing the pressure on the government. I do not agree with Mr Osborne that we should repeal this legislation. I do not go that far. And the Greens are not saying that we oppose surrogacy. What we are saying is that we believe that government has a responsibility to do much more than it has done.

It seems to have this desire to have this legislative framework which will allow this particular activity. I heard Mrs Carnell—she is obviously very relaxed about it. That is her right. I think it is incorrect that she would be that relaxed, and I understand Mr Humphries is less relaxed.

It is not about whether someone goes and has sex somewhere and has a child. This is about creating a law. If we were being asked to create a law about who could have sex with whom, there would be other huge ethical issues.

This is about members of this parliament trying to respond to this issue, which has resulted from new technology, by creating a law. Mrs Carnell also seems to be quite comfortable with technological determinism being let flow. In other words—she did say this; I wrote it down—"it makes everything better".

There are a lot of people in the community who do not know that technology should determine the direction in which humankind goes. There are a lot of people in the community who want to be able to ask the questions. That is certainly becoming more apparent with the recent introduction of the therapeutic cloning versus the reproductive cloning. Obviously, that is another whole debate that communities around Australia and around the world will have to engage in.

The reason I am concerned about having sunset clauses is that it is basically allowing the government, again, to sort of do it when it feels it can. I want to see the government do it as soon as possible, with proper resourcing—quickly. If we do not put this sunset clause on, the pressure will be there. We will not be asked, as a parliament, to further legitimise this legislation which is sitting without a proper regulatory framework for us to look at.

The inference is that we are going to be happy with what the government comes up with when it creates a regulatory regime, as if there were no more questions to be asked. I do not have such confidence. I believe that, to be responsible, I have to look at what this government produces in terms of a legislative response. I want to see how this government responds to this reference to the Law Reform Commission. I want to see what it is actually going to do. We are hearing that it will do it—and I am glad; it should have done it already. But we do not know what it will do. We know there is a reference to the Law Reform Commission—that is all we know.

I believe that I am not being a responsible member of this parliament if I take the government on good faith and say, "I trust that you will come up with a regulatory regime which I am comfortable with." Why would I think that? I am so often not comfortable, and it needs to be debated and amended, and further discussion needs to occur.

For that reason, I do not want to say at this point in time that I will support further legitimisation of this particular piece of law which is not the result of good processes up to this date.

There are so many what-ifs. I think I need to go over a couple of them. I am concerned that we, as a parliament, have now made a decision on behalf of future families who engage and work with this technology. Despite the fact that we have at the front of this bill—I imagine it will stay there; I think Mr Rugendyke is trying to emphasise it even more—that the welfare of the child will be what is looked at, this parliament has just decided that the welfare of the child, if the child is one of a multiple birth, will definitely always be served by those children being held together.

Clearly you would hope that that was the case. You would hope that siblings could be kept together. But you cannot say that from this point in time that will always be the best result. The clear pressure on the commissioning parents is that it is all or nothing. Obviously the parentage order will not be successful unless everybody is in agreement. So because of this the pressure is on the commissioning parents that it is all or nothing.

It is those pressures that will exist within these relationships that need to be more teased out and sorted out, as well as their consequences. I do not share Mrs Carnell's total enthusiasm for what happens within a family. I know that there is an argument that there is love, and love will create a good outcome. I am sorry: If you look at what happens when someone dies in a family, where there is love, and you see what happens with a will, you can see that things can go very haywire in families.

Within families there are complex psychological relationships between sisters and brothers, between cousins—or within friendships; of course, it is not just within families. This is about altruistic surrogacy. There are complex psychological and human relationships there.

There is also, of course, altruistic surrogacy in other cultures, which, again, is another totally different issue, but one that I think would be interesting to look at. I have spoken recently to a woman from a culture in which, if there is a woman in the family who is barren, it is the responsibility of that woman's fertile sister to carry a child for her. (*Extension of time granted.*)

We have cultural issues within families where I do not believe it is about love. It is about culture. It may not be a good thing for that woman, and if that woman is living in Australia—as many more women from different cultures are—there are other issues to be teased out there.

I do not believe that the idea that altruistic surrogacy is going to be quite devoid of the possibility of exploitation is true. I think it is a naive statement. We know, as I said, it does not take long to look at the complications that have happened within families, and these things happen on an ongoing basis.

Mrs Carnell said she had never heard of any twins being split up. A lot of us have been lobbied on this, and there obviously have been cases where twins were born and the commissioning parent did not want both. That has actually happened.

Even aside from us knowing that it had happened, Mrs Carnell also said, "I cannot imagine something going wrong." I am afraid that when you are making law you need to do more than just think what you personally can imagine. It is not hard. You should not need to imagine. You just need to look at what is already happening around us to know that these are very complicated issues.

When I spoke with the doctor who was the provider in the ACT, I did ask that question: what if the child for some reason is not wanted by the commissioning parents, for whatever reason—the commissioning parents have split up, or the child has some characteristic that they do not like? The response from the provider was immediate: "Obviously it is the birth mother's child. That is a fact of life."

I just think that this needs to be looked at. We need to understand exactly what this means in the long run. You might have noticed that one of the UK authority's functions that I read out was the collection of comprehensive data and the long-term impacts of it, and I believe that that is absolutely essential if we are to be more informed as a community and as parliaments around the world in making future decisions about these sorts of questions. And that information needs to be collected independently. I know that people will argue that the provider currently is collecting information, but in that regard we should look at one of the articles in the *Canberra Times* of 1996, which I will table later because I think it would be of interest to anyone who in the future wanted to look at this debate as a historian or whatever.

There was a very interesting difference between the birth mother's reporting of the birth compared to what the doctor said, and I believe that we need to be able to see a really independent and confidential vehicle for collection of information because the pressures would be greater on people in altruistic arrangements to not actually be honest in their feelings because clearly they do not want to hurt the people they have been working with. I understand and sympathise with that, but it is much more likely that you would get an honest response, or a clear response, if it was not a good experience.

I am not saying that the current ones have not been good at all. What I am saying is that if it was not a good experience someone who is in a commercial relationship would be more likely to say, "This didn't work for me for the following reasons." But for someone who was in a loving relationship—whatever that means; it is very complicated to define love—to in some way express dissatisfaction, it is clearly a human dilemma for that person which has to be respected and understood.

So for that reason I think, for the long-term benefit of the communities and for people who want to make decisions and make these sorts of arrangements work better—and we are just starting here; this is really the beginning of many such issues we are going to have to deal with—we need to have a vehicle for collection of confidential and rigorous information so that we can make those decisions, and that would not involve having to identify anybody or impact on people's individual family and emotional situations.

For those reasons I believe that it would be much better if we just left the legislation as it is, and that would hopefully mean that the government moved very quickly to do what it should have done quite some time ago, which is to resource the Law Reform Commission better, do the work, get in the other information that is available and work on this. It is unfortunate that the government has been so lax in doing this, because there are families in the ACT who have become, in a way, in the middle of this. They have a personal situation they want addressed, and now the government is using that personal situation to try to force this parliament to take an action which I do not think is responsible.

MR STANHOPE (Leader of the Opposition) (5.23): I will speak again just briefly to the issue following Ms Tucker's address on the matter. I do not wish to go over old ground, but I think Ms Tucker fundamentally misses the point of what the Labor Party is seeking to achieve here and in fact what the Chief Minister is proposing.

I think we all agree that the law as it has developed is less than satisfactory. I think we have each stated that. These proposals today are one response to an issue that has arisen as a result of the fact that this parliament in 1994, through the Substitute Parent Agreements Act, allowed surrogacy arrangements in the ACT. This parliament, for better or for worse, in 1994 passed the Substitute Parent Agreements Act which allowed people to take advantage, through surrogacy arrangements, of some assisted reproductive technology.

They did that; they were entitled to do it. We can now reflect that this Assembly perhaps did not look particularly exhaustively at the issues, and I accept that; we have been saying it. I believe the law is a mishmash. I believe it has been developed in a far from satisfactory manner. The fact that we are debating this legislation today acknowledges that there are some quite obvious gaps, and each of us has identified a range of other concerns that we now have.

I have to say, Ms Tucker, that I think in terms of the force of your argument perhaps the most intellectually honest thing you could have done today would have been to stand up and seek to repeal the Substitute Parent Agreements Act, rather than, as I think you are seeking to do, basically put your head in the sand and say, "We have a very unsatisfactory situation here. I really do not want you to touch it in any way until we do a thorough job and a thorough analysis of the deficiencies. We do not want you to pick up any of the deficiencies along the way. It is all or nothing. We should persist with this thoroughly unsatisfactory law until we do something about it, and we should do it in a thorough way or do nothing."

I think there are significant deficiencies in that approach, which says, "This law is awful and I do not want to legitimise it. I want us in the future, when we get around to it, to change it, but I do not want to do it now if we do not do it thoroughly. In the meantime I will persist with what each of us accepts is unacceptable law."

I think it is an unacceptable piece of law. The process was extremely bad and it reflects badly on the legislature. But I do not think that it is appropriate today for each of us to stick our heads in the sand and say, "We have a shocking bit of legislation here. Let us forget the fact that there are kids being born. Let us forget the fact that over at John James we have an assisted reproductive technology unit which we understand is working on the basis of 25 current clients and 35 clients waiting for surrogacies. Let us forget all that, and somewhere down the track, if the government ever gets around to holding this Community Law Reform Committee inquiry, assessing it, considering it and responding to it, we might change the law."

Mr Humphries: It is the Law Reform Commission.

MR STANHOPE: I beg your pardon. I do not understand why we cannot today deal with the issues the Chief Minister has raised and some of us have taken the opportunity here today to add to.

I notice you have revisited the issue of twins. I disagree with you absolutely. I do not wish to go over that debate again. If you contemplate that we should not address the issue of whether or not twins can legitimately be separated at birth where they are born as the result of surrogacy arrangements, I think you are wrong and your approach flies in

the face of what happens now to every woman who gives birth to twins. She is faced with the conundrum of whether she will keep them both or keep only one.

Mr Osborne: I take a point of order. I think Mr Stanhope is directing his speech to Ms Tucker, when he has to do it through the chair. I want to remind him of that fact.

MR TEMPORARY DEPUTY SPEAKER: I understand that the Leader of the Opposition is directing his remarks through the chair, as is appropriate under standing orders. There no point of order.

MR STANHOPE: The issue for parents that find themselves in that tragic circumstance of feeling that they cannot appropriately care for twins is an issue that some parents face today, every day and every week of the year. We have in place through our family services, our family law acts and our adoption acts arrangements to deal with those circumstances. All we are saying here is that it is a nonsense that we can have an arrangement whereby a set of twins can be divided through a parentage order under the Substitute Parent Agreements Act, with one of the children remaining with the surrogate parents and one of the children going to the birth parents.

There is no discussion about who will decide which one goes and which one stays. It is either both or none. If the receiving parent, the biological parent, says, "We never anticipated two children; we cannot manage two children," they probably should not have been accepted into the surrogacy program in the first place. In the second place, if they cannot manage both children, then it is for them, as the parents that have been deemed by the court to be the lawful parents, to make arrangements that they feel they need to make through our family services or under the Adoption Act. They could arrange for one of those children, through a directed adoption, to be adopted by the surrogate mother or some other person. That is the capacity that exists now, and surely that is the capacity which should exist in relation to twins born through a surrogacy arrangement.

I think it is odd in the extreme to suggest that where twins are born under a surrogacy arrangement the biological mother might choose to keep one and the surrogate mother might choose to keep the other; that they will toss a coin or have some other arrangements for deciding who will be the lawful parents. It is a prospect I find quite strange and unacceptable. But the issue of whether or not parents can maintain twins is something that I imagine is not an uncommon occurrence.

Subjecting this law to a sunset clause is quite logical, quite consistent and extremely reasonable. We all accept that this parliament has not done this job particularly well over the last six years. If none of us are going to stand up today and seek to repeal the Substitute Parent Agreements Act but rather say, "Let us persist with this bad law until we can make it better, but do nothing about it along the way," how does that advantage us? It is the law. It is supreme in its magnificence. It is there. This parliament passed it. It might be bad law but it is there. Either change it or repeal it. Nobody here is inclined to repeal it at this stage.

The Labor Party is moving for a sunset clause in relation to matters being debated today. If that is accepted, then this law—if this Assembly does not deal with the issue beforehand—will cease to exist in July 2002. Implicit in the Labor Party's position on this is that, if this matter is not dealt with by the Assembly before July 2002, we would

be prepared to move to repeal the Substitute Parent Agreements Act. But at this stage we are saying that certain people have responded to the law which this parliament passed, as they were entitled to do.

Along the way we have picked up at least one other issue—namely, the lawful parentage of the children born as a result of their exercise of their lawful rights. Let us deal with that. Another issue for me is the prospect of twins not being separated. We can deal with that here today. Let us deal with it.

To the extent that there are 1,000 other unanswered questions—I feel as deeply about them as anybody else here—let us get the Law Reform Commission's inquiry under way. Let us deal with it maturely and have a thorough and deep community debate about this difficult issue. It is profoundly difficult. We all accept that.

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

MS TUCKER (5.34): Labor have changed their line, but that is fine. Mr Stanhope argued the changed position of Labor. I remind members that originally, when Labor supported this legislation, the intent was not necessarily to encourage surrogacy, because it was of concern. People who have entered into this sort of technology made a decision in full knowledge of what the legal situation in the ACT was.

Mr Stanhope is now saying Labor is no longer reluctant to say, "We are really happy with surrogacy." By fixing this law and by legitimising this law, they are moving their position to say, "Surrogacy is here. We want to make it as easy as possible for those who want it." That is not what their position was before. I understand and accept it if they have changed their position.

I am more comfortable staying with the original position of Labor, which was to say, "This is complicated. Okay, we are not going to ban it." Then Mrs Carnell amended the legislation so that it was no longer an offence for practitioners to use surrogacy technology on altruistic people. That change was quite quick, and the general feeling from Labor still was that this was new and we needed to work on it. I do not know what they thought, but they were not totally enthusiastic about it.

Now they are saying they are comfortable with surrogacy. That is fine if that is their position. As I said, the people who have gone into a surrogacy arrangement understood what the law was. If they did not, then that makes a lie of the claim that they were given full information by the provider. The provider and the government say that full information was given. That interests me. I am really curious. Maybe someone can explain it. It might be something that I have not been able to follow through.

The article in 1996 said that one of the birth mothers was concerned about the Chief Minister waiving the cooling-off period of 30 days. I do not know whether that was incorrect reporting or whatever, but I followed all the law through, and I could not find a 30-day cooling-off period.

Ms Carnell: It is in there.

MS TUCKER: That is only for an adoption. This was in the law in 1994. Was this the adoption law that you were talking about? I am not talking about the current legislation. I am talking about 1994.

MR TEMPORARY DEPUTY SPEAKER: Order! Ms Tucker, your remarks will be directed to the chair.

MS TUCKER: Mrs Carnell may be able to offer an explanation. If a cooling-off period existed in the legislation then, I am interested in the fact that it could be waived by the Chief Minister. That is another issue. That is off the track a bit.

I understand Labor have changed their position. That is their right. I would be more concerned about leaving it as it is. We understand that we do not have a proper regulatory environment for people to do this in. As responsible elected parliamentarians, we do not want to encourage people to do this until we have the regulatory environment and we have done the basic work.

MR OSBORNE (5.38): I must admit to finding some of the things Mr Stanhope had to say quite offensive. To be accused of wanting to put your head in the sand because you opposed a piece of legislation on this issue is clearly wrong. Those of us who have had trouble with it have done anything but put our heads in the sand.

The issue that reinforced in my mind that the path I was proposing of waiting for the Law Reform Commission was the right one was the issue of twins. I have to admit I had not given it much thought. I do not think the issue has been discussed with me by my staff in the last couple of months. It may have been discussed between Mr Stanhope and some members of my staff, but it is not an issue that I have given a lot of thought to. It is a classic example of the fact that when you are dealing with this type of legislation little things just come up.

Unfortunately, Mr Stanhope seems to think that we can deal with them today. That is fine, but I think we need to be aware that when you are dealing with this legislation, when you are making little tinkers around the edge, it is going to have a flow-on effect. While ever no comprehensive inquiry is undertaken and no report in is front of us, we will be back again in a couple of months because there has been another hiccup, and we will be back again in six months.

I accept that the legislation will pass today, but I think we are making a grave error. I hope that we are not back in a couple of months fixing up another mess.

Question put:

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

The Assembly voted—

Ayes, 13	Noes, 2
Mr Berry	Mr Osborne
Ms Carnell	Ms Tucker
Mr Corbell	
Mr Hargreaves	
Mr Hird	
Mr Humphries	
Mr Kaine	
Mr Moore	
Mr Quinlan	
Mr Rugendyke	
Mr Smyth	
Mr Stanhope	
Mr Stefaniak	

Question so resolved in the affirmative.

Amendment agreed to.

MR RUGENDYKE (5.44): Mr Temporary Deputy Speaker, I ask for leave to move amendments Nos 1, 2 and 3 circulated in my name together.

Leave granted.

MR RUGENDYKE: I move:

No 1—
Page 6, line 30, proposed new subsection 11 (1), omit the proposed new subsection, substitute the following new subsection:
" '**(1)** The Supreme Court must make a parentage order if satisfied that—
(a) the making of the order is in the best interests of the child; and
(b) both birth parents freely, and with a full understanding of what is involved, agree to the making of the order.".
No 2—
Page 8, line 7, proposed new subsection 11 (2), omit "(e)", substitute "(b)".
No 3—
Page 8, line 27, after subsection 11 (2), insert the following new subsections:
" '**(2A)** In deciding whether to make a parentage order, the Supreme Court must take the following into consideration if relevant:
(a) whether the child's home is, and was at the time of the application, with both substitute parents;
(b) whether both substitute parents are at least 18 years old;
(c) if only 1 of the child's substitute parents has applied for the order, and the other substitute parent is alive at the time of the application, whether the court is satisfied that—

(i) the other substitute parent freely, and with a full understanding of what is involved, agrees to the making of the order in favour of the applicant substitute parent; or

(ii) the applicant substitute parent is unable to contact the other substitute parent to obtain his or her agreement under subparagraph (i);

(d) whether payment or reward (other than for expenses reasonably incurred) has been given or received by either of the child's substitute parents, or either of the child's birth parents, for or in consideration of—

(i) the making of the order; or

(ii) the agreement required under paragraph (1) (b); or

(iii) the handing over of the child to the substitute parents; or

(iv) the making of any arrangements with a view to the making of the order;

(e) whether the court is satisfied that both birth parents and both substitute parents have received appropriate counselling and assessment from a counselling service that is not connected with the doctor who carried out the procedure that resulted in the birth of the child or the institution where the procedure was carried out.

'**(2B)** The Supreme Court may take into consideration any other relevant matter.".

These amendments recast section 11, with two primary considerations being paramount. My amendment No 1 provides that the best interests of the child, as well as the agreement of both parents, must be considered by the Supreme Court in making a parentage order in the case of a surrogacy. It is important that the best interests of the child should be the foremost consideration. Making those two aspects non-negotiable, in my view, is very important.

My amendment No 2 is consequential, arising out of the change in focus effected by amendment No 1. The intent of my amendments is not to change the thrust of the legislation but merely to change the focus to two key elements.

Amendment No 3 retains the rest of the matters in section 11 that the Supreme Court ought to take into consideration in determining an application for a parentage order. It also includes "any other relevant matter" so that the Supreme Court is not restricted.

These amendments will not presume that one set of potential parents for a child should be favoured over the other. The paramount consideration is the best interests of the child. With the agreement of the parents concerned, the order can then be made, subject to the criteria outlined in my amendment No 3.

I note that Mr Stanhope has circulated amendments to my three amendments. I will talk to them at the appropriate time. I commend my amendments.

MR STANHOPE (Leader of the Opposition) (5.48): I seek leave to move amendments Nos 1, 2 and 3 to Mr Rugendyke's amendments Nos 1 and 3, circulated in my name on the buff sheet, together.

Leave granted.

MR STANHOPE: I move:

> Mr Rugendyke's amendment No 1, proposed new subsection 11 (1), after "parentage order" insert ", if allowed by section 11A (Multiple births),".
> Mr Rugendyke's amendment No 3, proposed new subsections 11 (2A) and (2B), omit proposed new paragraph (e), substitute the following new paragraph:
> "(e) whether both birth parents and both substitute parents have received appropriate counselling and assessment from an independent counselling service; or".
> Mr Rugendyke's amendment No 3, proposed new subsections 11 (2A) and (2B), after proposed new subsection (2B), insert the following new subsection:
> " '**(2C)** For paragraph (2A) (e), a counselling service is not independent if it is connected with—
> (a) the doctor who carried out the procedure that resulted in the birth of the relevant child (the ***relevant procedure***); or
> (b) the institution where the relevant procedure was carried out; or
> (c) another entity involved in carrying out the relevant procedure.".

These amendments insert some other requirements within Mr Rugendyke's amendments. They are not opposed in any way to what Mr Rugendyke proposes. They are in fact additions. I understand from the advice I received from Parliamentary Counsel and from the Clerk that this is the appropriate legislative procedure.

What I am suggesting is that it is important to ensure that those people seeking to access assisted reproductive technology, or surrogacy arrangements, in the ACT, pursuant to the Substitute Parent Agreements Act and the law as it stands, should be availed of counselling services, and that those counselling services should be provided by a counselling service independent of the provider of the service.

The thrust of the amendments relates to the definition of an independent counselling service. I will just read the proposal:

> a counselling service is not independent if it is connected with—
> (a) the doctor who carried out the procedure that resulted in the birth of the relevant child …); or
> (b) the institution where the relevant procedure was carried out; or
> (c) another entity involved in carrying out the relevant procedure.

Ms Carnell: That is what the current legislation says. That is okay. I am comfortable.

MR STANHOPE: I am always interested in these things. I am a dedicated legislator. I am concerned. All I am saying is that I am concerned to hear it if that is the case. Perhaps I will have to compare the provisions, being as dedicated as I am to the responsibility of legislating. It is comforting to know that great minds think alike, Chief Minister.

That is the thrust of the amendments. They do not seek to detract from anything Mr Rugendyke proposes with his amendments. They seem to act within the scheduled matters included in his amendments—a requirement that people seeking to access surrogacy services be availed of an independent counselling service

MR RUGENDYKE (5.52): The first amendment is to take into consideration multiple births, as we discussed earlier. It appears that the second and third amendments are simply a recasting of the way it came out. I have no problem with them.

Amendments (**Mr Stanhope's**) to Mr Rugendyke's amendments agreed to.

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

MR STANHOPE (Leader of the Opposition) (5.53): I move:

> No 7—
> Page 9, line 2, after the proposed new section 11 insert the following new section:
> " '**11A Multiple births**
> '**(1)** This section applies if a child for whom an application for a parentage order has been made has a living birth sibling.
> '**(2)** The Supreme Court may make a parentage order about the child only if it also makes a parentage order about each living birth sibling of the child.".

Mr Speaker, this amendment goes to the issue we have already debated and agreed on: multiple births. It provides that the Supreme Court may make a parentage order about the child only if it also makes a parentage order about each living birth sibling of the child. It is an amendment that is consequent on the issue that was previously debated and on which the Assembly has previously agreed.

Amendment agreed to.

Clause 9, as amended, agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Clause 9—Recommittal.

MR STANHOPE (Leader of the Opposition) (5.55): Pursuant to standing order 187, I move:

> That clause 9, as amended, be recommitted.

I am proposing to move an amendment to insert a new subsection in clause 9.

Question resolved in the affirmative.

MR STANHOPE (Leader of the Opposition) (5.56): I move:

> Clause 9, page 6, line 16, insert the following new subsection:
> " '**(2)** This Division applies to the child only if the child's substitute parents live in the Territory.".

Mr Speaker, this amendment provides that the parentage order provisions of the Artificial Conception Act, which we have been debating today, will apply to children only if the substitute parents of those children live in the ACT.

Mr Rugendyke's amendments dealing with the best interest of the child, which we have just debated and concluded, have the effect of removing from the Chief Minister's bill a requirement that the law apply only to residents of the ACT. I understand that is a consequence of those amendments. The amendment that I have moved basically restores the position to that which the Chief Minister had proposed in her bill and which the Labor Party supports—that is, that parentage orders relating to biological parents in the ACT should be available only to residents of the ACT.

In light of the feelings of so many members of this place that have been expressed today in the debate on this bill, I do not believe it is appropriate that the ACT should at this time be legislating for the possibility of people from interstate using the ACT as a base of convenience for surrogacy arrangements. My amendment provides that this law at this stage will apply just to the ACT.

I note that one of the issues that the Attorney has referred to the Law Reform Commission for review is the prospect of a national approach and national legislation. I think it would be better to await the outcome of the Law Reform Commission's review. I have no doubt that we are all thoroughly looking forward at some stage in the future to a comprehensive debate this place on all of these issues.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (5.58): Mr Speaker, I support the amendment that has been moved by Mr Stanhope. However, I think it is probably necessary to say that if we accept, as we have by inserting this provision, that the Supreme Court's paramount consideration in making an order is that the order should be in the best interests of the child, you could argue logically that it ought therefore be irrelevant to the court and to the court's consideration if the parent or parents making an application reside outside the ACT. Strictly speaking, if it is in the best interest of child that the order be made, then the location of the parents should be irrelevant.

However, Mr Speaker, the reason I support the amendment is that, as is clear, I have reservations about the surrogacy arrangements. Frankly, in the interim—between now and when we debate whether this matter should be given a more permanent position on the statute books—I do not wish to create an environment in which the ACT becomes a national centre for surrogacy. It is appropriate for us to indicate that there should be some limits on these arrangements—that they be limited to residents of the ACT.

I cannot pretend, in light of what is in the rest of the bill, that the logic is particularly strong but I think it is appropriate for us to put that fence around the legislation and see how it proceeds in the course of the next couple of years.

MR RUGENDYKE (5.59): Mr Stanhope's amendment seeks to reinstate a provision in clause 11(1)(c) that dropped out of the criteria. We were given a great deal of help by Ms Julie Field, the drafter of the legislation. She was very tolerant and I was very pleased with the standard of drafting. She thought it was not necessary to keep 11(1)(c) in the criteria, given the paramountcy of the best interests of the child and the agreement of the parents that we discussed earlier.

But I do understand that it could go either way and that it would be wise to reinstate this provision by inserting it as a new subsection in clause 9. Therefore, I support Mr Stanhope's amendment.

MR STANHOPE (Leader of the Opposition) (6.01): I have to say I agree with the Attorney's sentiments on this—he expressed precisely my point of view. I acknowledge and have thought about the issue of there being a tension between a notion of the best interests of the child and the drawing of a boundary around who might be the subject of a determination. I came to the same conclusion, for the same reasons, as that just expressed by the Attorney. Whilst I accept it is perhaps inconsistent with a notion of the best interest of the child to draw a boundary around how far the legislation extends in a geographical or a physical sense, I, too, feel that at this stage of the development of this law in the ACT we really should confine it to residents in the ACT.

I think we have each made it clear here today that there is a general disquiet about the direction in which we are heading and the depth of the debate that we have had. I, too, want the debate that I think we all know we need to have before we become more expansive on this issue.

The research that I have done in relation to this issue indicates that, for instance, Queensland outlaws both commercial and non-commercial surrogacy. It is an offence under the laws of Queensland for a resident of Queensland to participate in a surrogacy arrangement anywhere in Australia. In effect, Queensland has legislated extraterritorially to make it a criminal offence for any resident of Queensland to participate in surrogacy arrangements. So there is a whole range of approaches and responses, which highlights just how complex this issue is.

Amendment agreed to.

Clause 9, as recommitted, as amended, agreed to.

Bill, as amended, agreed to.

INSURANCE CORPORATION BILL 2000

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

> That this bill be agreed to in principle.

MR QUINLAN (6.04): In essence, the opposition will be supporting this bill and the establishment of a separate insurance body. I give notice that I will be moving a large number of amendments in the detail stage. I will speak to them now in order to minimise the time that will be taken in that debate.

When this house was considering a bill to establish the stadiums corporation, I moved a series of amendments to create a stadiums authority. The legislation that is now before the house effectively seeks to set up another statutory authority, just as we set up a statutory authority to look after the operation of stadiums. So a whole series of amendments will be moved to change the title of the ACT Insurance Corporation to that

of the ACT Insurance Authority. I believe there is an important distinction these days between a statutory authority within the administration and a corporation that falls under the territory's own Corporations Act.

The other amendments that I will be moving relate to indemnities to third parties which the act allows the minister to give. We believe that those are matters that should be advised to the Assembly.

I will also be moving amendments in relation to the size of the board of management. I believe that this should be an expert authority. We need to try to create a balance so there is not more client representation than expert or specialist representation on the board of management. Allowing expertise to govern the process of insurance and risk management across the administration is a step in the right direction. As I said, we will be supporting the principles and the aims of the bill.

MS TUCKER (6.06): The Greens will be supporting this bill, which establishes a captive insurer for the ACT government to provide better management of the territory's insurable risks. Through this new insurance corporation the territory will be able to have flexible, stable and, hopefully, cheaper insurance. This seems to be a good extension of the self-insurance arrangements that the government has had in the past.

I will be supporting Mr Quinlan's amendments to change the name from the ACT Insurance Corporation to the ACT Insurance Authority. I do not support the Liberal government's mimicking of private enterprise by setting up government agencies—especially those concerned with government services—with accompanying principles and running them like a business regardless of the real differences that exist between the role of government doing what is best for the public interest and the single-minded profit motives of private enterprise. The name given to these bodies may be only symbolic but it is still important to provide the right symbols of what government should really be about.

I am not sure I want to listen to Mr Humphries' arguments on Mr Quinlan's amendments relating to the number of appointed directors. I can see how the process could be more democratic and transparent if the clients of the insurance corporation were represented on its board.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.08),in reply: I thank members for their support of the bill. This is an important piece of legislation. Clearly, in the last few years the territory has had to come to grips with a large insurance portfolio of responsibilities and it has become apparent that we have not had the ideal structure for the management of the territory's insurance requirements. So we have proposed in this bill that we effectively create a body which will notionally be the territory insurer.

There is a limited range of responsibilities but we need to make sure that we have a flexible body to deal with that arrangement. A captive insurer, as it is called, seems to be the best way of giving ourselves the flexibility we need but preserving an internal arrangement whereby the ACT basically self-insures for most of the insurable risk.

Mr Speaker, I intend to comment on some of the amendments that are going to be moved by Mr Quinlan. I am pleased that Ms Tucker is going to listen to the arguments about the size of the board. However, I am disappointed she did not listen to the arguments before determining her position on the title of the board.

Ms Tucker: I will still listen—that is fine.

MR HUMPHRIES: You will listen but you have already decided what you are going to do.

Ms Tucker: I am always open to the arguments. I am very predisposed to Labor's argument, but I am listening.

MR HUMPHRIES: That very closely reflects our views about development of Griffith actually, Ms Tucker—I thought I might just mention that. Mr Speaker, I thank members for their support and I look forward to debating some of the amendments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1.

MR QUINLAN (6:10): I move:

> No 1—
> Page 1, line 5, omit "*Corporation*", substitute "*Authority*".

I think this amendment is self-explanatory. Given that I have a right of reply, I will allow Mr Humphries to launch into his speech.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6:11): Mr Speaker, I do not agree with the amendment—I should say "amendments", because virtually all of the opposition's amendments are concerned with changing the name from the ACT Insurance Corporation to the ACT Insurance Authority.

The idea of this exercise is to put the territory insurance function into the marketplace. I made mention in my presentation speech of the problem that we have encountered. We have provided insurance services to arms of the government but because we are not an insurance company or insurance agency in the understood sense of the Australian insurance market it has been difficult for the government in its insurance function to go out into the marketplace and seek the best deal for the territory's insurance requirements. I know that the idea of marketplace is a bit offensive to some people here, but the purpose of this legislation is to allow us to take—

Mr Quinlan: That is not the bit I screwed up my nose at, Mr Humphries.

MR HUMPHRIES: You were putting some snuff or something up there, Mr Quinlan?

Mr Quinlan: No.

MR HUMPHRIES: All right. My point is that I think we need to be out in the marketplace. It seems to me that if we are going to be out in the marketplace we should have some of the attributes of an operator within the marketplace. Usually government authorities, so-called, do not run around buying insurance and doing other things of a commercial nature in the marketplace. I concede that sometimes they do, but generally speaking they do not. Corporations do. This was simply a way of being able to position this new territory captive insurer in a slightly better position in the marketplace so as to be able to obtain the best deal for the government.

I concede that at the end of the day it does not make any difference really what you call the thing. I am just a little intrigued about the hostility of this place towards matters to do with the private sector. We are talking here about buying and selling, which is an essentially private sector function. Generally governments do not get into the business of buying and selling insurance very much. As a rule they are not into the insurance market in any great way. The private sector is. What is so offensive about the ACT's captive insurance agency being called the ACT Insurance Corporation?

I note that some time ago Mr Berry characterised the government's intention to corporatise some government bodies as being effectively de facto privatisation of those bodies. This is clearly not that. Essentially, the only people who are going to be insured under this arrangement are other government agencies; other arms of government, with a few exceptions to that rule. This is basically going to be about an in-house insurance arrangement which needs to be flexible and operate in the marketplace. However, having said all that, I am not going to labour the point and I accept that Mr Quinlan's amendments will get up.

MR QUINLAN (6:15): First of all, Mr Speaker, I do not accept Mr Humphries' logic. I think he said that we are going to con or flim-flam the market by calling our body a corporation even though it is an authority; that the market will be thick enough to fall for that and deal with us whereas they probably would not do so if we were an authority. If we were talking about insuring houses, I think that artifice would be quite unworthy and would not work.

The only other comment I will make is that this side of the house is not hostile towards the private sector. Certainly this side of the house is quite unwilling to see public assets sold off. We are quite unwilling to see some government bodies, whose primary objective should be providing service to the public, turned into bodies that seek to maximise profit from the public. We recognise that there are gradations in administration, ranging from departments to agencies, statutory authorities, corporations, and then to privatised operations.

This is not a corporation in terms of the territory's Corporations Act. As stated in your own original paper and speech, a statutory authority is being set up. If we are setting up an authority, I think we should use the correct term. I notice that the government has already set down for future debate the ACTION Corporation Bill. In fact, we are setting

up a statutory authority to operate ACTION, and that statutory authority was part of the last EBA negotiations with the Transport Workers Union.

It seems to me that the government is adopting the device of first using the word "corporation" as part of the shift towards corporatisation. This body is a statutory authority. Let us call it what it is. If we are going to set up a corporation, then let us do so. But let us not have one thing and name it the other; let us not corrupt the name we give to the various agencies that we have in the territory. In future, I hope that when we set up agencies that are once removed from departmental operations, we are open enough to call them statutory authorities if that is what they are.

Amendment agreed to.

Clause 1, as amended, agreed to.

Clause 2.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.18): I move:

> Page 1, line 6, omit the clause, substitute the following clause:
> "**2 Commencement**
> This Act commences on a day fixed by the Minister by notice in the Gazette.
> *Note 1* The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).
> *Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).
> *Note 3* If a provision has not commenced with 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).".

I present a supplementary explanatory memorandum to the amendment, which simply sets a commencement date for the legislation.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 14, by leave, taken together.

MR QUINLAN (6.19): Mr Speaker, I ask for leave to move amendments Nos 2 to 22, circulated in my name, together.

Leave granted.

MR QUINLAN: Thank you. The amendments are self-explanatory and consistent with the amendment to clause 1. I move:

Nos 2 to 22—
Page 4, line 1, Part 2, heading, omit "**CORPORATION**", substitute "**AUTHORITY**".
Clause 8—
Page 4—
Line 4, subclause (1), omit "Corporation (***ACTIC***)", substitute "Authority (***ACTIA***)".
Line 6, subclause (2), omit "ACTIC", substitute "ACTIA".
Clause 9—
Page 4, line 11, omit "ACTIC", substitute "ACTIA".
Clause 10—
Page 4, line 29, subclause (1), omit "ACTIC", substitute "ACTIA".
Page 5—
Line 2, subclause (2), omit "ACTIC", substitute "ACTIA".
Line 4, subclause (3), omit "ACTIC", substitute "ACTIA".
Line 5, subclause (4), omit "ACTIC", substitute "ACTIA".
Line 7, subclause (5), omit "ACTIC", substitute "ACTIA".
Line 8, subclause (6), omit "ACTIC", substitute "ACTIA".
Clause 11—
Page 5—
Line 13, subclause (1), omit "ACTIC", substitute "ACTIA".
Line 20, paragraph (4) (b), omit "ACTIC", substitute "ACTIA".
Line 24, subclause (5), definition of ***Territory entity***, omit "ACTIC", substitute "ACTIA".
Clause 12—
Page 5—
Line 25, heading, omit "**ACTIC**", substitute "**ACTIA**".
Line 26, subclause (1), omit "ACTIC", substitute "ACTIA".
Lines 29 and 30, paragraphs (2) (a) and (b), omit "ACTIC", substitute "ACTIA".
Page 6—
Line 1, paragraph (2) (c), omit "ACTIC", substitute "ACTIA".
Line 4, subclause (4), omit "ACTIC", substitute "ACTIA".
Line 7, paragraph (5) (b), omit "ACTIC", substitute "ACTIA".
Clause 13—
Page 6, lines 10 and 11, subclause (1), omit "ACTIC", substitute "ACTIA".
Clause 14—
Page 6, line 17, omit "ACTIC", substitute "ACTIA".

Amendments agreed to.

Clauses 3 to 14, as amended, agreed to.

Clause 15.

Amendment (**Mr Quinlan's**) agreed to:

No 23—
Page 6, lines 20 and 23, subclause (1), omit "ACTIC", substitute "ACTIA".

MR QUINLAN (6.20): I move amendment No 24:

> No 24—
> Page 6, line 26, add the following new subclauses:
> "**(3)** ACTIA must, within 6 days of giving an indemnity to a third-party, give the Minister a copy of the indemnity.
> **(4)** The Minister must present to the Legislative Assembly a copy of the indemnity within 6 sitting days of receiving it.
> **(5)** If the first day on which the copy of the indemnity may be presented to the Legislative Assembly is more than 14 days after the day on which it was given to the Minister, the Minister must cause a copy of the indemnity to be made available to the members of the Legislative Assembly within those 14 days.".

This amendment requires the minister to advise the Assembly of indemnities given to third parties. This is a reasonably serious question. Given that we have a full suite of processes whereby government reports to the Assembly, particularly on potential and contingent commitments that it has made, I think it is appropriate that those indemnities should be advised to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.22): Mr Speaker, I have a grave problem with the principle of what Mr Quinlan is attempting to do. Accountability is not something which, as I said earlier today, we shy away from. But there are two problems with this. One is, I suppose, a tangential issue. What exactly are members going to do with the information? How will it help them to know that an indemnity has been given?

I point out that there are large numbers of cases at the moment of documents, which apparently are never sought and never read, being tabled in this place. Each sitting day, and certainly at the beginning of each sitting fortnight, I as Treasurer table a large wad of papers. Relatively few of those papers are ever sought by members of the Assembly. There is an administrative cost in producing those papers all the time, a cost which is now very considerable. Members drew attention to that in the last Estimates Committee hearings. Very little of the mountain of stuff which is tabled all the time is being sought by members. I wonder who is going to read the indemnities provided by the ACT Insurance Authority?

The second point is that there is a practical problem. I am advised that there are several hundred indemnities granted by the ACT in any given year. Indemnities are not only provided to people who are operating at venues where, for example, major sporting events such as the Olympic Games are taking place. Indemnities are provided in all sorts of circumstances. For example, when the Department of Urban Services asks for permission to set up a display in the Canberra Centre for National Road Safety Week, the Centre managers will generally say to us, "We will need to have an insurance cover for the eventuality that one of the displays might fall over and hit a shopper and injure them." We say, "We don't actually insure, we don't actually take out insurance policies. We are a self-insuring entity but we will provide an indemnity to you, Canberra Centre, in the event that that display topples over."

Given the number of activities the government is involved with across the territory, there are literally hundreds of indemnities given every year. I have to ask the Assembly: what value is there in tabling, as we would every day we come to this place, another wad of

papers relating to indemnities the government has given to cover the activities of some agency or other of the government at shopping centres, local schools or whatever out in the community?

Mr Kaine: I have got enough paper already, Mr Attorney.

MR HUMPHRIES: I am sure members have enough paper already, and indemnities would add to that.

Mr Speaker, I am perfectly happy to give an undertaking to supply, on an annual basis, a list of indemnities to members. Perhaps, this list could contain indemnities above a certain level. Members might like to think about what would be an appropriate threshold. I do not think it would be necessary to include indemnities of several hundred dollars. I would be happy to table an annual summary of indemnities above a certain level. But it would be, I suggest, extremely unhelpful to members in this place to be tabling, as we see being done every day, another wad of indemnities provided by the Insurance Authority.

MR QUINLAN (6.25): I would be very happy to review a proposal put forward by the Treasurer to rationalise the amount of material—including the material that will be required if my amendment is accepted—that is presented in this place from time to time. I recognised fairly early in the piece when I came to this place that it is the role of government to keep oppositions and non-government members busy by giving them wads of paper to look at, and that is still happening.

I do not think we can say that we will stop making a lot of paper available. What we need to do is say that if too much paper is coming into the place and if the cost is becoming prohibitive, there should be some rational and sensible process of examining the paper flow and the type of paper that comes through the place.

Ms Carnell's trip to Brunei is an example of too much paper coming through this place. So you do not have to look beyond what has happened today to appreciate how much paper flows through this place. While I am on my feet, Mr Speaker, I would like to make an apology. I made some derogatory comments about Ms Carnell's trip to Brunei and I now would like to formally apologise to the poor person who had to put the paper together to rationalise that trip. Perhaps my criticisms had something to do with the need for that rationalisation.

If we are to rationalise the paper flow in this place, let us not do that on a piecemeal basis. Let is take a good look at what comes in, what government puts forward and what is required to be put forward. I believe that if we are making commitments in respect of indemnity that could expose the government and the people, the taxpayers of the ACT, to considerable liability at some given time, then we should be advised.

I would be very happy at a later date, given the argument that the Treasurer has put forward, to entertain a further amendment to this legislation to place some value on the level of indemnity. But at this point I stand by the amendment that has been moved.

MS TUCKER (6.28): I would like to comment on the two arguments that have been put. I am just wondering if what I am about to suggest might be a way around this problem. I do not know if we can do this tonight—we might need to adjourn the debate—but instead of saying that the minister "must present to the Legislative Assembly a copy indemnity within six sitting days of receiving it", could you say "must present to the Legislative Assembly notice of the indemnity"? Mr Humphries spoke about producing an annual list. But if you gave notice of an indemnity to the Assembly within six sitting days, we could then look at it if we needed to. Members will know what has happened and they will be given the right to look at the information. Minister, you are not making it disallowable, are you? It is just about information?

Mr Humphries: That is right.

MS TUCKER: What I have suggested could be a possible way around it, but I do not know that we can whip up an amendment at this point in time. Could the Attorney respond to that.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.29): I think much of what Ms Tucker has suggested is actually going to happen anyway as a result of Mr Quinlan's amendment. I do not know whether Mr Quinlan wants me to table the full indemnity document.

Mr Quinlan: No.

MR HUMPHRIES: Just a notice. Well, it is going to happen anyway. I will be tabling the notices of all the indemnities which have been offered in the preceding three weeks to a sitting.

Ms Tucker: It says "a copy of the indemnity".

MR HUMPHRIES: Well, that seems more onerous than I had first imagined. Every sitting week we will be sending out a pile that potentially could be like the one that is now in front of me, and some of those are quite thick documents. To be perfectly frank, I think that is unnecessary.

MR QUINLAN (6.30): Based on that information, I will withdraw the amendment. I give notice that I may come forward with another amendment at some future date. But I am not interested in reading the amount of paper that comes through this place. I am quite happy to be reasonable in this exercise. I seek leave to withdraw my amendment.

Leave granted.

Amendment, by leave, withdrawn.

Clause 15, as amended, agreed to.

Sitting suspended from 6.31 to 8.00 pm

Clauses 16 and 17, by leave, taken together.

MR QUINLAN (8.04): Mr Speaker, I ask for leave to move amendments Nos 25 to 27 circulated in my name together.

Leave granted.

MR QUINLAN: These are only name changes. I move:

> Nos 25 to 27—
> Clause 16—
> Page 6, line 29, omit "ACTIC", substitute "ACTIA".
> Clause 17—
> Page 7, line 3, subclause (1), omit "ACTIC", substitute "ACTIA".
> Page 7, lines 5 and 6, paragraphs (2) (a) and (b), omit "ACTIC", substitute "ACTIA".

Amendments agreed to.

Clauses 16 and 17, as amended, agreed to.

Clause 18.

Amendment (**Mr Quinlan's**) agreed to:

> No 28—
> Page 7, line 9, omit "ACTIC", substitute "ACTIA".

MR QUINLAN (8.05): Mr Speaker, I move amendment No 29 circulated in my name. It says:

> No 29—
> Page 7, line 10, paragraph (a), omit "5", substitute "3".

This is the first of a number of amendments that I alluded to in the in-principle stage, Mr Speaker, which relate to reducing the number of members on the board of the insurance authority from six to four. As it is set out in the bill, because the general manager is included, we would end up with two specialist members on the board and three client representatives, or two client representatives and the chief executive or his nominee. One presumes from the way this legislation is written in relation to the chief executive that it is sufficient to identify the chief executive of the ACT administration. It is not quite clear to me, but I am taking that bit on face value.

We would like to reduce the board to four. The board would then be two specialists, a nominee of the chief executive of the administration, one presumes, and the general manager who would be appointed by the other three anyway. That is sufficient, I think, to manage a board with such fairly precise functions in front of it. I would like to think that we ended up with a board that was not dominated by the clientele; that we ended up with a captive insurer which was distinct from the administration and took its decisions in relation to what it does in the best interest of its function, insurance, as opposed to having that extended input from the client base.

I do not want to refer particularly to heads of departments or whoever might be put forward as client members, but we have seen, and will see in the future, no doubt, administrators with their own priorities. I think that if we are in the process of setting up a distinct and separate insurance operation, then that should be reflected in the board itself. I commend the change to the Assembly.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.09): Mr Speaker, the advice I have received from treasury is that the structure as proposed in the present bill is to be preferred. As I understand it, the opposition is concerned about the idea of having client members, people from client organisations, sitting on the board with the specialists, the people with particular qualifications in insurance and the general manager and one other person. In a sense the reason the government is proposing to have client members on the board is because this is not an insurance company in the ordinary commercial sense of the word. Normally a corporation's or a company's principal objective is to maximise the return for the shareholder interests of the company. You are meant to conduct the business in such a way as to maximise the profitability of what the corporation does—

Mr Quinlan: You are not demonstrating some hostility towards the private sector here, are you, Mr Humphries?

MR HUMPHRIES: Not at all. On the contrary. In a sense you are saying that the clients should not be on the board because that is not the way it is normally done in the corporate sense. You before were arguing that this is not an ordinary corporate body. This is not an ordinary corporate body; this is a different kind of body. The Assembly has now decided that this is in fact a body which is of a different nature. It is a body which is internal to the ACT government operations.

What the bill is designed to do in this respect is to allow the interests of the clients themselves to be focused on in the way in which the authority operates. Having client members on this authority board is a way of allowing the authority to focus on the needs of the clients. That is what the board is about. The captive insurer is not about meeting the needs of a government shareholder who wants a profit out of this organisation. This is not about a government trading enterprise designed to maximise profit for government. It is about getting the best possible arrangement in insurance terms for client agencies, for the people who require the insurance. In that sense it is less like a corporation and it is more like a mutual or cooperative.

Mr Quinlan: But do not tell the insurance industry out there. Otherwise they will not accommodate it.

MR HUMPHRIES: Mr Quinlan smirks. I said this is a hybrid body, and this is the respect in which it is more like a body which is designed to meet the needs of its members. It is a mutual organisation rather than an organisation designed to maximise profit. Mr Speaker, I think it is important for that reason that the clients of the organisation are represented on that body. The inclusion of two client members is a signal to the agencies that the ACT government's insurance board is inclusive of their needs. It is about focusing on what is going to be best from their point of view.

Why shouldn't they be there on the board if that is what is being focused on? Who is better to articulate the needs of client organisations within the ACT government than the clients themselves?

What is the opposition's interest in having a smaller, more streamlined board? I think there is a greater interest in having a board which is capable of identifying and addressing the needs of people

across the board whose interests the captive insurer is to serve. And whose interests is the captive insurer to serve? The interests of the client agencies within the ACT government.

Mr Quinlan thinks this should be basically a body dominated by outside experts. Well, I think he has missed the point of the objective. It is to create a body, a captive insurer, with a capacity to focus on getting the best deal for the insurance needs of areas of ACT government operations, and I think for that reason it ought to have representatives on it of those very organisations. If you have an organisation which is in the nature of a cooperative, which in this respect the organisation is, then you appropriately have the members of the organisation on the board. This Assembly from time to time has nominated boards with community representatives on them because we have argued that the community's interest has to be reflected in the operation of the boards.

Mr Quinlan: Majority community representatives?

MR HUMPHRIES: No, we are not proposing a majority of members from the client agencies here either. Only two of the six are to be from the client agencies. The government member there would be a representative of treasury and would have an interest in the operation.

Mr Quinlan: Gary—

MR HUMPHRIES: You can call people names, Mr Quinlan, but I am running a serious argument here.

Mr Quinlan: I called you Gary.

MR HUMPHRIES: It is an important argument. Treasury tells me that they believe the best operation of this organisation will be where the clients have a say in what the organisation is doing for them. If we set up boards and authorities in the ACT with representatives of the community on them because we want the community interest to be represented, fine. In this case the interest which is being catered for is the interest of the agencies, and therefore they ought to be on the authority, Mr Speaker.

MS TUCKER (8.15): I have listened to the arguments and Mr Humphries and Mr Quinlan just swap positions. I am going to take Mr Quinlan's amendment on the name change because that is about the fact that this is not going to work as a normal organisation which is maximising returns to shareholders, but I will support Mr Humphries' arrangements for greater membership from the agencies because I believe that is about ensuring that they respond adequately to the needs of the government agencies, as he has just argued, clearly.

The presence of two specialist members on the board does provide a balance to the possibility of collusion between the government agencies, so it seems consistent to have supported Mr Quinlan's name change but your arrangement on the board.

MR QUINLAN (8.16): I am not clear on what Ms Tucker said in relation to collusion and then still supporting the reduced board.

Ms Tucker: No, I said it would stop collusion because you have the independent members there, the professionals.

MR QUINLAN: Okay. I will wind up briefly by saying I concede that the function of this enterprise is to meet the needs of the client, but it is to meet the insurance needs of the client which will at times be quite distinct from the overall needs and objectives of the particular agency or department that they represent.

What I was genuinely trying to create in this chain was a balanced process whereby at the bottom line you had the organisation, the insurance enterprise, bargaining and negotiating with clients, and that would be a balanced process because the insurance corporation would be focusing quite rightly on insurance and the clients would be focusing on their overall objectives at the end of the day. So some clients who may be on relatively short-term contracts and have relatively short-term horizons in relation to how they go about their business would not take necessarily that short-term view of the way we handle our risk management, which is what this is about.

I rather thought that what Mr Humphries said was self-contradictory, or at least contradictory to what he has said previously in relation to what he wanted from this corporation and the claims that he made about setting this up so that it would earn the respect of the wider industry and be able to treat with the wider industry from a position of relative strength; but then, on the other hand, it is now going to be totally focused inward. Before I close I invite Mr Kaine to give some indication as to whether or not he supports this amendment. We might save having to have a division.

MR RUGENDYKE (8.19): To clarify the situation for the benefit of Mr Quinlan, I will not be supporting the amendment.

Amendment negatived.

Clause 18, as amended, agreed to.

Clauses 19 to 27, by leave, taken together and agreed to.

Clause 28.

Amendment (**Mr Quinlan's**) proposed:

> No 34—
> Page 11, line 10, subclause (5), omit the subclause, substitute the following subclause:
> "**(5)** The chairperson must, within 14 days after the end of each financial year, give the Minister a statement of any disclosure of interest made under subsection (2).

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.22): Mr Speaker, we will support this amendment. It basically allows for me, the minister, to receive notices of disclosure of interest, whether I want them or not. I do not mind, I suppose, so long as they do not come too thick and fast.

Amendment agreed to.

Clause 28, as amended, agreed to.

Clauses 29 to 31, by leave, taken together.

Amendments (**Mr Quinlan's**), by leave, agreed to:

> Nos 35 to 37—
> Clause 29—
> Page 12, line 9, subclause (3), omit "ACTIC", substitute "ACTIA".
> Clause 30—
> Page 12, line 13, paragraph (1) (a), omit "ACTIC's", substitute "ACTIA's".
> Clause 31—
> Page 12, line 21, omit "ACTIC", substitute "ACTIA".

Clauses 29 to 31, as amended, agreed to.

Clause 32.

Amendment (**Mr Quinlan's**) agreed to:

> No 38—
> Page 12, line 24, omit "ACTIC", substitute " **(1)** ACTIA".

Amendment (**Mr Quinlan's**) proposed:

> No 39—
> Page 12, line 24, add the following subclause:
> "**(2)** Subsection (1) does not confer on ACTIA a power to enter into a contract of employment.".

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.24): The government will not oppose this. Our view is that it is probably unnecessary given that clause 31 provides that the staff are to be employed under the Public Sector Management Act. Clause 32 adds that consultants may be engaged. For the sake of confirming what is, I think, evident in the bill, we do not oppose the amendment.

Amendment agreed to.

Clause 32, as amended, agreed to.

Clauses 33 to 40, by leave, taken together.

Amendments (**Mr Quinlan's**), by leave, agreed to:

Nos 40 to 59—
Clause 33—
Page 13—
Line 3, subclause (1), omit "ACTIC", substitute "ACTIA".
Line 5, subclause (2), omit "ACTIC", substitute "ACTIA".
Line 8, subclause (3), omit "ACTIC", substitute "ACTIA".
Clause 34—
Page 13—
Line 20, subclause (1), omit "ACTIC", substitute "ACTIA".
Lines 22 and 23, subclause (2), omit "ACTIC", substitute "ACTIA".
Clause 36—
Page 14—
Line 2, heading, omit "**ACTIC**", substitute "**ACTIA**".
Line 4, subclause (1), omit "ACTIC", substitute "ACTIA".
Line 6, subclause (2), omit "ACTIC", substitute "ACTIA".
Lines 7 and 11, subclause (3), omit "ACTIC", substitute "ACTIA".
Clause 37—
Page 14, line 22, subclause (1), omit "ACTIC", substitute "ACTIA".
Clause 38—
Page 15—
Lines 5 and 6, paragraphs (2) (a) and (b), omit "ACTIC", substitute "ACTIA".
Line 11, subclause (3), omit "ACTIC", substitute "ACTIA".
Line 16, paragraph (4) (c), omit "ACTIC", substitute "ACTIA".
Clause 39—
Page 15—
Line 21, subclause (1), omit "ACTIC", substitute "ACTIA".
Lines 23 and 24, subclause (2), omit "ACTIC", substitute "ACTIA".
Lines 26 and 27, subclause (3), omit "ACTIC", substitute "ACTIA".
Line 30, subclause (4), omit "ACTIC", substitute "ACTIA".
Line 33, subclause (5), omit "ACTIC", substitute "ACTIA".
Page 16—
Line 2, subclause (6), omit "ACTIC", substitute "ACTIA".
Line 3, subclause (7), omit "ACTIC", substitute "ACTIA".

Clauses 33 to 40, as amended, agreed to.

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

Amendments (**Mr Quinlan's**), by leave, agreed to:

Nos 60 to 63—
Dictionary—Page 17—
Line 2, definition of ***ACTIC***, omit the definition, substitute the following definition:
"***ACTIA*** means the Australian Capital Territory Insurance Authority.".
Line 4, definition of ***board***, omit "ACTIC", substitute "ACTIA".
Line 4, definition of ***general manager***, omit "ACTIC", substitute "ACTIA".
Page 1, long title, omit "**Insurance Corporation (ACTIC)**", substitute "**Insurance Authority (ACTIA)**".

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

Bill, as amended, agreed to.

DUTIES AMENDMENT BILL 2000 (NO 3)

Debate resumed from 29 June 2000, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

MR QUINLAN (8.26): Mr Speaker, we are happy to support this bill as it stands. As far as I can see, these generally are administrative changes that have been rendered necessary either by external change or by the application of a little commonsense.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.27), in reply: I thank the opposition for its support for the bill, Mr Speaker.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

TERRITORY OWNED CORPORATIONS AMENDMENT BILL 2000

Debate resumed from 30 March 2000, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

MR QUINLAN (8.28): I will talk slowly as I dig among my papers to find this bill.

MR SPEAKER: I wish you would and then we will not have any interjections.

Mr Moore: Ted, this one says "omit CanDeliver".

MR QUINLAN: Yes. Mr Speaker, this bill effectively signs off on the fate of CanDeliver, a sorry tale in its own right. It is interesting to note that on the notice paper for today—we still have not got to it—order of the day No 4 is public accounts report No 17 which relates to financial audits for the year ended June 1998. We still have not closed off—

Mr Moore: We haven't delivered too well either.

Mr Kaine: We are getting rid of an empty shell, Ted.

MR QUINLAN: Yes. I have to say that that particular report—

MR SPEAKER: Order, Mr Quinlan! You must not pre-empt debate on matters on the notice paper.

Mr Moore: Thank you, Mr Speaker. I was going to take that point of order and stop him in his tracks.

MR QUINLAN: I was just letting members know that that has been around since April 1999, Michael. It comes from my very efficient and effective committee. That report does contain a little history because it summarises annual reports. In amongst it are comments upon the operation of CanDeliver back in 1997-98.

I have a little synopsis of the government's response to our report on CanDeliver for that time. You will be happy to know that, at least back then, optimism reigned supreme. CanDeliver's result was considered acceptable, given that the company had entered a new and very competitive market without an established business or client base and limited capital. There might hang the tale.

I think all we can really say of CanDeliver—and it is a bit sad to see this in this particular week, Mr Speaker—is that it is another government enterprise upon which there are the fingerprints of people who frequent this Assembly. It failed. I am sorry to say that this is another black mark on the capacity of this government to do business. All we can say, I guess, is that it seemed like a good idea at the time.

Mr Humphries: It was a good idea.

MR QUINLAN: Yes. I believe, Mr Speaker, that it could have been a good idea if we had had better management and better direction from the government.

Mr Humphries: Oh, it's the government's fault it didn't work.

MR QUINLAN: Absolutely. As I said, it just happens to be a sorry week. We see an organisation pass into obscurity, having lost us a few bob along the way. With regret, Mr Speaker, we have to support the bill.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.32), in reply: Mr Speaker, I think CanDeliver was successful in the objective which it set out to achieve, which was to capture a proportion of outsourcing that was going on in Canberra at the time to the ACT private sector. It set out to do that, among other things, and it achieved that. The ABS figures on the extent of outsourcing and the extent of private sector take-up of outsourcing by ACT companies have demonstrated a very high degree of take-up by those companies of opportunities in the ACT, Mr Speaker, and I think we have much to thank CanDeliver for for that phenomenon.

Only yesterday the Chief Minister was making reference to the extraordinary growth in the IT sector in the ACT, which, as those opposite interjected, was a product of Commonwealth outsourcing. What has been described as a uniformly bad thing, namely outsourcing, in fact in this case has produced some wonderfully good dividends for the ACT community. I think CanDeliver played a role in that because CanDeliver was able

to harness a number of organisations to cooperate and be in a position to win tenders, whether it was under the CanDeliver aegis or in some other way.

Mr Berry: What a success story!

MR HUMPHRIES: Mr Speaker, I think it was successful. I think we need to be able to notch this up as a valuable opportunity which was at least partly realised by the ACT. I thank members for their support for the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

TAXATION ADMINISTRATION AMENDMENT BILL 2000

Debate resumed from 29 June 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR QUINLAN (8.35): Again, Mr Speaker, we will be supporting this bill. It is made necessary by changes to certain links in relation to the definition of interest payable and tax defaults. It does contain the redefinition of some penalties. It is pretty well mechanical stuff.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.36), in reply: I thank Mr Quinlan for his support. The bill will allow the interest rate on unpaid taxes to be reviewed automatically every six months. It is administratively a more efficient option than the current biannual preparation and publication of ministerial orders.

The Taxation Administration Amendment Bill will also bring about a fairer and more moderate penalty regime for defaulting taxpayers than the present one. Amendments to the penalty provisions provide a fall-back position which is acceptable to taxpayers and the government where it is too costly to try to prove intent. Additionally, this complements government policy on minimising the effects of legislation on taxpayers' rights. 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.

CRIMES (AMENDMENT) BILL (NO 4) 1998

Debate resumed from 28 May 1998, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (8.37): Mr Speaker, the Attorney-General introduced this bill on 28 May 1998 in the wake of the dismissal of assault charges against a then prominent Canberra footballer. It will be recalled that the court acquitted on the basis that he was too intoxicated to have formed an intent to commit the offence. Although there was some criticism of the prosecution's response to the defence argument, the decision was consistent with the High Court precedent.

This bill inserts a new part into the Crimes Act 1900 to provide that evidence of self-induced intoxication cannot be considered in determining whether an act or omission that is an element of an offence was intended or voluntary. In other words, it removes what was colloquially known as the drunk's defence.

The Standing Committee on Justice and Community Safety, in report No 10, closely examined the bill and the surrounding issues. The committee also examined the common law and the approaches taken in other jurisdictions. It reported that, in summary, it found no evidence of superior alternatives to the government's bill. It concluded that this bill is an appropriate and effective response to the availability of the drunk's defence in the ACT. The committee recommended that the Assembly support the bill and that the government monitor its operation and report back to the Assembly in three years time.

The proposed amendment is intended to give effect to model legislation agreed to by attorneys in 1995. However, even though each state except Victoria has some legislation, there has not been a common approach across all Australian jurisdictions. Some have followed the UK model of amending the law in relation to specific intent, and others make no distinction between specific intent and basic intent. This has led to the committee's view that there is no superior alternative to the government's bill which ensures that people who choose to become intoxicated will be held accountable for their actions. It tells potentially self-induced intoxicated defenders that criminal acts committed in that state will not be tolerated. It gives recognition to the rights of victims of crime committed by intoxicated individuals, and protects the community from intoxicated individuals.

MR SPEAKER: Order! There is far too much audible conversation in the chamber. Mr Stanhope has the call.

MR STANHOPE: Thank you, Mr Speaker. On the basis of those four particular points identified by the committee and their conclusion that there was no superior alternative to the government's bill, the Labor Party is pleased to support this legislation. We accept that the community has a right to be protected from loutish drunken behaviour. Individuals have a right not only to be protected from the criminal actions of people who are intoxicated. If they are subjected to that sort of behaviour they have a right to know that the offender or the perpetrator will not simply walk away and attempt to wash their

hands of their personal responsibility for their actions by claiming that they were simply too drunk to know what they were doing.

This is, and has been, a quite vexed area of the law. Questions around intent and criminal action are quite basic and central to aspects of criminal responsibility in relation to this issue of people drinking themselves senseless, committing criminal acts and then pleading not to be held accountable or responsible for their acts. This needs to be addressed and we believe this is an appropriate response.

MS TUCKER (8.41): The Greens are supporting this bill but we have a few concerns. This bill will limit the number of offences where criminal responsibility can be avoided on the basis of self-intoxication. It seems to be a small step recently taken which will achieve the goal of moving towards a legal framework that better reflects community views on the so-called drunk's defence.

As the Women's Legal Centre said in their submission to the JACS committee inquiry, it is counterintuitive and counterproductive to escape criminal responsibility for allowing yourself to loose control. It seems that this bill will move towards this end but without upsetting the legal principle which requires that a person know that they are doing wrong in order to be convicted of doing the wrong. The Greens will support this move.

Although I do not want to discuss here the pros and cons of all the options which have been put forward by the Attorney-General and in submissions to the committee and from other jurisdictions, I do have a few comments to make on some of the issues raised. Several submissions pointed out that this kind of change would need to be accompanied by a good community education campaign if it is to achieve a cultural change in attitudes to intoxication. I also agree with the Attorney-General's point that the publicity surrounding the Nadruku case may well have made more people aware that there was such a thing as a defence based on self-intoxication. I gather from what the Attorney-General said that he too will be working to ensure that an education campaign will surround this change in the law to counteract any impressions left by that case. I do not expect that this change will receive the same level of intensity or length of attention though, so we would like a commitment to this kind of education.

I would also like to point out to this government that it will be difficult, I suppose, for the alcohol and drug program to do this work now that they have implemented last year's review and do not have staff dedicated specifically to education programs as they did in the past. Mr Berry may remember several years ago presenting an award to a community education campaign based on a series of posters with messages around drinking and crime which the alcohol and drug program's education unit produced for the AFP. I would like to think that the unit could do similar work on this point of responsibility, but I fear they are no longer organised or resourced in a way that will allow them to do the same quality of work. In any case, if this law is to have a fair application, the government must find some way to do this work. It is one thing having ignorance as no excuse but it is another to make no effort to make sure that the change is known.

Apart from the need for education, several other suggestions were made which I would like to see some attention given to in the future. The suggestion to enable judges to require those acquitted of offences purely on the basis of self-induced intoxication to seek treatment with alcohol and/or anger management programs is answered by the

government as something that we already have in the ACT. I am aware that we have this type of program for people who have been convicted and who are bailed awaiting sentencing and as a sentencing alternative. I am aware that there is a new program, CADAS, which will add to the range of options, a shorter term education program, as distinct from abstinent-based rehabilitation, but I would like to hear some more about how judges could refer someone who had been acquitted on the intoxication defence to this kind of program. If in fact the existing programs do not or cannot deal with people who have been acquitted, I hope the government will make an amendment to do so.

There is also a suggestion for an additional provision to deal with the situation where the attempt to commit the offence was formed and then the person becomes intoxicated to assist themselves to carry out the act. The New South Wales Crimes Act includes a provision which deals with this at subsection 428 (c), a schedule of specific intent offences as per New South Wales legislation to prevent ad hoc decisions about what involves specific intent.

Further, the Ombudsman recommended that the bill address specifically the interaction of drugs, alcohol and other substances, and the question of whether intoxication should be an aggravating or a mitigating factor in relation to the penalty for an offence. This has not been done, so I would hope that at least there will be monitoring of this possibility as part of the monitoring of the effects of the legislation.

Finally, my office has been assured that there will not be confusion over the meaning of non-prescription drugs in the absence of a definition in the bill because there is a context referring to medical therapy and a paragraph in the EM to this effect. However, I hope it will be noted if, following the manufacturer's directions for the proper amount, speed, for instance, should be used as a defence for some act or omission.

With these points to be watched and noted, I would like to support the bill. I congratulate the minister and the committee for consulting and finally bringing this to the vote.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (8.46), in reply: Mr Speaker, I thank members for their support for the bill. I am pleased that after a fairly long time since this issue first arose in the public arena in the ACT there has been some debate and we now have a chance to reflect a broader community concern about this particular defence being available in our courts. We are now closing off what I think would fairly be described as a loophole.

Mr Speaker, there is a respectable intellectual argument that says that there ought to be something like a drunk's defence when a person is in a state of sufficient intoxication that they cannot realise that they are doing certain things. In other circumstances it is reasonable to exonerate that person from the consequences of their actions. For example, if I sleepwalk and whilst sleepwalking down a street push someone into a stormwater drain and drown them, logically I would not be held responsible for my actions. I would not be charged with a crime. Similarly, if the person is sedated in a hospital operating theatre and lashes out and hits somebody nearby, they clearly will not be charged with assault because they are not sufficiently capable of forming an intent to commit the act.

The difference between those situations and the one that arises here is that a person takes a deliberate step to provide the opportunity for them to enter into that state of intoxication such as to obviate their capacity to exercise their own will and make and form judgments about what they do. In those circumstances, Mr Speaker, it is appropriate for us to step back from the act itself, look at what the person does that leads them to that state of mental incapacity and judge the action on the basis of the reason why they took that first step. They took the step of self-intoxication that leads to that position. So it is appropriate for us to say tonight that it is no longer to be the case in the ACT common law that a person may plead their own self-induced intoxication as a basis for their incapacity to assume responsibility for their own actions, albeit undertaken while they were heavily intoxicated.

It is worth reminding people, Mr Speaker, that this is a defence which is not commonly available. It is not commonly pleaded in our courts, and it is even less commonly accepted in our courts as a defence. To my knowledge, Mr Speaker, it has not been successfully used in an ACT court since the Nadruku decision three or four years ago. Notwithstanding the rarity of its employ, it should still be wiped from the law of the territory, and that is what we do tonight.

In a sense, Mr Speaker, we send a signal tonight about the responsibility that people take when they use intoxicating substances, whether they be alcohol or other drugs. For too long defendants have been able to say in our courts, successful or unsuccessfully, "Don't blame me. I was drunk. I didn't know what I was doing." Too many partners in relationships in this community have had to put up with abuse from a drunken spouse, only to be told the next day by that spouse, "Sorry darling, I didn't mean it. It was the drink that made me do it." Too many have been assaulted by drunks in pubs and nightclubs who later say, "I didn't know what came over me. It's not my fault. I was just a bit too peed."

Mr Speaker, I note that recently in Germany there were three neo-Nazis who were convicted of bashing to death an immigrant while chanting Nazi slogans. Their defence was that they were very drunk at the time and really did not form the intention to kill this person; they just wanted to give him a bit of a beating up. Rightly, in that country, the court rejected that defence, and I think we should make sure it is not a defence available in any meaningful sense in ACT courts either.

It is worth noting that proposed section 428XB ensures that the bill will not apply to people who become unintentionally intoxicated. For example, the circumstances in which intoxication is not regarded as self-induced is listed in subsection (2) of that section. They include where a person takes medication in accordance with directions and suffers intoxication as a side effect, a situation where someone's food or drink is spiked, or where they are forced or tricked into becoming intoxicated, or who ingest the intoxicating substance accidentally. Those would be rare circumstances, Mr Speaker. No doubt some in our courts will attempt to argue those cases, but I think that as a result of what we do tonight by passing this bill such cases will be rather rarer.

We send an important signal tonight, Mr Speaker, that when people do get drunk or become intoxicated in some way they still bear a measure of responsibility for their actions. Whether they mean to do what they do or not, they still bear that responsibility.

Mr Berry: Unless they escape.

MR HUMPHRIES: That is right. They do not escape the consequences of their actions, Mr Speaker, and that is an appropriate position. I commend the bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

University of Canberra

MR STEFANIAK (Minister for Education) (8.53): Mr Speaker, I rise tonight in the adjournment debate to congratulate the University of Canberra on its 30th anniversary. This university was established in 1970. It was established as a college of advanced education, and after the Dawkins reforms in the late 1980s—I suppose we could call them reforms—it became a university. It was established to provide for gaps which the ANU did not provide for, and that is practical education specifically for jobs rather than a general academic education. It did a marvellous job of that as the Canberra College of Advanced Education.

In its 30 years it has produced some 40,000 graduates. It has a student population of around 9,000 at present. It is probably getting a bit closer to 10,000, 10 per cent of whom come from overseas. There are some 80 different nationalities who study at the University of Canberra. It is a well renowned university and has a great name, not only locally but also in the region, nationally and overseas. It runs teaching training programs and offshore programs from the university in a wide range of countries, including Singapore, Malaysia, China and several other places in our region.

It has done a lot in its 30 years. Many people have graduated from the place. In fact, I think there are a couple of members in this Assembly who are graduates of the University of Canberra. Mr Moore raises his arms almost in triumph. I think he got a degree there. I think Mr Corbell and Mr Quinlan are also graduates of the university.

I wish, Mr Speaker, that I could claim to be a graduate of the university. I suppose I can claim to be a foundation member in that when I was in Year 12 at Narrabundah High School in 1969 I helped build the foundations while on a holiday labouring job. So, whilst never having been a student there, I have been there on a number of occasions. I have played against their sporting teams. I can certainly attest to the great esprit de

corps that the university has had over the years, right from the time it was a college of advanced education until now.

Mr Speaker, I hope all members will join with me in congratulating the University of Canberra on its 30 years and wish its Vice-Chancellor, Don Aitkin, and its staff and students all the very best for the future. Happy birthday, University of Canberra.

Roadworks on Northbourne Avenue
Feel the Power Campaign

MR BERRY (8.56): Mr Speaker, I want to raise an issue in relation to roadworks on Northbourne Avenue. My office was notified about a constituent who had been kept awake when roadworks had continued all through the night on the weekend of 24 and 25 June. We raised the matter in question time here on 29 June, I think. The minister responded on 14 July. He advised that the contractor was required to comply with all legislation, including the Environment Protection Act. Compliance included the requirement to notify residents prior to the work. The minister conceded that this was not done. We are not aware whether any action was taken against the contractor for failure to comply, and it would be interesting to find out whether any action has been contemplated in that respect.

The minister advised that the failure to notify residents was corrected the following weekend when a letterbox drop was carried out on the other side of Northbourne Avenue. We are now told by a constituent on the other side of the road that the notification issue again was not dealt with correctly. He was not notified when the work commenced again. There is this continual failure that I would like the minister to have a look at and to advise me about the action that will be taken in relation to what seems to be continual failure to notify of noisy work.

The second thing I want to mention is this: we are constantly reminded of failed campaigns of the past. I have been advised in my office that, in race 8 at Wyong, Feel The Power ran stone motherless last. I am not sure of whether it was a galloper, a dog, a harness horse or a pacer. I also see, Mr Speaker, from a program on Channel 10 last night, that we are constantly being reminded of incidents in the past. I think we were reminded of Mrs Carnell's accident up the highway some time ago.

MR SPEAKER: Be careful.

MR BERRY: More Canberra bashing as a result of this Chief Minister's performance. So, Mr Speaker, Feel the Power. I hope the minister is able to fix up the problem at Northbourne Avenue. I would like to see the Canberra bashing stop, but I don't think it is ever going to while we have this Chief Minister.

Question resolved in the affirmative.

Assembly adjourned at 8.57 pm until Tuesday, 5 September 2000, at 10.30 am

ANSWERS TO QUESTIONS

Housing—Wall Insulation
(Question No 275)

Mr Berry asked the Minister for Urban Services, upon notice:

(1) Does the Government support the installation of wall insulation to existing houses as a measure to reduce greenhouse gas emissions;

(2) What programs, if any, has the Government, or any of its agencies, joined with the private sector to encourage this practice;

(3) What agencies have been involved with any such programs and with which companies;

(4) What estimate, if any, has made of the number of existing, houses which, with wall insulation would reduce greenhouse emissions;

(5) What estimates have been made on potential savings of greenhouse emissions from the installation of wall insulation in existing houses; and

(6) Which Ministers, if any, have engaged in public promotion of wall insulation in existing houses as an environmentally desirable outcome.

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

(1) Yes.

(2) The Government has set up the Energy Advisory Service to provide advice to ACT residents on ways in which to improve the energy efficiency of their houses, including advice on wall insulation products and service providers.
The Government, in conjunction with Just-Rite Insulation, has sought funding under the Australian Greenhouse Office Household Greenhouse Action Program for a pilot program to install wall insulation in 250 public housing properties.

(3) Government agencies involved in these programs are Environment ACT and ACT Housing.
The Energy Advisory Service is a joint initiative of Environment ACT and the Master Builders Association of the ACT. The Energy Advisory Service provides advice on the availability of products and service providers but does not recommend specific products or providers.
The ACT Housing submission for Australian Greenhouse Office funding was prepared in partnership with Just-Rite Insulation.

(4) It is estimated that at present approximately 30000 existing dwellings in the ACT are fitted with wall insulation.

(5) The extent of savings in greenhouse gas emissions resulting from the installation of wall insulation in an existing dwelling will depend on its energy rating, its size, household size and occupancy patterns, the type of space heating used and the space heating fuel source.

(6) All Government Ministers support the Government's greenhouse gas emission reduction initiatives. Specifically, I have been engaged in the public promotion of a range of measures to reduce household greenhouse gas emissions, including the retrofitting of wall insulation to existing houses. My Department regularly promotes the ACT Energy Advisory Service, which in turn promotes wall insulation.

ACT Housing—Properties
(Question No 277)

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

In relation to ACT Housing properties. For each of the following dwelling types, (a) two bedroom house, (b) three bedroom house and (c) four bedroom house, (d) bedsitter flats, (e) One, and (f) two bedroom flats, (g) one bedroom aged persons units, and (h) two bedroom aged persons units:

(1) What is the average wait time, per regional office area for properties as at 30 June in;
(i) 1996;
(ii) 1997;
(iii) 1998;
(iv) 1999; and
(v) 2000.

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

(1)
(i) ACT Housing did not collect data in this form in 1996 and is therefore unable to provide an answer.
(ii) ACT Housing did not collect data in this form in 1997 and is therefore unable to provide an answer.

The tables below detail the average allocation time in months for applicants allocated properties in the 12 months ending 30 June in the year specified.

(iii)

1998	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	18.4	19.6	26.0	17.3
(b) 3 Bed House	10.8	9.1	16.4	12.8
(c) 4 Bed House	14.2	17.3	20.9	16.3
(d) Bedsit	No Bedsits	4.6	No Bedsits	2.7
(e) 1 Bed Flat	24.6	17.3	28.1	16.5
(f) 2 Bed Flat	7.6	5.0	21.2	6.1
(g) 1 Bed OPA	19.2	22.8	38.0	24.1
(h) 2 Bed OPA	15.2	10.8	41.3	16.6

(iv)

1999	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	19.0	17.7	23.5	17.9
(b) 3 Bed House	10.1	8.7	14.3	12.2
(c) 4 Bed House	12.0	17.9	16.4	22.1
(d) Bedsit	No Bedsits	2.5	No Bedsits	1.3
(e) 1 Bed Flat	17.7	7.9	23.6	6.8
(f) 2 Bed Flat	8.6	4.1	16.8	3.1
(g) 1 Bed OPA	22.9	16.1	33.3	24.8
(h) 2 Bed OPA	25.6	9.4	32.0	20.4

(v)

2000	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	16.4	15.0	26.9	23.9
(b) 3 Bed House	12.1	12.6	16.1	9.5
(c) 4 Bed House	16.9	47.0	26.3	12.0
(d) Bedsit	No Bedsits	4.9	No Bedsits	3.2
(e) 1 Bed Flat	22.0	14.8	32.8	17.0
(f) 2 Bed Flat	10.2	5.8	21.8	4.2
(g) 1 Bed OPA	15.7	16.7	30.2	17.0
(h) 2 Bed OPA	10.9	11.6	33.3	18.1

Speed Cameras
(Question No 280)

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

In relation to speed cameras:

(1) Exactly where are the sites where speed cameras can be set up;
(2) What are the speed limits at each of these sites;
(3) How many speeding fines have been issued at each site since the introduction of speed cameras;
(4) What is the total revenue that has been collected from speed cameras for each site and in total.

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

(1)-(3) the attached table provides the information sought as at 30 June 2000.

(4) $1.194m is the total amount banked as at 30 June 2000. The revenue collected for each speed camera site is not readily available.

INFRINGEMENTS ISSUED EACH SITE LOCATION

Location	Location Description (1)	Posted Speed Limit (2)	No. of infringements issued (3)
SLS001	Adelaide Avenue between Hopetoun Circuit and Kent Street	80	878
SLS002	Antill Street between Northbourne and Federal Highway	60	980
SLS003	Athllon Drive between Beasley Street and Sulwood Drive	80	104
SLS004	Belconnen Way between Barry and Coulter Drives	80	740
SLS005	Bowen Drive between Brisbane and Kings Avenues	70	546
SLS006	Coppins Crossing Road between Uriarra Road and William Hovell Drive	80	78
SLS007	Drakeford Drive between Sulwood and Athllon Drives	80	83
SLS008	Erindale Drive between Sulwood Drive and Sternberg Crescent	80	201
SLS009	Florey Drive between Southern Cross and Ginninderra Drives	60	946
SLS010	Ginninderra Drive between Tillyard and Kingsford Smith Drives	80	255
SLS011	Ginninderra Drive between Ellenborough and Tucker Streets	80	875
SLS012	Gungahlin Drive between Wells Station Drive and Gundaroo Drive	80	45
SLS013	Hindmarsh Drive between Dalrymple Street and Jerrabomberra Avenue	80	440
SLS014	Hindmarsh Drive between Athllon and Melrose Drives	60	2645
SLS015	Kingsford Smith Drive between Kuringa Drive and Spalding Street	70	207
SLS016	Lady Denman Drive between Cotter Road and Barrenjoey Drive	70	298
SLS017	Long Gully Road between Erindale Drive and Mugga Lane	80	118
SLS018	Melrose Drive between Athllon and Hindmarsh Drives	60	2037
SLS019	Monaro Highway between Canberra Avenue and Hindmarsh Drive	100	17
SLS020	Monaro Highway between Hindmarsh and Isabella Drives	80	411
SLS021	Mugga Lane between Narrabundah Lane and Long Gully Road	80	69

SLS022	Northbourne Avenue	between Macarthur Avenue and Antill Street	70	699	
SLS023	Parkes Way	between Clunies Ross Street and Glenloch Interchange	90		292
SLS024	Tuggeranong Parkway	between Lakeside Interchange and Cotter Road	100		69
SLS025	Tuggeranong Parkway	between Cotter Road and Hindmarsh Drive	100		55
SLS026	Tuggeranong Parkway	between Hindmarsh and Sulwood Drives	100		7
SLS027	Yamba Drive	between Mawson Drive and Beasley Street	80	106	

ACT Housing—Properties
(Question No 283)

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

In relation to ACT Housing. properties. For each of the following dwelling types, (a) two bedroom house, (b) three bedroom house and (c) four bedroom house, (d) bedsitter flats, (e) One, and (f) two bedroom flats, (g) one bedroom aged persons units, and (h) two bedroom aged persons units:

(1) How many people were on the waiting list, by regional office area as at 30 June in;
(i) 1996;
(ii) 1997;
(iii) 1998;
(iv) 1999; and
(v) 2000.

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

(1)
(i) ACT Housing did not collect data in this form in 1996 and is therefore unable to provide an answer.
(ii) ACT Housing did not collect data in this form in 1997 and is therefore unable to provide an answer.

(iii) See table below.

1998	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	96	50	78	74
(b) 3 Bed House	263	94	211	149
(c) 4 Bed House	38	10	30	16
(d) Bedsit	No bedsits	132	No bedsits	337
(e) 1 Bed Flat	177	190	89	213
(f) 2 Bed Flat	119	198	66	235
(g) 1 Bed OPA	24	40	14	39
(h) 2 Bed OPA	8	20	6	18

(iv) See table below.

1999	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	169	93	172	134
(b) 3 Bed House	153	65	117	109
(c) 4 Bed House	13	5	15	13
(d) Bedsit	No bedsits	72	No bedsits	284
(e) 1 Bed Flat	339	221	202	86
(f) 2 Bed Flat	86	56	59	78
(g) 1 Bed OPA	47	73	30	85
(h) 2 Bed OPA	8	18	9	33

(v) See table below.

2000	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	153	93	141	125
(b) 3 Bed House	209	77	199	162
(c) 4 Bed House	46	17	60	48
(d) Bedsit	No bedsits	80	No bedsits	66
(e) 1 Bed Flat	354	283	157	400
(f) 2 Bed Flat	139	90	70	131
(g) 1 Bed OPA	46	35	24	63
(h) 2 Bed OPA	12	16	10	18

The above figures include both new applicants and those waiting for a transfer on the waiting list (including applicants waiting for priority assistance).

ACT Housing—Properties
(Question No 284)

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

In relation to ACT Housing properties. For each of the following dwelling types, (a) two bedroom house, (b) three bedroom house and (c) four bedroom house, (d) bedsitter flats, (e) One, and (0 two bedroom flats, (g) one bedroom aged persons units, and (h) two bedroom aged persons units:

(1) How many people were on the priority waiting list, by regional office area as at 30 June in;
(i) 1996;
(ii) 1997;
(iii) 1998;
(iv) 1999; and
(v) 2000.

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

(1)
(i) ACT Housing did not collect data in this form in 1996 and is therefore unable to provide an answer.
(ii) ACT Housing did not collect data in this form in 1997 and is therefore unable to provide an answer.

(iii) 1998—See below table.

1998	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	7	6	2	3
(b) 3 Bed House	42	18	29	29
(c) 4 Bed House	2	1	2	5
(d) Bedsit	No bedsits	15	No bedsits	11
(e) 1 Bed Flat	3	9	5	14
(f) 2 Bed Flat	23	37	6	36
(g) 1 Bed OPA	2	6	0	5
(h) 2 Bed OPA	1	3	0	6

(iv) 1999—See below table.

1999	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	3	2	0	5
(b) 3 Bed House	8	10	3	10
(c) 4 Bed House	1	0	0	1
(d) Bedsit	No bedsits	8	No bedsits	11
(e) 1 Bed Flat	6	6	6	1
(f) 2 Bed Flat	6	1	0	5
(g) 1 Bed OPA	2	9	0	5
(h) 2 Bed OPA	0	1	0	1

(v) 2000—See below table.

2000	Belconnen	City	Tuggeranong	Woden
(a) 2 Bed House	3	8	2	4
(b) 3 Bed House	18	7	29	16
(c) 4 Bed House	1	1	6	2
(d) Bedsit	No bedsits	12	No bedsits	13
(e) 1 Bed Flat	10	16	3	15
(f) 2 Bed Flat	20	17	7	34
(g) 1 Bed OPA	1	1	2	4
(h) 2 Bed OPA	1	2	1	1

The above figures include both new applicants and those waiting for a transfer on the priority waiting list.

Impulse Airlines
(Question No 285)

Mr Berry asked the Chief Minister, upon notice, on 10 July 2000:

"In relation to Tourism:

(1) Are you aware of concerns in the tourism industry about the decision by Impulse Airlines to cease paying commissions on regional air services;
(2) How do you plan to address and help resolve these problems; and
(3) Are you also aware that because Impulse Airlines is not a member of IATA, the insurer for the Australian Federation of Travel Agents, travellers with Impulse are not included in IATA's insurance cover."

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

(1) I am aware of the concerns expressed by travel agents that Impulse Airlines is no longer paying commissions. I have had representations from twelve travel agents to date, from locations including not only the ACT and east coast areas but also from Perth, Winnellie in the Northern Territory, Toowoomba and Port Pirie in South Australia, although Impulse does not have services to these locations.

These representations all raise much the same objections, which I understand were raised by the Australian Federation of Travel Agents Ltd (AFTA) in a recent letter to its members suggesting that they mount a letter-writing campaign. In that letter I understand that AFTA recommends to its members that they advise clients not to use Impulse, as long as Impulse refuses to pay commissions.

I understand that Impulse has no objection—and in fact, encourages—travel agents to add a fee to the Impulse fare when the agent does the booking. This is a much more transparent system for the client, who can make his or her own decision on whether that agent, or any agent, is providing value for money when they offer a booking service. I understand that some agents already work with Impulse on this basis.

Impulse believes that the greatest benefit to the customer is for Impulse to provide the lowest fare possible consistent with maintaining a viable business. In this context, the main benefit to the ACT and regional Australia is the provision of competitive air services. This will greatly increase the number of people who can afford to fly, and increase the business opportunities for travel agents in both country and city areas to provide value-added packages for clients.

In adopting this approach Impulse is providing greater transparency and client benefit in terms of lower airfares. I understand that Impulse continues to talk to AFTA in an attempt to reach a position which will be of benefit to both Impulse and the travelling public as well as travel agents and AFTA.

(2) The issue is essentially a commercial one. Clearly, it is not in Impulse's interests to put itself out of business. Impulse needs to make decisions on a commercial basis. We will continue to monitor developments in the industry as we have a stake in Impulse's continued ability to deliver benefits to the ACT community, but unless one of the parties misrepresents its position to the public I do not consider it appropriate for government to intervene.

(3) I am assured by Impulse that this is a non-issue. Travel agents belong to a client compensation program provided by IATA. I understand that this program protects clients who have booked packages which include accommodation through travel agents. If the travel agent goes out of business and the client stands to lose the money that they paid for the accommodation part of the package, the program reimburses the client for that part of the package. Impulse is not a travel agent and does not provide packages or book accommodation for its customers, so the cover provided by IATA is irrelevant.

The Impulse site does offer an accommodation booking service for Impulse clients. 1 am advised this is undertaken through a travel agent linked to the Impulse site. That travel agent belongs to IATA, and therefore accommodation booked through that agent is covered by his membership of IATA.

Bus Charters
(Question No 289)

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

In relation to buses chartered by ACT Government Departments for transport in the ACT:

(1) What bus charters have been arranged by each Government Department since the beginning of 1998;
(2) Which organisations were selected to provide these bus charters;
(3) Were the bus charters arranged as a result of an open tender process;
(4) Was ACTION invited to provide a quote or tender for these charters; and
(5) For those charters that were not provided by ACTION, why was ACTION not selected.

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

In responding to the Question on Notice it is important to note that the ACT Government has in place guidelines for the purchasing of services. These guidelines provide agencies with the parameters for purchasing goods and services. Attached is the ACT *Government Purchasing Policy and Principles Guidelines* for information (Attachment A).

The ACT Government purchasing benchmarks have been set to ensure that 'Local' suppliers are provided with the opportunity to quote for ACT Government business.

The information requested in the Question on Notice is firstly summarised by each Department with further information provided in the following tables.

Chief Minister's Department
In the period 1 January 1998 to 30 August 2000 there were 13 occasions of bus hire. Of these 12 were provided by ACTION and 1 was provided by the private sector.

Department of Treasury and Infrastructure
Treasury and Infrastructure have not used bus charter services over the requested period.

Department of Justice and Community Safety
Justice and Community Safety have not used bus charter services over the requested period.

Department of Urban Services
In the period 1 January 1998 to 30 August 2000 there were 85 occasions of bus hire. Of these 56 were provided by ACTION and 29 were provided by the private sector.

Sixteen of the hire services were by open tender and 69 were of a value less than $2,000. These 69 were let by quotation in accordance with the ACT Government Purchasing Policy.

Department of Education and Community Services
In the period 1 January 1998 to 30 August 2000 there were 16 contracts let for bus charters (excluding schools). Three contracts were won by ACTION, 13 by the private sector.

ACT Government schools use an average of 70 bus charters per day.

As these services are less than $2,000, one quote is required. Schools receive a telephone quote for each occasion of service.

Department of Health and Community Care
In the period 1 January 1998 to 30 August 2000 there were 313 occasions of bus hire. Of these 3 10 were provided by ACTION and 3 were provided by the private sector

Three hundred and ten services were provided by ACTION for Special Needs transport. This is by agreement with ACTION and ACT Community Care.

Chief Minister's Department

Year	Total number of charters for the year	Who provided the service	Tender	Open selected	Why ACTION was not
1998	**5**	ACTION	No	N/A	
1999	**3**	ACTION	No	N/A	
2000	**4**	ACTION provided 3 services	No		
		Murrays provided one service			

Department of Treasury and Infrastructure

Year	Total number of charters for the year	Who provided the service	Tender	Open selected	Why ACTION was not
1998	**Nil**	N/A	N/A	N/A	
1999	**Nil**	N/A	N/A	N/A	
2000	**Nil**	N/A	N/A	N/A	

Department of Justice and Community Safety

Year	Total number of charters for the year	Who provided the service	Tender	Open selected	Why ACTION was not
1998	**Nil**	N/A	N/A	N/A	
1999	**Nil**	N/A	N/A	N/A	
2000	**Nil**	N/A	N/A	N/A	

Department of Urban Services

Year	Total number of charters for the year	Who provided the service	Tender	Open selected	Why ACTION was not
1998	**36** (including 5 rural school bus services*)	ACTION provided 25 hire services Alpine Pacific Coaches AVIS Canberra Site Seeing CIT Hertz Keirs Coaches of Canberra Totalcare Fleet Transborder Express	**5 services were provided open tender** **31—were not open tender** (cost less than $2k at least one quote obtained)		1. Tender not submitted for the rural school bus services*. 2. Best value for money criterion not met.

1999 (including 5 rural school bus services*)	**36** 25 hire services	ACTION	**6—services were provided by open tender**		Tender not submitted for the rural school bus services*.
			30 were not open tender (cost less than $2k—at least one quote obtained)	Alpine Pacific Coaches	Alpine Pacific chosen as the official Olympic operator for the ACT.
				AVIS	Best value for money criterion not met.
				City Sightseers	The charter involved a tour, City Sightseers was chosen, as a double-decker bus was required.
				Keirs Coaches of Canberra	
				Murrays	
				Totalcare Fleet	
				Transborder Express	
2000 (including 5 rural school bus	**13** 6 provided hire services	ACTION	**5—services were provided by open tender**		Tender not submitted for the rural school bus services in 1999 (the 1999 tender was a three year contract)*
			8—were not open tender (cost less than $2k—at least one quote obtained)	Alpine Pacific Coaches	Best value for money criterion not met.
				Keirs Coaches of Canberra	
				T. Davey	
				Transborder Express	

* The rural school bus service was transferred to the Department of Urban Services under the purchaser/provider arrangements. These services had previously been administered by ACTION and contracted to private operators through a tender process.

Department of Education and Community Services
Student Participation Section (Special Needs Transport)

Year	Total number of charters for the year	Who provided the service	Open Tender selected.	Why ACTION was not
1998	**2** ACTION provided one service	**Yes—services were provided by open tender** Keirs Charter	Best value for money criterion not met.	
1999	**2** ACTION provided one service	**Yes—services were provided by open tender** Keirs Charter	Best value for money criterion not met.	
2000	**2** ACTION provided one service	**Yes—services were provided by open tender** Keirs Charter	Best value for money not met.	

Department of Education and Community Services
SchoolsSport ACT

Year	Total number of charters for the year	Who provided the service	Open Tender selected	Why ACTION was not
1998	1. 4 buses 4 times a day	Keirs	**No** not met	Best value for money
	2. 2 buses 6 times a day	**ACTION provided a written quote**		
	3. 2 buses 4 times a day			

1999	1. 4 buses 6 times a day	Keirs	**No**	Best value for money criterion not met.
	2. 1 bus 5 times a day	**ACTION provided a written quote**		
	3. 2 buses 7 times a day			
2000	1. 4 buses 2 times a day	Keirs	**No**	Best value for money criterion not met.
	2. 2 buses 5 times a day	**ACTION provided a written quote**		
	3. 2 buses 5 times a day.			
	4. 2 buses 5 times a day			

Department of Education and Community Services
ACT Government School Usage

Year	**Total number**	**Who provided the service**	**Tender**	**Open selected**	**Why ACTION was not**
1998	Approx- 70 hirings are made each day between Govt schools and individual bus companies	Transborder Keirs Deanes National Charter Grand Touring ACTION Canberra Sightseeing	**No**		Schools select on the basis of availability, reliability, flexibility of pick up and drop off times, and cost of transfers
1999	Approx 70 hirings are made each day between Govt schools and individual bus companies	Transborder Keirs Deanes National Charter Grand Touring ACTION Canberra Sightseeing	**No**		Schools select on the basis of availability, reliability, flexibility of pick up and drop off times, and cost of transfers

2000	Approx 70 hirings are made each day between Govt schools and individual bus companies	Transborder Keirs Deanes National Charter Grand Touring ACTION Canberra Sightseeing	**No**	Schools select on the basis of availability, reliability, flexibility of pick up and drop off times, and cost of transfers

Department of Health and Community Care

Year	Total number of charters for the year	Who provided the service	Open Tender	Why ACTION was not selected
1998	**115**	114—Special Needs Buses **Agreement between ACT Community Care and ACTION**		N/A
	1	**ACT Fleet (subcontracted to Thrifty Car Rental)**		
1999	**120**	118—Special Needs Buses **Agreement between ACT Community Care and ACTION.**		N/A
		1—Grand Touring Charter		Quotation not provided.
		1—ACT Fleet (subcontracted to Kings Car Rental Queanbeyan	N/A	
2000	**78**	77—Special Needs Buses **Agreement between ACT Community Care and ACTION.**		N/A
		1—ACTION **Agreement between ACT Community Care and ACTION.**		

Urban Services

ACT Government Purchasing Policy and Principles Guideline
May 1999

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1. INTRODUCTION

1.1 Introduction

This Guideline provides advice concerning ACT Government Purchasing Policy and Principles.

ACT Purchasing Policy and Principles together with the purchasing related polices, ACT legislation, agreements and other purchasing guidelines have been developed to assist agencies in their purchasing activities. They reflect the changed environment resulting from the ongoing process of ACT Public Sector reforms and provide a framework for ACT Government purchasing activities to ensure accountability and probity.

1.2 Minister for Urban Services

The Chief Minister appoints, under Section 4 1, of the Australian Capital Territory (Self-Government) Act 1988, Ministers from the Assembly and together they form the Executive. The Members of the Executive comprise the Cabinet whose function it is to collectively govern the Territory, implement all Territory law and develop and manage the budget.

It is through the Executive that the ACT Public Service serves the ACT community. Each Minister has the responsibility to manage one or more Departments of ACT Public Service. The Minister for Urban Services has whole-of-government responsibility for ACT Purchasing Policy, including purchasing in the Construction Industry.

1.3 Authority

The ACT Government Purchasing Policy and Principles Guideline, and other purchasing related policies, have been prepared by the Department of Urban Services, in its whole-of-government procurement role. The Purchasing Policy and Principles, and purchasing related policies are endorsed by the ACT Government.

The ACT Government requires that all contract arrangements are consistent with Government policy, with purchasing policy and principles, and with legislative requirements.

1.4 Agency Specific Instructions

In accordance with the Financial Management Act (1996), subsection 3 1 (1), Chief Executives are authorised to develop internal controls and procedures for the efficient and effective financial management of their agency.

Where appropriate, Chief Executives may authorise the development of agency specific instructions (eg Chief Executive Financial Instructions), within the scope of the ACT Purchasing policy framework, to reflect the unique characteristics and functions of their respective agencies.

1.5 Ministerial Involvement in the Tender Process

The tender process in the ACT must be a fair and independent process carried out under clear criteria leading to the award of contracts. It is important that organisations submitting tenders, as well as the public, have confidence in the fairness of the tender process, particularly as public money is involved.

Ministers and Members of the ACT Legislative Assembly are involved on a daily basis with public representations by sectional and individual interests. This can involve commercial interests in presenting credentials, or marketing the skills of their organisation to Ministers and Members. Any Ministerial involvement in the tender process may create a risk or perception that could undermine public confidence in the probity of the tender process.

Accordingly, Ministers and Members of the Legislative Assembly, or their staff, should not be involved at all in the tender process or in determining the outcome.

Tender pricing data is critically important, confidential information. Such information must not be provided to or shared with any person not charged with the task of tender evaluation or making decisions on tenders.

While an ACT Government agency is undertaking a tender evaluation, Ministers and Assembly Members, or their staffs should not be briefed on the details of the tender evaluation, and should be provided with courteous response to their enquiries, that in the interests of maintaining the highest possible levels of probity, no information can be given until the tender process is completed.

It may be necessary to advise Ministers of tenders under evaluation and progress with tender evaluation in order that they can avoid perceptions of conflict of interest arising through meetings or discussions with tenderers. This instruction is not intended to inhibit the provision of advice on progress with the assessment of tenders.

2. ACT PURCHASING POLICY

2.1 Purchasing Policy Statement

The ACT Government aims to actively develop long term business relationships with suppliers with a view to maximising benefits to the ACT Government and the Australian Capital Region suppliers and the community.

2.2 Policy Objectives

The objectives of the policy are aimed at:

• ensuring that local (Australian Capital Region) suppliers are given the opportunity to compete for ACT Government business;
• improving purchasing practices throughout Government agencies;
• establishing and maintaining effective business relationships between agencies and industry; and
• facilitating improved delivery of services to the community.

2.3 ACT Purchasing Principles

The principles underlying the ACT Purchasing Policy provide an operational framework for ACT Government agencies. The six principles for Government purchasing are:

• obtain value for money in purchasing activities;
• operate in an environment of open and effective competition;
• maintain probity, ethical behaviour;
• consider environmental issues;
• maximise opportunities for local suppliers to offer goods and services; and
• manage risks associated with the purchasing process.

2.4 Other Government Policy Requirements

Agencies also need to be conscious of other purchasing related policies, legislation and inter-government agreements which support particular Government objectives and impact on the ACT Purchasing Policy framework.

2.5 Best Practice Guidelines

Purchasing guidelines developed by the ACT Government are intended to provide agencies with assistance in the application of ACT Government policies and principles relating to purchasing of goods and services. The guidelines are intended to reflect the flexibility agencies have in their application and assist agencies to deliver services to the community on behalf of the ACT Government.

3. PURCHASING PRINCIPLES

3.1 Introduction

The six underlying principles of ACT Government Purchasing Policy are:

value for money;
open and effective competition;
probity and ethical behaviour;
environmentally responsible purchasing;
buying locally (Australian Capital Region); and
risk management.

3.2 Value for Money

The use of the *value for money* principle will assist agencies to evaluate offers and make a selection that achieves the best outcome in their purchasing activities. This is achieved when all costs and potential benefits associated with the purchase and use of a product or service are considered.

The tendered price is only one of the costs considered when evaluating an offer and purchasing decisions should therefore not be made on price alone. When entering into financial commitments eg contract arrangements, Agency staff should be satisfied that the selected offer will satisfy the value for money principle.

3.2.1 Obtaining value for money

When evaluating suppliers' offers, value for money consideration should be given to:

the costs and benefits involved on a whole-of-life costing basis, through the calculation of net present values;

• the other ACT purchasing principles and their impact on costs and benefits;
• the ability of the product or service to meet the Agency's technical and service level requirements;
• the capability and financial viability of the supplier to perform the contract; and
• ensuring that the contractual arrangements appropriately protect the Territory.

To ensure that value for money is achieved from the subsequent contractual arrangement Agency staff should:

• monitor, evaluate and document the performance of contractors; and
• reconsider contractual arrangements where the existing arrangements do not provide value for money.

3.3 Open and Effective Competition

All purchasing is to be conducted in an environment where *"open and effective competition" is* a prime operating principle.

Open and effective competition is achieved when the actions of the Government are open, frank and unbiased in an atmosphere of probity and accountability. The purchasing methodology selected should provide for an appropriate level of competition, consistent with achieving value for money.

This principle has the following essential elements:

• Territory procurement is to be visible and accessible for suppliers wishing to do business;
• the Government and the public are entitled to know the cost and amount of supplies, and the names of suppliers; and
• all suppliers are treated equally.

The use of the open and effective competition principle makes it easier to obtain value for money, enables all suppliers to compete for Territory business on an equal basis, reduces the level of (and therefore the administrative costs of dealing with) complaints from suppliers. It also provides accountability to the public, the business community and the Legislative Assembly.

The principle of open and effective competition is to be achieved while maintaining the highest level of cost effectiveness and procedural flexibility, consistent with probity, accountability and transparency of the procurement process, eg decisions on contract awards and maintenance of an audit trail.

3.3.1 Achieving open and effective competition

Open and effective competition is to be achieved by:

• publishing forward procurement plans;
• obtaining an appropriate number of quotations;
• inviting, tenders publicly (generally for purchases in excess of $50,000) eg through ‘basis on the net’ at www.basis.gov.au;
• publicly displaying the names of tenderers as soon as possible after the tender closure;
• publicising in the ACT Gazette details of purchases; and
• providing appropriate information and feedback to suppliers, particularly those that have been unsuccessful in making an offer.

3.4 Probity and Ethics

Officers involved in purchasing activities are to act with honesty and maintain the highest ethical standards in all business dealings.

The following standards should be observed by all officers involved in the procurement process:

officers should perform their task honestly, without favour or prejudice;
officers should ensure that public money is spent efficiently, effectively and in accordance with legal requirements and government policy;
officers should ensure they deal impartially and consistently with suppliers and observe confidentiality of all sensitive matters;
officers should offer a prompt and courteous response to all legitimate enquiries from potential or existing suppliers;
officers should ensure that private interests do not conflict, or appear to conflict, with their public duties;
officers should not solicit or accept any remuneration, gift, advantage or benefit except as may be permitted in the normal discharge of the duties of their office; and
officers should continually seek to develop and maintain levels of knowledge and skill commensurate with their responsibilities.

To establish a strong perception to external observers that processes are of the highest standards consideration could be given to engaging a probity auditor to observe and review a complex government project eg the procurement process for a lease or contract. Agencies can use probity auditors to verify that the processes followed are consistent with government regulations, policy, principles and best practice guidelines.

Agencies responsible for handling personal information in purchasing activities must also give full consideration to ensuring privacy protection, particularly when outsourcing services. ACT Government agencies must comply with the 11 Privacy Principles which are set out at Section 14 of the Privacy Act 1988.

Additional Information

- Guideline on Ethical Behaviour., Probity Audits in ACT Government Purchasing;
- ACT Public Sector Management Standards—Ethical Behaviour; and
- ACT Purchasing Circular 1999/3—Privacy Issues in ACT Government Purchasing.

3.5 Environmentally Responsible Purchasing

3.5.1 Environmental Statement

ACT Government purchasing activities are required, as part of the 'value for money' assessment of offers, to give due consideration to the purchase of environmentally responsible goods and services.

3.5.2 Objectives

The objectives of the Policy are to:

- maximise the purchase of environmentally responsible goods and services;
- provide leadership to the community and business by encouraging the use of environmentally responsible goods and services; and
- minimise the environmental impacts of ACT Government purchasing.

3.5.3 Agency Responsibilities

ACT Government agencies shall when specifying and evaluating goods and services:

seek environmentally responsible goods and services that represent value for money;
utilise whole of life costing (value for money) criteria rather than just the initial purchase cost;
give due consideration to ECO labelling requirements, and the energy efficiency rating of products and buildings;
ensure that the capabilities of local business and industry producing environmentally responsible goods and services are taken into account;
comply with restrictions and phase out programs under ACT Government and Commonwealth laws on the use of products, in particular ozone depleting substances;
require suppliers to conform to standards, codes or legislation relating to safety and hazardous materials;
promote a reduction in the volume and nature of packaging—all packaging should be of recyclable, biodegradable and non-toxic material; and
minimise the use of non renewable resources and products from threatened environments or products likely to cause harm to the environment.

Environmentally Responsible Purchasing is one of the principles of the ACT Purchasing Policy which took effect from 1 January 1998.

Additional Information

Guideline on Environmentally Responsible Purchasing.

3.6 Buying Locally

Buying Locally Principle

ACT Government purchasing activities are to maximise the opportunity for Australian Capital Region suppliers to compete for the provision of goods and services, consistent with the purchasing principles of value for money and open and effective competition.

The principle excludes the use of monetary or percentage preference schemes.

Australian Capital Region

The Australian Capital (‘local’) Region comprises the Australian Capital Territory and the 17 Shires and Councils as depicted in the following map:

Map not reproduced.

Firms operating and having an office/base in the area are regarded as ‘local suppliers’.

Principle Objectives

The objectives of the Buying Locally principle are:

to foster local businesses;
to encourage an increase in local industry capacity; and
the development of new industries.

3.6.1 Agency Responsibilities

Agencies are responsible for the establishment and maintenance of effective business relationships with all its suppliers. Agencies should actively develop long term relationships (partnerships) with a view to maximising the benefits to the ACT Government, local suppliers and the community.

Agencies should effectively communicate requirements such that suppliers have all the necessary information against which to best offer their products and services. Local goods and services should be considered the accepted option and steps taken to:

• actively seek out opportunities for local suppliers to bid for the order or contract;
• ensure purchasing practices, procedures and specifications do not disadvantage local suppliers;
• provide local suppliers with advanced notice of major purchases;
• provide opportunities where possible for local innovation and research based suppliers with export potential;
• support competitively priced quality endorsed local suppliers;
• foster good relations with local suppliers and industry bodies; and
• provide feedback to local suppliers to improve their competitiveness.

3.6.2 Benchmarks

The following purchasing benchmarks have been set to ensure that 'Local' suppliers are provided with the opportunity to quote for ACT Government business.

PURCHASING OF GOODS AND SERVICES

Quotation/Tender Value	**Quotation/Tender Source**
Less than $2,000	Seek at least one quotation locally where no applicable ACT Common Use Arrangement (CUA) exists. (See Note 1 below)
Between $2,000 and $50,000	Seek at least three **written** quotations locally. (where no applicable CUA exists)
Over $50,000	Advertise in the local newspapers (See Note 2 below)
Over $ 1m	Seek an Australian Capital Region Industry Plan from tenderers

PURCHASING IN THE CONSTRUCTION PROGRAM

Quotation/Tender Value	**Quotation/Tender Source**
Less than $5,000	No special requirements
Between $5,000 and $20,000	Seek at least one quotation locally
Between $20,000 and $50,000	Seek at least three written quotations locally
Over $50,000	Advertise in the local press (See Note 2 below)
Over $5m	Seek an Australian Capital Region Industry Plan from tenderers

Notes:

Agencies are to regularly test the market (eg at least once per year) to ensure value for money is maintained;
Pre-qualification and restricted tendering is permitted under certain circumstances and only after appropriate approval. These circumstances could include where the requirement is regarded as complex but not well defined, a small number of suppliers is known to exist, or specialised expertise or services are required (eg contractors or consultants).

Additional Information

Guideline on Buying Locally.

3.6.3 Buyers and Sellers Information Service (basis)

The service, an ACT Government initiative, complements ACT Purchasing Policies and Principles by assisting Australian Capital (local) Region suppliers by advising them of business opportunities within this Region.

ACT agencies are to advertise their requirements through the basis service in conjunction with advertisements placed in local newspapers to ensure that local suppliers are made aware of ACT Government business opportunities.

Additional Information

Contact the basis helpline on telephone (02) 6207 7377 or view the information on the 'basis on the net' at www.basis.act.gov.au.

3.6.4 Capital Region Industry Plans (CRIPs)

The aim of Australian Capital Region Industry Plans (CRIPs) is to identify the potential enhancement of local region industry capabilities and the long term benefits to the region. Agencies should assess the information provided in each CRIP and the potential benefits should be taken into account as part of the overall evaluation of value for money. Agencies should seek guidance from the ACT Contracts and Purchasing to develop the CRIP.

Additional Information

Australian Capital Region Industry Plan Guideline.

3.7 Risk Management

Managing the risk associated with the purchase of goods and services is part of the broader risk management strategy that agencies are required to develop. A poor purchasing decision can adversely affect the agency's operations and service delivery. Risk management is a tool that can help us make better purchasing decisions. It benefits the Government, the Agency, the supplier, the community and their relationships.

3.7.1 Managing Risk

The following flowchart provides a guide to the management of risk in the purchase of goods and services.

Establish the Context

Identify the Risks

Monitor

Analyse the Risks **and Review**

Evaluate & Prioritise the Risks

Treat the Risks

Establish the Context

Understand the environment in which the purchase is being made and define the successful outcomes required for the purchase.

Identify the Risks

What can happen? How and why does it happen?
The objective is to develop a comprehensive, documented list of all potential risks from the viewpoint of all stakeholders.

Analyse the Risks

What is the likelihood of the risks occurring? What are the consequences of the risks occurring? What controls are in place to prevent or detect potential risks?

For each identified risk, determine its consequences and probability. Combine these estimates to give you an overall estimated level of risk. Identify any existing controls used to manage this risk and evaluate the risks in the context of these existing controls.

Evaluate and Prioritise the Risks

Arrange the listing of risks in priority order and decide which are acceptable/unacceptable.

Focus on managing the higher priority risks, which are probably those of greater significance or material impact. This usually means putting a greater effort into managing the procurement process.

Treat the Risk

Identify the range of options for treating each risk and evaluate those options. Then prepare risk treatment plans for implementation. The documented treatment plan should identify who is accountable for which responsibilities, schedules, expected outcome of treatments, budgets and performance criteria.

Options for treating risk are to:

• accept it;
• avoid it;
• reduce it; or
• transfer it.

Keep in mind that the costs of managing risks need to be commensurate with the risk exposure.

Specifying Quality Assurance is one way of managing risk eg to avoid late delivery, or goods or services not to specification. However, there may be many other risk treatments required throughout the entire process to reduce all the identified risks to an acceptable level. Specifying QA is one risk treatment that can be an integral part of the overall risk management plan.

Monitor and Review

This is a continual activity throughout the risk management process. It is necessary to note changing circumstances of the purchase, new risks and whether the impact on the risk management plan is effective and be prepared to change the plan.

For higher priority risks, you should regularly liaise with stakeholders to ensure that procedures are in place to address the identified risks and that these procedures are adequate. It is preferable that the whole process be documented for audit purposes.

Determine whether the final outcome of the purchase has met agency objectives.

4. USEFUL CONTACTS

4.1 ACT Purchasing Policy

ACT Contracts & Purchasing
Department of Urban Services
Level 4, Macarthur House
LYNEHAM ACT 2602

Telephone: (02) 6207 7377
Facsimile: (02) 6207 7366
Home Page: www.basis.act.gov.au

4.2 Ethics and Accountability

Ethics and Accountability
Office of Strategy and Public Administration
Chief Minister's Department
Canberra Nara Centre
CANBERRA ACT 2601

Telephone: (02) 6207 6136
Facsimile: (02) 6207 6200

4.3 Consultancy Contracts

Public Sector Management Group
Chief Minister's Department
Canberra NARA Centre
CANBERRA ACT 2601

Telephone: (02) 6205 0398
Facsimile: (02) 6207 6366
Home Page: www.act.gov.au/cmd/organisation/psm.cfm

name="4.4">4.4 Legal Issues

ACT Government Solicitors Office
Department of Justice and Community Safety
Level 1, GIO House
CANBERRA ACT 2601

Telephone: (02) 6207 0655
Facsimile: (02) 6207 0630
Home Page: www.dpa.act.gov.au/ag/govsol/gs1.htm

4.5 Construction Industry Policy

Construction Industry Policy
Department of Urban Services
Level 2, Macarthur House
CANBERRA ACT 2602

Telephone: (02) 6207 5427
Facsimile: (02) 6207 6245
Home Page: www.constructionpolicy.act.gov.au