DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

5 September 2000

Tuesday, 5 September 2000

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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.

JUSTICE AND COMMUNITY SAFETY—STANDING COMMITTEE
Scrutiny Report No 12 of 2000

MR OSBORNE: I present the following paper:

> Justice and Community Safety—Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 12 of 2000, dated 5 September 2000

I seek leave to make a statement.

Leave granted.

MR OSBORNE: *Scrutiny Report No 12 of 2000* contains the committee's comments on five bills and 97 subordinate laws. This morning the committee met with the Attorney-General in relation to the Henry VIII problem we have with some pieces of legislation, and I think we moved some way forward. However, there are still a number of issues before the committee. We are looking forward to a discussion paper from the Attorney in the next week or so, but I am pleased to report that we are moving forward. I commend the report to the Assembly.

SPENT CONVICTIONS BILL 2000

Debate resumed from 11 May 2000, on motion by **Mr Humphries**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.35): I note that the Attorney introduced this bill on 11 May 2000, and the scrutiny of bills committee made no adverse comment on it. The bill provides for a scheme, one which largely mirrors the New South Wales scheme, to limit the effect of a person's conviction for certain offences if the person completes a period of crime-free behaviour. The Commonwealth and some of the states have had such schemes for many years.

It is commendable that Canberrans will now have access to such a scheme and that people convicted in 1990 will be able to take immediate advantage of it. Amongst the provisions, the bill provides that the person is not required to disclose information about the conviction; questions about the person's criminal history refer only to convictions that are not spent; in applying any act or statutory instrument to the person, references to convictions are only to those convictions not spent; and a reference to the person's character does not allow spent convictions to be taken into account. These beneficial consequences are limited as there are a large number of exemptions to the scheme and, quite appropriately, some offences, such as sexual offences, never become spent.

As an aside, Mr Speaker, it is interesting to compare this bill with the Attorney's Crimes (Forensic Procedures) Bill 2000. In that bill the Attorney regards a serious offences as one that carries a sentence of more than 12 months, though I did hear the Attorney this morning on ABC radio refer again to the fact that a serious offence is one that carries a sentence of more than two years, so I do not quite know where the Attorney gets that information or whether or not he understands his own legislation. The effect is that, if convicted of one of those offences, a person would never be free of the threat of being rounded up to give a DNA sample, so there is a very interesting crossover between the Crimes (Forensic Procedures) Bill and spent convictions procedures in relation to the extent to which a person can shrug off their past. In this bill offences carrying a sentence of six months or more are serious, and the effect is that, if convicted, a person would always have to disclose the offence.

Ms Tucker, I understand, is moving an amendment to ensure that persons applying for positions of carers for disabled or elderly persons must always disclose any convictions. The disabled and elderly are a very vulnerable group that deserve as much protection as children. The Labor Party will be supporting Ms Tucker's amendment.

One aspect of the bill that causes concern is that it is not an offence for a law enforcement agency to disclose a spent conviction to another law enforcement agency. Fourteen law enforcement agencies are listed in the definitions, and more can be prescribed by regulation. As many of these agencies exchange data electronically, it is easy to envisage the proliferation of information about a person who may have been convicted only once in their life but is not able to live that aberration down because of this provision. This provision and the wide range of exemptions make it difficult to determine precisely the circumstances in which a convicted person will be able to take advantage of this bill, but on balance the Labor Party supports the bill, believes it is a step in the right direction and believes it is a good first step to allow people who did transgress, particularly when they were young, innocent and perhaps silly, to put their misspent youth or some aberration in relation to the criminal justice system behind them.

The Labor Party commends the Attorney for bringing the legislation forward and will support it.

MS TUCKER (10.38): The Greens will be supporting this bill. The best outcome for the community is that offenders in the criminal justice system do not reoffend but rehabilitate and move on. It is quite counterproductive to continually penalise minor crime offenders and to brand them for their past misdeeds. It certainly does not encourage such offenders to put their past behind them if they are repeatedly required to advise others of these acts.

This has particular application when it comes to young people. Some people find themselves trapped in a fairly wide range of antisocial or destructive behaviours in their youth, and it is important that they can grow beyond their mistakes and irresponsibilities, so the laws of society must encourage rather than inhibit them from doing this.

One commendable feature of this bill is that, while the requisite crime-free period is 10 years, the period is five years for people not dealt with as adults. Convictions for offences resulting in six months imprisonment or more cannot become spent. While this cut-off point of the ACT bill is a significantly less penalty than in similar Commonwealth legislation, it is however more or less at the same level as comparable legislation in other states.

One of the points at issue in this bill is the exclusion clause which identifies when spent convictions must be disclosed to ensure the protection of the community. I have a number of amendments to that clause in order to expand the protection extended to children to include older people and people with disabilities. I understand I have government support for these amendments, and I will address them in the detail stage of the debate.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.40), in reply: Mr Speaker, I am grateful to members for their support for this bill. It is basically legislation designed to give a second chance to people who are convicted of a minor offence but who manage to keep their noses clean for a period of time after that conviction and who at some point are entitled to go back into the community without the burden of that offence.

It basically goes to the notion of the way in which our criminal justice system works. We have a system which encourages people by way of punishment, in theory at least, to move from a criminal-based lifestyle into a law-abiding lifestyle. The assumption—whether it is true or not is another matter—is that by punishing people we create a sufficient disincentive to them and to others to continue on a path of criminal activity.

It goes hand in hand with that notion that once punishment has been administered and a penalty of whatever sort has been paid or served by the person who has been punished it is then appropriate for that person to restore themselves into a law-abiding frame of mind and to be able to move around the community on the basis that they have done their time for the crime and they are entitled to be considered as reformed people.

We do not facilitate that in the present state of affairs by having a continuing stigma attached to these people when it might be expected that they have indicated pretty clearly that they do intend to follow a reformed path. An adult who for 10 years has managed be free of any further convictions is quite appropriately a person who should be able to front an employer, a person providing accommodation or whoever and say, “I am a cleanskin. I do not have any matters in my past which ought to deter you from offering me this job or this accommodation,” or whatever it may be.

Similar schemes operate elsewhere in Australia and, in fact, have done so for a considerable period of time. We are, in a sense, the latest jurisdiction catching up with this concept. That is partly because, before self-government, ACT residents were

covered by the Commonwealth's spent convictions scheme. That applied to all convictions recorded by ACT courts up to 30 June 1990. The 10-year period provided by that legislation allowed people convicted before that time to expunge their records. People convicted after June 1990 are now coming through the system, and they are not able to claim the 10-year period under the Commonwealth legislation. So it is very appropriate for us, at this point, to protect people in those circumstances.

The New South Wales scheme has been in operation since 1991. There are also spent conviction schemes in the Northern Territory, Western Australia and Queensland. Our bill is based very largely on the legislation in New South Wales, but we have taken some elements from the Commonwealth scheme.

The bill was released for exposure draft, and I think it has had quite wide support. Members have discussed the exemption provisions provided for in the legislation. I am aware that some commentators would prefer the operation of the scheme to be widened so that a greater number of offenders can benefit from it. Others would prefer that it be more restrictive, so that more people who have had convictions in the past can be tracked, as it were, throughout their lives. There are still other commentators who would prefer that clause 19 contain a shorter list of instances where convictions which are otherwise spent must nevertheless be disclosed. I think others believe that the list is probably too short. I think we have struck an appropriate balance in this bill. I will comment on Ms Tucker's amendments when they come forward. I certainly think we have to balance the need for people to know in certain circumstances and for others to be able to walk without the stigma of a previous conviction.

The Law Society expressed some concerns about the operation of the bill—members may recall that—and its effect on disclosure or discussions concerning convictions which are spent. I would like to spend a moment addressing issues the society raised.

I would like to assure members that, as I assured the Law Society some time ago, the bill does not totally preclude any discussion or disclosure of a person's spent convictions in all contexts. It does not prevent persons who are aware of a spent conviction, for example, from discussing that conviction. It limits the purposes for which a person such as a court official or a police officer who has access to records kept by a public authority may disclose a spent conviction. It does not require archives or libraries to purge their collections of any material that may relate to a conviction. It does not make it an offence for an archive or library to make any such material available to a member of the public.

The bill's provisions relating to disclosure are based on New South Wales legislation that has been in operation, as far as I am aware, without controversy or complication since 1991. We are basically putting an onus on those who maintain records, people such as court officials or police, not to disclose that information in an inappropriate way. That is the extent of the legislation. It does not prevent person A from saying to person B, "You know that so-and-so was convicted of assault in 1986." That is not the intention of the legislation.

There has been some confusion about the jurisdictional operation of the bill, which is understandable. Some jurisdictions inside and outside Australia operate spent convictions schemes which can operate in conjunction with the ACT scheme so that

a conviction which is spent in the ACT can be regarded as spent in those jurisdictions, and vice versa.

Other jurisdictions do not operate such schemes and they will require disclosure of ACT convictions, regardless of whether they are spent under ACT legislation. In Victoria, for example, where there is not a spent convictions scheme, a person who was exempt from disclosure here would have to disclose a conviction if they were in Victoria and were asked about, for example, a job that they were seeking in Victoria.

The basic rule is that the ACT can apply its spent legislation scheme only in relation to matters for which it has legislative power and only to the extent that other jurisdictions' legislation does not apply. The ACT scheme may exempt a person from disclosing an ACT spent conviction in a job application in the ACT but not necessarily in Victoria, as I have said. It will not exempt a person from disclosing an ACT spent conviction when applying for a visa to a foreign country if that country's laws require the disclosure of all convictions.

Mr Speaker, despite those qualifications, this is an appropriate scheme which has drawn upon the experience of other jurisdictions, and one which I am sure will serve members of this community well. If as a community we feel concerned about the access people have to information, then it is possible to revisit this arrangement.

I believe that the balance is right, and I think it is appropriate for us to allow people who have shown their capacity to live within the terms of the law to move in the community without the stigma associated with criminal conviction. I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as whole.

MS TUCKER (10.49): I ask for leave to move amendments Nos 1 to 6 circulated in my name together.

Leave granted.

MS TUCKER: I move:

> Nos 1 to 6—
> Clause 19, page 10—
> Line 10, paragraph 19 (1) (a), omit "or childcare worker", substitute ", aged care provider or provider of care for people with a disability, or childcare worker, aged care worker or worker with people with a disability".
> Line, 14, subparagraph 19 (1) (b) (i), after "children", insert ", older people or people with a disability".
> Line 15, subparagraph 19 (1) (b) (ii), after "child-care centre", insert "hospital, community care facility, residential care facility,".

Line, 17, subparagraph 19 (1) (b) (ii), after "children", insert ", older people or people with a disability".
Line, 19, subparagraph 19 (1) (b) (iii), after "children", insert ", older people or people with a disability".
Line, 25, paragraph 19 (1) (d), after "children", insert ", older people or people with a disability".

The Spent Convictions Bill offers protection to the community by ensuring that spent convictions must be disclosed in regard to work in the courts, law enforcement and gambling or in regard to arson in fire fighting and fire prevention. The bill offers specific protection for children by ensuring that convictions must be disclosed in regard to any work or engagement with children. I accept that children are amongst the most vulnerable members of our community and require some special protection, but my experience in Canberra over the past few years has been that it is not only children who are particularly vulnerable. Aged people and people living with a disability are particularly vulnerable to abuse in our society and would profit from similar specific protection. These amendments, taken together, expand on the protection afforded to children to include the aged and people with disabilities.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.50): Mr Speaker, I do not rise to take serious issue with what Ms Tucker has brought forward. I think we can live with what she suggests. I would remind the community that the amendments significantly widen the number of occupations in which a person with a conviction well in their past will find it more difficult to obtain a job because of the need to disclose a particular conviction.

My colleague the minister for health assures me that a person who might have had a conviction not relating to a personal type of offence such as sexual assault and who applies for a job in our hospital under the scheme, as amended by Ms Tucker, would necessarily be excluded from working in the hospital. That is probably an appropriate matter to assess on a case-by-case basis. Bear in mind that what we are trying to do here is remove the stigma from people who have not had convictions for a period of 10 years in the case as adults. I do not know that we need to widen the legislation in the way suggested, but I do not have a serious objection to it. We can come back in the future and consider the exclusions in clause 19.

There is already a very long list. In fact, there has been some criticism that the list is already too long, so I am not sure about adding to it. We may find that there are other occasions that arise for which we have to add further to this list. The more we add to the list, the less benefit this scheme provides to people in the community who have kept their noses clean for a long period of time.

With that cautionary note, I am also aware of cases where some fairly serious matters have occurred in health facilities in the ACT. There have been one or two cases of reasonably serious sexual assaults on elderly people in nursing homes, and I can understand why some people would wish to know about the background of individuals in those circumstances. With those crossbench-type comments, I indicate that the government will not be opposing these amendments.

Amendments agreed to.

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

Bill, as amended, agreed to.

LOW-ALCOHOL LIQUOR SUBSIDIES BILL 2000

Debate resumed from 29 August 2000, on motion by **Mr Humphries**:

That this bill be agreed to in principle.

MR QUINLAN (10.53): The opposition does not intend to oppose this bill. We are a little disappointed that the subsidy does not extend to some of the drink mixes that young people tend to use. If it did, which we see as impracticable, it might encourage the consumption of drinks with a lower alcohol content.

This morning the scrutiny of bills committee brought down a report which includes four pages or so of comment on this bill. Quite obviously, there has not been time to digest that in detail. On the face of it, it seems to relate to information requirements, possible penalties and burdens of proof in relation to supply and information under this bill.

We recognise that this legislation relates to payment of considerable sums of money to suppliers. We must also recognise that such a system would involve a temptation to poor people to abuse the system for immediate monetary gain. Therefore, it must of its nature be fairly tight, and we are prepared to recognise that within the spirit of the legislation. We also recognise that the bill probably needs to be passed fairly promptly so that the system can be implemented. For practical reasons, it should not be held up at this stage.

It is our intention now to absorb the report of the scrutiny of the bills committee and, in communication with government, decide which side of the house, if either, needs to bring forward amendments to satisfy reservations contained in the report. We do not intend to hold up the bill. We intend that it be passed today and the debate not adjourned, so that the system can be implemented. We would like some clarification from the government about what it might intend to do when it has time to absorb the report of the scrutiny of bills committee. As I said, one or both of us might then bring forward some amendments that might allay any problems with the bill.

As I said at the outset, we recognise that this is legislation that relates to the payment of money, effectively public money, and we recognise that it should be fairly tight. We are dealing with business people, not the person on the street, so we expect that they would be reasonably sophisticated in their ability to provide correct information to allow this system to be administered without any great difficulties or without causing too much action to be taken in relation to misinformation and/or incorrect assertions made. We are quite happy to support the bill as is, with those qualifications.

MS TUCKER (10.58): The Greens will be supporting this bill. We raised concerns when the subsidy was removed. I am delighted to see, even if it is not for the right reasons necessarily, that we are going to have this health promotion campaign supported by government with some money.

As I am concerned about the scrutiny of bills committee report that has just been tabled, I will comment on the process once again. I hear that Labor is supporting the bill. I hope there is not anything too serious in the scrutiny of bills committee report. If there is, we will have to look at this again and possibly amend the explanatory memorandum. I have not had time to look at this. Mr Osborne is nodding that the EM might need to be amended. I do not know what the government feels is a reasonable process here, but I would not mind a response.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.59), in reply: I thank member for their support for this legislation, albeit with the qualifications that have been expressed. Let me make a general comment about the legislation first of all. Obviously, the government's view is that it is not appropriate in general to be providing subsidies in this field. It is our view that subsidies of this kind are better provided to other forms of consumption than they are to the drinking of beer, albeit low-alcohol beer.

Frankly, if we have $1 million to spend on subsidising the things that people consume, I would rather spend it on subsidising the consumption of milk or maybe the taking of exercise or something of that kind. I am not convinced that subsidising alcohol consumption is in the public interest. I also acknowledge, as I have argued on previous occasions, that it is important for us not to create—

Mr Quinlan: What an odd notion.

MR HUMPHRIES: I can see that Mr Quinlan might have difficulty with that concept, and possibly some of my colleagues on this side of the chamber as well, but we have to live with the reality that we are, as I have said many times before, an island in New South Wales and we need to ensure there are no anomalies in cross-border arrangements.

It is quite likely, not necessarily inevitable, that by the end of this financial year we should be able to come back and repeal this legislation altogether, on the basis that there is agreement between the states, the territories and the Commonwealth for there to be some kind of Commonwealth excise which effectively allows a price differential between full-strength and low-alcohol beer and possibly other alcoholic products. I would be quite content with that. Hopefully, then we can spend our money in this community on other things which I would argue are more important.

I take note of the scrutiny of bills committee report. I have had a quick flick through the issues. They seem to relate principally to the burden of proof and the rights a person has when they are making application for the subsidy to be paid to them. I can indicate to members that the arrangements for people applying for subsidies are generally ongoing arrangements, so a person does not just make a one-off application and not come back. Usually people who retail alcoholic products do so throughout the year, so if there are issues here that need to be fixed by legislation later on, then we can come back and do that and those people will have a continuing position dealt with in that way.

I am not in a position to comment on the committee's recommendations but indicate that the government, as Mr Quinlan suggested, will take on board what the committee have said and, if necessary, come back to the Assembly with amendments that deal with the issues that have been raised by the committee.

However, it is worth bearing in mind that the scheme is already in operation. It has been in operation for several weeks, since members informally approved the scheme to be restored. I think we should confirm it in legislation and come back in the October sittings, if we need to, and consider some amendments in light of issues raised by the scrutiny of bills committee.

It may also be appropriate to retrospectively apply some of the amendments that are given rise to by the committee to ensure that people's right are affected appropriately, although from my quick reading I do not think any of this touches on the amount people are entitled to so much as the process they have to go through to make their claim for the subsidy to be paid to them.

I make one final comment. The legislation does have an inherent problem in that it is very difficult indeed to ascertain whether the subsidy is reaching the consumer. We pay a subsidy to retailers to help defray the expense to them of obtaining low-alcohol beer and other products. There is no mechanism in the legislation that facilitates, effectively at least, the passing on of the subsidy to the consumer. If a retailer decides they are going to give, say, a 5c subsidy for each glass of low-alcohol beer as opposed to a 10c subsidy—which is what the legislation, for argument's sake, might provide—there is effectively nothing the government can do about that. It is one of the further problems—

Mr Quinlan: Just make a public statement as to how much it should be, and the drinkers will take care of the rest.

MR HUMPHRIES: We could try prescribing the price of beer. That is true, Mr Quinlan.

Mr Quinlan: Just make a public statement as to what the margin should be.

MR HUMPHRIES: Yes, we could do that. That is a possibility. It is not particularly enforceable, but we could certainly give it a go. Mr Speaker, that may be the case. Obviously, I have less expertise on the price of a schooner of beer than Mr Quinlan does. He might like to assist me in making that declaration.

Mr Quinlan: I am happy to be a control for you.

MR HUMPHRIES: Yes, you could be quality control measurer as well, Mr Quinlan.

Mr Speaker, I thank members of their support, and I hope we can come back in a future sitting and fix any problems which have been given rise to by the scrutiny of bills committee report.

Question resolved in the affirmative.

Bill agreed to.

Leave granted to dispense with the detail stage.

Bill agreed to.

POISONS AND DRUGS AMENDMENT BILL 2000

Debate resumed from 29 August 2000, on motion by **Mr Moore**:

> That this bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (11.05): Mr Speaker, this bill will amend the Poisons and Drugs Act 1978 to increase the penalty for illegal supply of anabolic steroids to five years imprisonment and a fine of $50,000. The penalties at present are six months imprisonment and a fine of $5,000. It is probably fair to say that this is Mr Moore's response to the zero tolerance and get tough on drugs campaign that he is now a part of. The bill will also update the list of anabolic steroids in schedule 1 of the act.

Labor will support the bill, though with some misgivings. The first reason for our reluctance is the haste with which the bill is being dealt with. It was introduced last Tuesday and we are debating it today. We have concerns about the introduction and debate of legislation at that speed. It is also notable that the minister in his presentation speech said the approach of the Sydney Olympics had led to calls for stronger restrictions on anabolic steroids and that this bill would amend our legislation prior to the Olympics. I think it is something of a longbow to draw an analogy between the need for haste and the Olympic Games. The Olympics are a week away. I would have thought that anybody interested in using anabolic steroids in their preparation for the Olympics would have well and truly done so by now and would have taken whatever measures they need to take to ensure that they are not negatively tested as a result of any illegal usage of drugs. I think for the minister to link this bill with the Olympics and to use the Olympics as a justification for the need for haste is somewhat spurious.

The minister advised us that the use of anabolic steroids is presently under review by a number of national bodies, including the Ministerial Council on Drug Strategy, the Police Ministers Conference and the Standing Committee of Attorneys-General. An argument could have been made for perhaps leaving any adjustment to this piece of legislation until those national reviews of the use of anabolic steroids had been completed.

In support of the change, however, is the fact that, while the penalty is being substantially increased, it applies only to illegal supply. The penalty for self-administration or administration to someone else has been left at six months imprisonment or a fine of $5,000. I am aware of Mr Moore's previous interest in those provisions and an earlier attempt to repeal them. The penalties we are debating are consistent with the approach that has been adopted nationally and by other states.

We had another debate that I am sure Mr Moore is aware of. That was about the fact that this legislation, to the extent that it continues to punish self-administration or administration to someone else, is not consistent with some notions of effective drug control and drug law reform. I say that as an aside and as a point for debate on another day.

The Labor Party will be supporting this legislation, Mr Speaker.

MS TUCKER (11.09): The ACT Greens will be supporting this bill. The escalating use of anabolic steroids reflects the cultural obsession with performance, achievement and body image. Such obsessions can be destructive in the extreme. Illicit, destructive consumption of dangerous drugs is the logical consequence of the biotechnological determinism that the developed world is so content to pursue. After all, the field of entertainment, in which competitive sport is perhaps a pinnacle, is a massive and expanding business. It is easy and tempting to step over the arbitrary line that separates the acceptable from the not acceptable in chemical performance enhancement. It is also the obsession world of body image, the land of gyms and nightclubs and the industry of self-serving fame which give the shape and strength of the body such an exaggerated importance.

While the ACT Greens support the increase in penalties for unauthorised supply to a level more or less consistent with other states and the Commonwealth and are pleased to update the list of anabolic steroids in schedule 1, we are mindful that these penalties simply address the symptoms, not the cause, and look forward to the development of a culture which truly values diversity and expression above fashion and competitive success.

MR MOORE (Minister for Health and Community Care) (11.10), in reply: I rise to respond to comments from members and to express appreciation for members' support for the legislation. Mr Stanhope is not the first person to note that I can take a tough on drug stance. I have done so for a long time with regard to tobacco, and will continue to do so. It is all about how we interpret what that means. I do not condone misuse of any drugs, but I am a very firm supporter of harm minimisation.

Anabolic steroids are different from the other drugs we deal with. Although it is about body image and other things, it is primarily about cheating in sport. Sport is becoming very big business, with huge demands put on people. We are playing our part in ensuring that we stop it.

I am interested to note—and Ms Tucker might also note—that Mr Stanhope suggested that I should do something about self-administration. I am prepared to bring legislation into the Assembly to remove penalties for self-administration should I have the support of the Assembly. The very first piece of legislation that was given to me as a minister was on the issue of self-administration. Mr Stanhope might know that I am responding on self-administration. I decided to postpone that until such time as we did the legislation for a supervised injecting place. Since events have turned out the way they have, if Mr Stanhope is willing to support the removal of self-administration, I am very comfortable about bringing legislation into the Assembly. Perhaps we will have a general discussion about that, not just a discussion in regard to anabolic steroids.

The ACT has already agreed to the removal of self-administration as part of our agreement at the Ministerial Council on Drug Strategy. Queensland, which has some of the harshest drug laws, have never had self-administration as an offence, and I think we understand the reason behind that.

Mr Stanhope: They probably have not noticed up there. Don't draw it to their attention.

MR MOORE: They probably have not noticed, yes. If you are comfortable about it, I will bring in legislation. We will have a discussion on what form that should take and how it should apply. Mr Speaker, we appreciate the support of members for this legislation and look forward to its passage.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DISCHARGE OF ORDERS OF THE DAY

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (11.14): Mr Speaker, I ask for leave of the Assembly to move a motion to discharge a number of orders of the day, both executive and private members business, from the notice paper.

Leave granted.

MR HUMPHRIES: I move:

> That the following orders of the day be discharged from the notice paper.
> Executive business orders of the day—
> No 12 relating to authorisations of expenditure under the Financial Management Act;
> No 20 relating to the statement of regulatory intent for utilities;
> No 28 relating to McKellar Shopping Centre; and
> No 36 relating to Commonwealth-State financial relations.
> Private members business order of the day—
> No 29 relating to the motion proposing the suspension of standing and temporary orders.

Discharge of the private members item has been suggested by Mr Berry as manager of opposition business, and the other items are ones the government would like to see off the notice paper.

Question resolved in the affirmative.

Sitting suspended from 11.15 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Canberra Hospital—Emergency Department

MR STANHOPE: Mr Speaker, my question is to the Minister for Health and Community Care.

Ms Carnell: What happened to the grass?

MR STANHOPE: It is not there, actually. I understand that, after it was painted to disguise its colour, it was mulched.

MR SPEAKER: Order! If the question is to the Minister for Health and Community Care, it may be about grass.

MR STANHOPE: That happened at enormous cost to the ACT taxpayer. That is my understanding of what happened to the grass; hence the touch of self-interest in my question.

MR SPEAKER: It depends on the type of grass you are speaking of, Mr Stanhope.

MR STANHOPE: Mr Speaker, my question is to the Minister for Health and Community Care. Can the minister confirm that the emergency department at the Canberra Hospital is currently handling up to 180 patients each day? How many nurses are on duty in the department each day to cope with this demand and what was the nursing staff level in the department 12 months ago? What initiatives, if any, has the minister taken to ease the stress caused by the inevitable anger and verbal abuse from disgruntled patients directed at nurses?

MR MOORE: I am delighted to have this question; it is just the opportunity I was looking for. Mr Speaker, you may be aware that the emergency department at the Canberra Hospital is part of the whole trauma service, and the Canberra Hospital is the very first hospital in Australia to have its trauma service accredited. I would like to acknowledge the work that goes on in a full range of areas in the emergency department at the Canberra Hospital. That fits in with what happened only a few weeks earlier when the hospital as a whole received full-year accreditation and was rated amongst the best hospitals in Australia, which was very exciting.

There is no doubt that there has been extra pressure on the emergency section. I have been aware of that pressure for some time. I approached not only the hospital management but also Professor Drew Richardson, who runs the emergency section. Having had a number of requests for extra staffing and extra funding for the emergency section, I said to him, “Put the evidence before me so that I know what it is that has happened in terms of putting increased pressure on the emergency section.”

Some evidence was finally presented to us on the Friday before last, about 10 days ago. It so happened that on the very same Friday that the information came into the department I was approached by the Nursing Federation, which wrote to me at about

a quarter to five on the Friday night. I responded at a quarter past five and organised a meeting for last Monday morning.

On the Monday morning, I met with the Nursing Federation, along with a number of nurses from emergency who explained to me their concerns. The nurse management and the hospital management agreed that they would look at the particular issues of extra nursing at the Canberra Hospital. I understand that emergency had been offered a single extra nurse for one of its shifts. Since that meeting I have been informed that it was requested by the Nursing Federation that an extra nurse be provided for each shift, not just for a specific shift. That has been agreed and the positions, as I understand, have been advertised.

Mr Stanhope, you are correct: there is pressure on the emergency section of the hospital. There has been a slight but constant increase in emergency over the last six months. Some of that has to do with the extra services for the Snowy Mountains by the SouthCare helicopter, but we are working to deal with those issues to ensure that the emergency section is adequately staffed and delivers its services in an appropriate way.

That does not overcome the situation that is always going to arise in an emergency section when a category 4 or 5 patient—that is, somebody who has cut a finger or is in a situation that would have been able to be dealt with by a GP—comes into emergency seeking to have the matter dealt with by emergency. There will be some delays for those people if there were a major trauma—indeed, it can happen with any emergency, but it is much more so for a major trauma—and the emergency section was diverted from dealing with people who could wait to dealing with most serious cases. I think all of us would be prepared to wait for the serious cases—for example, a burns victim or a crash victim—to be dealt with as the highest priority.

The emergency section, as part of the trauma section, has just become the first hospital in Australia to be accredited. It is a fantastic part of the hospital. It is doing extraordinarily well, as indeed is the Canberra Hospital generally.

Federal Golf Club—Residential Development

MR KAINE: My questions is to the Minister for Urban Services. Minister, you will recall that not so long ago a variation to the Territory Plan which would have allowed some residential development at the Federal Golf Club was rejected by this Assembly. Given that the club has indicated that it is considering its options in terms of what has been described as an as of right development within this lease, will the minister indicate whether the government is considering reintroducing the variation to the Territory Plan so that the Assembly can reconsider its position on the matter?

MR SMYTH: Mr Speaker, this matter was dealt with by the Assembly and we all know the outcome of that. If the Assembly were to direct me, as minister, to reintroduce that variation, obviously the government would respect the will of the Assembly. It is not the government's intention to reintroduce such a variation, unless that is done.

MR KAINE: I have a supplementary question, Mr Speaker. Minister, do you accept the view of the Federal Golf Club that they can, in fact, develop some residential accommodation there without paying betterment tax under their present lease arrangements?

MR SMYTH: Mr Speaker, I understand that under the current lease, as an ancillary function to the role of the golf course, they do have the right to develop some motel-type accommodation.

Bruce Stadium—Auditor-General's Report

MR QUINLAN: My question is to the Chief Minister and relates to the Bruce Stadium audit report. The Chief Minister said on 2CN on Friday last, four days ago:

> The final draft has to go to the head of the public service so they have a capacity to respond. My understanding is that hasn't happened. My understanding is he doesn't have it.

I have received advice from the chief executive of the Chief Minister's Department that he was reviewing the proposed report in accordance with section 18(1)(b) of the Auditor-General Act in July and I have discussed the particular task that Mr Tonkin finds himself with informally on more than one occasion; sometimes as a matter of jest, but nevertheless we have exchanged words on it.

I know that volumes of the report are being delivered progressively, so I did a little checking of my own sources and I understand that the last volume was provided to the chief executive of your department some weeks ago. Do you stand by the statements that you made on Friday? How do you reconcile those statements with the fact that the chief executive had advised me, in my position as chair of the Finance and Public Administration Committee, in late July that he was examining proposed reports at that point?

MS CARNELL: Mr Speaker, I said on Friday that it was my understanding that the chief executive did not have a final draft. It was my understanding that the chief executive did not have a final draft.

Mr Quinlan: At this date?

MS CARNELL: No, you asked me whether what I said on Friday was what I believed to be true. I said, "It is my understanding that the chief executive of my department does not have a final draft."

Mr Stanhope: Did you correct that misleading statement?

MS CARNELL: No, I actually think that that is probably still the case. My understanding is that the Auditor-General was speaking to people as late as last week with regard to possible changes. Whether the Auditor-General has to give an absolute final draft to my chief executive may have been the question that needed to be asked.

It was my view that the Auditor-General Act suggested that the chief executive did have to get an actual final draft. Apparently the Auditor-General Act reads in a way that it could mean that or it could mean any draft. It is really up to the Auditor-General how he perceives or understands his act, but I understand again that the Auditor-General was interviewing former members of various departments as late as last Thursday. On that basis, how could the head of my department have a final draft of the end document? Again, this is not an issue for me or for the government.

The Auditor-General is at arms length. The Auditor-General has an act under which he operates and I believe that the Auditor-General will do the job in the way he sees fit.

Mr Speaker, what I said last week was that I did not believe that it would be tabled this week. Obviously I was right because I got a letter from the Auditor-General yesterday saying that he was not going to table it this week.

MR QUINLAN: I have a supplementary question, Mr Speaker. Is it not the case that the immediate past head of Treasury met regularly with the Auditor-General during his investigations with a view to ironing out any discrepancies or disputes on facts progressively, a process that should have obviated the need for any final review by the chief executive anyway? Is it not the case that there have been many generations of the Auditor's report which have been available to your administration for a large slice of the inordinate time that has elapsed since it commenced?

MS CARNELL: Mr Speaker, I am sure you would agree that this is not an issue for the government. The Auditor-General conducts his business under the Auditor-General Act. Under that act, as the Auditor-General operates, he provides regularly throughout the process copies of all reports to people who are affected by those reports. That is a normal process. That is what happens the whole way through. That is the issue of natural justice.

Those individuals then respond. It is certainly true that the former head of DTI and, I have to say, many others regularly met with the Auditor-General throughout this process to iron out issues surrounding the report. Equally, Mr Speaker, appropriately I have had nothing to do with those meetings. I do not even know when most of them—in fact, just about any of them—happened. It just happens that I know about one that occurred last week because I met the person involved that night at a particular function and that person told me what he had been doing that day.

Mr Speaker, this is part of the normal process that the Auditor-General embarks upon to ensure that his reports are as fulsome as they can be.

Mr Humphries: In accordance with the law.

MS CARNELL: In accordance with the law; and in accordance with the law, I have to say, he does not inform me of the process or the approach that he is taking, nor should he because the law does not say that that is the approach to take. It does say, though, that the head of CMD should be given an opportunity to respond to the final draft or to a draft at the end of the process.

Mr Speaker, to come back to the point: last week I was asked whether I thought it would come down this week. I said that to my knowledge final drafts had not been provided. To my knowledge, they have not been. Mr Speaker, I suggested that that meant that it would not come down this week. I was right, Mr Speaker; it will not be coming down this week. I do not know whether further drafts will actually go to CMD.

Appointment of Probity Adviser

MR HIRD: It is going to be a great day today, Mr Speaker. The Olympic torch will be upon us within the hour. Isn't that great?

Mr Berry: Just say yes, Mr Speaker.

MR HIRD: Mr Berry, you should join me in celebrating the fact that the Olympic torch will be coming across our border today.

MR SPEAKER: Order, please! I know that you are all excited.

Mr Berry: I take a point of order, Mr Speaker. He asked you a question: "Isn't that great?" All you have to do is to say yes and we can dispose of his question.

MR SPEAKER: I know you are all excited about the Olympics.

MR HIRD: I notice that you are wearing a soccer badge, Mr Berry. Good on you! It is about time you got behind Bruce Stadium; it is nice to see.

MR SPEAKER: If there were an event in the Olympics for talking, Mr Hird, most of you would win gold medals. Ask your question, please.

MR HIRD: I wish you were an umpire, sir. Mr Speaker, my question is to the Treasurer, Mr Humphries. I heard some curious comments last week from the Deputy Leader of the Opposition about the appointment of a probity adviser for the territory. Is it usual for the government to adopt such an adviser from the private sector or is it, as Mr Quinlan suggested, privatisation gone mad?

MR HUMPHRIES: I thank Mr Hird for the question, although I think that the expression "curious comments from the Deputy Leader of the Opposition" is a bit of a redundancy, Mr Hird, so you should avoid saying that next time. I did hear the comments and I saw the release of Mr Quinlan. I was struck by the obvious lack of research that Mr Quinlan undertook before issuing the statement.

Mr Speaker, the statement is headed "Privatisation gone mad—Probity on demand", and contains statements such as: "This is a case of a privatisation mad government taking this agenda to the extreme." It goes on to criticise the proposals that the government announced last week. Mr Speaker, the government announced last week the appointment of PriceWaterhouseCoopers as the ACT government's probity adviser. The firm was selected from a large number of eminent companies at work in this country who tendered for that position and for the role of providing high-level probity services to the ACT government on an as needs basis.

Mr Speaker, I trust that ACT public servants are capable, generally speaking, of detecting adequately what are the probity issues they need to address before any particular probity issue actually arises. Our public servants are very good at that. But what needs to be understood is that very often an independent person is required in the process to determine and advise on the probity issues that arise out of that. For example, with the section 41 development of Manuka and the government's dealings with the tenderers for that site and so on, there was a independent probity adviser appointed for that exercise.

Mr Quinlan: You guys need a permanent one, though.

MR HUMPHRIES: We will have a permanent one, Mr Speaker. We will be having one for section 56 in Civic. We will have them for a range of activities. The government's intention, as announced in the budget or the draft budget, was to have a single entity that would provide probity services across the ACT government, a body that would provide a high quality of service because that body would have a great depth of experience to draw on.

We have gone to the market and obtained the services of PriceWaterhouseCoopers. That is described by the opposition as being privatisation gone mad. Mr Speaker, if that is the case, then you have to wonder what sort of tree Mr Quinlan has been living up for the last four or five years because a large number of Australian governments are using companies of this kind for probity advising services.

I will not mention what the governments of South Australia and Western Australia do, or the Commonwealth government, because that would not much impress those opposite, but I am sure that Mr Quinlan will be interested to learn that the Labor governments of Victoria, New South Wales and Tasmania make extensive use not only of private organisations, companies, for probity services but also of PriceWaterhouseCoopers for that very kind of service.

Mr Speaker, the government of Tasmania, for example, has PriceWaterhouseCoopers as its independent probity adviser for the Department of Premier and Cabinet—not exactly a low-key involvement in the Tasmanian government. The New South Wales Labor government of Mr Carr has PriceWaterhouseCoopers as its adviser for the Rail Services Authority, for the New South Wales Department of Transport and for Landcom. Indeed, the City of Sydney also uses the same firm.

Mr Speaker, probably no government uses these services as extensively as that of Victoria. The Victorian government of Mr Bracks uses PriceWaterhouseCoopers in a range of government agencies: the Department of Justice in Victoria; the Public Transport Corporation of Victoria; the Melbourne and Olympic Parks Trust; Yarra Trams; the Victoria Police; the Victorian Casino and Gaming Authority; Multimedia Victoria; the Victorian Government Purchasing Board; the Victorian Department of Natural Resources and Environment; the Department of State Development; the Victorian Managed Insurance Authority; on and on the list goes. I have only got halfway through it.

Mr Quinlan: Can we use it, too?

MR HUMPHRIES: I suspect that you would need a bank of advisers to advise you on probity, Mr Quinlan. Mr Speaker, what we have here is extensive use by Labor governments in Australia of this very firm, not to mention the suite of other Australian advisers who presently provide services to a range of Australian governments. I do not have the figures, but I doubt that there would be any Australian government that does not use private sector advisers. As far as I am aware, none of them has a commissioner for probity. None of them has an in-house one of the kind that Mr Quinlan is advising that we should take up.

Ms Carnell: If we had an in-house one, we would be criticised for that.

MR HUMPHRIES: The Chief Minister is right. I ask members to consider this question: Who is more independent in a theoretical sense when it comes to advising a government on a particular major project: a public servant whose promotion within the government service could be viewed as being dependent—

Ms Carnell: They would view it that way.

MR HUMPHRIES: They would certainly view it that way. Is it a public servant whose promotion could be perceived by some to be dependent on how he or she performs in his or her work for the government—not wishing to offend political masters, you might argue—or a company which is independent of government, which has a contract to continue to work for the government and which, if it loses the services of this particular government agency, has a host of other government and non-government clients to fall back upon for its services?

Mr Speaker, the important feature about a company like PriceWaterhouseCoopers is that it needs to have a good reputation in the marketplace.

Mr Smyth: Is he accusing them of not having one?

MR HUMPHRIES: That is a good question, Mr Smyth. Is Mr Quinlan saying that PriceWaterhouseCoopers does not have an adequate reputation to do this job for us? I will interpret his silence as meaning no. Therefore, Mr Speaker, I think that with the very obvious quality of a company such as this we should be very pleased that it is playing a role in the ACT.

Mr Quinlan's media release further hinted—it did not really say, but sort of suggested—that the problem with our appointment is that we have a probity adviser who does not have a roving brief to go wherever he, she or it feels that they should go to inquire about the probity of a particular process, that it is called in by the government for particular projects—

Mr Quinlan: We had the fortune to have one on the ACTEW/AGL job.

MR HUMPHRIES: Exactly. We did have Mr Stephen Marks as adviser on the ACTEW/AGL joint venture. Was he from a private sector corporation or was he a government servant, Mr Quinlan? Which was he? He was from a private sector company—Stephen Marks Pty Ltd or something of that description. He was from a private sector company. He was not a government employee.

Mr Quinlan: Employed on the resolution of?

MR HUMPHRIES: I think you appointed him, Mr Quinlan; is that correct? You certainly approved of his appointment.

Mr Quinlan: I certainly moved the resolution for his appointment. You appointed him, actually.

MR HUMPHRIES: If it was good enough for ACTEW/AGL, why is it not good enough for other areas of government service? If you want an auditor or adviser who roams around government spot auditing or spot advising on these issues, you have got one already. His name is the Auditor-General. It is his job to roam around. A probity adviser of this sort is to come in on particular projects and provide probity advice from day one. That is the way it has always been done in this territory. That is the way it has been done in every other state government of Australia, as far as I am aware. That is the way it has been done at the federal level, as far as I am aware. Mr Quinlan is badly out of touch if he thinks that it is not an appropriate mechanism to use for the ACT.

Department of Health and Community Care—Chief Executive

MR HARGREAVES: Can the Minister for Health and Community Care say what progress has been made in finding a replacement for the departed chief executive of his department, Mr Butt? Can he confirm that consultants Morgan and Banks have been appointed to conduct the job search? Has the company had any role in preparing selection criteria, a job profile, ad copy or selection panel questions?

MR MOORE: Mr Speaker, the interviews for the chief executive officer of the department of health were conducted last Friday. Yes, Morgan and Banks was the company that was employed for the executive search.

MR HARGREAVES: I have a supplementary question, Mr Speaker. I do sincerely thank the minister for the brevity of his answer, which was unusual. Can the minister confirm that the company has so far charged $40,000 for its work and is expected to receive another $20,000?

MR MOORE: I am not aware of the costs involved, but I will take the question on notice and get back to you.

Schools—Thefts of Bikes

MR OSBORNE: My question is to the Minister for Education. It is a follow-up to my question last week regarding bikes being stolen from schools. I have forewarned him of this question. Minister, what can you tell me about a departmental circular that went out recently informing schools that they were no longer to lock bike compounds, amongst other things, so as to remove the risk of liability should kids' bikes be stolen? Were you aware of this circular? Is the provision of this information an admission that the schools may well be liable? Do you think it is sensible not to provide secure bike racks for the many thousands of kids who ride their bikes to school every day?

MR STEFANIAK: I thank the member for the question, which he mentioned briefly to me earlier. Mr Speaker, I am not quite sure whether we are talking about the same circular, but I have briefly seen a circular which we seem to think is the only one that went out, dated 28 June. Mr Osborne might like to check that with his source, because I would be interested if there was a circular saying that schools were no longer to lock bike compounds.

The circular I have indicates that there are some instances where schools provide bike compounds. Whilst, obviously, a bicycle is placed there at the owner's risk, the circular goes on to say that the schools should supply details of the arrangements set in place to secure the compounds and indicate that there would be times when they would be unlocked for a variety of reasons. Obviously, they would need to be unlocked when the kids come to school and they would need to be unlocked for a time when the kids are leaving school. I do not know whether that is the same circular.

Mr Speaker, if there was a circular saying that schools which had bike compounds should no longer lock them, then I think that it would be an incredibly stupid circular. If there are ways in which schools can assist in terms of making property more secure, the better it is. When Mr Osborne raised the question earlier, I think we had had a couple of instances in which there had been some very determined thieves who actually stole bikes from schools using bolt cutters.

No matter what precautions you take, there will always be instances where determined thieves will do their deeds and take other people's property. I reiterate that people who take kids' bikes are the lowest form of low-life but, unfortunately, these things do happen despite the best efforts. I make that point to start with.

Schools are not liable for any goods that might be taken, especially by intervening acts of third parties. Where those third parties cause acts which lead to the loss, damage or theft of a student's personal property, the schools are not liable. I think I indicated to Mr Osborne last time that I would be looking into things such as insurance, although I do not necessarily know whether that would be the answer from a school's point of view because of the cost to government, but that is something to look at.

The circular I have does encourage parents not only to take precautions, but also to ensure that if valuable property is taken to school it is, in fact, insured, and warns of the dangers of taking certain items of property to school unless it is absolutely necessary. Whilst not all schools do have areas in which they can actually lock bikes, some do and it is essential that those bikes be locked up if they can be locked up. There will be times during the day when the compound will have to be unlocked for obvious reasons, but the circular I have certainly does not indicate that schools are not to lock bike compounds; in fact, it is quite different. If Mr Osborne is referring to a different circular, if it is not the one of 28 June, I would like to see it, because that is not something that I would agree with.

MR OSBORNE: I have a supplementary question. I will check on that, minister. I have also been made aware by the circular I have that the schools are also advised to try to encourage the parents not to allow their children to ride bikes to school. Are you aware of that? Is that a policy that you support?

MR STEFANIAK: Again, we might be talking about different circulars, although the circular I have merely mentions parents being reminded regularly to avoid the bringing of valuable property to school. It does include bicycles, but I think that relates to the fact that there are some bikes which are particularly valuable, being worth many thousands of dollars. Obviously, for many students, bikes are a very real means of conveyance. They are a time-honoured way of kids getting to school, and long may that be so.

Whilst schools cannot be responsible for the acts of third parties who steal, attempt to steal or damage property at a school, I would think that students should be able to ride bikes to school. Unfortunately, parents may have to take some precautions these days if the bikes themselves are very valuable. The circular I have also indicates that, if there are no compounds, bikes should be locked up at all times. When I go round schools I see some with compounds and some without compounds and the bikes are usually tied to bike racks or have secure devices on them at schools where there are no compounds. It is pleasing to see that virtually all parents are providing for that. When I went to school, you could stick your bike in the bike racks there and no-one would steal it. Unfortunately, those days are gone.

Mr Quinlan: They have better bikes now, Bill.

MR STEFANIAK: They might have better bikes. Unfortunately, there are lots of low-life around who stoop to taking kids' bikes, even at the primary school level. Sadly, it is a fact of life these days at school that bikes have to be locked up. That was also a part of that circular. But Mr Osborne should get back to me if he has a circular of a different date.

Bruce Stadium—Olympic Football

MR WOOD: Chief Minister, last week you publicly cast doubt on the work of StrathAyr, the company contracted for the first resurfacing of Bruce Stadium.

Ms Carnell: I didn't do it; you did.

MR WOOD: You certainly had some words to say there. You said that the company had not fulfilled its task and the government would not pay up. Instead, you said that payment would be the subject of a negotiated settlement. What process has been put in place to negotiate that settlement and what is the current situation?

MS CARNELL: To my knowledge, we have not paid them. I do not know what process has been put in place. It was a few days ago and I have to say that, right at this moment, we are much more focused on ensuring that the torch relay goes really well over the next couple of days and the Olympic soccer next week goes really well. I am surprised that those opposite are not doing the same.

MR WOOD: That is a misrepresentation of the position, of course. Perhaps the Chief Minister has missed all the angst in the community, the letters in the papers and all of that. Chief Minister, in the likelihood that the government will have to pay for all, or part, of the failed turf, what would be the cost of the replacement?

MS CARNELL: Mr Speaker, as I said last week, the contract with SOCOG requires us to pick up the tab for delivering a stadium that is to FIFA and SOCOG requirements. There are no costings on the new turf at this stage. As I said last week, the contract with the new turf supplier is with SOCOG, not with the ACT government.

I would like to pick up on the comment made in asking this question about how it was the government that had made statements about StrathAyr. Mr Speaker, you may remember the comments and statements that were made by those opposite about tropical plants being brought in, having a serious go at StrathAyr and the grass that they brought from Queensland.

Mr Speaker, the grass that was laid by StrathAyr was grown by StrathAyr's contractors. They undertook to deliver a grass surface to the standard required. However you look at it, that was not done. I think that it is extraordinarily sad, Mr Speaker. The job of this side of the house will always be to ensure that we get on with the job and deliver a solution, and that is exactly what we have done. Even this morning—

Mr Quinlan: Help! Please stop!

MS CARNELL: Mr Speaker!

MR SPEAKER: You will not get a chance very shortly, Mr Quinlan.

MS CARNELL: Even this morning, it was good to see people from FIFA and people from SOCOG indicate that they were absolutely confident that the grass surface at Bruce Stadium would be appropriate for soccer next week.

Mitchell Incinerator and Lower Molonglo Sewerage Treatment Works—Emissions

MS TUCKER: My question is to the Minister for Urban Services, Mr Smyth, and relates to the information obtained by Greenpeace about emissions from the Totalcare incinerator at Mitchell and the ACTEW sewerage treatment facility at Lower Molonglo, as reported in the *Canberra Times* yesterday.

Minister, the ACTEW sewerage treatment facility operates an incinerator for burning sewerage sludge. While ACTEW is required under its environmental authorisation to monitor annually for dioxin emissions from this incinerator and provide the data to Environment ACT, FOI requests by Greenpeace of Environment ACT found no data pertaining to dioxin emissions from Lower Molonglo. This implies either that ACTEW has not done the testing required by the environmental authorisations or that ACTEW has not passed this information to Environment ACT.

Either ACTEW has breached its environmental authorisation or Environment ACT has not been keeping track of the information it should be receiving from ACTEW. Could you tell us which option is correct? If Environment ACT does have information on dioxin emissions from Lower Molonglo, could you table it, please?

MR SMYTH: Mr Speaker, dioxin testing of the incinerator gases is required under the Lower Molonglo's environmental authorisation, and it shows that dioxins are produced at the incinerator at the level of 0.01 to 0.04 nanograms, or 10 to 40 per cent of the world's most stringent standards. There is no problem with the Lower Molonglo, and I can assure the ACT public that there is no danger of contamination.

This is an issue that Greenpeace has run many times. The problem is that there is no firm standard as to what is the danger of a dioxin. We do not know what it is. What we do know is that dioxins do occur naturally in the bush and they are released by, for instance, bushfires. There was a small burn at the back of Bonython the other day. How much dioxin did that put into the environment? We do not know.

Mr Speaker, I am told that there is monitoring of Lower Molonglo and it shows that it is below the world's best standards. ACTEW does a very good job in the way that it runs that facility.

MS TUCKER: Was that a yes? Will you table the information on emissions that you just claimed we have?

Mr Smyth: I just gave the figures to you.

MS TUCKER: No, I want to see the information. I am asking you whether you will table it. Was that a yes?

Mr Hird: Is that a supplementary question?

MR SPEAKER: Order! Is that a supplementary question?

MS TUCKER: My supplementary question is: given that Greenpeace found that the waste water from the Mitchell incinerator contains high levels of the toxic chemicals dioxin and PCB and that the Lower Molonglo sewerage treatment facility is only designed to break down organic waste, rather than toxic chemicals, what is Environment ACT doing to establish standards that should apply to the waste water discharge from the Mitchell incinerator into the sewerage system.

MR SMYTH: Mr Speaker, in relation to the liquid waste monitoring of the Totalcare facility, environmental authorisation No 8 allows Totalcare to negotiate with ACTEW as to the standards for the discharge of waste water from the site and the Commissioner for the Environment recommends that the resulting standard be communicated to the EMA. When I table our response in the next couple of days, the government will agree with that recommendation.

ACTION—Civic Ticket Office

MR CORBELL: Mr Speaker, my question is also to the Minister for Urban Services. I understand that ACTION will be closing its Civic ticket office on 8 September and that ticket sales will be taken over by the Newslink newsagency. I understand also that transport officers will be given a new office with street access in the Civic Library. Minister, how much of a cost saving will the closing of the Civic ticket office represent?

What will happen when a member of the public needs a transport officer on a Sunday and one cannot be found? Do you not consider this another inconvenience and difficulty in the provision of services to the travelling public?

MR SMYTH: Perhaps Mr Corbell is unaware but, in effect, we are being evicted from the current location in the Saraton building. Our lease is at an end. We have looked for ways of continuing to provide the sort of service we like to provide to our tenants. Part of that is that sales will be relocated to the newsagency, which I understand is open seven days a week. Mr Moore tells me that he bought his last batch of tickets for ACTION from that place on a Sunday. The traffic officers themselves will be relocated to the library.

MR CORBELL: I have a supplementary question, Mr Speaker. Minister, did you ask to have the lease renewed for the existing office in Civic? What are the government's intentions in relation to the Belconnen, Tuggeranong and Woden ticket offices?

MR SMYTH: Mr Speaker, we always look to renew if we can where it is advantageous to the government and advantageous to the people of the ACT. As members would be aware or should be aware the government shopfront which was also in the Saraton building has moved across the road to FAI House. Under the loss of that lease, ACTION will relocate its ticket sales to the newsagency and put its officers into the library.

Bruce Stadium—Olympic Football

MR BERRY: Mr Speaker, I would like to draw attention again to the Bruce Stadium imbroglio and the government's incompetence on the issue. I particularly draw attention to an article in—

Mr Moore: Spare us the preamble.

MR BERRY: A preamble is quite fine at this point, Mr Moore.

MR SPEAKER: To whom are you addressing the question, please?

MR BERRY: I will get to that, Mr Speaker.

MR SPEAKER: Just a moment.

MR BERRY: Okay. I direct my question to the Chief Minister through you, Mr Speaker.

MR SPEAKER: Thank you. It is in fairness to the ministers. They have to be able to listen and pick up the question.

MR BERRY: I draw the Chief Minister's attention to two articles in the *Canberra Times* on Saturday which I am sure she read. One was particularly worth noting. A journalist speculated, I think with tongue in cheek:

> Once you start looking, there are plenty of bright aspects to this week's Turf Tragedy.
>
> For instance, that futsal slab suddenly doesn't look like such a ridiculous waste of money after all, does it, and who among us would have imagined that anything could make the futsal slab look like a good idea?

Ha, ha!

MR SPEAKER: Excuse me, is this *Laugh In* or question time? Would you mind getting on with it!

MR BERRY: Mr Speaker, on the dark side, another article draws attention to Mrs Carnell's machine and the nasty style that it has developed of bullying people, using the words "giving everyone amenable or threatenable a common script, and ensuring that they work to the line of spin which has been devised". Would the Chief Minister like to take the opportunity now to deny that she and her officials behave in that way?

MS CARNELL: Mr Speaker, I do not read the *Canberra Times*.

MR BERRY: I take it that the Chief Minister will not deny—

MR SPEAKER: No, you will take nothing at all; the Chief Minister has answered the question.

MR BERRY: I have taken it that way. Mr Speaker.

MR SPEAKER: You may do as you like.

MR BERRY: Now that the Chief Minister has acknowledged that that is the way she behaves, how can she justify the threats, bullying and nasty tactics such as we have seen coming from her office? I will give one example: Capital Television was locked out of a press conference because it reported negatively on this government's incompetence on Bruce Stadium. Honestly, how can you justify this sort of behaviour to anyone? It is a nasty, dictatorial piece of work. How can you justify that as Chief Minister of the territory? Come on, try to justify it.

MR SPEAKER: That is a hypothetical question.

Mr Humphries: Mr Berry is using language which is unparliamentary. "Nasty" and "dictatorial" are going a little bit too far and I ask for him to withdraw.

MR SPEAKER: It is out of order.

Nursing

MR RUGENDYKE: Mr Speaker, my question through you is to the health minister, Mr Moore. Minister, I am aware that Access Economics has produced an appraisal of the 2000-01 ACT health budget. In relation to hospital services, the economist says:

> There's not much scope for keeping salaries in the hospital sector competitive without a corresponding impact on employment levels.

The report goes on to say:

> The growth needs money—

the slush fund—

> represents 2.6 per cent growth on the base. Yet it is supposed to pay for 3.5 per cent growth in outputs, implying even more productivity. Health care is highly labour intensive and Australian earnings have been growing at 3.5 per cent to 4 per cent per annum in recent years reflecting the strong overall growth in the economy.

The report goes on:

> It is difficult to see how the expenditure targets can be hit without cutting wages in real terms and/or reducing the workforce. In short, the Budget for the hospitals looks implausible.

Minister, based on this appraisal, will you confirm that workloads for nurses again will be under enormous pressure and that nurse numbers in our hospitals will be facing cutbacks during this financial year?

MR MOORE: Mr Speaker, Access Economics publish a number of reports. Certainly the ones that I am most conscious of are the ones that they publish as part of the AMA's local journal. In fact, the person who does that work actually works out of the same office as the AMA. The initial response to the budget was fairly extensive and, because there was a significant inaccuracy there, I was effectively motivated to respond in the same journal—I must say that they gave me a reasonable position—to point out the inaccuracy. When we have a comment from Access Economics we take it, consider it and deal with it.

I think it is important to understand what has happened over the last five years and what we are trying to do with the hospital budget. This government and the first Carnell government have not sought to cut and have not cut the ACT budget. The goal with regard to hospitals has been to contain the hospital budget at the same level with minor increases. All the information we had and still have shows that the hospital system is significantly overfunded—by some 30 per cent.

It may come as a shock, but that is the evidence we have had before us. We are testing that evidence. We are going back through it and looking at it. At the same time, that is the information we have had. We have been successful over the last five years in containing hospital expenditure, much more so than other states, particularly of recent times New South Wales and Victoria, which carry the bulk of costs throughout Australia. If their expenditure goes up, and it has been, that means effectively that without doing any actual cutting the expenses at Canberra Hospital and the Calvary Hospital become comparative. That is what we have been seeking to do and we have been significantly successful with it.

The thinking behind that is not that we are interested in reducing the amount of money available to hospitals; it is that we are interested in having a more efficient approach. In other words, for continuing to spend the same amount of money we are asking people to deliver more services and better services and to deliver them efficiently.

With regard to the pay issue, I think it is worth remembering that our VMOs, despite the negotiations of about two years ago, are still amongst the highest paid in Australia. Our salaried specialists were aligned with New South Wales about two years ago as well, so that they are also amongst the highest paid specialists in Australia when their whole package is taken into account. We are going through negotiations at the moment with ASMOF on salary issues.

With regard to nursing, we have only just completed and signed with nurses an overwhelmingly agreed EBA. Our nurses, taking their whole salary package into account including superannuation and so forth, are the highest paid in Australia. What we have sought to do, Mr Rugendyke, is to make sure that we maintain the best possible health services for the money and we will continue to provide the best possible health service for the money.

Members may remember that I tabled in the Assembly my instructions to the health and community care board and that the number one priority was that we did not reduce patient care. The hospital, in trying to meet that, is benchmarking itself against other teaching hospitals across the country to determine the areas in which they can make cuts and cannot make cuts and the areas in which increases are needed or not needed.

That is not to say that we do not recognise that there are particular areas in the hospital that come under a great amount of pressure at given times. Over the last couple of months we have had times where the emergency section of the hospital and the intensive care unit have come under very significant pressure. I want to point out to you that at the very same time every single hospital in Canberra was under the same pressures. When we checked with New South Wales to see whether bypasses were appropriate for New South Wales, they were also under the same sort of pressure at that time.

We know that it happens each year at a particular time. It was managed; and it was managed, I must say with great thanks, by a contribution from nurses, particularly nurses in emergency and intensive care. Intensive care alone did half the double shifts that were served. We do appreciate the efforts that are put in by our hospital staff. It is only through those efforts that we have the sorts of accreditation results that we have with Canberra Hospital. It is amongst the best hospitals in Australia. On almost every measure, it has improved over the last few years.

What is happening is that we are getting better and better services for the money. We do not mind spending more money. We indicated in the budget that you were a part of debating in this Assembly that the expenditure on the hospital would increase in order to deliver better services for the people of the ACT, as is happening.

MR SPEAKER: Do you have a supplementary question, Mr Rugendyke?

MR RUGENDYKE: Yes, Mr Speaker. Minister, you have agreed that you are aware of this report. Can you assure the community that the budget considerations will not be met by sacrificing staff or a further rationing of services?

MR MOORE: I think it is quite possible that some staff will leave and will not be replaced. The decision will be made by the Canberra Hospital. The sort of staff who will leave and not be replaced are administrative staff in particular. In fact, I received a letter from the health and community care board in the last couple of days—I just read it at lunchtime today—raising this issue and highlighting for me that when we talk about administrative staff we are often talking about staff who are right throughout the hospital, not administrative staff who are sitting in a little office there. It is the secretaries to the doctors and professors who run a whole series of support work in the hospital.

Some people would say that they are just not necessary. Certainly, if we compare the number of administrative staff of that kind with those in other hospitals, we will find that we carry more than most hospitals. But it is a teaching hospital and some of the duties of, particularly, the professors, lecturers and associate professors who are involved in research as well as teaching other doctors as part of the clinical school do require extra support.

Each time we remove one of those people, there is some impact on the hospital and there becomes a point at which improved efficiency will have an impact on patient care. The overriding direction of the hospital is to get the most efficient health services possible, because the more efficient they are the more we can deliver, but not at the cost of patient care. Our number one focus is on patient care. I think that was recognised when the hospital received its accreditation as one of the best hospitals in Australia.

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

Bruce Stadium—Auditor-General's Report

MS CARNELL: Mr Speaker, I have a small amount of extra information on Mr Quinlan's question. I am advised that the Auditor-General has been able to provide my department with final versions of the proposed reports in the last few days; to be precise, 30 and 31 August and 5 September.

Northbourne Flats

MR SMYTH: Ms Tucker asked me last week about the renovation of Northbourne Flats and I have some additional information. The background, for the information of members, is that in early 1999 ACT Housing appointed Totalcare Facility Management as the project coordinators. Totalcare provided undated written advice to all tenants of the flats complex that major work would be undertaken to replace the roof on all blocks at the complex and extensive sewerage and drainage rehabilitation. Tenants were also provided with a proposed timetable for the commencement of work in the various blocks. The work was commenced in March 1999 and completed in November 1999.

The Welfare Rights and Legal Centre, on behalf of a tenant, lodged an application in the Residential Tenancies Tribunal. The application sought a reduction of the tenant's rent in compensation for the lack of amenity during the work. The decision was handed down by an RTT member, Ms Jan Lennard, on 31 July this year.

The RTT's decision was twofold. First, it found that the replacement of the roof and the remedial work to the drainage and sewerage system at Northbourne Flats were necessary and that ACT Housing had employed competent and professional project managers. The second point, which Ms Tucker raised, was about the notice given to tenants of the work to be undertaken. In the opinion of Ms Lennard, it was less than adequate. Perhaps we could have done it better.

The RTT recommended in relation to notice being given in future to ACT Housing tenants regarding the intention to carry out major works that the notice be in writing, that it be addressed to each tenant individually and that it be given within a reasonable timeframe—at least 21 days. We have taken that on board and will develop new procedures to reflect the recommendations. Ms Lennard actually dismissed the applicant's claim.

Land Development

MR HUMPHRIES: In question time last Thursday I took on notice a question from Mr Rugendyke about whether there was a need for there to be a lease between a developer and the land owner before a development could take place. I can advise that in most circumstances where the developer is a non-government entity a lease would be in place prior to the development taking place. Where the territory is the owner and developer of the land there is no requirement for a lease to be in place. However, for the sake of monitoring the progress of these matters, the territory has been moving progressively to issuing executive leases for land held by government.

The second part of Mr Rugendyke's question was about whether there is a lease on the Gold Creek Country Club. Mr Speaker, in the context of my answer to the first part of the question, it is important to note two things: firstly, the Gold Creek Country Club Pty Ltd is owned by the ACT and, secondly, the land and buildings associated with the Gold Creek Country Club are owned directly by the territory, so there is not a lease for the Gold Creek Country Club site at this point in time.

A holding lease which incorporated this site was previously issued to Harcourt Hill. The majority of the works on the site, including the full development of the golf course and the interim clubhouse, was undertaken while this holding lease was in place. In 1997 the territory assumed full ownership of the Gold Creek Country Club. At that time Harcourt Hill handed back that part of its holding lease that related to the Gold Creek Country Club. At the time the site was handed back, there were a number of outstanding issues in relation to the original development requirements which should be resolved prior to a lease being issued over the site.

PRESENTATION OF PAPERS

Mr Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to section 8—Authority to broadcast proceedings concerning public hearings of:
The Standing Committee on Education, Community Services and Recreation on 21 September and 5 October 2000 in relation to its inquiry into adolescents and young adults at risk of not achieving satisfactory education and training outcomes, dated 30 August 2000.
The Standing Committee on Justice and Community Safety on 4 September 2000 in relation to its inquiry into the Freedom of Information (Amendment) Bill 1998, dated 30 August 2000.
The Standing Committee on Planning and Urban Services on 1 September 2000 in relation to its inquiry into monitoring the implementation of Variation No 64 to the Territory Plan (Latham shops), dated 31 August 2000.
The Standing Committee on Planning and Urban Services on 8 September 2000 in relation to its inquiry into the Lake Tuggeranong Master Plan, dated 31 August 2000.

Mr Humphries presented the following papers:

Subordinate legislation (including explanatory statements, unless otherwise stated) and commencement provisions
Building and Services Act—
Building and Services Regulations 2000—Subordinate Law No 35 of 2000—(S45, dated 16 August 2000).
Revocation and determination of fees—Instrument No 280 of 2000 (No 34, dated 24 August 2000).
Domestic Violence Act—Appointments to the Domestic Violence Prevention Council of the Australian Capital Territory—
Chairperson—Instrument No 281 of 2000 (No 34, dated 24 August 2000).
Members—Instruments Nos 282 and 283 of 2000 (No 34, dated 24 August 2000).
Fisheries Act 2000—Notice of commencement (13 September 2000) (No 35, dated 31 August 2000).
Fisheries Act—Declaration—Instrument No 290 of 2000 (No 35, dated 31 August 2000).
Health Professionals (Special Events Exemptions) Act—Notification of exemption—Instrument No 278 of 2000 (S45, dated 16 August 2000).
Health Records (Privacy and Access) Act—Revocation and determination of fees—Instrument No 279 of 2000 (No 34, dated 24 August 2000).

Corrigendum

Land (Planning and Environment) Amendment Act 2000 (No 3)—No 37 of 2000—Corrigendum to notice of commencement in S39, dated 24 July 2000 (incorrect title) (No 34, dated 24 August 2000).

Public Place Names Act—
Determination of street nomenclature—Weston Creek—Instrument No 285 of 2000 (No 35, dated 31 August 2000).
Determination of street nomenclature—Nicholls—Instrument No 286 of 2000 (No 35, dated 31 August 2000).
Radiation Act—Revocation and determination of fees—Instrument No 289 of 2000 (No 35, dated 31 August 2000).

Road Transport (General) Act—Determination of concessions—Instrument No 284 of 2000 (No 35, dated 31 August 2000).

Miscellaneous paper

Electoral Amendment Bill 2000—Replacement explanatory memorandum.

ADJOURNMENT

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

That the Assembly do now adjourn.

Apprentice of the Year Award

MR BERRY (3.31): Mr Speaker, I want to draw attention to something which was reported in the Senate *Hansard* of Monday, 4 September. Madam President drew attention to an officer of the Joint House Department, Mr Dwaine Joanknecht, winning the ACT Apprentice of the Year Award on 24 August. I would like to echo the congratulations which were offered to this hard-working officer for his efforts at Parliament House.

Madam President would have noted the irony of the specialty of this officer. He commenced an apprenticeship in turf management. There was some irony in the timing of her announcement and I think that a wily politician like Madam President would have noted the irony and would have been having a distinguished chuckle under her breath as she drew attention to the work of this young officer and congratulated him.

As a prize for his hard efforts, he earned a trip to the Millennium Turfgrass Conference in Melbourne. He also won the Turfgrass Association of Australia's turf graduate of the year award. I suspect that interest in reporting these matters had something to do with the fine condition of the lawns at Parliament House. I am sure that the cartoon in the *Canberra Times* would not have escaped the President's notice with its suggestion that some avaricious people in the ACT might have green eyes on the turf up there and might well have thieved it for other purposes.

I think Madam President was drawing attention to the fact that you get desirable turf by making sure that you have quality public employees engaged in a good apprenticeship system in the ACT looking after quality turf. It does make me wonder, knowing that you can see this grass from here, why somebody did not ring them up and say, "How do you get it to such a good condition? You don't happen to use paint up there, do you?" In congratulating this officer, I note the irony of the award.

Mr Speaker, the last time I spoke in the adjournment debate, I drew attention to a horse named Feel the Power, which I said had run stone motherless last in a race at Wyong. I was wrong; it was second last. I cannot remember the name of the horse that ran last, but if I was nominating one I think I would call it Bruce Stadium.

Olympic Torch Relay

MR HIRD (3.33): It is a sad day when we have Mr Berry, for whom I have a lot of respect, making a lot of fun of the serious position in which the territory finds itself, but it is also a happy day in that at 3.30 pm—three minutes ago—the Olympic torch, the symbol of the Olympic Games which is moving throughout Australia, came across our borders. To the many territorians who will run with the torch or be otherwise involved the celebration of the presence of the torch within our territory is of some significance and importance.

Mr Speaker, you and I will not see such an event again in our lifetime. The people who are participating in the carrying of the torch or the Olympic Games themselves are to be commended and congratulated by us as territorians. We wish them well. We intend to extend our usual hospitality to such an important event not only because this is the national capital but also because it is our home and we are proud to be part of the celebrations and proud to be Australians.

Question resolved in the affirmative.

Assembly adjourned at 3.35 pm